U.S. SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

Form 10-K

☒ ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended December 31, 2008

Commission File Number 000-51371

LINCOLN EDUCATIONAL SERVICES CORPORATION

(Exact name of registrant as specified in its charter)

New Jersey	**57-1150621**
(State or other jurisdiction of incorporation or organization)	(IRS Employer Identification No.)

200 Executive Drive, Suite 340
West Orange, NJ 07052
(Address of principal executive offices)

(973) 736-9340
(Registrant's telephone number, including area code)

Securities registered pursuant to Section 12(b) of the Act:
None

Securities registered pursuant to Section 12(g) of the Act:
Common Stock, no par value per share

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☐ No ☒

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes ☐ No ☒

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ☒

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company. See definition of "accelerated filer," "large accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer ☐ Accelerated filer ☒ Non-accelerated filer ☐ Smaller reporting company ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act). Yes ☐ No ☒

The aggregate market value of the 4,556,925 shares of common stock held by non-affiliates of the Registrant issued and outstanding as of June 30, 2008, the last business day of the registrant's most recently completed second fiscal quarter was $52,997,038. This amount is based on the closing price of the common stock on the Nasdaq Global Market of $11.63 per share on June 30, 2008. Shares of common stock held by executive officers and directors and persons who own 5% or more of outstanding common stock have been excluded since such persons may be deemed affiliates. This determination of affiliate status is not a determination for any other purpose.

The number of shares of Registrant's common stock outstanding as of March 11, 2009 was 26,092,361.

Documents Incorporated by Reference

Portions of the Proxy Statement for the Registrant's 2009 Annual Meeting of Stockholders are incorporated by reference in Part III of this Annual Report on Form 10-K. With the exception of those portions that are specifically incorporated by reference in this Annual Report on Form 10-K, such Proxy Statement shall not be deemed filed as part of this Report or incorporated by reference herein.

LINCOLN EDUCATIONAL SERVICES CORPORATION AND SUBSIDIARIES

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Forward-Looking Statements

This Form 10-K contains “forward-looking statements,” within the meaning of Section 21E of the Securities and Exchange Act of 1934, as amended, which include information relating to future events, future financial performance, strategies, expectations, competitive environment, regulation and availability of resources. These forward-looking statements include, without limitation, statements regarding: proposed new programs; expectations that regulatory developments or other matters will not have a material adverse effect on our consolidated financial position, results of operations or liquidity; statements concerning projections, predictions, expectations, estimates or forecasts as to our business, financial and operating results and future economic performance; and statements of management’s goals and objectives and other similar expressions concerning matters that are not historical facts. Words such as “may,” “should,” “could,” “would,” “predicts,” “potential,” “continue,” “expects,” “anticipates,” “future,” “intends,” “plans,” “believes,” “estimates,” and similar expressions, as well as statements in future tense, identify forward-looking statements.

Forward-looking statements should not be read as a guarantee of future performance or results, and will not necessarily be accurate indications of the times at, or by, which such performance or results will be achieved. Forward-looking statements are based on information available at the time those statements are made and/or management’s good faith belief as of that time with respect to future events, and are subject to risks and uncertainties that could cause actual performance or results to differ materially from those expressed in or suggested by the forward-looking statements. Important factors that could cause such differences include, but are not limited to:

- actual or anticipated fluctuations in our results of operations;
- our failure to comply with the extensive regulatory framework applicable to our industry or our failure to obtain timely regulatory approvals in connection with a change of control of our company or acquisitions;
- our success in updating and expanding the content of existing programs and developing new programs in a cost-effective manner or on a timely basis;
- risks associated with the opening of new campuses;
- risk associated with integration of acquired schools;
- industry competition;
- our ability to continue to execute our growth strategies;
- conditions and trends in our industry;
- general and economic conditions; and
- other factors discussed under the headings “Business,” “Risk Factors” and “Management’s Discussion and Analysis of Financial Condition and Results of Operations.”

Forward-looking statements speak only as of the date the statements are made. Except as required under the federal securities laws and rules and regulations of the SEC, we undertake no obligation to update or revise forward-looking statements to reflect actual results, changes in assumptions or changes in other factors affecting forward-looking information. We caution you not to unduly rely on the forward-looking statements when evaluating the information presented herein.

PART I.

ITEM 1. BUSINESS

OVERVIEW

We are a leading and diversified for-profit provider of career-oriented post-secondary education as measured by total enrollment. We offer recent high school graduates and working adults degree and diploma programs in five areas of study: automotive technology, health sciences, skilled trades, business and information technology and hospitality services. For the year ended December 31, 2008, our automotive technology program, our health science program, our skilled trades program, our business and information technology program, and our hospitality services program accounted for approximately 35%, 32%, 14%, 9%, and 10%, respectively, of our average enrollment. We had 21,667 students enrolled as of December 31, 2008 and our average enrollment for the year ended December 31, 2008 was 20,006 students, an increase of 13.1% from our average enrollment of 17,687 for the year ended December 31, 2007. For the year ended December 31, 2008, our revenues were $376.9 million, which represents an increase of 15.0% from the year ended December 31, 2007. Excluding our acquisition of Briarwood College, or BRI, in December 2008, our revenues and average enrollment would have increased by 14.7% and 13.0%, respectively, compared to the year ended December 31, 2007. For the year ended December 31, 2007, our revenues were $327.8 million, which represented a 5.5% increase from the year ended December 31, 2006. Excluding our acquisition of New England Institute of Technology at Palm Beach, Inc., or FLA, in May 2006, our revenues and average enrollment in 2007 would have increased by 3.2% and decreased by 0.4%, respectively, compared to the year ended December 31, 2006.

As of December 31, 2008, we operated 36 campuses in 17 states. We operate our campuses under the following six brand names: Lincoln Technical Institute, Lincoln College of Technology, Nashville Auto-Diesel College (“NADC”), Southwestern College, Euphoria Institute of Beauty Arts and Sciences and Briarwood College. In February 2007, we completed a re-branding initiative to consolidate 26 of our schools under the Lincoln Technical Institute and Lincoln College of Technology brand names, with the remaining schools continuing to operate under their pre-existing names. Most of our campuses serve major metropolitan markets and each typically offers courses in multiple areas of study. Five of our campuses are destination schools, which attract students from across the United States and, in some cases, from abroad. Our other campuses primarily attract students from their local communities and surrounding areas. All of our schools are nationally accredited and are eligible to participate in federal financial aid programs by the U.S. Department of Education, or DOE, and applicable state education agencies and accrediting commissions which allow students to apply for and access federal student loans as well as other forms of financial aid.

In May 2007, we announced a realignment pursuant to which we created separate managerial oversight for two groups of educational programs:

- Lincoln Technical Group. The Lincoln Technical Group primarily focuses on our automotive technology and skilled trades programs.
- Lincoln Education Group. The Lincoln Education Group primarily focuses on our health sciences, hospitality services and business and information technology programs, as well as our online programs.

This realignment is intended to promote efficiencies across our operations and further enhance our ability to execute on our strategy.

On December 1, 2008, we acquired the rights, title and interest in the assets used in the conduct and operation of Briarwood College (“Briarwood”) for approximately $10.5 million in cash, net of cash acquired. Briarwood operates one campus in Southington, Connecticut, is regionally accredited by the New England Association of Schools and Colleges (“NEASC”), and currently offers two bachelor’s degree programs and 31 associate degree programs to approximately 550 students as of December 31, 2008 from Connecticut and surrounding states.

On January 20, 2009, we completed the acquisition of four of the five institutions comprising Baran Institute of Technology, or Baran, for approximately $24.9 million in cash, net of cash acquired, subject to contractual post closing adjustments. Baran consists of five distinct institutions serving approximately 1,900 students and offers associate and diploma programs in the fields of automotive, skilled trades, health sciences and culinary arts. The four institutions we acquired on January 20, 2009 are Baran Institute of Technology, or BIT, Connecticut Culinary Institute, or CCI, Americare School of Nursing, or ASN, and Engine City Technical Institute, or ECTI. We also acquired the membership interests of Hartford Urban Ventures, LLC and certain assets and assumed certain liabilities of Educational Properties, LLC, which provide support services to Baran. We expect to acquire the fifth Baran institution, Clemens College, for an additional $3.0 million in the second quarter of 2009.

We believe that we provide our students with the highest quality career-oriented training available for our areas of study in our markets. We offer programs in areas of study that we believe are typically underserved by traditional providers of post-secondary education and for which we believe there exists significant demand among students and employers. Furthermore, we believe our convenient class scheduling, career focused curricula and emphasis on job placement offer our students valuable advantages that have been neglected by the traditional academic sector. By combining substantial hands-on training with traditional classroom-based training led by experienced instructors, we believe we offer our students a unique opportunity to develop practical job skills in key areas of expected job demand. We believe these job skills enable our students to compete effectively for employment opportunities and to pursue on-going salary and career advancement.

Our principal business is providing post-secondary education. Accordingly, our operations aggregate into one reporting segment.

DISCONTINUED OPERATIONS

On July 31, 2007, our Board of Directors approved a plan to cease operations at three of our campuses. As a result of that decision, we recognized a non-cash impairment charge related to goodwill at these three campuses of approximately $2.1 million as of June 30, 2007. Additionally, we determined that certain long-lived assets would not be recoverable at June 30, 2007 and recorded a non-cash charge of $0.9 million to reduce the carrying value of these assets to their estimated fair value.

As of September 30, 2007, all operations had ceased at these campuses, and accordingly, the results of operations of these campuses have been reflected in the accompanying statements of operations as "Discontinued Operations" for all periods presented.

The following amounts relate to discontinued operations at these three campuses (in thousands):

	Year Ended December 31, 2007	2006
Revenue	$ 4,230	$ 10,876
Operating Expenses	(13,760)	(13,493)
	(9,530)	(2,617)
Benefit for income taxes	(4,043)	(1,085)
Loss from discontinued operations	$ (5,487)	$ (1,532)

AVAILABLE INFORMATION

Our website is *www.lincolnedu.com*. We make available on this website our annual reports on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, annual proxy statement on Schedule 14A and amendments to those reports as soon as reasonably practicable after we electronically file or furnish such materials to the Securities and Exchange Commission. You can access this information on our website, free of charge, by clicking on "Investor Relations." The information contained on or connected to our website is not a part of this annual report on Form 10-K.

BUSINESS STRATEGY

Our goal is to strengthen our position as a leading and diversified provider of career-oriented post-secondary education by continuing to pursue the following:

Maximize Utilization of Existing Facilities. We believe that by creating separate oversight for two groups of educational programs, we are able to improve the day-to-day management, operational efficiency and capacity utilization of our campuses. We are also focused on improving capacity utilization through increased enrollments, and we expect to continue investing in marketing resources to attract new students.

Expand Existing Areas of Study and Existing Facilities. We believe we can leverage our operations to expand our program offerings in existing areas of study and expand into new areas of study to capitalize on demand from students and employers in our target markets. For example, in 2007 we began offering courses in Licensed Practical Nursing at three of our New Jersey campuses, and we believe we will be able to similarly expand our program offerings at other campuses. We also expect to continue expanding some of our existing facilities and relocating other facilities to expand capacity. In 2008, we increased capacity at two of our Southwestern College campuses and moved into a new and larger campus in Brockton, Massachusetts.

Expand Geographic Presence. We believe that we can leverage our marketing and recruiting programs by opening additional campuses in selected markets and obtaining greater market penetration. For example, in March 2006, we established our presence in the New York metropolitan area with the opening of our Queens, New York automotive school in partnership with the Greater New York Area Automobile Dealers Association. In 2008, we expanded our presence in Las Vegas with the opening of our third Euphoria campus in the north end of Las Vegas which will enable us to better serve that market. We believe we can also increase our student enrollments by entering selected new geographic markets that we believe have significant growth potential and where we can leverage our reputation and operating expertise.

Opportunistically Pursue Strategic Acquisitions. We continue to evaluate attractive acquisition candidates. In evaluating potential acquisitions, we seek to identify schools that provide the potential for program replication at our existing campuses, expand our program and degree offerings, and extend our presence into markets with attractive growth opportunities.

On December 1, 2008, we acquired Briarwood College which strengthened our position in Connecticut, by adding additional associate and bachelor's degree programs and has regional accreditation which we believe will enable us to serve a new market and enhance our online programs.

Expand Online Programs. We have offered online programs since 2005 with a view towards capitalizing on the rapidly growing demand for, and flexibility provided by, online education alternatives. We launched our first 100% online program in June 2006 and our second in December 2006. In 2008, we launched two associate degree programs and three bachelor's degree programs. We believe that our online programs are an attractive option for students without the geographic or financial flexibility to enroll in campus-based programs and will continue to broaden our addressable market.

PROGRAMS AND AREAS OF STUDY

We structure our program offerings to provide our students with a practical, career-oriented education and position them for attractive entry-level job opportunities in their chosen fields. Our programs are designed to be completed in 14 to 102 weeks. Tuition for programs ranges from $10,000 to $35,000, depending on the length of the program and the area of study. As of December 31, 2008, all of our schools offer diploma and certificate programs, 18 of our schools are currently approved to offer associate degree programs and two schools are approved to offer a bachelor's degree program. In order to accommodate the schedules of our students and maximize classroom utilization, we typically offer courses four to five days a week in three shifts per day and start new classes every month. Also for those students who do not live near one of our campuses or whose schedules prevent them from attending school we offer several programs online. We update and expand our programs frequently to reflect the latest technological advances in the field, providing our students with the specific skills and knowledge required in the current marketplace. Classroom instruction combines lectures and demonstrations by our experienced faculty with comprehensive hands-on laboratory exercises in simulated workplace environments.

The following table lists the programs offered as of December 31, 2008 with the average number of students enrolled in each area of study for the year ended December 31, 2008:

	Program Offered				
Area of Study	Bachelor's	Associate	Diploma and Certificate	Average Enrollment	Percent of Total Enrollment
Automotive Technology	-	Auto Service Management, Collision Repair, Diesel Technology, Diesel & Truck Service Management	Automotive Mechanics, Automotive Technology, Collision Repair, Diesel Truck Mechanics, Diesel Technology, Diesel & Truck Technology, Master Automotive Technology	7,034	35%
Health Sciences	-	Medical Assisting Technology, Medical Administrative Assistant Technology, Dental Office Management, Child Development, Health Information Coding, Medical Office Management, Medical Assistant, Mortuary Science, Nuclear Medicine, Occupational Therapy Assistant, Dental Hygeine, Dental Administrative Assistant	Medical Administrative Assisting, Medical Assisting, Pharmacy Technology, Medical Billing and Coding, Dental Assisting, Licensed Practical Nurse, Phlebotomy, Child Development, Nuclear Medicine	6,416	32%
Skilled Trades	-	Mechanical / Architectural Drafting, Electronics Engineering Technology, HVAC, EST	Electronic Servicing, Electronics Engineering Technology, Electronics System Technology, HVAC, Mechanical / Architectural Drafting, Electrician, Welding	2,783	14%
Hospitality Services	Culinary Management	Culinary Arts, Cosmetology Management, Food and Beverage, Baking and Pastry, Culinary Management, Hotel Restraurant Management, Dietetic Technician, Travel and Tourism	Culinary Arts, Baking & Pastry, Cosmetology, Aesthetics, Therapeutic, Massage & Body Technology	1,935	10%
Business and Information Technology	Criminal Justice, Funeral Service Management	PC Systems & Networking Technology, Network Systems Administration, Business Administration, Criminal Justice, NCIS, Business Management, Business Marketing, HR Management, Accounting, Broadcasting and Communications, Fashion Merchandising, Paralegal	Business Administration, Network Systems Administrating, PC Support Technology, Criminal Justice, Network Communications and Information Systems	1,838	9%
		Total:		20,006	100%

Automotive Technology. Automotive technology represents our largest area of study, with 35% of our total average student enrollment for the year ended December 31, 2008. Our automotive technology programs are 24 to 92 weeks in length, with tuition rates of $10,000 to $35,000. We believe we are a leading provider of automotive technology education in each of our local markets. Graduates of our programs are qualified to obtain entry level employment ranging from positions as technicians and mechanics to various apprentice level positions. Our graduates are employed by a wide variety of employers, ranging from automotive and diesel dealers, independent auto body paint and repair shops, to trucking and construction companies.

We have an arrangement with BMW that offers our automotive technology students the opportunity to work for BMW through the Service Technician Education Program ("STEP"). The STEP program is a "graduate" school program for individuals who have successfully earned an automotive certification either at one of our schools or any of our competitor's schools. Students who are admitted to the STEP program have their tuition paid by BMW and upon successfully completing the program are typically employed as BMW mechanics. The BMW STEP program commenced at our Columbia, Maryland facility in 2004. Our arrangement with BMW signifies our high quality education capabilities and is an attractive marketing program.

As of December 31, 2008, each of our Lincoln Technical Institute schools, with the exception of our Allentown, Pennsylvania campus, offer programs in automotive technology in addition to other technical programs. Lincoln College of Technology (formerly Denver Automotive & Diesel College) ("Denver LCT") and Nashville Auto-Diesel College currently offer programs exclusively in automotive technology. Denver LCT, Nashville Auto-Diesel College, and our Lincoln College of Technology schools in Grand Prairie, Texas and Indianapolis, Indiana are destination schools, attracting students throughout the United States and, in some cases, from abroad.

Health Sciences. For the year ended December 31, 2008, health sciences represented our second largest area of study, representing 32% of our total average student enrollment. Our health science programs are 30 to 92 weeks in length, with tuition rates of $10,000 to $30,000. Graduates of our programs are qualified to obtain positions such as licensed practical nurse, medical administrative assistant, EKG technician, claims examiner and pharmacy technician. Our graduates are employed by a wide variety of employers, including hospitals, laboratories, insurance companies, doctors' offices and pharmacies. Our medical assistant and medical administrative assistant programs are our largest health science programs.

As of December 31, 2008, we offered health science programs at 23 schools, including five Southwestern College schools, Briarwood College, and 17 Lincoln College of Technology and Lincoln Technical Institute schools.

Skilled Trades. For the year ended December 31, 2008, 14% of our total average student enrollment was in our skilled trades programs. Our skilled trades programs are 41 to 91 weeks in length, with tuition rates of $16,000 to $29,000. Our skilled trades programs include electrician, heating, ventilation and air conditioning repair, welding, drafting and computer-aided design and electronic system technician. Graduates of our programs are qualified to obtain entry level employment positions such as electrician, cable, wiring and HVAC installer and servicer and drafting technician. Our graduates are employed by a wide variety of employers, including residential and commercial construction, telecommunications installation companies and architectural firms.

In the first quarter of 2008 we launched our first welding program. This program was developed based on the National Center for Construction Education and Research ("NCCER") curriculum. NCCER is a not-for-profit education foundation created to help address the critical workforce shortage facing the construction industry and to develop industry-driven standardized craft training programs with portable credentials.

As of December 31, 2008, we offered skilled trades programs at 13 of our 25 Lincoln Technical Institute and Lincoln College of Technology campuses.

Hospitality Services. For the year ended December 31, 2008, 10% of our total average student enrollment was in our hospitality services programs. Our hospitality services programs are 14 to 98 weeks in length, with tuition rates of $10,000 to $27,000. Our spa programs include therapeutic massage, cosmetology and aesthetics. Graduates work in salons, spas, cruise ships or are self-employed. We offer massage programs at 15 campuses and cosmetology programs at five campuses. Our culinary graduates are employed by restaurants, hotels, cruise ships and bakeries. As of December 31, 2008, we offered culinary programs at the Florida Culinary Institute and three Centers for Culinary Arts.

Business and Information Technology. For the year ended December 31, 2008, 9% of our total average student enrollment was in our business and information technology programs, which include our diploma and degree criminal justice programs. Our business and information technology programs are 30 to 102 weeks in length, with tuition rates of $11,000 to $27,000. We have focused our current IT program offerings on those that are most in demand, such as our PC systems technician, network systems administrator and business administration specialist programs. Our IT and business graduates work in entry level positions for both small and large corporations. Our criminal justice graduates work in the security industry and for various government agencies and departments. As of December 31, 2008, we offered these programs at 18 of our campuses.

MARKETING AND STUDENT RECRUITMENT

We utilize a variety of marketing and recruiting methods to attract students and increase enrollment. Our marketing and recruiting efforts are targeted at potential students who are entering the workforce, or who are underemployed or unemployed and require additional training to enter or re-enter the workforce.

Marketing and Advertising. Our marketing program utilizes integrated advertising such as the Internet, television, and various print media, direct mail, and event marketing campaigns. These campaigns are enhanced by student and alumni referrals. Internet lead generation is our most successful medium, built upon successful search engine optimization and specific keywords. Our website leads incorporate integrated campaigns that drive prospects to the website for lead capture. Our internal systems enable us to closely monitor and track the effectiveness of each advertisement on a daily or weekly basis and make adjustments accordingly to enhance efficiency and limit our student acquisition costs.

Referrals. Referrals from current students, high school counselors and satisfied graduates and their employers have historically represented over 20% of our new enrollments. Our school administrators actively work with our current students to encourage them to recommend our programs to potential students. We continue to build strong relationships with high school guidance counselors and instructors by offering annual seminars at our training facilities to further educate these individuals on the strengths of our programs. Graduates who have gone on to enjoy success in the workforce frequently recommend our programs, as do local business owners who are pleased with the performance of our graduates whom they have hired.

Recruiting. Our recruiting efforts are conducted by a group of approximately 400 field-and campus-based representatives who meet directly with potential students during presentations conducted at high schools, in the potential student's home or during a visit to one of our campuses.

Field-Based Recruiting. Our field-based recruiting representatives make presentations at high schools to attract students to both our local and destination campuses. Our field-based representatives also visit directly with potential students in their homes. During 2008, we recruited approximately 21% of our students directly out of high school.

Campus-Recruiting. When a potential student is identified through our marketing and recruiting efforts, one of our representatives is paired with the potential student to follow up on an individual basis. Our media advertisements contain a unique toll-free number and our telephone system automatically directs the call to the campus nearest to the caller. At this point, a recruiting representative will respond to the inquiry, typically within 24 hours. The representatives are trained to explain in detail the opportunities available within each program and schedule an appointment for the potential student to visit the school and tour the school's facilities.

STUDENT ADMISSIONS, ENROLLMENT AND RETENTION

Admissions. In order to attend our schools, students must complete an application and pass an entry examination. While each of our programs has different admissions criteria, we screen all applications and counsel the students on the most appropriate program to increase the likelihood that our students complete the requisite coursework and obtain and sustain employment following graduation.

Enrollment. We enroll students continuously throughout the year, with our largest classes enrolling in late summer or early fall following high school graduation. We had 21,667 students enrolled as of December 31, 2008 and our average enrollment for the year ended December 31, 2008 was 20,006 students, an increase of 13.1% from December 31, 2007. Excluding our acquisition of BRI in December 2008, our average student enrollment would have increased by 13.0%. Our average student enrollment for the year ended December 31, 2007 was 17,687 students, an increase of 1.7% from December 31, 2006. Excluding our acquisition of FLA in May 2006, our average enrollment for the year ended December 31, 2007 would have decreased by 0.4%.

Retention. To maximize student retention, the staff at each school is trained to recognize the early warning signs of a potential drop and to assist and advise students on academic, financial, employment and personal matters. We monitor our retention rates by instructor, course, program and school. When we notice that a particular instructor or program is experiencing a higher than normal dropout rate, we quickly seek to determine the cause of the problem and attempt to correct it. When we notice that a student is having trouble academically, we offer tutoring.

JOB PLACEMENT

We believe that securing employment for our graduates is critical to our ability to attract high quality students. In addition, high job placement rates result in low student loan default rates, an important requirement for continued participation in Title IV Programs. See "Regulatory Environment—Regulation of Federal Student Financial Aid Programs." Accordingly, we dedicate significant resources to maintaining an effective graduate placement program. Our non-destination schools work closely with local employers to ensure that we are training students with skills that employers need. Each school has an advisory council made up of local employers who provide us with direct feedback on how well we are preparing our students to succeed in the workplace. This enables us to tailor our programs to the market. The placement staff in each of our destination schools maintains databases of potential employers throughout the country, allowing us to place students in their career field upon graduation. We also have internship programs that provide our students with opportunities to work with employers prior to graduation. For example, some of the students in our automotive programs have the opportunity to complete a portion of their hands-on training while working with a potential employer. In addition, some of our allied health students are required to participate in an internship program during which they work in the field as part of their career training. Students that participate in these programs often go on to work for the same business upon graduation. We also assist students with resume writing, interviewing and other job search skills.

FACULTY AND EMPLOYEES

We hire our faculty in accordance with established criteria, including relevant work experience, educational background and accreditation and state regulatory standards. We require meaningful industry experience of our teaching staff in order to maintain the quality of instruction in all of our programs and to address current and industry-specific issues in our course content. In addition, we provide intensive instructional training and continuing education, including quarterly instructional development seminars, annual reviews, technical upgrade training, faculty development plans and weekly staff meetings.

The staff of each school typically includes a school director, a director of graduate placement, an education director, a director of student services, a financial-aid director, an accounting manager, a director of admissions and instructors, all of whom are industry professionals with experience in our areas of study.

As of December 31, 2008, we had approximately 3,206 employees, including 793 full-time faculty and 663 part-time instructors. At six of our campuses, the teaching professionals are represented by unions. These employees are covered by collective bargaining agreements that expire between 2009 through 2012. We believe that we generally have good relationships with these unions and our employees.

COMPETITION

The for-profit, post-secondary education industry is highly competitive and highly fragmented, with no one provider controlling significant market share. Direct competition between career-oriented schools and traditional four-year colleges or universities is limited. Thus, our main competitors are other for-profit, career-oriented schools, as well as public and private two-year junior and community colleges. Competition is generally based on location, the type of programs offered, the quality of instruction, placement rates, reputation, recruiting and tuition rates. Public institutions are generally able to charge lower tuition than our schools, due in part to government subsidies and other financial sources not available to for-profit schools. In addition, some of our private competitors have a more extended or dense network of schools and campuses than we do, which enables them to recruit students more efficiently from a wider geographic area. Nevertheless, we believe that we are able to compete effectively in our local markets because of the diversity of our program offerings, quality of instruction, the strength of our brands, our reputation and our success in placing students with employers.

We compete with other institutions that are eligible to receive Title IV funding. This includes four-year, not-for-profit public and private colleges and universities, community colleges and all for-profit institutions whether they are four years, two years or less. Our competition differs in each market depending on the curriculum that we offer. For example, a school offering automotive, allied health and skilled trades programs will have a different group of competitors than a school offering allied health, business/IT and skilled trades. Also, because schools can add new programs within six to twelve months, new competitors can emerge relatively quickly. Moreover, with the introduction of online learning, the number of competitors in each market has increased because students can now stay local but learn from a non-local institution.

Notwithstanding the above, we mainly compete with community colleges and other career schools, both for-profit and not-for-profit. We focus on programs that are in high demand. We compete against community colleges by seeking to offer more frequent start dates, more flexible hours, better instructional resources, more hands on training, shorter program length and greater assistance with job placement. We compete against the other career schools by seeking to offer a higher quality of education, higher quality instructional equipment and a better overall value. On average, each of our schools has at least three direct competitors and at least a dozen indirect competitors. As we continue to add courses and degree programs, our competitors within a given market increase and thus we face increased competition.

ENVIRONMENTAL MATTERS

We use hazardous materials at our training facilities and campuses, and generate small quantities of waste such as used oil, antifreeze, paint and car batteries. As a result, our facilities and operations are subject to a variety of environmental laws and regulations governing, among other things, the use, storage and disposal of solid and hazardous substances and waste, and the clean-up of contamination at our facilities or off-site locations to which we send or have sent waste for disposal. We are also required to obtain permits for our air emissions, and to meet operational and maintenance requirements. In the event we do not maintain compliance with any of these laws and regulations, or are responsible for a spill or release of hazardous materials, we could incur significant costs for clean-up, damages, and fines or penalties.

REGULATORY ENVIRONMENT

Students attending our schools finance their education through a combination of family contributions, individual resources, private loans and federal financial aid programs. Each of our schools participates in the federal programs of student financial aid authorized under the Title IV Programs, which are administered by the DOE. For the year ended December 31, 2008, approximately 79% (calculated based on cash receipts) of our revenues were derived from the Title IV Programs. Students obtain access to federal student financial aid through a DOE prescribed application and eligibility certification process. Student financial aid funds are generally made available to students at prescribed intervals throughout their predetermined expected length of study. Students typically use the funds received from the federal financial aid programs to pay their tuition and fees. The transfer of funds from the financial aid programs are to the student, who then applies those funds to the cost of his or her education.

In connection with the students' receipt of federal financial aid, our schools are subject to extensive regulation by governmental agencies and licensing and accrediting bodies. In particular, the Title IV Programs, and the regulations issued thereafter by the DOE, subject us to significant regulatory scrutiny in the form of numerous standards that each of our schools must satisfy in order to participate in the various federal student financial aid programs. To participate in the Title IV Programs, a school must be authorized to offer its programs of instruction by the applicable state education agencies in the states in which it is physically located, be accredited by an accrediting commission recognized by the DOE and be certified as an eligible institution by the DOE. The DOE will certify an institution to participate in Title IV Programs only after the institution has demonstrated compliance with the Higher Education Act of 1965, as amended, or HEA, and the DOE's extensive regulations regarding institutional eligibility. The DOE defines an eligible institution to consist of both a main campus and its additional locations, if any. Each of our schools is either a main campus or an additional location of a main campus. Each of our schools is subject to extensive regulatory requirements imposed by state education agencies, accrediting commissions, and the DOE. Because the DOE periodically revises its regulations and changes its interpretations of existing laws and regulations, we cannot predict with certainty how Title IV Program requirements will be applied in all circumstances. Our schools also participate in other federal and state financial aid programs that assist students in paying the cost of their education.

State Authorization

Each of our schools must be authorized by the applicable education agencies in the states in which the school is physically located, and in some cases other states, in order to operate and to grant degrees, diplomas or certificates to its students. Some states have sought to assert jurisdiction over online educational institutions that offer educational services to residents in the state, notwithstanding the lack of a physical location in that state. State agency authorization is also required in each state in which a school is physically located in order for the school to become and remain eligible to participate in Title IV Programs. If we are found not to be in compliance with the applicable state regulation and a state seeks to restrict one or more of our business activities within its boundaries, we may not be able to recruit or enroll students in that state and may have to stop providing services in that state, which could have a material adverse effect on our business and results of operations. Currently, each of our schools is authorized by the applicable state education agencies in the states in which the school is physically located and in which it recruits students.

Our schools are subject to extensive, ongoing regulation by each of these states. State laws typically establish standards for instruction, curriculum, qualifications of faculty, location and nature of facilities and equipment, administrative procedures, marketing, recruiting, financial operations, student outcomes and other operational matters. State laws and regulations may limit our ability to offer educational programs and to award degrees, diplomas or certificates. Some states prescribe standards of financial responsibility that are different from, and in certain cases more stringent than, those prescribed by the DOE. Some states require schools to post a surety bond. We believe that we have posted surety bonds on behalf of our schools and education representatives with multiple states in a total amount of approximately $13.7 million. These bonds are backed by $2.4 million of letters of credit.

If any of our schools fail to comply with state licensing requirements, they are subject to the loss of state licensure or authorization. If any one of our schools lost its authorization from the education agency of the state in which the school is located, that school and its related main campus and/or additional locations would lose its eligibility to participate in Title IV Programs, be unable to offer its programs and we could be forced to close that school. If one of our schools lost its state authorization from a state other than the state in which the school is located, the school would not be able to recruit students in that state. We believe that each of our schools is in substantial compliance with the applicable education agency requirements in each state in which it is physically located.

Due to state budget constraints in certain states in which we operate, it is possible that those states may reduce the number of employees in, or curtail the operations of, the state education agencies that authorize our schools. A delay or refusal by any state education agency in approving any changes in our operations that require state approval could prevent us from making such changes or could delay our ability to make such changes.

Accreditation

Accreditation is a non-governmental process through which a school submits to ongoing qualitative and quantitative review by an organization of peer institutions. Accrediting commissions primarily examine the academic quality of the school's instructional programs, and a grant of accreditation is generally viewed as confirmation that the school's programs meet generally accepted academic standards. Accrediting commissions also review the administrative and financial operations of the schools they accredit to ensure that each school has the resources necessary to perform its educational mission.

Accreditation by an accrediting commission recognized by the DOE is required for an institution to be certified to participate in Title IV Programs. In order to be recognized by the DOE, accrediting commissions must adopt specific standards for their review of educational institutions. As of December 31, 2008, fifteen of our campuses are accredited by the Accrediting Commission of Career Schools and Colleges of Technology or ACCSCT, nineteen of our campuses are accredited by the Accrediting Council for Independent Colleges and Schools or ACICS and one of our campuses is accredited by the New England Association of Schools and Colleges or NEASC. All of these accrediting commissions are recognized by the DOE. The following is a list of the dates on which each campus was accredited by its accrediting commission and the date by which its accreditation must be renewed.

Accrediting Commission of Career Schools and Colleges of Technology Reaccreditation Dates

School	Last Accreditation Letter	Next Accreditation
Philadelphia, PA	December 4, 2008	May 1, 2013
Union, NJ	June 4, 2004	February 1, 2009***
Mahwah, NJ*	December 9, 2004	August 1, 2009
Melrose Park, IL	March 11, 2005	November 1, 2009
Denver, CO	September 8, 2006	February 1, 2011
Columbia, MD	March 13, 2007	February 1, 2012
Grand Prairie, TX	May 29, 2007	August 1, 2011
Allentown, PA	January 1, 2007	January 1, 2012
Nashville, TN	May 1, 2007	May 1, 2012
Indianapolis, IN	December 5, 2008	November 1, 2012
New Britain, CT	January 1, 2008	January 1, 2013
Shelton, CT**	September 3, 2005	September 1, 2008***
Cromwell, CT**	November 22, 2006	November 1, 2011
Hamden, CT**	July 1, 2007	July 1, 2012
Queens, NY*	June 30, 2008	June 30, 2012

* Branch campus of main campus in Union, NJ
** Branch campus of main campus in New Britain, CT
*** Currently going through re-accreditation

Accrediting Council for Independent Colleges and Schools Reaccreditation Dates

School	Last Accreditation Letter	Next Accreditation
Brockton, MA****	December 31, 2008	December 31, 2014
Lincoln, RI	December 31, 2008	December 31, 2014
Lowell, MA**	December 16, 2008	December 31, 2014
Somerville, MA	December 16, 2008	December 31, 2014
Philadelphia (Center City), PA*	April 23, 2007	December 31, 2012
Edison, NJ	April 23, 2007	December 31, 2012
Marietta, GA****	December 31, 2008	December 31, 2014
Mt. Laurel, NJ*	April 23, 2007	December 31, 2012
Paramus, NJ*	April 23, 2007	December 31, 2012
Philadelphia (Northeast), PA*	April 23, 2007	December 31, 2012
Dayton, OH	April 14, 2006	December 31, 2009
Cincinnati (Vine Street), OH***	April 14, 2006	December 31, 2009
Cincinnati (Northland Blvd.), OH***	April 14, 2006	December 31, 2009
Franklin, OH***	April 14, 2006	December 31, 2009
Florence, KY***	April 14, 2006	December 31, 2009
West Palm Beach, FL	December 11, 2006	December 31, 2014
Summerlin, NV****	December 16, 2008	December 31, 2014
Green Valley, NV****	December 16, 2008	December 31, 2014
Aliante, NV****	December 16, 2008	December 31, 2014

* Branch campus of main campus in Edison, NJ
** Branch campus of main campus in Somerville, MA
*** Branch campus of main campus in Dayton, OH
**** Branch campus of main campus in Lincoln, RI

New England Association of Schools and Colleges and Reaccreditation Dates

School	Last Accreditation Letter	Next Accreditation
Briarwood College	November 31, 2006	November 31, 2011

If one of our schools fails to comply with accrediting commission requirements, the institution and its main and/or branch campuses are subject to the loss of accreditation. If any one of our schools lost its accreditation, students attending that school would no longer be eligible to receive Title IV Program funding, and we could be forced to close that school. Any institution required to submit retention data to the ACICS is required to obtain prior permission from the ACICS for the initiation of any new program and new branch campus or learning site.

Nature of Federal and State Support for Post-Secondary Education

The federal government provides a substantial part of the support for post-secondary education through Title IV Programs, in the form of grants and loans to students who can use those funds at any institution that has been certified as eligible by the DOE. Most aid under Title IV Programs is awarded on the basis of financial need, generally defined as the difference between the cost of attending the institution and the expected amount a student and his or her family can reasonably contribute to that cost. All recipients of Title IV Program funds must maintain a satisfactory grade point average and progress in a timely manner toward completion of their program of study. In addition, each school must ensure that Title IV Program funds are properly accounted for and disbursed in the correct amounts to eligible students.

Students at our schools receive grants and loans to fund their education under the following Title IV Programs: (1) the Federal Family Education Loan program, (2) the Federal Pell Grant, or Pell, program, (3) the Federal Supplemental Educational Opportunity Grant program, and (4) the Federal Perkins Loan, or Perkins, program.

Federal Family Education Loan. Under the Federal Family Education Loan program, banks and other lending institutions make loans to students or their parents. If a student or parent defaults on a loan, payment is guaranteed by a federally recognized guaranty agency, which is then reimbursed by the DOE. Students with financial need qualify for interest subsidies while in school and during grace periods. For the year ended December 31, 2008, we derived approximately 62% of our Title IV revenues (calculated based on cash receipts) from the Federal Family Education Loan program.

Pell. Under the Pell program, the DOE makes grants to students who demonstrate the greatest financial need. For the year ended December 31, 2008, we derived approximately 19% of our revenues (calculated based on cash receipts) from the Pell program.

Federal Supplemental Educational Opportunity Grant. Under the Federal Supplemental Educational Opportunity Grant program, the DOE issues grants which are designed to supplement Pell grants for students with the greatest financial needs. An institution is required to make a 25% matching contribution for all funds received from the DOE under this program. For the year ended December 31, 2008, we received less than 1% of our revenues (calculated based on cash receipts) from the Federal Supplemental Educational Opportunity Grant program.

Perkins. Perkins loans are made from a revolving institutional account, 75% of which is funded by the DOE and the remainder by the institution. Each institution is responsible for collecting payments on Perkins loans from its former students and lending those funds to currently enrolled students. Defaults by students on their Perkins loans reduce the amount of funds available in the applicable school's revolving account to make loans to additional students, but the school does not have any obligation to guarantee the loans or repay the defaulted amounts. For the year ended December 31, 2008, we derived less than 1% of our revenues (calculated based on cash receipts) from the Perkins program.

Other Financial Assistance Programs

Some of our students receive financial aid from federal sources other than Title IV Programs, such as the programs administered by the U.S. Department of Veterans Affairs and programs administered under the Workforce Investment Act. In addition, many states also provide financial aid to our students in the form of grants, loans or scholarships. The eligibility requirements for state financial aid and these other federal aid programs vary among the funding agencies and by program. Many states that provide financial aid to our students are facing significant budgetary constraints. We believe that the overall level of state financial aid for our students is likely to decrease in the near term, but we cannot predict how significant any such reductions will be or how long they will last.

In addition to Title IV and other government-administered programs, all of our schools participate in alternative loan programs for their students. Alternative loans fill the gap between what the student receives from all financial aid sources and what the student may need to cover the full cost of their education. Students or their parents can apply to a number of different lenders for this funding at current market interest rates.

Effective February 2008, Sallie Mae, Inc. (“SLM”) terminated its tiered discount loan agreement with us pursuant to which SLM provided private party loans to our students. As a result, we continue to search for alternative sub-prime loan providers but in the meantime we have decided to make financing available to students through our internal funding sources.

Reorganization

We were founded in 1946 as Lincoln Technical Institute, Inc. In February 2003, we reorganized our corporate structure to create a holding company, Lincoln Educational Services Corporation. The ownership of Lincoln Educational Services Corporation was identical to that of Lincoln Technical Institute, Inc. immediately prior to this reorganization. We subsequently began operating our entire organization under the Lincoln Educational Services Corporation name; however, before this reorganization, all of our interaction with the DOE, state and federal regulators and accrediting agencies was conducted by Lincoln Technical Institute, Inc.

Regulation of Federal Student Financial Aid Programs

To participate in Title IV Programs, an institution must be authorized to offer its programs by the relevant state education agencies in the state in which it is physically located, be accredited by an accrediting commission recognized by the DOE and be certified as eligible by the DOE. The DOE will certify an institution to participate in Title IV Programs only after the institution has demonstrated compliance with the Higher Education Act of 1965, as amended, HEA or Higher Education Act, and the DOE's extensive regulations regarding institutional eligibility. The DOE defines an institution to consist of both a main campus and its additional locations, if any. Under this definition, for DOE purposes, we had the following 16 institutions as of December 31, 2008, collectively consisting of 16 main campuses and 19 additional locations:

Brand	Main Campus (es)	Additional Location (s)
Lincoln Technical Institute	Union, NJ	Mahwah, NJ
		Queens, NY
	Philadelphia, PA	
	Columbia, MD	
	Allentown, PA	
	Edison, NJ	Mount Laurel, NJ
		Paramus, NJ
		Philadelphia, PA (Center City)
		Northeast Philadelphia, PA (Northeast)
	Somerville, MA	Lowell, MA
	Lincoln, RI	Marietta, GA*
		Brockton, MA
		Henderson, NV (Green Valley)**
		Las Vegas, NV (Summerlin)**
		Las Vegas, NV (Aliante)**
	New Britain, CT	Shelton, CT
		Cromwell, CT
		Hamden, CT
Lincoln College of Technology	Indianapolis, IN	
	Grand Prairie, TX	
	Melrose Park, IL	
	Denver, CO	
	West Palm Beach, FL	
Nashville Auto Diesel College	Nashville, TN	
Southwestern College	Dayton, OH	Cincinnati, OH (Vine Street)
		Franklin, OH
		Cincinnati, OH (Northland Blvd.)
		Florence, KY
Briarwood College	Southington, CT	

* This campus operates under the Lincoln College of Technology brand.
** These campuses operate under the Euphoria Institute of Beauty Arts & Sciences brands.

All of our main campuses, including their additional locations, are currently certified by the DOE to participate in the Title IV Programs. In connection with our acquisitions of New England Technical Institute, and New England Institute of Technology at Palm Beach, we have received in each case an executed provisional program participation agreement from the DOE. In connection with our acquisition of Briarwood College, we have received a temporary provisional program participation agreement from the DOE which remains in effect on a month-to-month basis until the DOE completes its review and approval process for the change in ownership.

The DOE, accrediting commissions and state education agencies have responsibilities for overseeing compliance with Title IV Program requirements. As a result, each of our schools is subject to detailed oversight and review, and must comply with a complex framework of laws and regulations. Because the DOE periodically revises its regulations and changes its interpretation of existing laws and regulations, we cannot predict with certainty how the Title IV Program requirements will be applied in all circumstances.

Significant factors relating to Title IV Programs that could adversely affect us include the following:

Congressional Action. Political and budgetary concerns significantly affect Title IV Programs. On August 14, 2008, the Higher Education Opportunity Act, Public Law 110-315, reauthorized the Title IV HEA programs through at least September 30, 2014. The HEA reauthorization among other things revises the 90/10 Rule, as described below, revises the calculation of an institution's cohort default rate, requires additional disclosures and certifications with respect to non-Title IV alternative loans, prohibits certain activities or relations between lenders and schools to discourage preferential treatment of lenders based on factors not in students' best interests, and makes other changes.

In addition, Congress reviews and determines federal appropriations for Title IV Programs on an annual basis. Congress can also make changes in the laws affecting Title IV Programs in the annual appropriations bills and in other laws it enacts between the Higher Education Act reauthorizations. Because a significant percentage of our revenues are derived from Title IV Programs, any action by Congress that significantly reduces Title IV Program funding or the ability of our schools or students to participate in Title IV Programs could reduce our student enrollment and our revenues. Congressional action may also increase our administrative costs and require us to modify our practices in order for our schools to comply fully with Title IV Program requirements. The College Cost Reduction & Access Act, which was signed into law in September 2007, cut approximately $22 billion in subsidies to federal student lenders and guarantors as an offset to increases to federal financial aid. This resulted in significant changes to the terms that alternative lending providers were willing to make and resulted in the tiered discount programs.

The College Cost Reduction & Access Act reduces payments to lenders and guaranty agencies participating in the Federal Family Education Loan (FFEL) Program. This, in turn, reduces the profitability of the FFEL Program and will make access to these loans, as well as, private loans more difficult. The widening sub-prime mortgage crisis has negatively impacted student loans. Lenders are experiencing difficulty in securing funding from the debt markets to make new student loans, however through the Ensuring Continued Access to Student Loans Act the Department of Education will provide liquidity support to FFEL lenders by purchasing loans and providing long term financing for FFEL loans. This program is designed to continue access to these funds for students and their parents.

On February 17, 2009, President Obama signed the American Recovery and Reinvestment Act which further increased the maximum Pell grant to $4,860 for the July 1, 2009 through June 30, 2010 award year. When these funds are combined with the funding authorized and appropriated by the College Cost Reduction and Access Act – which increased the maximum award by $490 – the maximum Pell award will be $5,350 for the July 1, 2009 through June 30, 2010 award year.

The "90/10 Rule." Under the HEA reauthorization, a proprietary institution that derives more than 90% of its total revenue from the Title IV programs for two consecutive fiscal years becomes immediately ineligible to participate in the Title IV programs and may not reapply for eligibility until the end of two fiscal years. An institution with revenues exceeding 90% for a single fiscal year ending after August 14, 2008 will be placed on provisional certification and may be subject to other enforcement measures. Under prior law, an institution would immediately lose its eligibility to participate in Title IV Programs if it derived more than 90% of its revenue (calculated based on cash receipts) from those programs in any fiscal year as calculated in accordance with DOE regulation s and would be ineligible to apply to regain its eligibility until the following fiscal year. If one of our institutions violated the 90/10 Rule and became ineligible to participate in Title IV Programs but continue to disburse Title IV Program funds, the DOE would require the institution to repay all Title IV Program funds received by the institution after the effective date of the loss of eligibility. Effective July 1, 2008, the annual Stafford loans available for undergraduate students under the Federal Family Education Loan Program, or FFEL, increased. This loan limit increase, coupled with recent increases in grants from the Pell program and other Title IV loan limits, will result in some of our schools experiencing an increase in the revenues they receive from the Title IV programs. The HEA reauthorization provides some relief from this effect by excluding portions of the loan limit increase from the Title IV component of the 90/10 rule calculation.

We have calculated that, for each of our 2008, 2007 and 2006 fiscal years, none of our institutions derived more than 89.0% of its revenues from Title IV Programs. For our 2008 fiscal year, our institutions' 90/10 Rule percentages ranged from 69.7% to 89.0% except for Briarwood which was 45.5%. We regularly monitor compliance with this requirement to minimize the risk that any of our institutions would derive more than the maximum percentage of its revenues from Title IV Programs for any fiscal year.

Student Loan Defaults. An institution may lose its eligibility to participate in some or all Title IV Programs if the rates at which the institution's current and former students default on their federal student loans exceed specified percentages. The DOE calculates these rates based on the number of students who have defaulted, not the dollar amount of such defaults. The DOE calculates an institution's cohort default rate (as defined by the DOE regulations) on an annual basis as the rate at which borrowers scheduled to begin repayment on their loans in one year default on those loans by the end of the next year. An institution whose Federal Family Education Loan cohort default rate is 25% or greater for three consecutive federal fiscal years loses eligibility to participate in the Federal Family Education Loan and Pell programs for the remainder of the federal fiscal year in which the DOE determines that such institution has lost its eligibility and for the two subsequent federal fiscal years. An institution whose Federal Family Education Loan cohort default rate for any single federal fiscal year exceeds 40% may have its eligibility to participate in all Title IV Programs limited, suspended or terminated by the DOE. The HEA has been amended by the HEOA to calculate the institution’s cohort default rate using a three year period, effective for fiscal 2009 and beyond.

Under the HEA reauthorization, an institution's cohort default rate is redefined to be based on the rate at which its former students default on their FFEL loans over a period of time that is one year longer than the period of time over which rates currently are calculated. As a result, most institutions' respective cohort default rates are expected to increase under the new provision, which first would apply to cohort default rates calculated after October 1, 2011. The DOE will not impose sanctions based on rates calculated under the new provision until three consecutive years have been calculated under the new method. Until that time, the DOE will continue to calculate rates under the old method and impose sanctions based on those rates. The HEOA also increases the cohort default three-year threshold from 25% to 30% effective in fiscal year 2012. On September 15, 2008, the DOE published the cohort default rate for each of our schools which range from 5.6% to 19.3%.

Federal Family Education Loan Program

As of December 31, 2008, none of our institutions has had a Federal Family Education Loan cohort default rate (as defined by the DOE) of 25% or greater for any of the federal fiscal years 2006, 2005 and 2004, the three most recent years for which the DOE has published such rates. The following table sets forth the Federal Family Education Loan cohort default rates for each of our 15 DOE institutions as of December 31, 2008 for those fiscal years:

Institution	2006	2005	2004
Union, NJ	10.8%	9.9%	7.6%
Indianapolis, IN	12.3%	7.5%	7.9%
Philadelphia, PA	15.0%	9.2%	12.8%
Columbia, MD	12.0%	7.5%	8.9%
Allentown, PA	10.1%	11.5%	7.0%
Melrose Park, IL	11.8%	11.6%	11.9%
Grand Prairie, TX	19.3%	14.6%	19.5%
Edison, NJ	14.5%	6.7%	3.3%
Denver, CO	11.1%	7.0%	8.4%
Nashville, TN	5.6%	5.2%	3.1%
Lincoln, RI	14.9%	12.8%	10.0%
Somerville, MA	12.3%	8.5%	10.6%
Dayton, OH	9.9%	7.6%	3.2%
New Britain, CT	11.2%	4.6%	4.6%
West Palm Beach, FL	9.9%	4.7%	8.2%
Southington, CT	10.2%	13.9%	9.8%

An institution whose cohort default rate under the FFEL program is 25% or greater for any one of the three most recent federal fiscal years does not meet the DOE standards of administrative capability may be placed on provisional certification status by the DOE.

Perkins Loan Program

An institution whose Perkins cohort default rate is 50% or greater for three consecutive federal award years loses eligibility to participate in the Perkins program for the remainder of the federal award year in which DOE determines that the institution has lost its eligibility and for the two subsequent federal award years. None of our institutions has had a Perkins cohort default rate of 50% or greater for any of the last three federal award years. The DOE also will not provide any additional federal funds to an institution for Perkins loans in any federal award year in which the institution's Perkins cohort default rate is 25% or greater. Denver LCT and NETI are our only institutions participating in the Perkins program. Denver LCT's cohort default rate was 35.7% for students scheduled to begin repayment in the 2007-2008 federal award year. The DOE did not provide any additional Federal Capital Contribution Funds for Perkins loans to Denver LCT. Denver LCT continues to make loans out of its existing Perkins loan fund. Lincoln Technical Institute (New Britain, CT) is provisionally certified by the DOE based on its change in ownership and on a finding by the DOE prior to the change in ownership that NETI had not transmitted certain data related to the Perkins program to the National Student Loan Data System during periods prior to the acquisition. Our New Britain, CT institution's cohort default rate was 14.1% for students scheduled to begin repayment in the 2007-2008 federal award year.

Financial Responsibility Standards. All institutions participating in Title IV Programs must satisfy specific standards of financial responsibility. The DOE evaluates institutions for compliance with these standards each year, based on the institution's annual audited financial statements, as well as following a change in ownership resulting in a change of control of the institution.

The most significant financial responsibility measurement is the institution's composite score, which is calculated by the DOE based on three ratios:

- The equity ratio, which measures the institution's capital resources, ability to borrow and financial viability;
- The primary reserve ratio, which measures the institution's ability to support current operations from expendable resources; and
- The net income ratio, which measures the institution's ability to operate at a profit.

The DOE assigns a strength factor to the results of each of these ratios on a scale from negative 1.0 to positive 3.0, with negative 1.0 reflecting financial weakness and positive 3.0 reflecting financial strength. The DOE then assigns a weighting percentage to each ratio and adds the weighted scores for the three ratios together to produce a composite score for the institution. The composite score must be at least 1.5 for the institution to be deemed financially responsible without the need for further oversight. If an institution's composite score is below 1.5, but is at least 1.0, it is in a category denominated by the DOE as "the zone." Under the DOE regulations, institutions that are in the zone are deemed to be financially responsible for a period of up to three years but are required to accept payment of Title IV Program funds under the cash monitoring or reimbursement method of payment and to provide to the DOE timely information regarding various oversight and financial events.

If an institution's composite score is below 1.0, the institution is considered by the DOE to lack financial responsibility. If the DOE determines that an institution does not satisfy the DOE's financial responsibility standards, depending on its composite score and other factors, that institution may establish its financial responsibility on an alternative basis by, among other things:

- Posting a letter of credit in an amount equal to at least 50% of the total Title IV Program funds received by the institution during the institution's most recently completed fiscal year;
- Posting a letter of credit in an amount equal to at least 10% of such prior year's Title IV Program funds, accepting provisional certification, complying with additional DOE monitoring requirements and agreeing to receive Title IV Program funds under an arrangement other than the DOE's standard advance funding arrangement; and/or
- Complying with additional DOE monitoring requirements and agreeing to receive Title IV Program funds under an arrangement other than the DOE's standard advance funding arrangement.

The DOE has evaluated the financial responsibility of our institutions on a consolidated basis. We have submitted to the DOE our audited financial statements for the 2006 and 2007 fiscal year reflecting a composite score of 1.7 and 1.8, respectively, based upon our calculations, and that our schools meet the DOE standards of financial responsibility. For the 2008 fiscal year, we have calculated our composite score to be 1.8.

Beginning December 30, 2004 and for a period of three years, all of our institutions were placed on "Heightened Cash Monitoring, Type 1 status." As a result, we were subject to a less favorable Title IV fund payment system that required us to credit student accounts before drawing down Title IV funds and also required us to timely notify the DOE with respect to certain enumerated oversight and financial events. The DOE has notified us that, as of December 31, 2007, we are no longer subject to Heightened Cash Monitoring, Type 1 status.

Return of Title IV Funds. An institution participating in Title IV Programs must calculate the amount of unearned Title IV Program funds that have been disbursed to students who withdraw from their educational programs before completing them, and must return those unearned funds to the DOE or the applicable lending institution in a timely manner, which is generally within 45 days from the date the institution determines that the student has withdrawn.

If an institution is cited in an audit or program review for returning Title IV Program funds late for 5% or more of the students in the audit or program review sample, the institution must post a letter of credit in favor of the DOE in an amount equal to 25% of the total amount of Title IV Program funds that should have been returned for students who withdrew in the institution's previous fiscal year.

School Acquisitions. When a company acquires a school that is eligible to participate in Title IV Programs, that school undergoes a change of ownership resulting in a change of control as defined by the DOE. Upon such a change of control, a school's eligibility to participate in Title IV Programs is generally suspended until it has applied for recertification by the DOE as an eligible school under its new ownership, which requires that the school also re-establish its state authorization and accreditation. The DOE may temporarily and provisionally certify an institution seeking approval of a change of control under certain circumstances while the DOE reviews the institution's application. The time required for the DOE to act on such an application may vary substantially. DOE recertification of an institution following a change of control will be on a provisional basis. Our expansion plans are based, in part, on our ability to acquire additional schools and have them certified by the DOE to participate in Title IV Programs. Our expansion plans take into account the approval requirements of the DOE and the relevant state education agencies and accrediting commissions.

Our recent acquisition of Briarwood College resulted in a change in ownership of said school requiring it to reapply for eligibility to participate in the Title IV programs and for approvals from their accrediting and state licensing agencies. Briarwood has received approval of the change in ownership from its accrediting agency and from its state licensing agency. Briarwood has also received a Temporary Provisional Program Participation Agreement, or Temporary PPPA, from the DOE, and we believe that we have provided the documentation necessary for the Temporary PPPA to remain in effect on a month-to-month basis pending completion of the DOE's review.

While it cannot be assured that the respective agencies will issue the required approvals described above, we believe that we will be able to meet the requirements necessary for obtaining these approvals.

Prior to our acquisition of Briarwood, the American Board of Funeral Service Education (“ABFSE”), the accrediting agency that accredits Briarwood’s Mortuary Sciences program, placed the program on “show cause”. Briarwood submitted a response on January 12, 2009 and hosted a follow-up visit from the agency on February 8–10, 2009. ABFSE has informed us that they intend to review Briarwood’s January response as well as the information obtained from the agency’s February visit at their April 2009 meeting.

Change of Control. In addition to school acquisitions, other types of transactions can also cause a change of control. The DOE, most state education agencies and our accrediting commissions have standards pertaining to the change of control of schools, but these standards are not uniform. DOE regulations describe some transactions that constitute a change of control, including the transfer of a controlling interest in the voting stock of an institution or the institution's parent corporation. For a publicly traded corporation, DOE regulations provide that a change of control occurs in one of two ways: (a) if a person acquires ownership and control of the corporation so that the corporation is required to file a Current Report on Form 8-K with the Securities and Exchange Commission disclosing the change of control or (b) if the corporation has a shareholder that owns at least 25% of the total outstanding voting stock of the corporation and is the largest shareholder of the corporation, and that shareholder ceases to own at least 25% of such stock or ceases to be the largest shareholder. These standards are subject to interpretation by the DOE.

A significant purchase or disposition of our common stock could be determined by the DOE to be a change of control under this standard. Most of the states and our accrediting commissions include the sale of a controlling interest of common stock in the definition of a change of control although some agencies could determine that the sale or disposition of a smaller interest would result in a change of control. A change of control under the definition of one of these agencies would require the affected school to reaffirm its state authorization or accreditation. Some agencies would require approval prior to a sale or disposition that would result in a change of control in order to maintain authorization or accreditation. The requirements to obtain such reaffirmation from the states and our accrediting commissions vary widely.

A change of control could occur as a result of future transactions in which our company or schools are involved. Some corporate reorganizations and some changes in the board of directors are examples of such transactions. Moreover, the potential adverse effects of a change of control could influence future decisions by us and our stockholders regarding the sale, purchase, transfer, issuance or redemption of our stock. In addition, the adverse regulatory effect of a change of control also could discourage bids for your shares of common stock and could have an adverse effect on the market price of the Company's shares.

Opening Additional Schools and Adding Educational Programs. For-profit educational institutions must be authorized by their state education agencies and be fully operational for two years before applying to the DOE to participate in Title IV Programs. However, an institution that is certified to participate in Title IV Programs may establish an additional location and apply to participate in Title IV Programs at that location without reference to the two-year requirement, if such additional location satisfies all other applicable DOE eligibility requirements. Our expansion plans are based, in part, on our ability to open new schools as additional locations of our existing institutions and take into account the DOE's approval requirements.

A student may use Title IV Program funds only to pay the costs associated with enrollment in an eligible educational program offered by an institution participating in Title IV Programs. Generally, an institution that is eligible to participate in Title IV Programs may add a new educational program without DOE approval if that new program leads to an associate level or higher degree and the institution already offers programs at that level, or if that program prepares students for gainful employment in the same or a related occupation as an educational program that has previously been designated as an eligible program at that institution and meets minimum length requirements. If an institution erroneously determines that an educational program is eligible for purposes of Title IV Programs, the institution would likely be liable for repayment of Title IV Program funds provided to students in that educational program. Our expansion plans are based, in part, on our ability to add new educational programs at our existing schools. We do not believe that current DOE regulations will create significant obstacles to our plans to add new programs.

Some of the state education agencies and our accrediting commission also have requirements that may affect our schools' ability to open a new campus, establish an additional location of an existing institution or begin offering a new educational program. Any institution required to submit retention data to the ACICS may be required to obtain prior permission from the ACICS for the initiation of any new program or new branch campus or learning site. We do not believe that these standards will create significant obstacles to our expansion plans.

Administrative Capability. The DOE assesses the administrative capability of each institution that participates in Title IV Programs under a series of separate standards. Failure to satisfy any of the standards may lead the DOE to find the institution ineligible to participate in Title IV Programs or to place the institution on provisional certification as a condition of its participation. These criteria require, among other things, that the institution:

- Complies with all applicable federal student financial aid regulations;
- Has capable and sufficient personnel to administer the federal student financial aid programs;
- Has adequate checks and balances in its system of internal controls;
- Divides the function of authorizing and disbursing or delivering Title IV Program Funds so that no office has the responsibility for both functions;
- Establishes and maintains records required under the Title IV regulations;
- Develops and applies an adequate system to identify and resolve discrepancies in information from sources regarding a student's application for financial aid under Title IV;
- Has acceptable methods of defining and measuring the satisfactory academic progress of its students;
- Refers to the Office of the Inspector General any credible information indicating that any applicant, student, employee or agent of the school has been engaged in any fraud or other illegal conduct involving Title IV Programs;
- Provides financial aid counseling to its students; and
- Submits in a timely manner all reports and financial statements required by the regulations.

Failure by an institution to satisfy any of these or other administrative capability criteria could cause the institution to lose its eligibility to participate in Title IV Programs, which would have a material adverse effect on our business and results of operations.

Other standards provide that an institution may be found to lack administrative capability and be placed on provisional certification if its student loan default rate under the Federal Family Education Loan program is 25% or greater for any of the three most recent federal fiscal years, or if its Perkins cohort default rate exceeds 15% for any federal award year. None of our institutions has a Federal Family Education Loan cohort default rate above 25% for any of the three most recent fiscal years for which the DOE has published rates. Denver LCT and NETI are our only institutions participating in the Perkins program. Denver LCT 's cohort default rate was 35.7% for students scheduled to begin repayment in the 2007-2008 federal award year. The DOE did not provide any additional Federal Capital Contribution Funds for Perkins loans to Denver LCT. Denver LCT continues to make loans out of its existing Perkins loan fund. As was the case prior to our acquisition NETI, the institution remains provisionally certified by the DOE based on its change in ownership and on a finding by the DOE prior to the change in ownership that NETI had not transmitted certain data related to the Perkins program to the National Student Loan Data System during periods prior to the acquisition. NETI 's cohort default rate was 14.1% for students scheduled to begin repayment in the 2007-2008 federal award year.

Ability to Benefit Regulations. Under certain circumstances, an institution may elect to admit non-high school graduates, or "ability to benefit," students, into certain of its programs of study. In order for ability to benefit students to be eligible for Title IV Program participation, the institution must comply with the ability to benefit requirements set forth in the Title IV Program requirements. The basic evaluation method to determine that a student has the ability to benefit from the program is the student's achievement of a minimum score on a test approved by the DOE and independently administered in accordance with DOE regulations. The HEOA provisions also permit students to demonstrate their ability to benefit and become eligible to receive Title IV funds upon satisfactory completion of six credit hours or the equivalent coursework. In addition to the testing requirements, the DOE regulations also prohibit ability to benefit student enrollments from constituting 50% or more of the total enrollment of the institution. In 2008, the following schools were authorized to enroll “ability to benefit” applicants: Southwestern College, New Britain, Cromwell, Shelton, Hamden, Union, Mahwah, Indianapolis, Melrose Park, Grand Prairie, Somerville, Denver, West Palm Beach, Center City Philadelphia, Northeast Philadelphia, Paramus, Mt. Laurel, Marietta, Lowell, Edison, Brockton, Allentown, and Summerlin.

Restrictions on Payment of Commissions, Bonuses and Other Incentive Payments. An institution participating in Title IV Programs may not provide any commission, bonus or other incentive payment based directly or indirectly on success in securing enrollments or financial aid to any person or entity engaged in any student recruiting or admission activities or in making decisions regarding the awarding of Title IV Program funds. In November 2002, the DOE published new regulations which attempt to clarify the "incentive compensation rule." Failure to comply with the incentive compensation rule could result in loss of ability to participate in Title IV Programs or in fines or liabilities. We believe that our current compensation plans are in compliance with the Higher Education Act and the DOE's new regulations, although we cannot assure you that the DOE will not find deficiencies in our compensation plans.

Eligibility and Certification Procedures. Each institution must periodically apply to the DOE for continued certification to participate in Title IV Programs. The institution must also apply for recertification when it undergoes a change in ownership resulting in a change of control. The institution also may come under DOE review when it undergoes a substantive change that requires the submission of an application, such as opening an additional location or raising the highest academic credential it offers.

The DOE may place an institution on provisional certification status if it determines that the institution does not fully satisfy certain administrative and financial standards or if the institution undergoes a change in ownership resulting in a change of control. The DOE may withdraw an institution's provisional certification with the institution having fewer due process protections than if it were fully certified. In addition, the DOE may more closely review an institution that is provisionally certified if it applies for approval to open a new location, add an educational program, acquire another school or make any other significant change. Provisional certification does not otherwise limit an institution's access to Title IV Program funds. In connection with our acquisitions of NETI, and New England Institute of Technology at Palm Beach, we received in each case an executed provisional program participation agreement from the DOE. In connection with our acquisition of Briarwood College, we received a temporary provisional program participation agreement from the DOE which remains in effect until the DOE completes its review and approval process for the change in ownership.

All institutions are recertified on various dates for various amounts of time. The following table sets forth the expiration dates for each of our institutions' current program participation agreement as of December 31, 2008:

Institution	Expiration Date of Current Program Participation Agreement
Allentown, PA	March 31, 2014
Columbia, MD	June 30, 2013
Philadelphia, PA	September 30, 2013
Denver, CO	December 31, 2009
Lincoln, RI	March 31, 2014
Nashville, TN	March 31, 2014
Somerville, MA	March 31, 2014
Edison, NJ	June 30, 2011
Union, NJ	June 30, 2011
Grand Prairie, TX	March 31, 2009**
Indianapolis, IN	March 31, 2009**
Melrose Park, IL	March 31, 2009**
Dayton, OH	March 31, 2014
New Britain, CT	March 31, 2009*
West Palm Beach, FL	June 30, 2010*
Southington, CT	January 31, 2009***

* Provisionally certified
** Currently going through re-certification
*** Temporary provisional certification extended on a month-to-month basis pending completion of DOE change in ownership review and approval process

Compliance with Regulatory Standards and Effect of Regulatory Violations. Our schools are subject to audits, program reviews, and site visits by various regulatory agencies, including the DOE, the DOE's Office of Inspector General, state education agencies, student loan guaranty agencies, the U.S. Department of Veterans Affairs and our accrediting commissions. In addition, each of our institutions must retain an independent certified public accountant to conduct an annual audit of the institution's administration of Title IV Program funds. The institution must submit the resulting audit report to the DOE for review.

The DOE conducted a program review at Southwestern College ("SWC") and issued an initial program review report, dated February 6, 2008, in which it identified potential instances of noncompliance with certain DOE requirements. SWC responded to the DOE initial program review report on April 3, 2008. In a letter, dated May 29, 2008, the DOE issued a Final Program Review Determination and SWC refunded $0.2 million to the DOE.

In a letter received from the ACCSCT, dated July 7, 2008, we were informed of a "show cause" regarding our Lincoln Technical Institute institution in Philadelphia, Pennsylvania. An institution under "show cause" is required to satisfy its accrediting agency within a prescribed period, typically 18 months, that it has satisfactorily resolved the deficiency. We responded to ACCSCT's "show cause" request in September 2008. In a letter dated December 5, 2008, ACCSCT informed us that the "show cause" order was vacated.

If one of our schools failed to comply with accrediting or state licensing requirements, such school and its main and/or branch campuses could be subject to the loss of state licensure or accreditation, which in turn could result in a loss of eligibility to participate in Title IV Programs. If the DOE determined that one of our institutions improperly disbursed Title IV Program funds or violated a provision of the Higher Education Act or DOE regulations, the institution could be required to repay such funds and related costs to the DOE and lenders, and could be assessed an administrative fine. The DOE could also place the institution on provisional certification and/or transfer the institution to the reimbursement or cash monitoring system of receiving Title IV Program funds, under which an institution must disburse its own funds to students and document the students' eligibility for Title IV Program funds before receiving such funds from the DOE. An institution that is operating under this "Heightened Cash Monitoring, Type 1 status," is required to credit student accounts before drawing down funds under Title IV Programs and to draw down funds in an amount no greater than the previous disbursement to students and parents. Additionally, the institution's compliance audit will be required to contain verification that this did occur throughout the year. In addition to the above, the DOE has required us to comply with certain requirements prescribed for institutions operating in "the zone," which is indicative of a composite score between 1.0 and 1.4. Those requirements include providing timely information regarding any of the following oversight and financial events:

- Any adverse action, including a probation or similar action, taken against the institution by its accrediting agency;
- Any event that causes the institution, or related entity to realize any liability that was noted as a contingent liability in the institution's or related entity's most recent audit financial statement;
- Any violation by the institution of any loan agreement;
- Any failure of the institution to make a payment in accordance with its debt obligations that results in a creditor filing suit to recover funds under those obligations;
- Any withdrawal of owner's equity from institution by any means, including declaring a dividend; or
- Any extraordinary losses, as defined in accordance with Accounting Principles Board Opinion No. 30.

Operating under the zone requirements may also require the institution to submit its financial statement and compliance audits earlier than the date previously required and require the institution to provide information about its current operations and future plans. An institution that continues to fail to meet the financial responsibility standards set by the DOE or does not comply with the zone requirements may lose its eligibility to continue to participate in Title IV funding. If eligibility is lost, the institution may be required to post irrevocable letters of credit, for an amount determined by the DOE at a minimum of 50% of the Title IV Program funds received by the institution during its most recently completed fiscal year. The institution may also be required to post irrevocable letters of credit at a minimum of 10% of such funds and be provisionally certified and subject to other reporting and monitoring requirements.

Significant violations of Title IV Program requirements by us or any of our institutions could be the basis for a proceeding by the DOE to limit, suspend or terminate the participation of the affected institution in Title IV Programs or to civil or criminal penalties. Generally, such a termination extends for 18 months before the institution may apply for reinstatement of its participation. There is no DOE proceeding pending to fine any of our institutions or to limit, suspend or terminate any of our institutions' participation in Title IV Programs.

We and our schools are also subject to complaints and lawsuits relating to regulatory compliance brought not only by our regulatory agencies, but also by third parties, such as present or former students or employees and other members of the public. If we are unable to successfully resolve or defend against any such complaint or lawsuit, we may be required to pay money damages or be subject to fines, limitations, loss of federal funding, injunctions or other penalties. Moreover, even if we successfully resolve or defend against any such complaint or lawsuit, we may have to devote significant financial and management resources in order to reach such a result.

Lenders and Guaranty Agencies. In 2008, six lenders provided funding to more than 90% of the students at the schools we owned during that year: Sallie Mae Education Trust, AMS Trust, Regions Bank, PNC Bank, Student Funding Group, and Nelnet. While we believe that other lenders might be willing to make federally guaranteed student loans to our students if loans were no longer available from our current lenders, there can be no assurances in this regard. In addition, the Higher Education Act requires the establishment of lenders of last resort in every state to ensure that loans are available to students at any school that cannot otherwise identify lenders willing to make federally guaranteed loans to its students.

Our primary guarantors for Title IV loans are USA Group, a subsidiary of Sallie Mae, and New Jersey Higher Education Assistance Authority, an independent agency of the State of New Jersey. These two agencies currently guarantee a majority of the federally guaranteed student loans made to students enrolled at our schools. There are six other guaranty agencies that guarantee student loans made to students enrolled at our schools. We believe that other guaranty agencies would be willing to guarantee loans to our students if any of the guaranty agencies ceased guaranteeing those loans or reduced the volume of loans they guarantee, although there can be no assurances in this regard.

Subsequent Event. On January 20, 2009, we completed the acquisition of four of the five institutions comprising Baran Institute of Technology, or Baran, for approximately $24.9 million in cash, net of cash acquired, subject to contractual post closing adjustments. Baran consists of five distinct institutions serving approximately 1,900 students and offers associate and diploma programs in the fields of automotive, skilled trades, health sciences and culinary arts. The four institutions we acquired on January 20, 2009 are Baran Institute of Technology, or BIT, Connecticut Culinary Institute, or CCI, Americare School of Nursing, or ASN, and Engine City Technical Institute, or ECTI. We also acquired the membership interests of Hartford Urban Ventures, LLC and certain assets and assumed certain liabilities of Educational Properties, LLC, which provide support services to Baran. We expect to acquire the fifth Baran institution, Clemens College, for an additional $3.0 million in the second quarter of 2009.

Our recent acquisition of the four Baran schools resulted in a change in ownership of such schools requiring each of those schools and their campuses to reapply for eligibility to participate in the Title IV programs and for approvals from their accrediting and state licensing agencies. Each of the four Baran schools has received a Temporary Provisional PPA allowing each to resume its participation in the Title IV programs and we have provided the documentation necessary for each Temporary Provisional PPA to remain in effect on a month-to-month basis pending completion of the DOE's review and decision to issue a Provisional Program Participation Agreement.

Each of BIT, CCI and ECTI have received Part 1 approval of the change in ownership from their accrediting agency, the Accrediting Commission of Career Schools and Colleges of Technology, or ACCSCT, and have applied for Part 2 approval under a process that takes place after the change in ownership under applicable standards. Both BIT and CCI have received approval of the change in ownership from the State of Connecticut Board of Governors for Higher Education. ECTI has applied for approval of its change in ownership from the New Jersey Department of Labor and Workforce Development under a process that takes place after the change in ownership. ASN has received a provisional license from the Commission for Independent Education of the Florida Department of Education and is awaiting final approval of the change in ownership from that agency at its March 2009 meeting. ASN has applied for approval of the change in ownership with its accrediting agency, the Accrediting Bureau of Health Education Schools, or ABHES, under a process that also takes place after the change in ownership under applicable standards.

While we cannot assure you that the respective agencies will issue the required approvals described above, we believe that we will be able to meet the requirements necessary for obtaining these approvals.

Prior to our acquisition of the four Baran schools, the DOE notified those schools that they did not meet DOE financial responsibility standards and, as a result, must submit letters of credit to the DOE in the amount of $2.0 million and be placed on heightened cash monitoring 1 status. The required letters of credit have been submitted to the DOE and have an expiration date of December 31, 2009. Prior to our acquisition of the ASN school, ABHES directed the school to show cause why its accreditation should not be withdrawn based upon a visit to the school's branch campus in St. Petersburg, Florida. The school is required to submit a response to ABHES by April 1, 2009 and will have a subsequent opportunity to appear before an ABHES panel. Subsequent to our acquisition of the school, we have engaged in a process to respond to the show cause order and to work closely with ABHES to resolve any potential issues.

Item 1A. RISK FACTORS

The following risk factors and other information included in this Form 10-K should be carefully considered. The risks and uncertainties described below are not the only ones we face. Additional risks and uncertainties not presently known to us or that we currently believe are not material may also adversely affect our business, financial condition, operating results, cash flows and prospects.

RISKS RELATED TO OUR INDUSTRY

Failure of our schools to comply with the extensive regulatory requirements for school operations could result in financial penalties, restrictions on our operations and loss of external financial aid funding, which could affect our revenues and impose significant operating restrictions on us.

Our schools are subject to extensive regulation by federal and state governmental agencies and by accrediting commissions. In particular, the Higher Education Act of 1965, as amended, and the regulations promulgated thereunder by the DOE, set forth numerous standards that our schools must satisfy to participate in various federal student financial assistance programs under Title IV Programs. In 2008, we derived approximately 79% of our revenues, calculated based on cash receipts, from Title IV Programs. To participate in Title IV Programs, each of our schools must receive and maintain authorization by the applicable education agencies in the state in which each school is physically located, be accredited by an accrediting commission recognized by the DOE and be certified as an eligible institution by the DOE. These regulatory requirements cover the vast majority of our operations, including our educational programs, facilities, instructional and administrative staff, administrative procedures, marketing, recruiting, student performances and outcomes, financial operations and financial condition. These regulatory requirements also affect our ability to acquire or open additional schools, add new educational programs, expand existing educational programs, and change our corporate structure and ownership.

If any of our schools fails to comply with applicable regulatory requirements, the school and its related main campus and/or additional locations could be subject to the loss of state licensure or accreditation, the loss of eligibility to participate in and receive funds under the Title IV Programs, the loss of the ability to grant degrees, diplomas and certificates, provisional certification, or the imposition of liabilities or monetary penalties, each of which could adversely affect our revenues and impose significant operating restrictions upon us. In addition, the loss by any of our schools of its accreditation, its state authorization or license, or its eligibility to participate in Title IV Programs constitutes an event of default under our credit agreement, which we and our subsidiaries entered into with a syndicate of banks on February 15, 2005. An event of default on our credit agreement could result in the acceleration of all amounts then outstanding under our credit agreement. The various regulatory agencies periodically revise their requirements and modify their interpretations of existing requirements and restrictions. We cannot predict with certainty how any of these regulatory requirements will be applied or whether each of our schools will be able to comply with these requirements or any additional requirements instituted in the future.

If we or our eligible institutions do not meet the financial responsibility standards prescribed by the DOE, as has occurred in the past, we may be required to post letters of credit or our eligibility to participate in Title IV Programs could be terminated or limited, which could significantly reduce our student population and revenues.

To participate in Title IV Programs, an eligible institution must satisfy specific measures of financial responsibility prescribed by the DOE or post a letter of credit in favor of the DOE and possibly accept other conditions on its participation in Title IV Programs. Any obligation to post one or more letters of credit would increase our costs of regulatory compliance. Our inability to obtain a required letter of credit or limitations on, or termination of, our participation in Title IV Programs could limit our students' access to various government-sponsored student financial aid programs, which could significantly reduce our student population and revenues.

Each year, based on the financial information submitted by an eligible institution that participates in Title IV Programs, the DOE calculates three financial ratios for the institution: an equity ratio, a primary reserve ratio and a net income ratio. Each of these ratios is scored separately and then combined into a composite score to measure the institution's financial responsibility. If the composite score for an institution falls below thresholds established by the DOE, the DOE could place the institution on provisional certification and/or transfer the institution to the reimbursement or cash monitoring system of receiving Title IV Program funds, under which an institution must disburse its own funds to students and document the student's eligibility for Title IV Program funds before receiving such funds from the DOE. If an institution has a composite score between 1.0 and 1.4, the institution will be required to operate under "Heightened Cash Monitoring, Type 1 status." If an institution's composite score is below 1.0, the institution is considered by the DOE to lack financial responsibility and, as a condition of Title IV Program participation, the institution may be required to, among other things, post a letter of credit in an amount of at least 10 to 50 percent of the institution's annual Title IV Program participation for its most recent fiscal year.

Based on our calculations, the 2008 and 2007 financial statements reflect a composite score of 1.8 for each year. However, because our composite scores for 2001 and 2002 were below 1.0 all of our institutions were placed on “Heightened Cash Monitoring, Type 1 status” from December 30, 2004 through December 30, 2007. If we revert to this status in the future or fail to comply with applicable DOE requirements, we may lose our eligibility for continued participation in Title IV Programs or may be required to post irrevocable letters of credit. In addition, a composite score under 1.0 in any future year could have an adverse effect on our operations and would result in a default under our credit agreement and could result in an acceleration of the debt under our credit agreement.

If we fail to demonstrate "administrative capability" to the DOE, our business could suffer.

DOE regulations specify extensive criteria an institution must satisfy to establish that it has the requisite "administrative capability" to participate in Title IV Programs. These criteria require, among other things, that the institution:

- Comply with all applicable Title IV regulations;
- Have capable and sufficient personnel to administer Title IV Programs;
- Has adequate checks and balance in its system of internal controls;
- Divides the function of authorizing and disbursing or delivering Title IV Program Funds so that no office has the responsibility for both functions;
- Establishes and maintains records required under the Title IV regulations;
- Develops and applies an adequate system to identify and resolve discrepancies in information from sources regarding a student’s application for financial aid under Title IV;
- Have acceptable methods of defining and measuring the satisfactory academic progress of its students;
- Provide financial aid counseling to its students; and
- Submit in a timely manner all reports and financial statements required by the regulations.

If an institution fails to satisfy any of these criteria or any other DOE regulation, the DOE may:

- Require the repayment of Title IV funds;
- Impose a less favorable payment system for the institution's receipt of Title IV funds;
- Place the institution on provisional certification status; or
- Commence a proceeding to impose a fine or to limit, suspend or terminate the participation of the institution in Title IV Programs.

If we are found not to have satisfied the DOE's "administrative capability" requirements, one or more of our institutions, including its additional locations, could be limited in its access to, or lose, Title IV Program funding. A decrease in Title IV funding could adversely affect our revenues, as we received approximately 79% of our revenues (calculated based on cash receipts) from Title IV Programs in 2008.

We are subject to fines and other sanctions if we pay impermissible commissions, bonuses or other incentive payments to individuals involved in certain recruiting, admissions or financial aid activities, which could increase our cost of regulatory compliance and adversely affect our results of operations.

A school participating in Title IV Programs may not provide any commission, bonus or other incentive payment based on directly or indirectly on success in enrolling students or securing financial aid to any person involved in any student recruiting or admission activities or in making decisions regarding the awarding of Title IV Program funds. The law and regulations governing this requirement do not establish clear criteria for compliance in all circumstances. If we are found to have violated this law, we could be fined or otherwise sanctioned by the DOE or we could face litigation filed under the *qui tam* provisions of the Federal False Claims Act.

If we were involved in conflicts of interest with student loan lenders, we could be subject to penalties and otherwise suffer adverse impacts on our business.

In 2007, the New York Attorney General, several other attorneys-general, the United States Senate and House of Representatives Education Committees, and the DOE all launched investigations of potential conflicts of interest between university officials and various private lending organizations that provide student loans. Several universities and lending organizations have agreed to pay fines to settle claims in this regard. In addition, several financial aid officials at other universities have been suspended or placed on leaves of absence. While no allegations have been raised concerning our institutions, we received general requests for information from the offices of two state attorneys-general. We have no reason to believe that any of our employees have engaged in improper conduct in this regard. If any such impropriety were found, we could be subject to penalties and other adverse consequences.

If our schools do not maintain their state authorizations and their accreditation, they may not participate in Title IV Programs, which could adversely affect our student population and revenues.

An institution that grants degrees, diplomas or certificates must be authorized by the appropriate education agency of the state in which it is located and, in some cases, other states. Requirements for authorization vary substantially among states. The school must be authorized by each state in which it is physically located in order for its students to be eligible for funding under Title IV Programs. Loss of state authorization by any of our schools from the education agency of the state in which the school is located would end that school's eligibility to participate in Title IV Programs and could cause us to close the school.

A school must be accredited by an accrediting commission recognized by the DOE in order to participate in Title IV Programs. Accreditation is a non-governmental process through which an institution submits to qualitative review by an organization of peer institutions, based on the standards of the accrediting agency and the stated aims and purposes of the institution, including achieving and maintaining stringent retention, completion and placement outcomes. Certain states require institutions to maintain accreditation as a condition of continued authorization to grant degrees. The Higher Education Act requires accrediting commissions recognized by the DOE to review and monitor many aspects of an institution's operations and to take appropriate disciplinary action when the institution fails to comply with the accrediting agency's standards. Loss of accreditation by any of our main campuses would result in the termination of eligibility of that school and all of its branch campuses to participate in Title IV Programs and could cause us to close the school and its branches.

Our institutions would lose eligibility to participate in Title IV Programs if the percentage of their revenues derived from those programs were too high, which could reduce our student population and revenues.

Under the HEA reauthorization, a proprietary institution that derives more than 90% of its total revenue from the Title IV programs for two consecutive fiscal years becomes immediately ineligible to participate in the Title IV programs and may not reapply for eligibility until the end of two fiscal years. An institution with revenues exceeding 90% for a single fiscal year ending after August 14, 2008, will be placed on provisional certification and may be subject to other enforcement measures. Under prior law, an institution would immediately lose its eligibility to participate in Title IV Programs if it derived more than 90% of its revenues (calculated based on cash receipts) from those programs in any fiscal year as calculated in accordance with DOE regulations and would be ineligible to apply to regain its eligibility until the following fiscal year. Based on our calculations, none of our institutions received more than 90% of its revenues in fiscal year 2008, and our institution with the highest percentage received approximately 89.0% of its revenues, from Title IV Programs. If one of our institutions violated the 90/10 Rule and became ineligible to participate in Title IV Programs but continued to disburse Title IV Program funds, the DOE would require the institution to repay all title IV Program funds received by the institution after the effective date of the loss of eligibility. If any of our institutions loses eligibility to participate in Title IV Programs, that loss would cause an event of default under our credit agreement, which could result in the acceleration of any indebtedness then outstanding under our credit agreement, and would also adversely affect our students' access to various government-sponsored student financial aid programs, which could reduce our student population and revenues. These calculations are required to be made based on cash receipts.

Our institutions would lose eligibility to participate in Title IV Programs if their former students defaulted on repayment of their federal student loans in excess of specified levels, which could reduce our student population and revenues.

An institution of higher education, such as each of our institutions, loses its eligibility to participate in some or all Title IV Programs if its former students default on the repayment of their federal student loans in excess of specified levels. If any of our institutions exceeds the official student loan default rates published by the DOE, it will lose eligibility to participate in Title IV Programs. That loss would adversely affect our students' access to various government-sponsored student financial aid programs, which could reduce our student population and revenues.

We are subject to sanctions if we fail to correctly calculate and timely return Title IV Program funds for students who withdraw before completing their educational program, which could increase our cost of regulatory compliance and decrease our profit margin.

An institution participating in Title IV Programs must correctly calculate the amount of unearned Title IV Program funds that have been credited to students who withdraw from their educational programs before completing them and must return those unearned funds in a timely manner, generally within 45 days of the date the institution determines that the student has withdrawn. If the unearned funds are not properly calculated and timely returned, we may have to post a letter of credit in favor of the DOE or may be otherwise sanctioned by the DOE, which could increase our cost of regulatory compliance and adversely affect our results of operations.

If regulators do not approve our acquisition of a school that participates in Title IV Programs, the acquired school would no longer be permitted to participate in Title IV Programs, which could impair our ability to operate the acquired school as planned or to realize the anticipated benefits from the acquisition of that school.

If we acquire a school that participates in Title IV Programs, we must obtain approval from the DOE and applicable state education agencies and accrediting commissions in order for the school to be able to continue operating and participating in Title IV Programs. An acquisition can result in the temporary suspension of the acquired school's participation in Title IV Programs unless we submit to the DOE a timely and materially complete application for recertification and the DOE issues a temporary provisional program participation agreement. If we were unable to timely re-establish the state authorization, accreditation or DOE certification of the acquired school, our ability to operate the acquired school as planned or to realize the anticipated benefits from the acquisition of that school could be impaired. In connection with our acquisitions of New England Technical Institute and, New England Institute of Technology at Palm Beach, we received in each case an executed provisional program participation agreement from the DOE. In connection with our acquisition of Briarwood College, we have received a temporary provisional program participation agreement from the DOE which remains in effect until the DOE completes its review and approval process for the change in ownership.

If regulators do not approve or delay their approval of transactions involving a change of control of our company or any of our schools, our ability to participate in Title IV Programs may be impaired.

If we or any of our schools experience a change of control under the standards of applicable state education agencies, our accrediting commissions or the DOE, we or the affected schools must seek the approval of the relevant regulatory agencies in order for us or the acquired school to maintain required state licensure and accreditation and to participate in Title IV Programs. Transactions or events that constitute a change of control of us include significant acquisitions or dispositions of our common stock (including, pursuant to DOE regulations, sales by a shareholder that owns at least 25% of our total outstanding voting stock and is our largest shareholder, as a result of which sales such shareholder ceases to own at least 25% of our outstanding voting stock or ceases to be our largest shareholder) or significant changes in the composition of our board of directors. Some of these transactions or events may be beyond our control. Our failure to obtain, or a delay in receiving, approval of any change of control from any state in which our schools are located or other states as the case may be, our accrediting commissions or the DOE could impair or result in the termination of our accreditation, state licensure or ability to participate in Title IV Programs. Our failure to obtain, or a delay in obtaining, approval of any change of control from any state in which we do not have a school but in which we recruit students could require us to suspend our recruitment of students in that state until we receive the required approval. The potential adverse effects of a change of control with respect to participation in Title IV Programs could influence future decisions by us and our stockholders regarding the sale, purchase, transfer, issuance or redemption of our stock. In addition, the adverse regulatory effect of a change of control also could discourage bids for shares of our common stock and could have an adverse effect on the market price of shares of our common stock.

Congress may change the law or reduce funding for Title IV Programs, which could reduce our student population, revenues or profit margin.

Congress periodically revises the Higher Education Act and other laws governing Title IV HEA Programs and annually determines the funding level for each Title IV Program. On August 14, 2008, the Higher Education Opportunity Act, Public Law 110-315 was enacted. The HEA reauthorized the Title IV programs through at least September 30, 2014. Any action by Congress that significantly reduces funding for Title IV Programs or the ability of our schools or students to receive funding through those programs could result in increased administrative costs and decreased profit margin.

In addition, current requirements for student and school participation in Title IV Programs may change or one or more of the present Title IV Programs could be replaced by other programs with materially different student or school eligibility requirements. If we cannot comply with the provisions of the Higher Education Act, as they may be revised, or if the cost of such compliance is excessive, our revenues or profit margin could be adversely affected.

In February 2009, President Obama released a budget blueprint for federal fiscal year 2010 that proposes that all new loans be originated through the Federal Direct Loan Program rather than the FFEL Program. The Proposal has not been passed by Congress and is subject to further amendment. If this proposal were adopted, it could result in our institutions being required to certify loans through the Federal Direct Loan Program rather than through the Federal Family Education Loan Program. Our schools currently participate in the Federal Direct Loan Programs.

Regulatory agencies or third parties may conduct compliance reviews, bring claims or initiate litigation against us. If the results of these reviews or claims are unfavorable to us, our results of operations and financial condition could be adversely affected.

Because we operate in a highly regulated industry, we are subject to compliance reviews and claims of noncompliance and lawsuits by government agencies and third parties. If the results of these reviews or proceedings are unfavorable to us, or if we are unable to defend successfully against third-party lawsuits or claims, we may be required to pay money damages or be subject to fines, limitations on the operations of our business, loss of federal funding, injunctions or other penalties. Even if we adequately address issues raised by an agency review or successfully defend a third-party lawsuit or claim, we may have to divert significant financial and management resources from our ongoing business operations to address issues raised by those reviews or defend those lawsuits or claims. Prior to our acquisition of Briarwood, the American Board of Funeral Service Education ("ABFSE"), the accrediting agency that accredits Briarwood's Mortuary Sciences program, placed the program on "show cause". Briarwood submitted a response on January 12, 2009 and hosted a follow-up visit from the agency on February 8–10, 2009. ABFSE has informed us that they intend to review Briarwood's January response as well as the information obtained from the agency's February visit at their April 2009 meeting.

RISKS RELATED TO OUR BUSINESS

If we fail to effectively manage our growth, we may incur higher costs and expenses than we anticipate in connection with our growth.

We have experienced a period of significant growth since 1999. Our continued growth has strained and may in the future strain our management, operations, employees or other resources. We will need to continue to assess the adequacy of our staff, controls and procedures to meet the demands of our continued growth. We may not be able to maintain or accelerate our current growth rate, effectively manage our expanding operations or achieve planned growth on a timely or profitable basis. If we are unable to manage our growth effectively while maintaining appropriate internal controls, we may experience operating inefficiencies that likely will increase our expected costs.

We may not be able to successfully integrate acquisitions into our business, which may materially adversely affect our business, financial condition, results of operations and could cause the market value of our common stock to decline.

Since 1999, we have acquired a number of schools and we intend to continue to grow our business through acquisitions and internal expansion of our programs. The anticipated benefits of an acquisition may not be achieved unless we successfully integrate the acquired school or schools into our operations and are able to effectively manage, market and apply our business strategy to any acquired schools. Integration challenges include, among others, regulatory approvals, significant capital expenditures, assumption of known and unknown liabilities and our ability to control costs. The successful integration of future acquisitions may also require substantial attention from our senior management and the senior management of the acquired schools, which could decrease the time that they devote to the day-to-day management of our business. The difficulties of integration may initially be increased by the necessity of integrating personnel with disparate business backgrounds and corporate cultures. Management's focus on the integration of acquired schools and on the application of our business strategy to those schools could interrupt or cause loss of momentum in our other ongoing activities. Our inability to properly manage or support the growth may have a material adverse effect on our business, financial condition, and results of operations and could cause the market value of our common stock to decline.

Failure on our part to establish and operate additional schools or campuses or effectively identify suitable expansion opportunities could reduce our ability to implement our growth strategy.

As part of our business strategy, we anticipate opening and operating new schools or campuses. Establishing new schools or campuses poses unique challenges and requires us to make investments in management and capital expenditures, incur marketing expenses and devote financial and other resources that are different, and in some cases greater than those required with respect to the operation of acquired schools.

To open a new school or campus, we would be required to obtain appropriate state and accrediting commission approvals, which may be conditioned or delayed in a manner that could significantly affect our growth plans. In addition, to be eligible for federal Title IV Program funding, a new school or campus would have to be certified by the DOE and would require federal authorization and approvals. In the case of entirely separate, freestanding U.S. schools, a minimum of two years' operating history is required to be eligible for Title IV Program funding. We cannot be sure that we will be able to identify suitable expansion opportunities to maintain or accelerate our current growth rate or that we will be able to successfully integrate or profitably operate any new schools or campuses. A failure by us to effectively identify suitable expansion opportunities and to establish and manage the operations of newly established schools or online offerings could slow our growth and make any newly established schools or our online programs unprofitable or more costly to operate than we had planned.

Our success depends in part on our ability to update and expand the content of existing programs and develop new programs in a cost-effective manner and on a timely basis.

Prospective employers of our graduates increasingly demand that their entry-level employees possess appropriate technological skills. These skills are becoming more sophisticated in line with technological advancements in the automotive, diesel, information technology, or IT, skilled trades, healthcare industries and hospitality services. Accordingly, educational programs at our schools must keep pace with those technological advancements. The expansion of our existing programs and the development of new programs may not be accepted by our students, prospective employers or the technical education market. Even if we are able to develop acceptable new programs, we may not be able to introduce these new programs as quickly as our competitors or as quickly as employers demand. If we are unable to adequately respond to changes in market requirements due to financial constraints, unusually rapid technological changes or other factors, our ability to attract and retain students could be impaired, our placement rates could suffer and our revenues could be adversely affected.

In addition, if we are unable to adequately anticipate the requirements of the employers we serve, we may offer programs that do not teach skills useful to prospective employers or students seeking a technical or career-oriented education which could affect our placement rates and our ability to attract and retain students, causing our revenues to be adversely affected.

Risks specific to our schools' online campuses could have a material adverse effect on our business.

Our schools' online campuses intend to increase student enrollment, and more resources will be required to support this growth, including additional faculty, admissions, academic, and financial aid personnel. This growth may place a strain on the operational resources of our schools' online campuses. Our schools' online campuses' success depends, in part, on their ability to expand the content of their programs, develop new programs in a cost-effective manner, maintain good standings with their regulators and accreditors, and meet their students' needs in a timely manner. The expansion of our schools' online campuses' existing programs and the development of new programs may not be accepted by their students or the online education market, and new programs could be delayed due to current and future unforeseen regulatory restrictions. The performance and reliability of the program infrastructure at our schools' online campuses is critical to the reputation of these campuses and the campuses ability to attract and retain students. Any computer system error or failure, or a sudden and significant increase in traffic on our computer networks that host our schools' online campuses, may result in the unavailability of our schools' online campuses' computer networks. Individual, sustained, or repeated occurrences could significantly damage the reputation of our schools' online campuses and result in a loss of potential or existing students. Additionally, our schools' online campuses' computer systems and operations are vulnerable to interruption or malfunction due to events beyond our control, including natural disasters and network and telecommunications failures. Any interruption to our schools' online campuses' computer systems or operations could have a material adverse effect on the ability of our schools' online campuses to attract and retain students.

Our computer networks—either administrative network or those supporting educational programs— may also be vulnerable to unauthorized access, computer hackers, computer viruses, and other security threats. A user who circumvents security measures could misappropriate proprietary information or cause interruptions or malfunctions in our operations. Due to the sensitive nature of the information contained on our networks, such as students' grades, our networks may be targeted by hackers. As a result, we may be required to expend significant resources to protect against the threat of these security breaches or to alleviate problems caused by these breaches.

We may not be able to retain our key personnel or hire and retain the personnel we need to sustain and grow our business.

Our success has depended, and will continue to depend, largely on the skills, efforts and motivation of our executive officers who generally have significant experience within the post-secondary education industry. Our success also depends in large part upon our ability to attract and retain highly qualified faculty, school directors, administrators and corporate management. Due to the nature of our business, we face significant competition in the attraction and retention of personnel who possess the skill sets that we seek. In addition, key personnel may leave us and subsequently compete against us. Furthermore, we do not currently carry "key man" life insurance on any of our employees. The loss of the services of any of our key personnel, or our failure to attract and retain other qualified and experienced personnel on acceptable terms, could have an adverse effect on our ability to operate our business efficiently and to execute our growth strategy.

If we are unable to hire, retain and continue to develop and train our employees responsible for student recruitment, the effectiveness of our student recruiting efforts would be adversely affected.

In order to support revenue growth, we need to hire new employees dedicated to student recruitment and retain and continue to develop and train our current student recruitment personnel. Our ability to develop a strong student recruiting team may be affected by a number of factors, including our ability to integrate and motivate our student recruiters; our ability to effectively train our student recruiters; the length of time it takes new student recruiters to become productive; regulatory restrictions on the method of compensating student recruiters; the competition in hiring and retaining student recruiters; and our ability to effectively manage a multi-location educational organization. If we are unable to hire, develop or retain our student recruiters, the effectiveness of our student recruiting efforts would be adversely affected.

Competition could decrease our market share and cause us to lower our tuition rates.

The post-secondary education market is highly competitive. Our schools compete for students and faculty with traditional public and private two-year and four-year colleges and universities and other proprietary schools, many of which have greater financial resources than we do. Some traditional public and private colleges and universities, as well as other private career-oriented schools, offer programs that may be perceived by students to be similar to ours. Most public institutions are able to charge lower tuition than our schools, due in part to government subsidies and other financial resources not available to for-profit schools. Some of our competitors also have substantially greater financial and other resources than we have which may, among other things, allow our competitors to secure strategic relationships with some or all of our existing strategic partners or develop other high profile strategic relationships, or devote more resources to expanding their programs and their school network, or provide greater financing alternatives to their students, all of which could affect the success of our marketing programs. In addition, some of our competitors have a larger network of schools and campuses than we do, enabling them to recruit students more effectively from a wider geographic area. If we are unable to compete effectively with these institutions for students, our student enrollment and revenues will be adversely affected.

We may be required to reduce tuition or increase spending in response to competition in order to retain or attract students or pursue new market opportunities. As a result, our market share, revenues and operating margin may be decreased. We cannot be sure that we will be able to compete successfully against current or future competitors or that the competitive pressures we face will not adversely affect our revenues and profitability.

We may experience business interruptions resulting from natural disasters, inclement weather, transit disruptions, or other events in one or more of the geographic areas in which we operate.

We may experience business interruptions resulting from natural disasters, inclement weather, transit disruptions, or other events in one or more of the geographic areas in which we operate. These events could cause us to close schools — temporarily or permanently — and could affect student recruiting opportunities in those locations, causing enrollment and revenues to decline.

Our financial performance depends in part on our ability to continue to develop awareness and acceptance of our programs among high school graduates and working adults looking to return to school.

The awareness of our programs among high school graduates and working adults looking to return to school is critical to the continued acceptance and growth of our programs. Our inability to continue to develop awareness of our programs could reduce our enrollments and impair our ability to increase our revenues or maintain profitability. The following are some of the factors that could prevent us from successfully marketing our programs:

- Student dissatisfaction with our programs and services;
- Diminished access to high school student populations;
- Our failure to maintain or expand our brand or other factors related to our marketing or advertising practices; and
- Our inability to maintain relationships with automotive, diesel, healthcare, skilled trades and IT, and hospitality services manufacturers and suppliers.

If students fail to pay their outstanding balances, our profitability will be adversely affected.

We offer a variety of payment plans to help students pay the portion of their education expense not covered by financial aid programs. These balances are unsecured and not guaranteed. As a result of SLM's tiered discount loan program termination, effective February 18, 2008, our internal gap financing between Title IV and tuition has increased. Although we have reserved for estimated losses related to unpaid student balances, losses in excess of the amounts we have reserved for bad debts will result in a reduction in our profitability.

An increase in interest rates could adversely affect our ability to attract and retain students.

Interest rates have reached historical lows in recent years, creating a favorable borrowing environment for our students. Much of the financing our students receive is tied to floating interest rates. Increases in interest rates result in a corresponding increase in the cost to our existing and prospective students of financing their education which could result in a reduction in the number of students attending our schools and could adversely affect our results of operations and revenues. Higher interest rates could also contribute to higher default rates with respect to our students' repayment of their education loans. Higher default rates may in turn adversely impact our eligibility for Title IV Program participation or the willingness of private lenders to make private loan programs available to students who attend our schools, which could result in a reduction in our student population.

Seasonal and other fluctuations in our results of operations could adversely affect the trading price of our common stock.

Our results of operations fluctuate as a result of seasonal variations in our business, principally due to changes in total student population. Student population varies as a result of new student enrollment, graduations and student attrition. Historically, our schools have had lower student populations in our first and second quarters and we have experienced large class starts in the third and fourth quarters and student attrition in the first half of the year. Our second half growth is largely dependent on a successful recruiting season. Our expenses, however, do not vary significantly over the course of the year with changes in our student population and net revenues. We expect quarterly fluctuations in results of operations to continue as a result of seasonal enrollment patterns. Such patterns may change, however, as a result of acquisitions, new school openings, new program introductions and increased enrollments of adult students. These fluctuations may result in volatility or have an adverse effect on the market price of our common stock.

Our total assets include substantial intangible assets. The write-off of a significant portion of unamortized intangible assets would negatively affect our results of operations.

Our total assets reflect substantial intangible assets. At December 31, 2008, goodwill and identified intangibles, net, represented approximately 35.9% of total assets. Intangible assets consist of goodwill and other identified intangible assets associated with our acquisitions. On at least an annual basis, we assess whether there has been an impairment in the value of goodwill and other intangible assets with indefinite lives. If the carrying value of the tested asset exceeds its estimated fair value, impairment is deemed to have occurred. In this event, the amount is written down to fair value. Under current accounting rules, this would result in a charge to operating earnings. Any determination requiring the write-off of a significant portion of goodwill or unamortized identified intangible assets would negatively affect our results of operations and total capitalization, which could be material. Our annual impairment analysis, performed as of December 31, 2008, did not result in an impairment charge.

We cannot predict our future capital needs, and if we are unable to secure additional financing when needed, our operations and revenues would be adversely affected.

We may need to raise additional capital in the future to fund acquisitions, working capital requirements, expand our markets and program offerings or respond to competitive pressures or perceived opportunities. We cannot be sure that additional financing will be available to us on favorable terms, or at all particularly during times of uncertainty in the financial markets similar to that which is currently being experienced. If adequate funds are not available when required or on acceptable terms, we may be forced to forego attractive acquisition opportunities, cease our operations and, even if we are able to continue our operations, our ability to increase student enrollment and revenues would be adversely affected.

Our schools' failure to comply with environmental laws and regulations governing our activities could result in financial penalties and other costs which could adversely impact our results of operations.

We use hazardous materials at some of our schools and generate small quantities of waste, such as used oil, antifreeze, paint and car batteries. As a result, our schools are subject to a variety of environmental laws and regulations governing, among other things, the use, storage and disposal of solid and hazardous substances and waste, and the clean-up of contamination at our facilities or off-site locations to which we send or have sent waste for disposal. In the event we do not maintain compliance with any of these laws and regulations, or are responsible for a spill or release of hazardous materials, we could incur significant costs for clean-up, damages, and fines or penalties which could adversely impact our results of operations.

Approximately 25% of our schools are concentrated in the states of New Jersey and Pennsylvania and a change in the general economic or regulatory conditions in these states could increase our costs and have an adverse effect on our revenues.

As of December 31, 2008, we operated 36 campuses in 17 states. Nine of those schools are located in the states of New Jersey and Pennsylvania. As a result of this geographic concentration, any material change in general economic conditions in New Jersey or Pennsylvania could reduce our student enrollment in our schools located in these states and thereby reduce our revenues. In addition, the legislatures in the states of New Jersey and/or Pennsylvania could change the laws in those states or adopt regulations regarding private, for-profit post-secondary coeducation institutions which could place additional burdens on us. If we were unable to comply with any such new legislation, we could be prohibited from operating in those jurisdictions, which could reduce our revenues.

A substantial decrease in student financing options, or a significant increase in financing costs for our students, could have a material adverse affect on our student population, revenues and financial results.

The consumer credit markets in the United States have recently suffered from increases in default rates and foreclosures on mortgages. Adverse market conditions for consumer and federally guaranteed student loans could result in providers of alternative loans reducing the attractiveness and/or decreasing the availability of alternative loans to post-secondary students, including students with low credit scores who would not otherwise be eligible for credit-based alternative loans. Prospective students may find that these increased financing costs make borrowing prohibitively expensive and abandon or delay enrollment in post-secondary education programs. Private lenders could also require that we pay them new or increased fees in order to provide alternative loans to prospective students. If any of these scenarios were to occur, our students' ability to finance their education could be adversely affected and our student population could decrease, which could have a material adverse effect on our financial condition, results of operations and cash flows.

In 2008, six lenders provided funding to more than 90% of the students at the schools we owned. In addition, the primary guarantors for the Title IV loans of our students are USA Group, a subsidiary of Sallie Mae, and New Jersey Higher Education Assistance Authority, an independent agency of the State of New Jersey. These two agencies currently guarantee a majority of the federally guaranteed student loans made to students enrolled at our schools. There are six other guaranty agencies that guarantee student loans made to students enrolled at our schools. While we believe that other lenders may be willing to make federally guaranteed student loans to our students if loans were no longer available from our current lenders, and that other guaranty agencies would be willing to guarantee loans to our students if any of the current guarantee agencies ceased guaranteeing those loans or reduced the volume of loans they guarantee, we cannot assure you that we would be successful in locating alternative lenders or guarantors. If such alternative lenders or guarantors were not forthcoming, our enrollment and our results of operations could be materially and adversely affected.

In February 2008, Sallie Mae terminated its tiered discount loan program with us. Students who obtained funding through Sallie Mae programs continue to have access to funding either through alternative lenders or through our own internal financing. However, if we opted to no longer provide financing to our students and/or were unable to obtain other alternative loan providers, our student population could decrease, which could have a material adverse effect on our financial condition, results of operations and cash flows.

In addition, any actions by the U.S. Congress that significantly reduce funding for Title IV Programs or the ability of our students to participate in these programs, or establish different or more stringent requirements for our schools to participate in Title IV Programs, could have a material adverse effect on our student population, results of operations and cash flows.

Anti-takeover provisions in our amended and restated certificate of incorporation, our amended and restated bylaws and New Jersey law could discourage a change of control that our stockholders may favor, which could negatively affect our stock price.

Provisions in our amended and restated certificate of incorporation and our amended and restated bylaws and applicable provisions of the New Jersey Business Corporation Act may make it more difficult and expensive for a third party to acquire control of us even if a change of control would be beneficial to the interests of our stockholders. These provisions could discourage potential takeover attempts and could adversely affect the market price of our common stock. For example, applicable provisions of the New Jersey Business Corporation Act may discourage, delay or prevent a change in control by prohibiting us from engaging in a business combination with an interested stockholder for a period of five years after the person becomes an interested stockholder. Furthermore, our amended and restated certificate of incorporation and amended and restated bylaws:

- Authorize the issuance of blank check preferred stock that could be issued by our board of directors to thwart a takeover attempt;
- Prohibit cumulative voting in the election of directors, which would otherwise allow holders of less than a majority of stock to elect some directors;
- Require super-majority voting to effect amendments to certain provisions of our amended and restated certificate of incorporation;
- Limit who may call special meetings of both the board of directors and stockholders;
- Prohibit stockholder action by non-unanimous written consent and otherwise require all stockholder actions to be taken at a meeting of the stockholders;
- Establish advance notice requirements for nominating candidates for election to the board of directors or for proposing matters that can be acted upon by stockholders at stockholders' meetings; and
- Require that vacancies on the board of directors, including newly created directorships, be filled only by a majority vote of directors then in office.

We can issue shares of preferred stock without shareholder approval, which could adversely affect the rights of common stockholders.

Our amended and restated certificate of incorporation permits us to establish the rights, privileges, preferences and restrictions, including voting rights, of future series of our preferred stock and to issue such stock without approval from our stockholders. The rights of holders of our common stock may suffer as a result of the rights granted to holders of preferred stock that may be issued in the future. In addition, we could issue preferred stock to prevent a change in control of our company, depriving common stockholders of an opportunity to sell their stock at a price in excess of the prevailing market price.

Our principal stockholder owns a large percentage of our voting stock which allows it to control substantially all matters requiring shareholder approval.

Stonington Partners Inc. II, or Stonington, our principal stockholder, directly or indirectly holds approximately 58% of our outstanding shares. Accordingly, it controls us through its ability to determine the outcome of the election of our directors, to amend our certificate of incorporation and bylaws and to take other actions requiring the vote or consent of stockholders, including mergers, going private transactions and other extraordinary transactions, and the terms of any of these transactions. The ownership positions of this stockholder may have the effect of delaying, deterring or preventing a change in control or a change in the composition of our board of directors. In addition, two members of our board of directors are partners of Stonington. As a result, Stonington has an added ability to influence certain matters, such as determining compensation of our executive officers.

A disposition by our principal stockholder of all or a significant portion of its shares of our outstanding stock could impact the market price of our shares and result in a change of control.

In light of the termination provisions of its fund agreement, Stonington, our largest stockholder, is currently considering its options with respect to its investment in us, including selling its shares of our outstanding common stock, in one or more transactions, over the next 12 to 24 months. A sale by Stonington of all or a significant portion of its shares of our outstanding common stock, whether to a single buyer, through open market sales or otherwise, could cause the price of our common stock to decline. Such a sale could also result in a change of control under the standards of the DOE and applicable state education agencies and accrediting commissions. See “Business - Change of Control” and “Risk Factors -- Risks Related to Our Industry.”

ITEM 1B. UNRESOLVED STAFF COMMENTS

None.

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ITEM 2. PROPERTIES

As of December 31, 2008, we leased all of our facilities, except for our West Palm Beach, Florida campus, our Nashville, Tennessee campus, our Grand Prairie, Texas campus and our Cincinnati (Tri-County) campus, which we own. Four of our facilities (Union, New Jersey; Allentown, Pennsylvania; Philadelphia, Pennsylvania; and Grand Prairie, Texas) were also accounted for by us under a finance lease obligation. We continue to re-evaluate our facilities to maximize our facility utilization and efficiency and to allow us to introduce new programs and attract more students. As of December 31, 2008, all of our existing leases expire between June 2009 and August 2023.

The following table provides information relating to our facilities as of December 31, 2008, including our corporate office:

Location	Brand	Approximate Square Footage
Union, New Jersey	Lincoln Technical Institute	56,000
Mahwah, New Jersey	Lincoln Technical Institute	79,000
Allentown, Pennsylvania	Lincoln Technical Institute	26,000
Philadelphia, Pennsylvania	Lincoln Technical Institute	30,000
Columbia, Maryland	Lincoln Technical Institute	110,000
Grand Prairie, Texas	Lincoln Technical Institute	146,000
Queens, New York	Lincoln Technical Institute	48,000
Edison, New Jersey	Lincoln Technical Institute	64,000
Mt. Laurel, New Jersey	Lincoln Technical Institute	26,000
Philadelphia, Pennsylvania	Lincoln Technical Institute	29,000
Northeast Philadelphia, Pennsylvania	Lincoln Technical Institute	25,000
Paramus, New Jersey	Lincoln Technical Institute	27,000
Brockton, Massachusetts	Lincoln Technical Institute	22,000
Lincoln, Rhode Island	Lincoln Technical Institute	59,000
Lowell, Massachusetts	Lincoln Technical Institute	20,000
Somerville, Massachusetts	Lincoln Technical Institute	33,000
New Britain, Connecticut	Lincoln Technical Institute	35,000
Cromwell, Connecticut	Lincoln Technical Institute	12,000
Hamden, Connecticut	Lincoln Technical Institute	14,000
Shelton, Connecticut	Lincoln Technical Institute	42,000
Indianapolis, Indiana	Lincoln College of Technology	189,000
Melrose Park, Illinois	Lincoln College of Technology	77,000
Denver, Colorado	Lincoln College of Technology	78,000
Norcross, Georgia	Lincoln College of Technology	7,000
Marietta, Georgia	Lincoln College of Technology	30,000
Henderson, Nevada*	Lincoln College of Technology	27,000
West Palm Beach, Florida	Lincoln College of Technology and Florida Culinary Institute	117,000
Nashville, Tennessee	Nashville Auto-Diesel College	278,000
Dayton, Ohio	Southwestern College	15,000
Franklin, Ohio	Southwestern College	14,000
Cincinnati, Ohio	Southwestern College	14,000
Cincinnati (Tri-County), Ohio	Southwestern College	35,000
Florence, Kentucky	Southwestern College	11,000
Toledo, Ohio	Southwestern College	16,000
Las Vegas, Nevada	Euphoria Institute	13,000
Henderson, Nevada	Euphoria Institute	20,000
North Las Vegas, Nevada	Euphoria Institute	12,000
Southington, Connecticut	Briarwood College	113,000
West Orange, New Jersey	Corporate Office	47,000

*Operations at this campus has ceased as of September 30, 2007.

We believe that our facilities are suitable for their present intended purposes.

ITEM 3. LEGAL PROCEEDINGS

In the ordinary conduct of our business, we are subject to periodic lawsuits, investigations and claims, including, but not limited to, claims involving students or graduates and routine employment matters. Although we cannot predict with certainty the ultimate resolution of lawsuits, investigations and claims asserted against us, we do not believe that any currently pending legal proceeding to which we are a party will have a material adverse effect on our business, financial condition, results of operation or cash flows.

ITEM 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS

There were no matters submitted to a vote of security holders, through the solicitation of proxies or otherwise, during the fourth quarter of 2008.

PART II.

ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES

Market for our Common Stock
Our common stock is quoted on the Nasdaq Global Market under the symbol "LINC".

The following table sets forth the range of high and low sales prices per share for our common stock, as reported by the Nasdaq Global Market, for the periods indicated:

	Price Range of Common Stock	
	High	Low
Fiscal Year Ended December 31, 2008:		
First Quarter	$ 14.55	$ 11.62
Second Quarter	$ 12.55	$ 10.79
Third Quarter	$ 15.64	$ 11.23
Fourth Quarter	$ 14.46	$ 10.75

	Price Range of Common Stock	
	High	Low
Fiscal Year Ended December 31, 2007:		
First Quarter	$ 14.21	$ 11.58
Second Quarter	$ 15.79	$ 13.64
Third Quarter	$ 15.60	$ 12.56
Fourth Quarter	$ 15.43	$ 13.10

On March 11, 2009, the last reported sale price of our common stock on the Nasdaq Global Market was $16.79 per share. As of March 11, 2009, based on the information provided by Continental Stock Transfer & Trust Company, there were approximately 18 stockholders of record of our common stock.

Dividend Policy
We have never declared or paid dividends on our common stock and we do not anticipate declaring or paying dividends on our common stock in the foreseeable future. Instead, we currently anticipate that we will retain all of our future earnings, if any, to fund the operation and expansion of our business and to use as working capital and for other general corporate purposes. Our board of directors will determine whether to pay cash dividends in the future based on conditions then existing and the financial responsibility standards prescribed by the DOE, as well as any economic and other conditions that our board of directors may deem relevant. In addition, our ability to declare and pay dividends is subject to certain restrictions under our existing credit agreement.

Issuer Purchases of Equity Securities

On April 1, 2008, our Board of Directors approved the repurchase of up to 1,000,000 shares of our common stock over the period of one year. The following table outlines repurchases of our common stock during the quarter ended December 31, 2008:

Period	Total Number of Shares Purchased	Average Price Paid per Share	Total Number of Shares Purchased	Maximum Number of Shares That May Yet Be Purchased
October 1, 2008 -- October 31, 2008	--	--	--	400,000
November 1, 2008 -- November 30, 2008	15,000	$ 13.90	15,000	385,000
December 1, 2008 -- December 31, 2008	--	--	--	385,000
Total	15,000	$ 13.90	15,000	385,000

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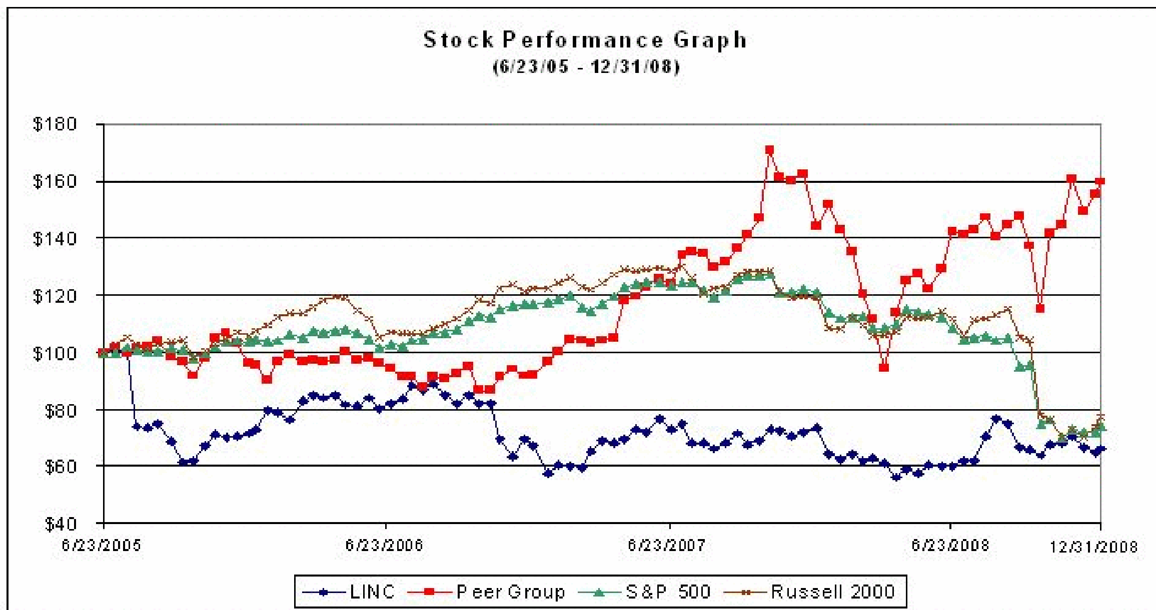
Stock Performance Graph

This stock performance graph compares the Company's total cumulative stockholder return on its common stock during the period from June 23, 2005 (the date on which our common stock first traded on the Nasdaq Global Market) through December 31, 2008 with the cumulative return on the Russell 2000 Index and a Peer Issuer Group Index. The peer issuer group consists of the companies identified below, which were selected on the basis of the similar nature of their business. The graph assumes that $100 was invested on June 23, 2005, and any dividends were reinvested on the date on which they were paid.

The information provided under the heading "Stock Performance Graph" shall not be considered "filed" for purposes of Section 18 of the Securities Exchange Act of 1934 or incorporated by reference in any filing under the Securities Act of 1933 or the Securities Exchange Act of 1934, except to the extent that the Company specifically incorporates it by reference into a filing.



Companies in the Peer Group include Apollo Group, Inc., Corinthian Colleges, Inc., Career Education Corp., DeVry, Inc., ITT Educational Services, Inc., Strayer Education, Inc. and Universal Technical Institute, Inc.

Securities Authorized for Issuance under Equity Compensation Plans

The Company has various equity compensation plans under which equity securities are authorized for issuance. Information regarding these securities as of December 31, 2008 is as follows:

Plan Category	Number of Securities to be issued upon exercise of outstanding options, warrants and rights	Weighted-average exercise price of outstanding options, warrants and rights	Number of securities remaining available for future issuance under equity compensation plans (excluding securities reflected in column
Equity compensation plans approved by security holders	1,474,215	$ 9.98	603,336
Equity compensation plans not approved by security holders	-	-	-
Total	1,474,215	$ 9.98	603,336

ITEM 6. SELECTED FINANCIAL DATA

SELECTED FINANCIAL INFORMATION

The following table sets forth our selected historical consolidated financial and operating data as of the dates and for the periods indicated. You should read these data together with Item 7 - "Management's Discussion and Analysis of Financial Condition and Results of Operations" and our consolidated financial statements and the notes thereto included in Part II. Item 8 of this filing. The selected historical consolidated statement of income data for each of the years in the three-year period ended December 31, 2008 and historical consolidated balance sheet data at December 31, 2008 and 2007 have been derived from our audited consolidated financial statements which are included elsewhere in this Form 10-K. The selected historical consolidated statements of income data for the fiscal years ended December 31, 2005 and 2004 and historical consolidated balance sheet data as of December 31, 2006, 2005 and 2004 have been derived from our audited consolidated financial information not included in this Form 10-K. Our historical results are not necessarily indicative of our future results.

	2008	2007	2006	2005	2004
		(In thousands, except per share amounts)			
Statement of Income Data, Year Ended December 31:					
Revenues	$ 376,907	$ 327,774	$ 310,630	$ 287,368	$ 248,508
Cost and expenses:					
Educational services and facilities	153,530	139,500	129,311	114,161	97,439
Selling, general and administrative (1)	187,722	162,396	151,136	138,125	124,034
(Gain) loss on sale of assets	80	(15)	(435)	(7)	368
Total costs and expenses	341,332	301,881	280,012	252,279	221,841
Operating income	35,575	25,893	30,618	35,089	26,667
Other:					
Interest income	113	180	981	775	104
Interest expense (2)	(2,152)	(2,341)	(2,291)	(2,892)	(3,002)
Other (loss) income	-	27	(132)	243	42
Income from continuing operations before income taxes	33,536	23,759	29,176	33,215	23,811
Provision for income taxes	13,341	9,932	12,092	12,931	9,904
Income from continuing operations	20,195	13,827	17,084	20,284	13,907
Loss from discontinued operations, net of income taxes	-	(5,487)	(1,532)	(1,575)	(929)
Net income	$ 20,195	$ 8,340	$ 15,552	$ 18,709	$ 12,978
Basic					
Earnings per share from continuing operations	$ 0.80	$ 0.54	$ 0.67	$ 0.86	$ 0.64
Loss per share from discontinued operations	-	(0.21)	(0.06)	(0.06)	(0.04)
Net income per share	$ 0.80	$ 0.33	$ 0.61	$ 0.80	$ 0.60
Diluted					
Earnings per share from continuing operations	$ 0.78	$ 0.53	$ 0.65	$ 0.83	$ 0.60
Loss per share from discontinued operations	-	(0.21)	(0.05)	(0.07)	(0.04)
Net income per share	$ 0.78	$ 0.32	$ 0.60	$ 0.76	$ 0.56
Weighted average number of common shares outstanding:					
Basic	25,308	25,479	25,336	23,475	21,676
Diluted	25,984	26,090	26,086	24,503	23,095
Other Data:					
Capital expenditures	$ 20,166	$ 24,766	$ 19,341	$ 22,621	$ 23,813
Depreciation and amortization from continuing operations	17,920	15,111	13,829	12,099	9,870
Number of campuses	36	34	34	31	25
Average student population	20,006	17,687	17,397	17,064	15,401
Balance Sheet Data, At December 31:					
Cash and cash equivalents	$ 15,234	$ 3,502	$ 6,461	$ 50,257	$ 41,445
Working (deficit) capital (3)	(19,840)	(17,952)	(20,943)	8,531	4,570
Total assets	268,042	246,183	226,216	214,792	162,729
Total debt (4)	10,174	15,378	9,860	10,768	46,829
Total stockholders' equity	174,949	162,467	151,783	135,990	58,086

(1) Selling, general and administrative expenses include (a) a $2.1 million charge for the year ended December 31, 2004 to give effect to the one-time write-off of deferred offering costs, (b) compensation costs of approximately $2.2 million, $1.8 million, $1.4 million, $1.3 million and $1.8 million for the years ended December 31, 2008, 2007, 2006, 2005 and 2004, respectively, related to SFAS No. 123R, "Share Based Payment," (c) a $0.7 million one-time non-cash charge for the year ended December 31, 2004 related to the timing of rent expense for our schools during the period of construction of leasehold improvements and to align the depreciation lives of our leasehold improvements to the terms of our noncancellable leases, including renewal options, (d) a $0.5 million write-off for the year ended December 31, 2005 resulting from our decision not to purchase the site we had considered for expansion of our facility in Philadelphia, Pennsylvania, (e) $0.9 million of re-branding cost for the year ended December 31, 2006, and (f) $0.9 million of acquisition costs incurred during the year ended December 31, 2008 in connection with the acquisition of Baran which was completed on January 20, 2009 and expensed in accordance with the transition guidance for SFASB No. 141R.

(2) Interest expense includes a $0.4 million non-cash charge for the year ended December 31, 2005 resulting from the write-off of deferred finance costs under our previous credit agreement.

(3) Working (deficit) capital is defined as current assets less current liabilities.

(4) Total debt consists of long-term debt including current portion, capital leases, auto loans and a finance obligation of $9.7 million for each of the years in the five-year period ended December 31, 2008 incurred in connection with a sale-leaseback transaction as further described in Note 9 to the consolidated financial statements included in Part II. Item 8 of this Form 10-K.

ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

You should read the following discussion together with the "Selected Financial Data," "Forward Looking Statements" and the consolidated financial statements and the related notes thereto included elsewhere in this Form 10-K. This discussion contains forward-looking statements that are based on management's current expectations, estimates and projections about our business and operations. Our actual results may differ materially from those currently anticipated and expressed in such forward-looking statements as a result of a number of factors, including those we discuss under "Risk Factors," "Forward Looking Statements" and elsewhere in this Form 10-K.

GENERAL

We are a leading and diversified for-profit provider of career-oriented post-secondary education. We offer recent high school graduates and working adults degree and diploma programs in five areas of study: automotive technology, health sciences, skilled trades, business and information technology and hospitality services. Each area of study is specifically designed to appeal to and meet the educational objectives of our student population, while also satisfying the criteria established by industry and employers. The resulting diversification limits dependence on any one industry for enrollment growth or placement opportunities and broadens potential branches for introducing new programs. As of December 31, 2008, we enrolled 21,667 students at our 36 campuses across 17 states. Our campuses primarily attract students from their local communities and surrounding areas, although our five destination schools attract students from across the United States, and in some cases, from abroad.

From 1999 through December 31, 2008, we increased our geographic footprint and added 18 additional schools through our acquisitions of: Denver Automotive & Diesel College in 2000 (one school), Career Education Institute in 2001 (two schools), Nashville Auto-Diesel College in 2003 (one school), Southwestern College in 2004 (five schools), New England Technical Institute (four schools) in January 2005, Euphoria Institute of Beauty Arts and Sciences (two schools) in December 2005, New England Institute of Technology at Palm Beach, Inc. in May 2006 (two schools) and Briarwood College in December 2008 (one school). Our campuses, a majority of which serve major metropolitan markets, are located throughout the United States. Five of our campuses are destination schools, which attract students from across the United States and, in some cases, from abroad. Our other campuses primarily attract students from their local communities and surrounding areas. All of our schools are nationally accredited and are eligible to participate in federal financial aid programs. In connection with each of our acquisitions of New England Technical Institute, New England Institute of Technology at Palm Beach and Briarwood College, we received an executed provisional program participation agreement in connection with the acquisition, from the DOE.

Our revenues consist primarily of student tuition and fees derived from the programs we offer. Our revenues are reduced by our scholarships granted to our students. We recognize revenues from tuition and one-time fees, such as application fees, ratably over the length of a program, including internships or externships that take place prior to graduation. We also earn revenues from our bookstores, dormitories, cafeterias and contract training services. These non-tuition revenues are recognized upon delivery of goods or as services are performed and represent less than 10% of our revenues.

Tuition varies by school and by program and on average we increase tuition once a year by 2% to 5%. Our ability to raise tuition is influenced by the demand for our programs and by the rate of tuition increase at other post-secondary schools. If historical trends continue, we expect to be able to continue to raise tuition annually at comparable rates.

We have historically enjoyed revenue growth as a result of strategic acquisitions coupled with organic growth. We have enjoyed organic growth every year except for 2006. Our revenues increased 15.0% in 2008 and 5.5% in 2007, over the prior years as we grew from 34 campuses at December 31, 2007 to 36 campuses at December 31, 2008. Our average student population increased from 17,687 for the year ended December 31, 2007 to 20,006 for the year ended December 31, 2008. While we expect to increase our revenues and enrollment in the foreseeable future as a result of both organic growth and strategic acquisitions, we can give no assurance as to our ability to continue to increase our revenues at historical rates and expect our rate of revenue increases to moderate over time as we become a larger and more mature company.

Our operating expenses, while also a function of our revenue growth, contain a high fixed cost component. Our educational services and facilities expenses as a percentage of revenues decreased to 40.7% in 2008 from 42.6% in 2007 and 41.6% in 2006, and selling, general and administrative expenses increased as a percentage of revenue to 49.9% in 2008 from 49.5% in 2007 and 48.7% in 2006. We expect that in the future these expenses will decline slightly as a percentage of revenues as we achieve better operating efficiencies and utilization at our schools.

Our revenues are directly dependent on our average number of students enrolled and the courses in which they are enrolled. Our enrollment is influenced by the number of new students starting, re-entering, graduating and withdrawing from our schools. In addition, our programs range from 14 to 102 weeks and students attend classes for different amounts of time per week depending on the school and program in which they are enrolled. Because we start new students every month, our total student population changes monthly. The number of students enrolling or re-entering our programs each month is driven by the demand for our programs, the effectiveness of our marketing and advertising, the availability of financial aid and other sources of funding, the number of recent high school graduates, the job market and seasonality. Our retention and graduation rates are influenced by the quality and commitment of our teachers and student services personnel, the effectiveness of our programs, the placement rate and success of our graduates and the availability of financial aid. Although similar courses have comparable tuition rates, the tuition rates vary among our numerous programs. As more of our schools receive approval to offer associate degree programs, which are longer than our diploma degree programs, we would expect our average enrollment and the average length of stay of our students to increase.

The majority of students enrolled at our schools rely on funds received under various government-sponsored student financial aid programs to pay a substantial portion of their tuition and other education-related expenses. The largest of these programs are Title IV Programs which represented approximately 79% of our cash receipts relating to revenues in 2008.

We extend credit for tuition and fees to many of our students that are in attendance in our campuses. Our credit risk is mitigated through the student's participation in federally funded financial aid programs unless students withdraw prior to the receipt by us of Title IV funds for those students. Under Title IV programs, the government funds a certain portion of a students' tuition, with the remainder, referred to as "the gap," financed by students themselves under private party loans, including credit extended by us. The gap amount has continued to increase over the last several years as we have raised tuition on average for the last several years by 2% to 5% per year, while funds received from Title IV programs have remained constant. Thus, a significant number of students are required to finance amounts that could be as much as $15,000 per year.

We entered into a tiered discount loan program agreement, effective September 1, 2007, with SLM Financial Corporation ("SLM") to provide up to $16.0 million of private non-recourse loans to qualifying students. Under this agreement, we were required to pay SLM either 20% or 30% of all loans disbursed, depending on each student borrower's credit score. We were billed at the beginning of each month based on loans disbursed during the prior month. For the year ended December 31, 2008, $0.5 million of loans were disbursed, resulting in a $0.1 million loss on sale of receivables. Loss on sale of receivables is included in selling, general and administrative expenses in our financial statements.

In February 2008, SLM terminated its tiered discount loan program with us. It is our understanding that SLM also terminated its tiered discount loan programs with our peer companies. The College Cost Reduction & Access Act, which was signed into law in September 2007, cut approximately $22 billion in subsidies to federal student lenders and guarantors as an offset to increases in federal financial aid. This resulted in significant changes to the terms that alternative lending providers including SLM were willing to make and resulted in the termination of the tiered discount loan programs described above. As a result of the costs associated with these programs and, in anticipation of additional changes, we concluded that the cost of using the tiered discount loan program was too high and would lead to significant margin erosion over time and that we would be better served by financing the gap between Title IV and tuition internally, while also examining other alternative loan sources.

We believe that SLM's termination of its tiered discount loan program will continue to have a limited impact on our business. Our current expectations are that students who previously received funding through the program will continue to have access to funding either through alternative lenders or through our own internal financing.

The additional financing that we are providing to students may expose us to greater credit risk and can impact our liquidity. We believe that these risks are however somewhat mitigated due to:

- Annual federal Title IV loan limits, including grants have increased. Title IV funds represented 79% of our 2008 revenue on a cash basis;
- Our internal financing is provided to students only after all other funding resources have been exhausted; thus, by the time this funding is available, students have completed approximately two-thirds of their curriculum and are more likely to graduate;
- Funding for students who interrupt their education is typically covered by Title IV funds as long as they have been properly packaged for financial aid; and
- We have an excellent collection history with our graduates. Historically, 90% of all graduates have repaid their balances in full.

For the year ended December 31, 2008, approximately 79% of our revenue on a cash basis was derived from Title IV funds, approximately 13% was derived from state grants and cash payments made by students, and approximately 4% was funded under third-party private loan programs, which included SLM programs. For the year ended December 31, 2007, approximately 80% of our revenue on a cash basis was derived from Title IV funds approximately 13% was derived from state grants and cash payments made by students, and approximately 7% was funded under third-party private loan programs, which include SLM programs. Of the private loan programs funded during 2007, approximately 4.6% would be considered sub-prime loans. The credit crisis that has impacted the financial markets is expected to have a limited impact on our ability to continue to finance our credit worthy students. There are a number of lenders that will finance the Title IV funds or alternatively we may choose to finance Title IV funds directly with the government under the government's Direct Loan Program. Additionally, we have several alternative lenders that will provide private party loans to credit worthy students. In addition, commencing in late 2007, we decided to assist students in financing the gap in student tuition for which students are unable to obtain third-party financing. As of December 31, 2008, we had outstanding loan commitments to our students of $24.0 million as compared to $15.7 million at December 31, 2007. Loan commitments, net of interest that would be due on the loans through maturity, were $16.5 million at December 31, 2008 as compared to $10.8 million at December 31, 2007. Assuming that our historical trends continue, we expect that in 2009 our net incremental investment in accounts receivable will not exceed $5.0 million.

As a result of the above, during 2008 our bad debt expense as a percentage of revenues increased to 5.7% from 5.3% and 4.9%, respectively, in 2007 and 2006.

All institutions participating in Title IV Programs must satisfy specific standards of financial responsibility. The DOE evaluates institutions for compliance with these standards each year, based on the institution's annual audited financial statements, as well as following a change in ownership resulting in a change of control of the institution.

Based on audited financial statements for the 2008, 2007 and 2006 fiscal years our calculations resulted in a composite score of 1.8, 1.8 and 1.7, respectively.

The operating expenses associated with an existing school do not increase proportionally as the number of students enrolled at the school increases. We categorize our operating expenses as (1) educational services and facilities and (2) selling, general and administrative.

- Major components of educational services and facilities expenses include faculty compensation and benefits, expenses of books and tools, facility rent, maintenance, utilities, depreciation and amortization of property and equipment used in the provision of education services and other costs directly associated with teaching our programs and providing educational services to our students.

- Selling, general and administrative expenses include compensation and benefits of employees who are not directly associated with the provision of educational services (such as executive management and school management, finance and central accounting, legal, human resources and business development), marketing and student enrollment expenses (including compensation and benefits of personnel employed in sales and marketing and student admissions), costs to develop curriculum, costs of professional services, bad debt expense, rent for our corporate headquarters, depreciation and amortization of property and equipment that is not used in the provision of educational services and other costs that are incidental to our operations. All marketing and student enrollment expenses are recognized in the period incurred.

We use advertising to attract a substantial portion of our yearly student enrollment. While we utilize a mix of different advertising mediums, including television, internet and direct mail, we rely heavily on television and internet advertising. The cost of television advertising has been increasing faster than the pace of student tuition increases and the cost of living index. Continued increases in the cost of television advertising may have a material impact on our operating margins.

During the third quarter of 2007, we completed the roll-out of our new student management and reporting system to all of our campuses. We believe that our student management and reporting system will improve services to students and our ability to integrate new schools into our operations, if and when new schools are opened or acquired. The costs associated with the implementation of this new system are included in selling, general and administrative expenses and were approximately $0.6 million and $0.4 million, respectively, for the two years ended December 31, 2007. No additional costs were incurred in 2008.

Costs related to developing and starting-up new facilities are expensed as incurred. Costs related to our start up facility in Queens, New York, which opened March 27, 2006, were approximately $0.9 million for 2006.

DISCONTINUED OPERATIONS

On July 31, 2007, our Board of Directors approved a plan to cease operations at our Plymouth Meeting, Pennsylvania, Norcross, Georgia and Henderson, Nevada campuses. As a result, we reviewed the related goodwill and long-lived assets for possible impairment in accordance with SFAS No. 142, "*Goodwill and Other Intangible Assets,*" and SFAS No. 144, "*Accounting for the Impairment or Disposal of Long-Lived Assets.*"

As of September 30, 2007, all operations had ceased at these campuses and, accordingly, the results of operations of these campuses have been reflected in the accompanying statements of operations as "Discontinued Operations" for all periods presented.

The results of operations at these three campuses for each of the two year period ended December 31, 2007 were comprised of the following (in thousands):

	Year Ended December 31, 2007	2006
Revenue	$ 4,230	$ 10,876
Operating Expenses	(13,760)	(13,493)
	(9,530)	(2,617)
Benefit for income taxes	(4,043)	(1,085)
Loss from discontinued operations	$ (5,487)	$ (1,532)

ACQUISITIONS

Acquisitions have been, and will continue to be, a component of our growth strategy. We have a team of professionals who conduct financial, operational and regulatory due diligence as well as a team that integrates acquisitions with our policies, procedures and systems.

On January 20, 2009, we completed the acquisition of four of the five institutions comprising Baran Institute of Technology, or Baran, for approximately $24.9 million in cash, net of cash acquired, subject to contractual post closing adjustments. Baran consists of five distinct institutions serving approximately 1,900 students and offers associate and diploma programs in the fields of automotive, skilled trades, health sciences and culinary arts. The four institutions we acquired on January 20, 2009 are Baran Institute of Technology, or BIT, Connecticut Culinary Institute, or CCI, Americare School of Nursing, or ASN, and Engine City Technical Institute, or ECTI. We also acquired the membership interests of Hartford Urban Ventures, LLC and certain assets and assumed certain liabilities of Educational Properties, LLC, which provide support services to Baran. We expect to acquire the fifth Baran institution, Clemens College, for an additional $3.0 million in the second quarter of 2009.

On December 1, 2008, we acquired all of the rights, title and interest in the assets of Briarwood College (“BRI”) for approximately $10.5 million, net of cash acquired. Briarwood is regionally accredited by the New England Association of Schools and Colleges, and currently offers two bachelor’s degree programs to approximately 550 students as of December 31, 2008 from Connecticut and surrounding states.

On May 22, 2006, a wholly-owned subsidiary of the Company, acquired all of the outstanding common stock of New England Institute of Technology at Palm Beach, Inc., or FLA, for approximately $40.1 million. The purchase price was $32.9 million, net of cash acquired plus the assumption of a mortgage note for $7.2 million. The FLA purchase price has been allocated to identifiable net assets with the excess of the purchase price over the estimated fair value of the net assets acquired recorded as goodwill.

CRITICAL ACCOUNTING POLICIES AND ESTIMATES

Our discussions of our financial condition and results of operations are based upon our consolidated financial statements, which have been prepared in accordance with accounting principles generally accepted in the United States of America, or GAAP. The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenues and expenses during the period. On an ongoing basis, we evaluate our estimates and assumptions, including those related to revenue recognition, bad debts, fixed assets, goodwill and other intangible assets, income taxes and certain accruals. Actual results could differ from those estimates. The critical accounting policies discussed herein are not intended to be a comprehensive list of all of our accounting policies. In many cases, the accounting treatment of a particular transaction is specifically dictated by GAAP and does not result in significant management judgment in the application of such principles. There are also areas in which management's judgment in selecting any available alternative would not produce a materially different result from the result derived from the application of our critical accounting policies. We believe that the following accounting policies are most critical to us in that they represent the primary areas where financial information is subject to the application of management's estimates, assumptions and judgment in the preparation of our consolidated financial statements.

Revenue recognition. Revenues are derived primarily from programs taught at our schools. Tuition revenues and one-time fees, such as nonrefundable application fees, and course material fees are recognized on a straight-line basis over the length of the applicable program, which is the period of time from a student's start date through his or her graduation date, including internships or externships that take place prior to graduation. If a student withdraws from a program prior to a specified date, any paid but unearned tuition is refunded. Refunds are calculated and paid in accordance with federal, state and accrediting agency standards. Other revenues, such as textbook sales, tool sales and contract training revenues are recognized as services are performed or goods are delivered. On an individual student basis, tuition earned in excess of cash received is recorded as accounts receivable, and cash received in excess of tuition earned is recorded as unearned tuition.

Allowance for uncollectible accounts. Based upon experience and judgment, we establish an allowance for uncollectible accounts with respect to tuition receivables. We use an internal group of collectors, augmented by third-party collectors as deemed appropriate, in our collection efforts. In establishing our allowance for uncollectible accounts, we consider, among other things, a student's status (in-school or out-of-school), whether or not additional financial aid funding will be collected from Title IV Programs or other sources, whether or not a student is currently making payments, and overall collection history. Changes in trends in any of these areas may impact the allowance for uncollectible accounts. The receivables balances of withdrawn students with delinquent obligations are reserved for based on our collection history. Although we believe that our reserves are adequate, if the financial condition of our students deteriorates, resulting in an impairment of their ability to make payments, additional allowances may be necessary, which will result in increased selling, general and administrative expenses in the period such determination is made.

Our bad debt expense as a percentage of revenues for the years ended December 31, 2008, 2007 and 2006 was 5.7%, 5.3% and 4.9%, respectively. Our exposure to changes in our bad debt expense could impact our operations. A 1% increase in our bad debt expense as a percentage of revenues for the years ended December 31, 2008, 2007 and 2006 would have resulted in an increase in bad debt expense of $3.8 million, $3.3 million and $3.1 million, respectively.

Because a substantial portion of our revenues is derived from Title IV Programs, any legislative or regulatory action that significantly reduces the funding available under Title IV Programs or the ability of our students or schools to participate in Title IV Programs could have a material effect on the realizability of our receivables.

Goodwill. We test our goodwill for impairment annually, or whenever events or changes in circumstances indicate an impairment may have occurred, by comparing its fair value to its carrying value. Impairment may result from, among other things, deterioration in the performance of the acquired business, adverse market conditions, adverse changes in applicable laws or regulations, including changes that restrict the activities of the acquired business, and a variety of other circumstances. If we determine that impairment has occurred, we are required to record a write-down of the carrying value and charge the impairment as an operating expense in the period the determination is made. In evaluating the recoverability of the carrying value of goodwill and other indefinite-lived intangible assets, we must make assumptions regarding estimated future cash flows and other factors to determine the fair value of the acquired assets. Changes in strategy or market conditions could significantly impact these judgments in the future and require an adjustment to the recorded balances.

As discussed in “Discontinued Operations” above, as a result of a decision to close three of our campuses we conducted a review of our goodwill as of June 30, 2007. In connection with that review, we recognized a non-cash impairment charge of approximately $2.1 million as of June 30, 2007. Goodwill represents a significant portion of our total assets. As of December 31, 2008, goodwill was approximately $91.5 million, or 34.1%, of our total assets. As of December 31, 2008 and 2007, we tested our goodwill for impairment utilizing a market capitalization approach and determined that we did not have an impairment.

Stock-based compensation. We currently account for stock-based employee compensation arrangements in accordance with the provisions of SFAS No. 123R, “*Share Based Payment*.” Effective January 1, 2004, we elected to change our accounting policies from the use of the intrinsic value method of Accounting Principles Board ("APB") Opinion No. 25, "*Accounting for Stock-Based Compensation*" to the fair value-based method of accounting for options as prescribed by SFAS No. 123 “*Accounting for Stock-Based Compensation”*. As permitted under SFAS No. 148, "*Accounting for Stock-Based Compensation—Transitions and Disclosure—an amendment to SFAS Statement No. 123,*" we elected to retroactively restate all periods presented. Because no market for our common stock existed prior to our initial public offering, our board of directors determined the fair value of our common stock based upon several factors, including our operating performance, forecasted future operating results, and our expected valuation in an initial public offering.

Prior to our initial public offering, we valued the exercise price of options issued to employees using a market based approach. This approach took into consideration the value ascribed to our competitors by the market. In determining the fair value of an option at the time of grant, we reviewed contemporaneous information about our peers, which included a variety of market multiples, including, but not limited to, revenue, EBITDA, net income, historical growth rates and market/industry focus. During 2004, the value we ascribed to stock options granted was based upon our anticipated initial public offering as well as discussions with our investment advisors. Due to the number of peer companies in our sector, we believed using public company comparisons provided a better indication of how the market values companies in the for-profit post secondary education sector.

During 2005, we adopted the provisions of SFAS No. 123R, “Share Based Payment”. The adoption of SFAS No. 123R did not have a material impact on our financial statements.

The fair value of the stock options used to compute stock-based compensation is the estimated present value at the date of grant using the Black-Scholes option pricing model. The weighted average fair values of options granted during 2008, 2007, and 2006 were $6.69, $6.78, and $9.68, respectively, using the following weighted average assumptions for grants:

	At December 31,		
	2008	2007	2006
Expected volatility	57.23%	55.42%	55.10%
Expected dividend yield	0%	0%	0%
Expected life (term)	6 Years	6 Years	6 Years
Risk-free interest rate	2.76-3.29%	4.36%	4.13-4.84%
Weighted-average exercise price during the year	$ 11.97	$ 11.96	$ 17.00

The expected volatility considers the volatility of certain of our competitors' common stock that has been traded for a period commensurate with the expected life. The expected term of options granted represents the period of time that options granted are expected to be outstanding. The risk-free rate used is based on the published U.S. Treasury yield curve in effect at the time of grant for instruments with a similar life. The dividend yield is 0% as we have never declared or paid dividends on our common stock and we do not anticipate declaring or paying dividends on our common stock in the foreseeable future.

Results of Continuing Operations for the Three Years Ended December 31, 2008

The following table sets forth selected consolidated statements of continuing operations data as a percentage of revenues for each of the periods indicated:

	Year Ended December 31,		
	2008	2007	2006
Revenues	100.0%	100.0%	100.0%
Costs and expenses:			
Educational services and facilities	40.7%	42.6%	41.6%
Selling, general and administrative	49.9%	49.5%	48.7%
(Gain) loss on sale of assets	0.0%	0.0%	-0.1%
Total costs and expenses	90.6%	92.1%	90.1%
Operating income	9.4%	7.9%	9.9%
Interest expense, net	-0.6%	-0.7%	-0.5%
Other income	0.0%	0.0%	0.0%
Income from continuing operations before income taxes	8.8%	7.2%	9.4%
Provision for income taxes	3.5%	3.0%	3.9%
Income from continuing operations	5.3%	4.2%	5.5%

Year Ended December 31, 2008 Compared to Year Ended December 31, 2007

Revenues. Revenues increased by $49.1 million, or 15.0%, to $376.9 million for 2008 from $327.8 million for 2007. Approximately $1.0 million of this increase was a result of our acquisition of Briarwood College (BRI), on December 1, 2008. Excluding BRI, the increase in revenues was primarily attributable to a 13.0% increase in average student population, which increased to 19,983 for the year ended December 31, 2008, from 17,687 for the year ended December 31, 2007. Revenues were also favorably impacted during the year by tuition increases, which averaged from 3.0% to 3.5%, and increases in book and tool sales and interest income collected on student loans, which increased by $0.7 million and $0.8 million, respectively, for the year ended December 2008. Average revenue per student increased 1.5% for the year ended December 31, 2008, from the year ended December 31, 2007, primarily due to tuition increases during the year, offset by a shift in our student population enrolled in lower tuition programs.

Historically, our schools have lower student populations in our first and second quarters and we have experienced large class starts in the third and fourth quarters. Our second half growth is largely dependent on a successful high school recruiting season. We recruit our high school students several months ahead of their scheduled start dates, and thus, while we have visibility on the number of students who have expressed interest in attending our schools, we cannot predict with certainty the actual number of new student starts and its related impact on revenue.

Educational services and facilities expenses. Our educational services and facilities expenses increased by $14.0 million, or 10.1%, to $153.5 million for the year ended December 31, 2008 from $139.5 million for the year ended December 31, 2007. BRI accounted for $0.5 million or, 0.4%, of this increase. Excluding BRI, the increase in educational services and facilities expenses was primarily due to instructional expenses, and books and tools expenses, which increased by $6.1 million, or 8.4%, and $3.6 million, or 20.9%, respectively, over the prior year. This increase was attributable to a 12.4% increase in student starts for the year ended December 31, 2008 as compared to the prior year and the overall increase in student population and higher tool sales during 2008 compared to 2007. We began 2008 with approximately 1,400 more students than we had on January 1, 2007 and as of December 31, 2008 our population was approximately 3,600 higher than as of December 31, 2007. The remainder of the increase in educational services and facilities expenses was due to facilities expenses, which increased by $3.8 million for the year ended December 31, 2008 over the prior year. This increase was primarily due to an increase in depreciation expense of $2.7 million resulting from higher capital expenditures during 2008 and 2007. The remainder of the increase in facilities expenses was due to higher utilities, rent and repairs and maintenance expenses at our campuses. Capital expenditures in 2008 included the renovation and conversion of our former auto school in Grand Prairie, Texas to a skilled trades school, as well as the opening of our new campus, Aliante, in North Las Vegas, Nevada. Educational services and facilities expenses as a percentage of revenues decreased to 40.7% of revenues for the year ended December 31, 2008 from 42.6% for the year ended December 31, 2007.

Selling, general and administrative expenses. Our selling, general and administrative expenses for the year ended December 31, 2008 were $187.7 million, an increase of $25.3 million, or 15.6%, from $162.4 million for the year ended December 31, 2007. Approximately $0.3 million, or 1.2%, of this increase was attributable to BRI. Excluding BRI, the increase in our selling, general and administrative expenses for the year ended December 31, 2008 was primarily due to a $1.9 million, or 13.4%, increase in student services, a $4.8 million, or 7.4%, increase in sales and marketing and an $18.3 million, or 22.0%, increase in administrative expenses as compared to the prior year.

The increase in student services was primarily due to increases in compensation and benefit expenses attributed to additional financial aid and career services personnel as a result of a larger student population during the year ended December 31, 2008 as compared to the prior year. In addition, we expanded a pilot program, which we began in 2007, to centralize the back office administration of our financial aid department in an effort to improve the effectiveness of our financial aid processing. This resulted in the hiring of additional financial aid representatives during 2008.

The increase in sales and marketing expense was due to (a) annual compensation increases to sales representatives; (b) the hiring of additional sales representatives; and (c) increased call center support for the year ended December 31, 2008 as compared to the prior year. In addition, we increased our marketing investments in an effort to continue to grow our student population.

The increase in administrative expenses was primarily due to (a) a $9.8 million increase in compensation and benefits, resulting from annual compensation increases, including increases in employee bonuses, stock compensation expense and the cost of benefits provided to employees; (b) a $4.2 million increase in bad debt expense; (c) $0.2 million refunded to the U.S. Department of Education resulting from a program review at Southwestern College; (d) a $0.6 million increase in software maintenance expenses resulting from increased software licenses for our student management system; (e) $0.9 million of acquisition costs incurred in 2008 related to our acquisition of Baran in January 2009 in accordance with the transitional guidance to SFAS No. 141; and (f) $0.9 million of expenses incurred in connection with two registration statements on Form S-3, filed with the SEC during 2008, and other related expenses.

For year ended December 31, 2008, our bad debt expense as a percentage of revenue was 5.7% as compared to 5.3% for the year ended December 31, 2007. This increase was primarily attributable to higher accounts receivable due to an increase of 13.0% in average student population for 2008 as compared to the same period in 2007. The number of days sales outstanding for 2008 decreased to 25.4 days compared to 27.7 days for 2007, primarily due to the timing of the collection of federal funds. Commencing in late 2007, we decided to assist students in financing the gap in student tuition for which students were unable to obtain third-party financing. As of December, 31, 2008, we had outstanding loan commitments to our students of $24.0 million as compared to $15.7 million at December 31, 2007. Loan commitments, net of interest that would be due on the loans through maturity, were $16.5 million at December 31, 2008 as compared to $10.8 million at December 31, 2007. Assuming that our historical trends continue, we expect that in 2009 our net incremental investment in accounts receivable will not exceed $5.0 million.

As a percentage of revenues, selling, general and administrative expenses increased to 49.9% of revenues for 2008 from 49.5% for 2007.

Net interest expense. Our net interest expense for the year ended December 31, 2008 decreased slightly to $2.0 million from $2.2 million for the same period in 2007 due to lower interest rates as well as lower average borrowings outstanding during the year.

Income taxes. Our provision for income taxes for the year ended December 31, 2008 was $13.3 million, or 39.8% of pretax income, compared to $9.9 million, or 41.8% of pretax income for the year ended December 31, 2007. The decrease in our effective tax rate for the year ended December 31, 2008 was primarily attributable to shifts in state taxable income among various states.

Year Ended December 31, 2007 Compared to Year Ended December 31, 2006

Revenues. Revenues increased by $17.1 million, or 5.5%, to $327.8 million for 2007 from $310.6 million for 2006. Approximately $7.4 million of this increase was a result of our acquisition of New England Institute of Technology at Palm Beach, Inc. (FLA), on May 22, 2006. The remainder of the increase was due to tuition increases, which ranged between 2% and 5% annually depending on the program. For the year ended December 31, 2007, our average undergraduate full-time student enrollment increased 1.7% to 17,687 compared to 17,397 for the year ended December 31, 2006. Excluding our acquisition of FLA, our average undergraduate student enrollment decreased by 0.4% to 16,682 from 16,757 in 2006.

Historically, our schools have lower student populations in our first and second quarters and we have experienced large class starts in the third and fourth quarters. Our second half growth is largely dependent on a successful high school recruiting season. We recruit our high school students several months ahead of their scheduled start dates, and thus, while we have visibility on the number of students who have expressed interest in attending our schools, we cannot predict with certainty the actual number of new student starts and its related impact on revenue.

During 2006, we experienced erosion between the number of students who expressed an interest in attending our schools and enrolled, and those that commenced classes. Many of these prospective students chose immediate employment, rather than pursuing education in the near term. Moreover, we believe the attractive job market further elevated sensitivity levels regarding the affordability of education. As a result of the above, our first half 2007 revenue was negatively impacted by lower student populations at our campuses. This was not offset until the third quarter of 2007 when we experienced a 10.3% increase in student starts due to improved retention of sales representatives, packaging our students for financial aid earlier in the process and by extending our student outreach program.

Educational services and facilities expenses. Our educational services and facilities expenses increased by $10.2 million, or 7.9%, to $139.5 million for 2007 from $129.3 million for 2006. Our acquisition of FLA accounted for $3.0 million or 29.4% of this increase. Excluding FLA, instructional expenses and books and tools expense increased by $1.1 million or 1.7% and $1.8 million or 11.9%, respectively, over the prior year primarily due to increased compensation and benefits expenses and due to higher volumes of sales for books and tools. The remainder of the increase in educational services and facilities expenses was primarily due to facilities expenses which increased $4.3 million over the prior year. Of this amount approximately $3.7 million represents increases in facility costs and $0.6 million represents additional depreciation expense during the year over prior year. The increase in facilities costs is primarily due to a $1.0 million increase in rent expense in 2007 due to our expanded campus facilities at our Rhode Island, Southwestern and Indianapolis campuses. We also experienced increased costs for insurance and real estate taxes, which increased approximately $0.5 million from the prior year, utilities which increased approximately $0.5 million over the prior year and from repairs and maintenance expenses, which increased approximately $1.4 million over the prior year. Approximately $0.8 million of the increase in repairs and maintenance was due to higher than normal repairs and maintenance expenses at one of our schools. Educational services and facilities expenses as a percentage of revenues increased to 42.6% of revenues for 2007 from 41.6% for 2006.

Selling, general and administrative expenses. Our selling, general and administrative expenses for the year ended December 31, 2007 were $162.4 million, an increase of $11.3 million, or 7.5%, from $151.1 million for 2006. Approximately $4.1 million of this increase were attributed to our acquisition of FLA. The remainder of the increase was primarily due to: (a) a $1.0 million or 3.3% increase in sales expense resulting mainly from yearly compensation increases; (b) a $0.6 million or 2.1%, increase in marketing costs as a result of increased advertising expenses associated with student leads and enrollment; and (c) a $5.2 million or 7.0% increase in administrative expenses, over the prior year.

The increase in marketing expenses during 2007 included a shift from television advertising to internet based initiatives and from the re-launching of our website during 2007. These initiatives increased student leads at a lower cost per lead. Included in administrative expenses during 2007 are an upfront one time non-cash charge of $0.5 million incurred in connection with the termination of certain lease agreements and a $0.6 million charge incurred in connection with severance payments related to the separation of employment of two executives. The remainder of the increase in administrative expenses was attributable to a higher provision for bad debts in 2007 as compared to 2006. Bad debt expense, excluding FLA in 2007 increased by $1.8 million from $14.9 million in 2006 to $16.7 million for the year ended December 31, 2007. This increase was due to higher accounts receivable balances throughout the year as compared to prior year, resulting from increased loans to our students. The remainder of the increase in administrative expenses is due to yearly compensation increases to existing personnel and higher benefit costs during the year.

As a percentage of revenue, selling, general and administrative expenses increased to 49.5% of revenues for 2007 from 48.7% for 2006.

Interest income. Interest income decreased to $0.2 million for the year ended December 31, 2007, a decrease of $0.8 million from interest income of $1.0 million for 2006. The decrease in interest income for the year was due to lower average cash balances during the year as compared to 2006.

Interest expense. Interest expense was essentially flat year over year at $2.3 million, respectively in 2007 and 2006 due to our average borrowings during 2007 remaining relatively flat with 2006.

Income taxes. Our provision for income taxes for the year ended December 31, 2007 was $9.9 million, or 41.8% of pretax income, compared to $12.1 million, or 41.4% of pretax income for the year ended December 31, 2006. The increase in effective tax rate for the year ended December 31, 2007 is attributable to higher state income taxes during the period.

LIQUIDITY AND CAPITAL RESOURCES

Our primary capital requirements are for facilities expansion and maintenance, acquisitions and the development of new programs. Our principal sources of liquidity have been cash provided by operating activities and borrowings under our credit agreement. The following chart summarizes the principal elements of our cash flow for each of the three years in the period ended December 31, 2008:

	Year Ended December 31,		
	2008	2007	2006
		(In thousands)	
Net cash provided by operating activities	$ 54,176	$ 15,735	$ 15,258
Net cash used in investing activities	$ (31,205)	$ (23,830)	$ (52,160)
Net cash provided by (used in) financing activities	$ (11,239)	$ 5,136	$ (6,894)

As of December 31, 2008, we had cash and cash equivalents of $15.2 million, representing an increase of approximately $11.7 million as compared to $3.5 million as of December 31, 2007. Historically, we have financed our operating activities and organic growth primarily through cash generated from operations. We have financed acquisitions primarily through borrowings under our credit facility and cash generated from operations. During 2008, we borrowed an additional $23.0 million to finance our working capital needs during the first half of the year and repaid $28.0 million outstanding under our credit facility in the second half of the year. We currently anticipate that we will be able to meet both our short-term cash needs, as well as our need to fund operations and meet our obligations beyond the next twelve months with cash generated by operations, existing cash balances and, if necessary, borrowings under our credit facility. On February 18, 2009, we sold common stock in a public offering and received net proceeds of approximately $14.0 million. In addition, we may also consider accessing the financial markets again as a source of liquidity for capital requirements, acquisitions and general corporate purposes to the extent such requirements are not satisfied by cash on hand, borrowings under our credit facility or operating cash flows. However, we cannot assure you that we will be able to raise additional capital on favorable terms, if at all. At December 31, 2008, we had net borrowings available under our $100 million credit agreement of approximately $95.9 million, including a $15.9 million sub-limit on letters of credit. The line of credit matures February 15, 2010.

Our primary source of cash is tuition collected from the students. The majority of students enrolled at our schools rely on funds received under various government-sponsored student financial aid programs to pay a substantial portion of their tuition and other education-related expenses. The largest of these programs are Title IV Programs which represented approximately 79% of our cash receipts relating to revenues in 2008. Students must apply for a new loan for each academic period. Federal regulations dictate the timing of disbursements of funds under Title IV Programs and loan funds are generally provided by lenders in two disbursements for each academic year. The first disbursement is usually received approximately 31 days after the start of a student's academic year and the second disbursement is typically received at the beginning of the sixteenth week from the start of the student's academic year. Certain types of grants and other funding are not subject to a 30-day delay. Our programs range from 14 to 102 weeks. In certain instances, if a student withdraws from a program prior to a specified date, any paid but unearned tuition or prorated Title IV financial aid is refunded according to state and federal regulations.

As a result of the significance of the Title IV funds received by our students, we are highly dependent on these funds to operate our business. Any reduction in the level of Title IV funds that our students are eligible to receive or any impact on our ability to be able to receive Title IV funds would have a significant impact on our operations and our financial condition.

Operating Activities

Year Ended December 31, 2008 Compared to Year Ended December 31, 2007. Net cash provided by operating activities was $54.2 million for the year ended December 31, 2008 as compared to $15.7 million for the year ended December 31, 2007. The $38.5 million increase in net cash provided by operating activities was driven by an increase in net income of approximately $11.9 million coupled with better collection on accounts receivable as our days sales outstanding decreased from 27.7 to 25.4 due to, among other things, the successful centralization of the back office administration of our financial aid department. Additionally, during the year we were favorably impacted by the timing of cash collections from federal fund programs. The remainder of the increase was due to increases in cash provided by other working capital items.

Year Ended December 31, 2007 Compared to Year Ended December 31, 2006. Net cash provided by operating activities increased to $15.7 million for 2007 from $15.3 million for 2006. This increase of $0.4 million was primarily due to a reduction of approximately $5.7 million in cash paid for income taxes during 2007 as compared to 2006 offset by a $3.7 million increase in accounts receivable at December 31, 2007 from December 31, 2006. The remainder of the decrease was primarily due to decreases in cash used for working capital items during the year offset by a decrease in net income during the year. The increase in accounts receivable which represents 27.5 days revenues outstanding for 2007 as compared to 24.3 days revenue outstanding in 2006 is attributable to the increase in loans that we provided to our students. As the gap between the amount of funding provided by Title IV and tuition rates widens, students are finding it increasingly difficult to finance on a short term basis this portion of their tuition. This has resulted in an overall increase in the term of loan programs established to assist students in financing this gap. In an ongoing effort to help those students who are unable to obtain any additional sources of financing, we assist students in financing a portion of their tuition. Students that elect to participate in this financing option currently have up to seven years to repay this obligation, an increase of up to two years from the five year term that we previously offered our students in prior years.

The increase in loans to our students adversely impacts our accounts receivable, our allowance for doubtful accounts and our cash flow from operations. Although we reserved for estimated losses related to unpaid student balances, losses in excess of the amounts we have reserved for bad debts will result in a reduction in our profitability and can have an adverse impact on the results of our operations.

Investing Activities

Our cash used in investing activities was primarily related to capital expenditures and the acquisition of BRI. Our capital expenditures included facility expansion, leasehold improvements, improvements of classroom, furniture and shop training equipment and student management operation systems. On December 1, 2008 we acquired all the rights, title and interest in the assets of BRI for $10.5 million in cash, net of cash acquired. On May 22, 2006 we acquired all of the outstanding common stock of FLA for $32.9 million in cash and the assumption of a mortgage.

We currently lease a majority of our campuses. We own the new Grand Prairie, Texas campus, the FLA campuses, the Nashville campus and certain buildings in the SWC campuses. As we execute our growth strategy, strategic acquisitions of campuses may be considered. In addition, although our current growth strategy is to continue our organic growth, strategic acquisitions of operations will be considered. To the extent that these potential strategic acquisitions are large enough to require financing beyond available cash from operations and borrowings under our credit facilities, we may incur additional debt or issue additional debt or equity securities.

Year Ended December 31, 2008 Compared to the Year Ended December 31, 2007. Net cash used in investing activities increased $7.4 million to $31.2 million for the year ended December 31, 2008 from $23.8 million for the year ended December 31, 2007. This increase was primarily attributable to a $10.5 million increase in cash used in the acquisition of Briarwood offset by a $4.6 million decrease in capital expenditures due to the timing of payments for the year ended December 31, 2008 from the year ended December 31, 2007.

Year Ended December 31, 2007 Compared to the Year Ended December 31, 2006. Net cash used in investing activities decreased $28.4 million to $23.8 million for the year ended December 31, 2007 from $52.2 million for the year ended December 31, 2006. This decrease was primarily attributable to a $32.9 million decrease in cash used in acquisitions offset by a $5.4 million increase in capital expenditures for the year ended December 31, 2007 from the year ended December 31, 2006.

Capital expenditures are expected to increase in 2009 as we upgrade and expand current equipment and facilities and open or expand new facilities to meet increased student enrollment. We anticipate capital expenditures to range from 5% to 6% of revenues in 2009 and expect to fund these capital expenditures with cash generated from operating activities and, if necessary, with borrowings under our credit facility.

Financing Activities

Year Ended December 31, 2008 Compared to the Year Ended December 31, 2007. Net cash used in financing activities was $11.2 million for the year ended December 31, 2008, as compared to net cash provided by financing activities of $5.1 million for the year ended December 31, 2007. This decrease of $16.4 million was attributable to the repayment of debt resulting in a decrease in net borrowings of $10.0 million as compared to 2007 and to repurchases of our common stock for $6.6 million during 2008.

On February 18, 2009, we sold common stock in a public offering and received net proceeds of approximately $14.0 million.

Year Ended December 31, 2007 Compared to the Year Ended December 31, 2006. Net cash provided by financing activities was $5.1 million for the year ended December 31, 2007, as compared to net cash used in financing activities of $6.9 million for the year ended December 31, 2006. This increase is due to increased borrowings under our credit facility during 2007 to fund our working capital needs.

On April 1, 2008, our Board of Directors approved the repurchase of up to 1,000,000 shares of our common stock over the period of one year. In 2008, we repurchased 615,000 shares of our common stock for approximately $6.6 million.

On February 15, 2005, we and our subsidiaries entered into a credit agreement with a syndicate of banks, which expires February 15, 2010. This credit agreement provides for a $100 million revolving credit facility with a term of five years under which any outstanding borrowings bear interest at the rate of adjusted LIBOR (as defined in the new credit agreement) plus a margin that may range from 1.00% to 1.75% or a base rate (as defined in the new credit agreement) plus a margin that may range from 0.00% to 0.25%. At December 31, 2008 we had no amounts outstanding under the credit facility. The credit agreement permits the issuance of letters of credit up to an aggregate amount of $20.0 million, the amount of which reduces the availability of permitted borrowings under the credit facility.

Our obligations and our subsidiaries' obligations under the credit agreement are secured by a lien on substantially all of our and our subsidiaries' assets and any assets that we and our subsidiaries may acquire in the future, including a pledge of substantially all of the subsidiaries' common stock. In addition to paying interest on outstanding principal under the credit agreement, we are required to pay a commitment fee to the lender with respect to the unused amounts available under the credit agreement at a rate equal to 0.25% to 0.40% per year, as defined.

The credit agreement contains various covenants, including a number of financial covenants. Furthermore, the credit agreement contains customary events of default as well as an event of default in the event of the suspension or termination of Title IV Program funding for our and our subsidiaries' schools aggregating 10 % or more of our EBITDA (as defined in the new credit agreement) or our and our subsidiaries' consolidated total assets and such suspension or termination is not cured within a specified period. The following table sets forth our long-term debt for the periods indicated:

	As of December 31,	
	2008	2007
Credit agreement	$ -	$ 5,000
Finance obligation	9,672	9,672
Automobile loans	-	16
Capital leases-computers (with rates ranging from 8.5% to 8.7%)	502	690
Subtotal	10,174	15,378
Less current maturities	(130)	(204)
Total long-term debt	$ 10,044	$ 15,174

We believe that our working capital, cash flow from operations, access to operating leases and borrowings available from our amended credit agreement will provide us with adequate resources for our ongoing operations through 2009 and our currently identified and planned capital expenditures.

Contractual Obligations

Long-Term Debt and Lease Commitments. As of December 31, 2008, our long-term debt consisted of the finance obligation in connection with our sale-leaseback transaction in 2001 and amounts due under capital lease obligations. We lease offices, educational facilities and various equipment for varying periods through the year 2023 at basic annual rentals (excluding taxes, insurance, and other expenses under certain leases).

The following table contains supplemental information regarding our total contractual obligations as of December 31, 2008:

	Payments Due by Period				
	Total	Less than 1 year	2-3 years	4-5 years	After 5 years
Capital leases (including interest)	$ 583	$ 167	$ 322	$ 94	$ -
Operating leases	140,810	17,840	31,182	28,290	63,498
Rent on finance obligation	11,164	1,381	2,762	2,762	4,259
Total contractual cash obligations	$ 152,557	$ 19,388	$ 34,266	$ 31,146	$ 67,757

Capital Expenditures. We have entered into commitments to expand or renovate campuses. These commitments are in the range of $3.0 to $5.0 million in the aggregate and are due within the next 12 months. We expect to fund these commitments from cash generated from operations.

OFF-BALANCE SHEET ARRANGEMENTS

We had no off-balance sheet arrangements as of December 31, 2008, except for our letters of credit of $4.1 million which are primarily comprised of letters of credit for the DOE and security deposits in connection with certain of our real estate leases. These off-balance sheet arrangements do not adversely impact our liquidity or capital resources.

RELATED PARTY TRANSACTIONS

On May 12, 2008, we repurchased from Five Mile River Capital Partners and Steven W. Hart an aggregate 100,000 shares of our common stock for $11.25 per share for a total cost of $1.1 million. Hart Capital LLC is the managing member of Five Mile River Capital Partners LLC, our second largest stockholder. Steven W. Hart is the owner and president of Hart Capital LLC and is a former member of our board of directors. At the time of the transaction Hart Capital beneficially owned, through Five Mile River Capital LLC, 8.3% of our outstanding shares of common stock.

On October 15, 2007, we entered into a Separation and Release Agreement with Lawrence E. Brown, our former Vice Chairman. Under this agreement Mr. Brown's employment terminated as of the close of business on October 31, 2007. For a period of 14 months following the date of separation of employment, Mr. Brown continued to provide transitional services to us, not to exceed ten hours per month. In consideration for a release of claims, we paid Mr. Brown a lump sum cash payment of $0.5 million and reimbursed Mr. Brown for the employer-portion of the premiums due for continuation of coverage under COBRA through December 31, 2008. Mr. Brown was entitled to the use of his automobile and reimbursement of associated costs by us through December 31, 2008. In addition, pursuant to the terms of the agreement, Mr. Brown agreed to be subject to certain restrictive covenants, which, among other things, prohibited him for the duration of 14 months following the date of separation of employment, from (i) competing against us and (ii) soliciting our or any of our affiliates' or subsidiaries' employees, consultants, clients or customers through December 31, 2008.

Pursuant to the Employment Agreement between Shaun E. McAlmont and us, we agreed to pay and reimburse Mr. McAlmont for the reasonable costs of his relocation from Denver, Colorado to West Orange, New Jersey in the year ended December 31, 2006. Such relocation assistance included our purchase of Mr. McAlmont's home in Denver, Colorado. The $0.5 million price paid for Mr. McAlmont's home equaled the average of the amount of two independent appraisers selected by us. This amount is reflected in property, equipment and facilities in the accompanying consolidated balance sheets.

SEASONALITY AND TRENDS

Our net revenues and operating results normally fluctuate as a result of seasonal variations in our business, principally due to changes in total student population. Student population varies as a result of new student enrollments, graduations and student attrition. Historically, our schools have had lower student populations in our first and second quarters and we have experienced large class starts in the third and fourth quarters and student attrition in the first half of the year. Our second half growth is largely dependent on a successful high school recruiting season. We recruit our high school students several months ahead of their scheduled start dates, and thus, while we have visibility on the number of students who have expressed interest in attending our schools, we cannot predict with certainty the actual number of new student enrollments and the related impact on revenue. Our expenses, however, do not vary significantly over the course of the year with changes in our student population and net revenues. During the first half of the year, we make significant investments in marketing, staff, programs and facilities to ensure that we meet our second half of the year targets and, as a result, such expenses do not fluctuate significantly on a quarterly basis. To the extent new student enrollments, and related revenues, in the second half of the year fall short of our estimates, our operating results could suffer. We expect quarterly fluctuations in operating results to continue as a result of seasonal enrollment patterns. Such patterns may change as a result of new school openings, new program introductions, and increased enrollments of adult students and/or acquisitions.

Similar to many other for-profit post secondary education companies, the increase in our average undergraduate enrollments in 2007 and 2006 did not meet our anticipated growth rates. As a result of the slowdown in 2005, we entered 2006 with fewer students enrolled than we had in January of 2005. This trend continued throughout 2006 and resulted in a shortfall in the enrollments we were expecting in the second half of 2006 and especially in the third quarter which has accounted for a majority of our yearly starts. As a result we also entered 2007 with fewer students enrolled than we had in January 2006. This trend continued during the first half of 2007 and reversed itself in the latter half of the year as we benefited from the 2007 high school recruiting season. The slowdown that has occurred in the for-profit post secondary education sector appears to have had a greater impact on companies, like ours, that are more dependent on their on-ground business as opposed to on-line students. We believe that this slowdown was attributed to many factors, including: (a) the economy; (b) the availability of student financing; (c) dependency on television to attract students to our school; (d) turnover of our sales representatives; and (e) increasing competition in the marketplace.

As a result of soft organic enrollment trends we experienced, we instituted numerous initiatives and took steps to address and optimize our internal operations. These initiatives coupled with the counter cyclicality of our programs have now produced nine consecutive quarters of positive student start growth and six consecutive quarters of enrollment growth. This has resulted in us entering 2009 with approximately 3,100 more students on a same school basis than we had on January 1, 2008. Because our revenue stream is closely related to our enrollments, we believe that this will result in revenue and net income growth in 2009.

RECENT ACCOUNTING PRONOUNCEMENTS

In May 2008, the Financial Accounting Standards Board ("FASB") issued Statement of Financial Accounting Standards ("SFAS") No. 163, "*Accounting for Financial Guarantee Insurance Contracts – an interpretation of FASB Statement No. 60,"* ("SFAS No. 163"). SFAS No. 163 requires that an insurance enterprise recognize a claim liability prior to an event of default when there is evidence that credit deterioration has occurred in an insured financial obligation. SFAS No. 163 is effective for us as of January 1, 2009. The implementation of this standard had no effect on our consolidated financial statements.

In May 2008, the FASB issued SFAS No. 162, "*The Hierarchy of Generally Accepted Accounting Principles,*" ("SFAS No. 162"). SFAS No. 162 identifies the sources of accounting principles and the framework for selecting the principles used in the preparation of financial statements. SFAS No. 162 was effective for us as of November 15, 2008. The implementation of this standard had no effect on our consolidated financial statements.

In March 2008, the FASB issued SFAS No. 161, "*Disclosures about Derivative Instruments and Hedging Activities,"* ("SFAS No. 161") – an amendment to FASB Statement No. 133. SFAS No. 161 is intended to improve financial standards for derivative instruments and hedging activities by requiring enhanced disclosures to enable investors to better understand their effects on an entity's financial position, financial performance, and cash flows. Entities are required to provide enhanced disclosures about: (a) how and why an entity uses derivative instruments; (b) how derivative instruments and related hedged items are accounted for under SFAS No. 133 and its related interpretations; and (c) how derivative instruments and related hedged items affect an entity's financial position, financial performance, and cash flows. The Statement is effective for us as of January 1, 2009. The adoption of the provision of SFAS No. 161 had no effect on our consolidated financial statements.

In December 2007, the FASB issued SFAS No. 141R, *"Business Combinations"* ("SFAS No. 141R"). SFAS No. 141R establishes revised principles and requirements for how we will recognize and measure assets and liabilities acquired in a business combination. SFAS No. 141R requires, among other things, transaction costs incurred in a business combination to be expensed, establishes a new measurement date for valuing acquirer shares issued in consideration for a business combination, and requires the recognition of contingent consideration and pre-acquisition gain and loss contingencies. SFAS No. 141R was effective for our business combinations completed on or after January 1, 2009. In accordance with the transition guidance of SFAS No. 141 R, we elected to expense $0.9 million of costs incurred in 2008 related to an acquisition which was completed in 2009.

In December 2007, the FASB issued SFAS No. 160, *"Noncontrolling Interests in Consolidated Financial Statements, an amendment of Accounting Research Bulletin ("ARB") No. 51"* ("SFAS No. 160"). SFAS No. 160 establishes accounting and reporting standards for the noncontrolling interest in a subsidiary and for the deconsolidation of a subsidiary. SFAS No. 160 is effective for us as of January 1, 2009. The adoption of the provision of SFAS No. 160 had no effect on our consolidated financial statements.

In February 2007, the FASB issued SFAS No. 159, "*The Fair Value Option for Financial Assets and Financial Liabilities*" ("SFAS No. 159"), providing companies with an option to report selected financial assets and liabilities at fair value. SFAS No. 159 also establishes presentation and disclosure requirements designed to facilitate comparisons between companies that choose different measurement attributes for similar types of assets and liabilities. SFAS No. 159 requires companies to provide additional information that will help investors and other users of financial statements to more easily understand the effect of our choice to use fair value on its earnings. It also requires entities to display the fair value of those assets and liabilities for which they have chosen to use fair value on the face of the balance sheet. SFAS No. 159 became effective for us as of January 1, 2008; however, we did not elect to utilize the option to report selected assets and liabilities at fair value.

In September 2006, the FASB issued SFAS No. 158, *"Employers' Accounting for Defined Benefit Pension and Other Postretirement Plans, an amendment of FASB Statements No. 87, 88, 106, and 132(R)"* ("SFAS No. 158"). Among other items, SFAS No. 158 requires recognition of the overfunded or underfunded status of an entity's defined benefit postretirement plan as an asset or liability in the financial statements, requires the measurement of defined benefit postretirement plan assets and obligations as of the end of the employer's fiscal year, and requires recognition of the funded status of defined benefit postretirement plans in other comprehensive income. We adopted SFAS No. 158 on December 31, 2006. The incremental effects of applying SFAS No. 158 on our December 31, 2006 consolidated financial statements, on a line by line basis, are as follows:

	Balances Before Adoption of Statement 158	Adjustments	Balances After Adoption of Statement 158
Pension plan assets, net	$ 5,169	$ (4,062)	$ 1,107
Deferred income taxes	1,037	1,651	2,688
Accumulated other comprehensive income	-	2,411	2,411

In September 2006, the FASB issued SFAS No. 157, *"Fair Value Measurements"* ("SFAS No. 157"). SFAS No. 157 defines fair value, establishes a framework for measuring fair value in GAAP, and expands disclosures about fair value measurements. SFAS No. 157 does not require any new fair value measurements. The provisions of SFAS No. 157 were effective for us as of January 1, 2008. The adoption of the provision of SFAS No. 157 had no effect on our consolidated financial statements.

In September 2006, the Securities and Exchange Commission issued Staff Accounting Bulletin ("SAB") No. 108 which provides interpretive guidance on how the effects of the carryover or reversal of prior year unrecorded misstatements should be considered in quantifying a current year misstatement. SAB No. 108 became effective for us as of January 1, 2007. The adoption of the provision of SAB No. 108 had no effect on our consolidated financial statements.

In June 2006, FASB issued FASB Interpretation ("FIN") No. 48, "*Accounting for Uncertainty in Income Taxes"* ("FIN No. 48"). FIN No. 48 clarifies the accounting for uncertainty in income taxes recognized in an enterprise's financial statements in accordance with FASB SFAS No. 109, "*Accounting for Income Taxes*", which was adopted by us on January 1, 2007. FIN No. 48 prescribes a recognition threshold and a measurement attribute for the financial statement recognition and measurement of tax positions taken or expected to be taken in a tax return. For those benefits to be recognized, a tax position must be more-likely-than-not to be sustained upon examination by taxing authorities. The amount recognized is measured as the largest amount of benefit that is greater than 50 percent likely of being realized upon ultimate settlement. The adoption of FIN No. 48 resulted in a negative cumulative effect adjustment to retained earnings as of January 1, 2007 of approximately $0.1 million.

In March 2006, FASB issued SFAS No. 156, "*Accounting for Servicing of Financial Assets"* ("SFAS No. 156"). SFAS No. 156 provides guidance addressing the recognition and measurement of separately recognized servicing assets and liabilities, common with mortgage securitization activities, and provides an approach to simplify efforts to obtain hedge accounting treatment. SFAS No. 156 was adopted on January 1, 2007. The adoption of the provision of SFAS No. 156 had no effect on our consolidated financial statements.

In February 2006, the FASB issued SFAS No. 155, "*Accounting for Certain Hybrid Financial Instruments*" ("SFAS No. 155"). SFAS No. 155 is effective beginning January 1, 2007. The adoption of the provision of SFAS No. 155 had no effect on our consolidated financial statements.

Effect of Inflation

Inflation has not had and is not expected to have a significant effect on our operations.

ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

We are exposed to certain market risks as part of our on-going business operations. We have a credit agreement with a syndicate of banks. Our obligations under the credit agreement are secured by a lien on substantially all of our assets and our subsidiaries and any assets that we or our subsidiaries may acquire in the future, including a pledge of substantially all of our subsidiaries' common stock. Outstanding borrowings bear interest at the rate of adjusted LIBOR plus 1.0% to 1.75%, as defined, or a base rate (as defined in the credit agreement). As of December 31, 2008, we had no amounts outstanding under the credit agreement. We initially funded our acquisition of Baran with borrowings under our credit facility and may incur additional borrowings to fund capital expenditures in 2009.

Based on our outstanding debt balance as of December 31, 2008, a change of one percent in the interest rate would not have caused a change in our interest expense. Changes in interest rates could have an impact however on our operations, which are greatly dependent on students' ability to obtain financing. Any increase in interest rates could greatly impact our ability to attract students and have an adverse impact on the results of our operations. The remainder of our interest rate risk is associated with miscellaneous capital equipment leases, which are not material.

ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

See "Index to Consolidated Financial Statements" on page F-1 on this Form 10-K.

ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE

None.

ITEM 9A. DISCLOSURE CONTROLS AND PROCEDURES

Evaluation of disclosure controls and procedures

Our Chief Executive Officer and Chief Financial Officer, after evaluating, together with management, the effectiveness of our disclosure controls and procedures (as defined in Securities Exchange Act Rule 13a-15(e)) as of December 31, 2008, have concluded that our disclosure controls and procedures are effective to reasonably ensure that material information required to be disclosed by us in the reports that we file or submit under the Securities Exchange Act of 1934, as amended is recorded, processed, summarized and reported within the time periods specified by Securities and Exchange Commissions' Rules and Forms and that such information is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosure.

Internal Control Over Financial Reporting

During the quarter ended December 31, 2008, there has been no change in our internal control over financial reporting that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

Management's Annual Report on Internal Control over Financial Reporting

The management of Lincoln Educational Services Corporation (the "Company") is responsible for establishing and maintaining adequate internal control over financial reporting as defined in Rule 13a-15(f) under the Securities Exchange Act of 1934. The Company's internal control system was designed to provide reasonable assurance to the Company's management and Board of Directors regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles.

Management assessed the effectiveness of the Company's internal control over financial reporting as of December 31, 2008, based on the framework set forth by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) in *Internal Control—Integrated Framework*. Based on its assessment, management believes that, as of December 31, 2008, the Company's internal control over financial reporting is effective.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

The Company's independent auditors, Deloitte & Touche LLP, an independent registered public accounting firm, audited the Company's internal control over financial reporting as of December 31, 2008, as stated in their report included in this Form 10-K that follows.

/s/ David F. Carney

David F. Carney
Chairman & Chief Executive Officer
March 12, 2009

/s/ Cesar Ribeiro

Cesar Ribeiro
Chief Financial Officer
March 12, 2009

ITEM 9B. OTHER INFORMATION

None.

PART III.

ITEM 10. DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE

Directors and Executive Officers

The information required by this item is incorporated herein by reference to our definitive Proxy Statement to be filed in connection with our 2009 Annual Meeting of Shareholders.

Code of Ethics

We have adopted a Code of Conduct and Ethics applicable to our directors, officers and employees and certain other persons, including our Chief Executive Officer and Chief Financial Officer. A copy of our Code of Ethics is available on our website at *www.lincolnedu.com*. If any amendments to or waivers from the Code of Conduct are made, we will disclose such amendments or waivers on our website.

ITEM 11. EXECUTIVE COMPENSATION

Information required by Item 11 of Part III is incorporated by reference to our definitive Proxy Statement to be filed in connection with our 2009 Annual Meeting of Shareholders.

ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS

Information required by Item 12 of Part III is incorporated by reference to our definitive Proxy Statement to be filed in connection with our 2009 Annual Meeting of Shareholders.

ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS AND DIRECTOR INDEPENDENCE

Information required by Item 13 of Part III is incorporated by reference to our definitive Proxy Statement to be filed in connection with our 2009 Annual Meeting of Shareholders.

ITEM 14. PRINCIPAL ACCOUNTING FEES AND SERVICES

Information required by Item 14 of Part III is incorporated by reference to our definitive Proxy Statement to be filed in connection with our 2009 Annual Meeting of Shareholders.

PART IV.

ITEM 15. EXHIBITS AND FINANCIAL STATEMENT SCHEDULE

1. Financial Statements

See "Index to Consolidated Financial Statements" on page F-1 of this Form 10-K.

2. Financial Statement Schedule

See "Index to Consolidated Financial Statements" on page F-1 of this Form 10-K.

3. Exhibits Required by Securities and Exchange Commission Regulation S-K

Exhibit Number	Description
3.1	Amended and Restated Certificate of Incorporation of the Company (1).
3.2	Amended and Restated By-laws of the Company (2).
4.1	Stockholders' Agreement, dated as of September 15, 1999, among Lincoln Technical Institute, Inc., Back to School Acquisition, L.L.C. and Five Mile River Capital Partners L.L.C. (1).
4.2	Letter agreement, dated August 9, 2000, by Back to School Acquisition, L.L.C., amending the Stockholders' Agreement (1).
4.3	Letter agreement, dated August 9, 2000, by Lincoln Technical Institute, Inc., amending the Stockholders' Agreement (1).
4.4	Management Stockholders Agreement, dated as of January 1, 2002, by and among Lincoln Technical Institute, Inc., Back to School Acquisition, L.L.C. and the Stockholders and other holders of options under the Management Stock Option Plan listed therein (1).
4.5	Assumption Agreement and First Amendment to Management Stockholders Agreement, dated as of December 20, 2007, by and among Lincoln Educational Services Corporation, Lincoln Technical Institute, Inc., Back to School Acquisition, L.L.C. and the Management Investors parties therein (6).
4.6	Registration Rights Agreement between the Company and Back to School Acquisition, L.L.C. (2).
4.7	Specimen Stock Certificate evidencing shares of common stock (1).
10.1	Credit Agreement, dated as of February 15, 2005, among the Company, the Guarantors from time to time parties thereto, the Lenders from time to time parties thereto and Harris Trust and Savings Bank, as Administrative Agent (1).
10.2	Amended and Restated Employment Agreement, dated as of February 1, 2007, between the Company and David F. Carney (3).
10.3 *	Amendment to Amended and Restated Employment Agreement, dated as of January 14, 2009, between the Company and David F. Carney.
10.4	Separation and Release Agreement, dated as of October 15, 2007, between the Company and Lawrence E. Brown (4).
10.5	Amended and Restated Employment Agreement, dated as of February 1, 2007, between the Company and Scott M. Shaw (3).

10.6 *	Amendment to Amended and Restated Employment Agreement, dated as of January 14, 2009, between the company and Scott M. Shaw.
10.7	Amended and Restated Employment Agreement, dated as of February 1, 2007, between the Company and Cesar Ribeiro (3).
10.8 *	Amendment to Amended and Restated Employment Agreement, dated as of January 14, 2009, between the company and Cesar Ribeiro.
10.9	Amended and Restated Employment Agreement, dated as of February 1, 2007, between the Company and Shaun E. McAlmont (3).
10.10 *	Amendment to Amended and Restated Employment Agreement, dated as of January 14, 2009, between the company and Shaun E. McAlmont.
10.11	Lincoln Educational Services Corporation 2005 Long Term Incentive Plan (1).
10.12	Lincoln Educational Services Corporation 2005 Non Employee Directors Restricted Stock Plan (1).
10.13	Lincoln Educational Services Corporation 2005 Deferred Compensation Plan (1).
10.14	Lincoln Technical Institute Management Stock Option Plan, effective January 1, 2002 (1).
10.15	Form of Stock Option Agreement, dated January 1, 2002, between Lincoln Technical Institute, Inc. and certain participants (1).
10.16	Form of Stock Option Agreement under our 2005 Long Term Incentive Plan (7).
10.17	Form of Restricted Stock Agreement under our 2005 Long Term Incentive Plan (7).
10.18	Management Stock Subscription Agreement, dated January 1, 2002, among Lincoln Technical Institute, Inc. and certain management investors (1).
10.19	Stockholder's Agreement among Lincoln Educational Services Corporation, Back to School Acquisition L.L.C., Steven W. Hart and Steven W. Hart 2003 Grantor Retained Annuity Trust (2).
10.20	Stock Purchase Agreement, dated as of March 30, 2006, among Lincoln Technical Institute, Inc., and Richard I. Gouse, Andrew T. Gouse, individually and as Trustee of the Carolyn Beth Gouse Irrevocable Trust, Seth A. Kurn and Steven L. Meltzer (5).
10.21*	Stock Purchase Agreement, dated as of January 20, 2009, among Lincoln Technical Institute, Inc., NN Acquisition, LLC, Brad Baran, Barbara Baran, UGP Education Partners, LLC, UGPE Partners Inc. and Merion Investment Partners, L.P.
10.22*	Stock Purchase Agreement, dated as of January 20, 2009, among Lincoln Technical Institute, Inc., NN Acquisition, LLC, Brad Baran, Barbara Baran, UGP Education Partners, LLC, Merion Investment Partners, L.P. and, for certain limited purposes only, UGPE Partners Inc.
21.1 *	Subsidiaries of the Company.
23 *	Consent of Independent Registered Public Accounting Firm.
31.1 *	Certification of Chairman & Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
31.2 *	Certification of Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
32 *	Certification of Chairman & Chief Executive Officer and Chief Financial Officer pursuant to 18 U.S.C. 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.

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(1) Incorporated by reference to the Company's Registration Statement on Form S-1 (Registration No. 333-123664).

(2) Incorporated by reference to the Company's Form 8-K dated June 28, 2005.

(3) Incorporated by reference to the Company's Form 10-K for the year ended December 31, 2006.

(4) Incorporated by reference to the Company's Form 8-K dated October 15, 2007.

(5) Incorporated by reference to the Company's Form 10-Q for the quarterly period ended March 31, 2006.

(6) Incorporated by reference to the Company's Registration Statement on Form S-3 (Registration No. 333-148406).

(7) Incorporated by reference to the Company's Form 10-K for the year ended December 31, 2007.

* Filed herewith.

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SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

Date: March 13, 2009

LINCOLN EDUCATIONAL SERVICES CORPORATION

By: /s/ Cesar Ribeiro
Cesar Ribeiro
Senior Vice President, Chief Financial Officer and Treasurer
(Principal Accounting and Financial Officer)

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated.

Signature	Title	Date
/s/ David F. Carney David F. Carney	Chief Executive Officer and Chairman of the Board	March 13, 2009
/s/ Cesar Ribeiro Cesar Ribeiro	Senior Vice President, Chief Financial Officer and Treasurer (Principal Accounting and Financial Officer)	March 13, 2009
/s/ Peter S. Burgess Peter S. Burgess	Director	March 13, 2009
/s/ James J. Burke, Jr. James J. Burke, Jr.	Director	March 13, 2009
/s/ Celia H. Currin Celia H. Currin	Director	March 13, 2009
/s/ Paul E. Glaske Paul E. Glaske	Director	March 13, 2009
/s/ Charles F. Kalmbach Charles F. Kalmbach	Director	March 13, 2009
/s/ Alexis P. Michas Alexis P. Michas	Director	March 13, 2009
/s/ J. Barry Morrow J. Barry Morrow	Director	March 13, 2009
/s/ Jerry G. Rubenstein Jerry G. Rubenstein	Director	March 13, 2009

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REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Stockholders of
Lincoln Educational Services Corporation
West Orange, New Jersey

We have audited the accompanying consolidated balance sheets of Lincoln Educational Services Corporation and subsidiaries (the "Company") as of December 31, 2008 and 2007, and the related consolidated statements of income, changes in stockholders' equity and cash flows for each of the three years in the period ended December 31, 2008. Our audits also included the consolidated financial statement schedule listed in the Index at Item 15. These consolidated financial statements and financial statement schedule are the responsibility of the Company's management. Our responsibility is to express an opinion on the financial statements and financial statement schedule based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, such consolidated financial statements present fairly, in all material respects, the financial position of Lincoln Educational Services Corporation and subsidiaries as of December 31, 2008 and 2007, and the results of their operations and their cash flows for each of the three years in the period ended December 31, 2008, in conformity with accounting principles generally accepted in the United States of America. Also, in our opinion, such consolidated financial statement schedule, when considered in relation to the basic consolidated financial statements taken as a whole, presents fairly, in all material respects, the information set forth therein.

As discussed in Note 2 to the consolidated financial statements, the Company adopted the provisions of Financial Accounting Standards Board Interpretation (“FIN”) No. 48, “*Accounting for Uncertainty in Income Taxes- an Interpretation of FASB Statement No. 109*” on January 1, 2007.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the Company's internal control over financial reporting as of December 31, 2008, based on the criteria established in Internal Control—Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission and our report dated March 13, 2009 expressed an unqualified opinion on the Company's internal control over financial reporting.

DELOITTE & TOUCHE LLP

Parsippany, New Jersey
March 12, 2009

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Stockholders of
Lincoln Educational Services Corporation
West Orange, New Jersey

We have audited the internal control over financial reporting of Lincoln Educational Services Corporation and subsidiaries (the "Company") as of December 31, 2008, based on criteria established in Internal Control — Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission. The Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying Management's Report on Internal Control over Financial Reporting. Our responsibility is to express an opinion on the Company's internal control over financial reporting based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

A company's internal control over financial reporting is a process designed by, or under the supervision of, the company's principal executive and principal financial officers, or persons performing similar functions, and effected by the company's board of directors, management, and other personnel to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of the inherent limitations of internal control over financial reporting, including the possibility of collusion or improper management override of controls, material misstatements due to error or fraud may not be prevented or detected on a timely basis. Also, projections of any evaluation of the effectiveness of the internal control over financial reporting to future periods are subject to the risk that the controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

In our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2008, based on the criteria established in Internal Control — Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the Company's consolidated balance sheet as of December 31, 2008 and the related consolidated statements of income, changes in stockholders' equity and cash flow and financial statement schedule for the year ended December 31, 2008, and our report dated March 12, 2009 expressed an unqualified opinion on those financial statements and schedule and included an explanatory paragraph regarding the Company's adoption of the provisions of Financial Accounting Standards Board Interpretation ("FIN") No. 48, "*Accounting for Uncertainty in Income Taxes – an Interpretation of FASB Statement No. 109*" on January 1, 2007.

DELOITTE & TOUCHE LLP

Parsippany, New Jersey
March 12, 2009

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LINCOLN EDUCATIONAL SERVICES CORPORATION AND SUBSIDIARIES

CONSOLIDATED BALANCE SHEETS

(In thousands, except share amounts)

	December 31, 2008	December 31, 2007
ASSETS		
CURRENT ASSETS:		
Cash and cash equivalents	$ 15,234	$ 3,502
Restricted cash	383	-
Accounts receivable, less allowance of $13,914 and $11,244 at December 31, 2008 and 2007, respectively	22,857	23,286
Inventories	3,374	2,540
Deferred income taxes, net	5,627	4,575
Due from federal programs	828	6,087
Prepaid expenses and other current assets	2,958	3,771
Total current assets	51,261	43,761
PROPERTY, EQUIPMENT AND FACILITIES - At cost, net of accumulated depreciation and amortization of $83,345 and $82,931 at December 31, 2008 and 2007, respectively	108,567	106,564
OTHER ASSETS:		
Noncurrent accounts receivable, less allowance of $824 and $159 at December 31, 2008 and 2007, respectively	3,326	1,608
Deferred finance charges	632	827
Pension plan assets, net	-	1,696
Deferred income taxes, net	7,080	5,500
Goodwill	91,460	82,714
Other assets, net	5,716	3,513
Total other assets	108,214	95,858
TOTAL	$ 268,042	$ 246,183

See notes to consolidated financial statements.

LINCOLN EDUCATIONAL SERVICES CORPORATION AND SUBSIDIARIES

CONSOLIDATED BALANCE SHEETS

(In thousands, except share amounts)

(Continued)

	December 31, 2008	December 31, 2007
LIABILITIES AND STOCKHOLDERS' EQUITY		
CURRENT LIABILITIES:		
Current portion of long-term debt and lease obligations	$ 130	$ 204
Unearned tuition	38,806	34,810
Accounts payable	12,349	13,721
Accrued expenses	16,239	10,079
Income taxes payable	3,263	1,460
Other short-term liabilities	314	1,439
Total current liabilities	71,101	61,713
NONCURRENT LIABILITIES:		
Long-term debt and lease obligations, net of current portion	10,044	15,174
Pension plan liabilities, net	4,335	-
Accrued rent	5,972	5,608
Other long-term liabilities	1,641	1,221
Total liabilities	93,093	83,716
COMMITMENTS AND CONTINGENCIES		
STOCKHOLDERS' EQUITY:		
Preferred stock, no par value - 10,000,000 shares authorized, no shares issued and outstanding at December 31, 2008 and 2007	-	-
Common stock, no par value - authorized 100,000,000 shares at December 31, 2008 and 2007, issued and outstanding 26,088,261 shares at December 31, 2008 and 25,888,348 shares at December 31, 2007	120,597	120,379
Additional paid-in capital	15,119	12,378
Deferred compensation	(3,619)	(3,228)
Treasury stock at cost - 615,000 at December 31, 2008 and no shares at December 31, 2007	(6,584)	-
Retained earnings	55,219	35,024
Accumulated other comprehensive loss	(5,783)	(2,086)
Total stockholders' equity	174,949	162,467
TOTAL	$ 268,042	$ 246,183

See notes to consolidated financial statements.

LINCOLN EDUCATIONAL SERVICES CORPORATION AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF INCOME

(In thousands, except per share amounts)

	Year Ended December 31,		
	2008	**2007**	**2006**
REVENUES	$ 376,907	$ 327,774	$ 310,630
COSTS AND EXPENSES:			
Educational services and facilities	153,530	139,500	129,311
Selling, general and administrative	187,722	162,396	151,136
Loss (gain) on sale of assets	80	(15)	(435)
Total costs & expenses	341,332	301,881	280,012
OPERATING INCOME	35,575	25,893	30,618
OTHER:			
Interest income	113	180	981
Interest expense	(2,152)	(2,341)	(2,291)
Other (loss) income	-	27	(132)
INCOME FROM CONTINUING OPERATIONS BEFORE INCOME TAXES	33,536	23,759	29,176
PROVISION FOR INCOME TAXES	13,341	9,932	12,092
INCOME FROM CONTINUING OPERATIONS	20,195	13,827	17,084
LOSS FROM DISCONTINUED OPERATIONS, NET OF INCOME TAXES	-	(5,487)	(1,532)
NET INCOME	$ 20,195	$ 8,340	$ 15,552
Basic			
Earnings per share from continuing operations	$ 0.80	$ 0.54	$ 0.67
Loss per share from discontinued operations	-	(0.21)	(0.06)
Net income per share	$ 0.80	$ 0.33	$ 0.61
Diluted			
Earnings per share from continuing operations	$ 0.78	$ 0.53	$ 0.65
Loss per share from discontinued operations	-	(0.21)	(0.05)
Net income per share	$ 0.78	$ 0.32	$ 0.60
Weighted average number of common shares outstanding:			
Basic	25,308	25,479	25,336
Diluted	25,984	26,090	26,086

See notes to consolidated financial statements

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LINCOLN EDUCATIONAL SERVICES CORPORATION AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF CHANGES IN STOCKHOLDERS' EQUITY

(In thousands, except share amounts)

	Common Stock Shares	Common Stock Amount	Additional Paid-in Capital	Deferred Compensation	Treasury Stock	Retained Earnings	Accumulated Other Comprehensive Loss	Total
BALANCE - January 1, 2006	25,168,390	$ 119,453	$ 5,665	$ (360)	$ -	$ 11,232	$ -	$ 135,990
Net income	-	-	-	-	-	15,552	-	15,552
Reduction in estimated stock issuance expenses	-	150	-	-	-	-	-	150
Stock-based compensation expense								
Restricted Stock	18,429	-	300	(107)	-	-	-	193
Stock Options	-	-	1,231	-	-	-	-	1,231
Tax benefit of options exercised	-	-	499	-	-	-	-	499
Exercise of stock options	263,876	579	-	-	-	-	-	579
Initial adoption of SFAS No. 158, net of taxes	-	-	-	-	-	-	(2,411)	(2,411)
BALANCE - December 31, 2006	25,450,695	120,182	7,695	(467)	-	26,784	(2,411)	151,783
Net income	-	-	-	-	-	8,340	-	8,340
Initial adoption of FIN 48	-	-	-	-	-	(100)	-	(100)
Employee pension plan, net of taxes	-	-	-	-	-	-	325	325
Stock-based compensation expense								
Restricted stock	217,565	-	3,155	(2,761)	-	-	-	394
Stock options	-	-	1,455	-	-	-	-	1,455
Tax benefit of options exercised	-	-	73	-	-	-	-	73
Exercise of stock options	220,088	197	-	-	-	-	-	197
BALANCE - December 31, 2007	25,888,348	120,379	12,378	(3,228)	-	35,024	(2,086)	162,467
Net income	-	-	-	-	-	20,195	-	20,195
Employee pension plan, net of taxes	-	-	-	-	-	-	(3,697)	(3,697)
Stock-based compensation expense								
Restricted stock	123,477	-	1,487	(391)	-	-	-	1,096
Stock options	-	-	1,105	-	-	-	-	1,105
Purchase of treasury stock	-	-	-	-	(6,584)	-	-	(6,584)
Tax benefit of options exercised	-	-	331	-	-	-	-	331
Net share settlement for equity-based compensation	(13,512)	-	(182)	-	-	-	-	(182)
Exercise of stock options	89,948	218	-	-	-	-	-	218
BALANCE - December 31, 2008	26,088,261	$ 120,597	$ 15,119	$ (3,619)	$ (6,584)	$ 55,219	$ (5,783)	$ 174,949

See notes to consolidated financial statements.

LINCOLN EDUCATIONAL SERVICES CORPORATION AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CASH FLOWS
(In thousands)

	Year Ended December 31,		
	2008	2007	2006
CASH FLOWS FROM OPERATING ACTIVITIES:			
Net income	$ 20,195	$ 8,340	$ 15,552
Adjustments to reconcile net income to net cash provided by operating activities:			
Depreciation and amortization	17,920	15,741	14,866
Amortization of deferred finance charges	195	192	192
Deferred income taxes	(298)	(2,761)	(3,655)
Loss (gain) on disposition of assets	80	(15)	(437)
Impairment of goodwill and long-lived assets	-	3,099	-
Fixed asset donations	-	(26)	(22)
Provision for doubtful accounts	21,642	17,767	15,590
Stock-based compensation expense	2,201	1,849	1,424
Tax benefit associated with exercise of stock options	(331)	(73)	-
Deferred rent	412	630	1,081
(Increase) decrease in assets, net of acquisitions:			
Accounts receivable	(22,775)	(21,465)	(21,870)
Inventories	(824)	(102)	(587)
Prepaid expenses and current assets	(338)	(1,957)	(374)
Due from federal funds	5,259	(6,644)	-
Other assets	306	(740)	1,181
Increase (decrease) in liabilities, net of acquisitions:			
Accounts payable	818	(284)	(1,441)
Other liabilities	(1,533)	1,926	(157)
Income taxes payable/prepaid	2,134	(1,181)	(1,225)
Accrued expenses	6,103	(221)	(870)
Unearned tuition	3,010	1,660	(3,990)
Total adjustments	33,981	7,395	(294)
Net cash provided by operating activities	54,176	15,735	15,258
CASH FLOWS FROM INVESTING ACTIVITIES:			
Restricted cash	(383)	920	(920)
Capital expenditures	(20,166)	(24,766)	(19,341)
Proceeds from sale of property and equipment	46	16	973
Net share settlement for equity-based compensation	(182)	-	-
Acquisitions, net of cash acquired	(10,520)	-	(32,872)
Net cash used in investing activities	(31,205)	(23,830)	(52,160)
CASH FLOWS FROM FINANCING ACTIVITIES:			
Proceeds from borrowings	23,000	26,500	14,000
Payments on borrowings	(28,000)	(21,500)	(21,214)
Proceeds from exercise of stock options	218	197	579
Tax benefit associated with exercise of stock options	331	73	499
Principal payments under capital lease obligations	(204)	(134)	(908)
Purchase of treasury stock	(6,584)	-	-
Reduction in estimated stock issuance expenses	-	-	150
Net cash (used in) provided by financing activities	(11,239)	5,136	(6,894)
NET INCREASE (DECREASE) IN CASH AND CASH EQUIVALENTS	11,732	(2,959)	(43,796)
CASH AND CASH EQUIVALENTS—Beginning of year	3,502	6,461	50,257
CASH AND CASH EQUIVALENTS—End of year	$ 15,234	$ 3,502	$ 6,461

LINCOLN EDUCATIONAL SERVICES CORPORATION AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF CASH FLOWS

(In thousands)

(Continued)

	Year Ended December 31, 2008	2007	2006
SUPPLEMENTAL DISCLOSURES OF CASH FLOW INFORMATION:			
Cash paid during the year for:			
Interest	$ 1,998	$ 2,305	$ 2,243
Income taxes	$ 12,137	$ 10,148	$ 15,799
SUPPLEMENTAL SCHEDULE OF NONCASH INVESTING AND FINANCING ACTIVITIES:			
Cash paid during the period for:			
Fixed assets acquired in capital lease transactions	$ -	$ 652	$ -
Fixed assets acquired in noncash transactions	$ 1,430	$ 2,812	$ 101

See notes to consolidated financial statements.

LINCOLN EDUCATIONAL SERVICES CORPORATION AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2008
(In thousands, except share and per share amounts and unless otherwise stated)

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Business Activities—Lincoln Educational Services Corporation and Subsidiaries (the "Company") is a diversified provider of career-oriented post-secondary education. The Company offers recent high school graduates and working adults degree and diploma programs in five principal areas of study: Automotive Technology, Health Sciences (which includes programs for licensed practical nursing (LPN), medical administrative assistants, medical assistants, pharmacy technicians, medical coding and billing and dental assisting), Business and Information Technology, Hospitality Services and Skilled Trades. We currently have 36 schools in 17 states across the United States.

Principles of Consolidation—The accompanying consolidated financial statements include the accounts of Lincoln Educational Services Corporation and its wholly-owned subsidiaries. All intercompany accounts and transactions have been eliminated.

Revenue Recognition—Revenue is derived primarily from programs taught at the schools. Tuition revenue and one-time fees, such as nonrefundable application fees, and course material fees are recognized on a straight-line basis over the length of the applicable program. If a student withdraws from a program prior to a specified date, any paid but unearned tuition is refunded. Other revenues, such as textbook sales, tool sales and contract training revenues are recognized as services are performed or goods are delivered. On an individual student basis, tuition earned in excess of cash received is recorded as accounts receivable, and cash received in excess of tuition earned is recorded as unearned tuition. Refunds are calculated and paid in accordance with federal, state and accrediting agency standards.

Other Comprehensive Income— Other comprehensive income was as follows:

	Year Ended December 31,		
	2008	2007	2006
Net income	$ 20,195	$ 8,340	$ 15,552
Employee pension plan, net of taxes	(3,697)	325	-
Other comprehensive income	$ 16,498	$ 8,665	$ 15,552

Cash and Cash Equivalents—Cash and cash equivalents include all cash balances and highly liquid short-term investments, which mature within three months of purchase.

Restricted Cash— Restricted cash represents amounts received from the federal and state governments under various student aid grant and loan programs. These funds are either received prior to the completion of the authorization and disbursement process for the benefit of the student or immediately prior to that authorization. Restricted funds are held in separate bank accounts. Once the authorization and disbursement process is completed and authorization obtained, the funds are transferred to unrestricted accounts, and these funds then become available for use in the Company’s current operations. As of December 31, 2006, the Company was subject to Heightened Cash Monitoring, Type 1 Status by the DOE, however as of December 30, 2007, the Company was no longer subject to this restriction. Therefore, the Company had no restrictions on cash at December 31, 2007. As of December 31, 2008, restricted cash related to Connecticut State Grants of $0.4 million.

Accounts Receivable—The Company reports accounts receivable at net realizable value, which is equal to the gross receivable less an estimated allowance for uncollectible accounts. Noncurrent accounts receivable represent amounts due from graduates in excess of 12 months from the balance sheet date.

Allowance for uncollectible accounts—Based upon experience and judgment, we establish an allowance for uncollectible accounts with respect to tuition receivables. We use an internal group of collectors, augmented by third-party collectors as deemed appropriate, in our collection efforts. In establishing our allowance for uncollectible accounts, we consider, among other things, current and expected econmic conditions, a student's status (in-school or out-of-school), whether or not additional financial aid funding will be collected from Title IV Programs or other sources, whether or not a student is currently making payments, and overall collection history. Changes in trends in any of these areas may impact the allowance for uncollectible accounts. The receivables balances of withdrawn students with delinquent obligations are reserved for based on our collection history.

Inventories—Inventories consist mainly of textbooks, tools and supplies. Inventories are valued at the lower of cost or market on a first-in, first-out basis.

Property, Equipment and Facilities—***Depreciation and Amortization***—Property, equipment and facilities are stated at cost. Major renewals and improvements are capitalized, while repairs and maintenance are expensed when incurred. Upon the retirement, sale or other disposition of assets, costs and related accumulated depreciation are eliminated from the accounts and any gain or loss is reflected in operating income. For financial statement purposes, depreciation of property and equipment is computed using the straight-line method over the estimated useful lives of the assets, and amortization of leasehold improvements is computed over the lesser of the term of the lease or its estimated useful life.

Rent Expense—Rent expense related to operating leases where scheduled rent increases exist, is determined by expensing the total amount of rent due over the life of the operating lease on a straight-line basis. The difference between the rent paid under the terms of the lease and the rent expensed on a straight-line basis is included in accrued expenses and other long-term liabilities on the accompanying consolidated balance sheets.

Deferred Finance Charges—These charges consist of $0.2 million and $0.3 million as of December 31, 2008 and 2007, respectively, related to the long-term debt and $0.4 million as of December 31, 2008 and 2007, related to the finance obligation. These amounts are being amortized as an increase in interest expense over the respective life of the debt or finance obligation.

Advertising Costs—Costs related to advertising are expensed as incurred and approximated $33.8 million, $31.1 million and $28.9 million for the years ended December 31, 2008, 2007 and 2006, respectively. These amounts are included in selling, general and administrative expenses in the consolidated statement of income.

Bonus costs—The Company accrues the estimated cost of our bonus programs using current financial and statistical information as compared to targeted financial achievements and individual performance objectives. Although we believe our estimated liability recorded for bonuses is reasonable, actual results could differ and require adjustment of the recorded balance.

Goodwill and Other Intangible Assets— The Company tests its goodwill for impairment annually, or whenever events or changes in circumstances indicate an impairment may have occurred, by comparing its fair value to its carrying value. Impairment may result from, among other things, deterioration in the performance of the acquired business, adverse market conditions, adverse changes in applicable laws or regulations, including changes that restrict the activities of the acquired business, and a variety of other circumstances. If the Company determines that an impairment has occurred, it is required to record a write-down of the carrying value and charge the impairment as an operating expense in the period the determination is made. In evaluating the recoverability of the carrying value of goodwill and other indefinite-lived intangible assets, the Company must make assumptions regarding estimated future cash flows and other factors to determine the fair value of the acquired assets. Changes in strategy or market conditions could significantly impact these judgments in the future and require an adjustment to the recorded balances.

As discussed in Note 19, as a result of a decision to close three of our campuses we conducted a review of our goodwill as of June 30, 2007. In connections with that review, we recognized a non-cash impairment charge of approximately $2.1 million as of June 30, 2007. At December 31, 2008 and 2007, the Company tested its goodwill for impairment utilizing a market capitalization approach and determined that it did not have an impairment.

Concentration of Credit Risk—Financial instruments that potentially subject the Company to concentrations of credit risk consist principally of temporary cash investments and student receivables.

The Company places its cash and cash equivalents with high credit quality financial institutions. The Company's cash balances with financial institutions typically exceed the Federal Deposit Insurance limit of $100,000. The Emergency Economic Stabilization Act of 2008 that was enacted October 3, 2008 temporarily raised the FDIC insurance coverage to the first $250,000 of funds at member banks. This temporary increase is scheduled to expire January 1, 2010. The Company's cash balances on deposit at December 31, 2008, exceeded the balance insured by the FDIC by approximately $12.9 million. The Company has not experienced any losses to date on its invested cash.

The Company extends credit for tuition and fees to many of its students. The credit risk with respect to these accounts receivable is mitigated through the students' participation in federally funded financial aid programs unless students withdraw prior to the receipt of federal funds for those students. In addition, the remaining tuition receivables are primarily comprised of smaller individual amounts due from students.

With respect to student receivables, the Company had no significant concentrations of credit risk as of December 31, 2008, and 2007.

Use of Estimates in the Preparation of Financial Statements—The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenues and expenses during the period. On an ongoing basis, the Company evaluates the estimates and assumptions, including those related to revenue recognition, bad debts, fixed assets, income taxes, benefit plans and certain accruals. Actual results could differ from those estimates.

Stock Based Compensation Plans—The Company accounts for its stock-based compensation plans in accordance with Statement of Financial Accounting Standards ("SFAS") No. 123R, *Share-Based Payment.* The Company measures the value of stock options on the grant date at fair value, using the Black-Scholes option valuation model. The Company amortizes the fair value, net of estimated forfeitures, utilizing straight-line amortization of compensation expense over the requisite service period of the grant.

***Income Taxes*—**Deferred tax assets and liabilities are recognized for the estimated future tax consequences attributable to differences between financial statement carrying amounts of assets and liabilities and their respective tax bases. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of changes in tax rates is recognized in income in the period that includes the enactment date.

***Impairment of Long-Lived Assets*—**The Company reviews the carrying value of our long-lived assets and identifiable intangibles for possible impairment whenever events or changes in circumstances indicate that the carrying amounts may not be recoverable. The Company evaluates long-lived assets for impairment by examining estimated future cash flows. These cash flows are evaluated by using weighted probability techniques as well as comparisons of past performance against projections. Assets may also be evaluated by identifying independent market values. If the Company determines that an asset's carrying value is impaired, it will record a write-down of the carrying value of the asset and charge the impairment as an operating expense in the period in which the determination is made.

As discussed in Note 19, as a result of a decision to close three of our campuses we conducted a review of our long-lived assets as of June 30, 2007. In connections with that review, we recognized a non-cash impairment charge of approximately $0.9 million as of June 30, 2007.

***Start-up Costs*—**Costs related to the start of new campuses are expensed as incurred.

2. RECENT ACCOUNTING PRONOUNCEMENTS

In May 2008, the Financial Accounting Standards Board ("FASB") issued SFAS No. 163, "*Accounting for Financial Guarantee Insurance Contracts – an interpretation of FASB Statement No. 60,"* ("SFAS No. 163"). SFAS No. 163 requires that an insurance enterprise recognize a claim liability prior to an event of default when there is evidence that credit deterioration has occurred in an insured financial obligation. SFAS No. 163 is effective for the Company as of January 1, 2009. The implementation of this standard had no effect on the Company's consolidated financial statements.

In May 2008, the FASB issued SFAS No. 162, "*The Hierarchy of Generally Accepted Accounting Principles,*" ("SFAS No. 162"). SFAS No. 162 identifies the sources of accounting principles and the framework for selecting the principles used in the preparation of financial statements. SFAS No. 162 was effective for the Company as of November 15, 2008. The implementation of this standard had no effect on the Company's consolidated financial statements.

In March 2008, the FASB issued SFAS No. 161, "*Disclosures about Derivative Instruments and Hedging Activities,"* ("SFAS No. 161") – an amendment to FASB Statement No. 133. SFAS No. 161 is intended to improve financial standards for derivative instruments and hedging activities by requiring enhanced disclosures to enable investors to better understand their effects on an entity's financial position, financial performance, and cash flows. Entities are required to provide enhanced disclosures about: (a) how and why an entity uses derivative instruments; (b) how derivative instruments and related hedged items are accounted for under SFAS No. 133 and its related interpretations; and (c) how derivative instruments and related hedged items affect an entity's financial position, financial performance and cash flows. The Statement is effective for the Company as of January 1, 2009. The adoption of the provision of SFAS No. 161 had no effect on the Company's consolidated financial statements.

In December 2007, the FASB issued SFAS No. 141R, *"Business Combinations"* ("SFAS No. 141R"). SFAS No. 141R establishes revised principles and requirements for how the Company will recognize and measure assets and liabilities acquired in a business combination. SFAS 141R requires, among other things, transaction costs incurred in a business combination to be expensed, establishes a new measurement date for valuing acquirer shares issued in consideration for a business combination, and requires the recognition of contingent consideration and pre-acquisition gain and loss contingencies. SFAS No. 141R was effective for business combinations completed on or after January 1, 2009. In accordance with the transition guidance of SFAS No. 141R, the Company elected to expense $0.9 million of costs incurred in 2008 related to an acquisition which was completed in 2009.

In December 2007, the FASB issued SFAS No. 160, *"Noncontrolling Interests in Consolidated Financial Statements, an amendment of Accounting Research Bulletin ("ARB") No. 51"* ("SFAS No. 160"). SFAS No. 160 establishes accounting and reporting standards for the noncontrolling interest in a subsidiary and for the deconsolidation of a subsidiary. SFAS No. 160 is effective for the Company as of January 1, 2009. The adoption of the provision of SFAS No. 160R had no effect on the Company's consolidated financial statements.

In February 2007, the FASB issued SFAS No. 159 *"The Fair Value Option for Financial Assets and Financial Liabilities"* ("SFAS No. 159"), providing companies with an option to report selected financial assets and liabilities at fair value. SFAS No. 159 also establishes presentation and disclosure requirements designed to facilitate comparisons between companies that choose different measurement attributes for similar types of assets and liabilities. SFAS No. 159 requires companies to provide additional information that will help investors and other users of financial statements to more easily understand the effect of the Company's choice to use fair value on its earnings. It also requires entities to display the fair value of those assets and liabilities for which they have chosen to use fair value on the face of the balance sheet. SFAS No. 159 became effective for the Company as of January 1, 2008; however, the Company did not elect to utilize the option to report selected assets and liabilities at fair value.

In September 2006, the FASB issued SFAS No. 158, *"Employers' Accounting for Defined Benefit Pension and Other Postretirement Plans, an amendment of FASB Statements No. 87, 88, 106, and 132(R)"* ("SFAS No. 158"). Among other items, SFAS No. 158 requires recognition of the overfunded or underfunded status of an entity's defined benefit postretirement plan as an asset or liability in the financial statements, requires the measurement of defined benefit postretirement plan assets and obligations as of the end of the employer's fiscal year, and requires recognition of the funded status of defined benefit postretirement plans in other comprehensive income. The Company adopted SFAS No. 158 on December 31, 2006. The incremental effects of applying SFAS No. 158 on the Company's December 31, 2006 consolidated financial statements, on a line by line basis, are as follows:

	Balances Before Adoption of Statement 158	Adjustments	Balances After Adoption of Statement 158
Pension plan assets, net	$ 5,169	$ (4,062)	$ 1,107
Deferred income taxes	1,037	1,651	2,688
Accumulated other comprehensive income	-	2,411	2,411

In September 2006, the FASB issued SFAS No. 157, *"Fair Value Measurements"* ("SFAS No. 157"). SFAS No. 157 defines fair value, establishes a framework for measuring fair value in GAAP, and expands disclosures about fair value measurements. SFAS No. 157 does not require any new fair value measurements. The provisions of SFAS No. 157 were effective for the Company as of January 1, 2008. The adoption of the provision of SFAS No. 157 had no effect on the Company's consolidated financial statements.

In September 2006, the Securities and Exchange Commission ("SEC") issued Staff Accounting Bulletin ("SAB") No. 108 which provides interpretive guidance on how the effects of the carryover or reversal of prior year unrecorded misstatements should be considered in quantifying a current year misstatement. SAB No. 108 is effective for the Company as of January 1, 2007. The adoption of the provision of SAB No. 108 had no effect on the Company's consolidated financial statements.

In June 2006, the FASB issued FASB Interpretation ("FIN") No. 48, *"Accounting for Uncertainty in Income Taxes"* ("FIN No. 48"). FIN No. 48 clarifies the accounting for uncertainty in income taxes recognized in an enterprise's financial statements in accordance with FASB SFAS No. 109, "Accounting for Income Taxes", which was adopted by the Company on January 1, 2007. FIN No. 48 prescribes a recognition threshold and a measurement attribute for the financial statement recognition and measurement of tax positions taken or expected to be taken in a tax return. For those benefits to be recognized, a tax position must be more-likely-than-not to be sustained upon examination by taxing authorities. The amount recognized is measured as the largest amount of benefit that is greater than 50 percent likely of being realized upon ultimate settlement. The adoption of FIN No. 48 resulted in a cumulative effect adjustment to retained earnings as of January 1, 2007 of $0.1 million.

In March 2006, the FASB issued SFAS No. 156, *"Accounting for Servicing of Financial Assets"* ("SFAS No. 156"). SFAS No. 156 provides guidance addressing the recognition and measurement of separately recognized servicing assets and liabilities, common with mortgage securitization activities, and provides an approach to simplify efforts to obtain hedge accounting treatment. SFAS No. 156 was adopted on January 1, 2007. The adoption of the provision of SFAS No. 156 had no effect on the Company's consolidated financial statements.

In February 2006, the FASB issued SFAS No. 155, "*Accounting for Certain Hybrid Financial Instruments"* ("SFAS No. 155"). SFAS No. 155 is effective beginning January 1, 2007. The adoption of the provision of SFAS No. 155 had no effect on the Company's consolidated financial statements.

3. FINANCIAL AID AND REGULATORY COMPLIANCE

Financial Aid

The Company's schools and students participate in a variety of government-sponsored financial aid programs that assist students in paying the cost of their education. The largest source of such support is the federal programs of student financial assistance under Title IV of the Higher Education Act of 1965, as amended, commonly referred to as the Title IV Programs, which are administered by the U.S. Department of Education (or "DOE"). During the years ended December 31, 2008, 2007 and 2006, approximately 79%, 80% and 80%, respectively, of net revenues were indirectly derived from funds distributed under Title IV Programs.

Regulatory Compliance

To participate in Title IV Programs, a school must be authorized to offer its programs of instruction by relevant state education agencies, be accredited by an accrediting commission recognized by the DOE and be certified as an eligible institution by the DOE. For this reason, the schools are subject to extensive regulatory requirements imposed by all of these entities. After the schools receive the required certifications by the appropriate entities, the schools must demonstrate their compliance with the DOE regulations of the Title IV Programs on an ongoing basis. Included in these regulations is the requirement that the Company must satisfy specific standards of financial responsibility. The DOE evaluates institutions for compliance with these standards each year, based upon the institution's annual audited financial statements, as well as following a change in ownership of the institution. Under regulations which took effect July 1, 1998, the DOE calculates the institution's composite score for financial responsibility based on its (i) equity ratio, which measures the institution's capital resources, ability to borrow and financial viability; (ii) primary reserve ratio, which measures the institution's ability to support current operations from expendable resources; and (iii) net income ratio, which measures the institution's ability to operate at a profit. This composite score can range from -1 to +3.

An institution that does not meet the DOE's minimum composite score requirements of 1.5 may establish its financial responsibility by posting a letter of credit or complying with additional monitoring procedures as defined by the DOE. Based on audited financial statements for the 2008, 2007 and 2006 fiscal years our calculations result in a composite score of 1.8, 1.8 and 1.7, respectively. Beginning December 30, 2004 and for a period of three years, all of our institutions were placed on "Heightened Cash Monitoring, Type 1 status." As a result, we were subject to a less favorable Title IV fund payment system that required us to credit student accounts before drawing down Title IV funds and also required us to timely notify the DOE with respect to certain enumerated oversight and financial events. The DOE has notified us that, as of December 31, 2007, we are no longer subject to Heightened Cash Monitoring, Type 1 Status.

For the years ended December 31, 2008, 2007 and 2006 the Company was in compliance with the standards established by the DOE requiring that no individual DOE reporting entity can receive more than 90% of its revenue, determined on a cash basis, from Title IV, HEA Program Funds.

4. WEIGHTED AVERAGE COMMON SHARES

The weighted average numbers of common shares used to compute basic and diluted income per share for the years ended December 31, 2008, 2007 and 2006, respectively, in thousands, were as follows:

	Year Ended December 31,		
	2008	2007	2006
Basic shares outstanding	25,308,144	25,478,614	25,335,591
Dilutive effect of stock options	675,852	611,759	750,798
Diluted shares outstanding	25,983,996	26,090,373	26,086,389

For the years ended December 31, 2008, 2007 and 2006, options to acquire 546,708, 608,208 and 288,500 shares, respectively, were excluded from the above table as the result on reported earnings per share would have been antidilutive.

5. BUSINESS ACQUISITIONS

On December 1, 2008, the Company acquired all of the rights, title and interest in the assets of Briarwood College ("BRI") for approximately $10.5 million, net of cash acquired. Briarwood is regionally accredited by the New England Association of Schools and Colleges, and currently offers two bachelor's degree programs to approximately 550 students as of December 31, 2008 from Connecticut and surrounding states. The BRI purchase price has been preliminarily allocated to identifiable net assets with the excess of the purchase price over the estimated fair value of the net assets acquired recorded as goodwill. Accordingly, the allocation may be subject to revisions when the Company receives final information including appraisals, valuations and other analyses.

On May 22, 2006, the Company acquired all of the outstanding common stock of New England Institute of Technology at Palm Beach, Inc. ("FLA") for approximately $40.1 million. The purchase price was $32.9 million, net of cash acquired plus the assumption of a mortgage note for $7.2 million. The FLA purchase price has been allocated to identifiable net assets with the excess of the purchase price over the estimated fair value of the net assets acquired recorded as goodwill.

The consolidated financial statements include the results of operations from the respective acquisition dates. The purchase price has been allocated to identifiable net assets with the excess of the purchase price over the estimated fair value of the net assets acquired recorded as goodwill. None of the acquisitions were deemed material to the Company's consolidated financial statements.

The following table summarizes the estimated fair value of assets acquired and liabilities assumed of BRI at the date of acquisition:

	December 1, 2008
Property, equipment and facilities	$ 1,265
Goodwill	8,746
Identified intangibles:	
Student contracts	348
Trade name	-
Accreditation	1,000
Curriculum	1,300
Non-compete	-
Other assets	21
Current assets, excluding cash acquired	195
Total liabilities assumed	(2,355)
Cost of acquisition, net of cash acquired	$ 10,520

6. GOODWILL AND OTHER INTANGIBLES

Changes in the carrying amount of goodwill during the years ended December 31, 2008 and 2007 are as follows (in thousands):

Goodwill balance as of December 31, 2006	$	84,995
Goodwill adjustments		(146)
Goodwill impairment		(2,135)
Goodwill balance as of December 31, 2007		82,714
Goodwill acquired pursuant to business acquisition-BRI		8,746
Goodwill balance as of December 31, 2008	$	91,460

As described further in Note 19, during the year ended December 31, 2007, the Company recorded a goodwill impairment charge as a result of its decision to cease operations at three of its campuses.

Identified intangible assets, which are included in other assets in the accompanying consolidated balance sheets, consisted of the following:

		At December 31, 2008				At December 31, 2007			
	Weighted Average Amortization Period (years)	Gross Carrying Amount		Accumulated Amortization		Gross Carrying Amount		Accumulated Amortization	
Student Contracts	2	$	2,563	$	2,230	$	2,215	$	2,212
Trade name	Indefinite		1,270		-		1,270		-
Accreditation	Indefinite		1,307		-		307		-
Curriculum	10		2,000		289		700		208
Non-compete	5		201		105		201		65
Total		$	7,341	$	2,624	$	4,693	$	2,485

The increase in student contracts, accreditation and curriculum assets was due to the acquisition of BRI on December 1, 2008.

Amortization of intangible assets for the years ended December 31, 2008, 2007 and 2006 was approximately $0.1 million, $0.3 million and $0.5 million, respectively.

The following table summarizes the estimated future amortization expense:

Year Ending December 31,		
2009	$	414
2010		400
2011		216
2012		200
2013		200
Thereafter		710
	$	2,140

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7. PROPERTY, EQUIPMENT AND FACILITIES

Property, equipment and facilities consist of the following:

	Useful life (years)	At December 31, 2008	At December 31, 2007
Land	-	$ 13,563	$ 13,563
Buildings and improvements	1-25	120,834	104,484
Equipment, furniture and fixtures	1-12	55,604	61,102
Vehicles	1-7	1,137	2,120
Construction in progress	-	774	8,226
		191,912	189,495
Less accumulated depreciation and amortization		(83,345)	(82,931)
		$ 108,567	$ 106,564

Included above in equipment, furniture and fixtures are assets acquired under capital leases as of December 31, 2008 and 2007 of $4.5 million and $6.6 million, respectively, net of accumulated depreciation of $4.1 million and $5.9 million, respectively.

Included above in buildings and improvements is capitalized interest as of December 31, 2008 and 2007 of $0.6 million and $0.5 million, respectively, net of accumulated depreciation of $0.2 million and $0.1 million, respectively.

Depreciation and amortization expense of property, equipment and facilities was $17.2 million, $14.5 million and $13.0 million for the years ended December 31, 2008, 2007 and 2006, respectively.

8. ACCRUED EXPENSES

Accrued expenses consist of the following:

	At December 31, 2008	At December 31, 2007
Accrued compensation and benefits	$ 11,915	$ 5,888
Other accrued expenses	4,324	4,191
	$ 16,239	$ 10,079

9. LONG-TERM DEBT AND LEASE OBLIGATIONS

Long-term debt and lease obligations consist of the following:

	At December 31, 2008	At December 31, 2007
Credit agreement (a)	$ -	$ 5,000
Finance obligation (b)	9,672	9,672
Automobile loans	-	16
Capital leases-computers (with rates ranging from 8.5% to 8.7%)	502	690
	10,174	15,378
Less current maturities	(130)	(204)
	$ 10,044	$ 15,174

(a) The Company has a credit agreement with a syndicate of banks which expires February 15, 2010. Under the terms of the agreement, the syndicate provided the Company with a $100 million credit facility. The credit agreement permits the issuance of up to $20 million in letters of credit, the amount of which reduces the availability of permitted borrowings under the agreement. At December 31, 2008, the Company had outstanding letters of credit aggregating $4.1 million which is primarily comprised of letters of credit for the Department of Education and real estate leases.

The obligations of the Company under the credit agreement are secured by a lien on substantially all of the assets of the Company and its subsidiaries and any assets that it or its subsidiaries may acquire in the future, including a pledge of substantially all of the subsidiaries' common stock. Outstanding borrowings bear interest at the rate of adjusted LIBOR plus 1.0% to 1.75%, as defined, or a base rate (as defined in the credit agreement). In addition to paying interest on outstanding principal under the credit agreement, the Company and its subsidiaries are required to pay a commitment fee to the lender with respect to the unused amounts available under the credit agreement at a rate equal to 0.25% to 0.40% per year, as defined.

During 2008, the Company borrowed an additional $23.0 million under the credit agreement. During the third quarter of 2008, the Company repaid a total of $28.0 million, leaving no amounts outstanding as of December 31, 2008. Interest rates on the loans outstanding during the year ranged from 3.46% to 7.25%.

During 2007, the Company had borrowed a total of $26.5 million under the current credit agreement. Interest rates on the loans outstanding during the year ranged from 6.32% to 8.25%. During the third quarter of 2007, the Company had repaid a total of $21.5 million on the total debt incurred during the year, leaving $5.0 million outstanding under the credit agreement as of December 31, 2007. The interest rate on the $5.0 million was 7.25% at December 31, 2007.

The credit agreement contains various covenants which, among other things, restricts, subject to certain exceptions, the Company's ability to incur additional indebtedness, pay dividends and make certain acquisitions. Furthermore, the credit agreement contains customary events of default as well as an event of default in the event of the suspension or termination of Title IV Program funding for the Company's and its subsidiaries' schools aggregating 10% or more of the Company's EBITDA (as defined) or its consolidated total assets and such suspension or termination is not cured within a specified period. As of December 31, 2008, the Company was in compliance with the financial covenants contained in the credit agreement.

(b) The Company completed a sale and a leaseback of several facilities on December 28, 2001, as discussed further in Note 17. The Company retained a continuing involvement in the lease and as a result it is prohibited from utilizing sale-leaseback accounting. Accordingly, the Company has treated this transaction as a finance lease. Rent payments under this obligation for the three years in the period ended December 31, 2008 were $1.4 million, $1.3 million and $1.3 million, respectively. These payments have been reflected in the accompanying consolidated income statement as interest expense for all periods presented since the effective interest rate on the obligation is greater than the scheduled payments. The lease expiration date is January 25, 2017.

As of December 31, 2008, the Company was in compliance with the financial covenants contained in its borrowing agreements.

Scheduled maturities of long-term debt and lease obligations at December 31, 2008 are as follows:

Year ending December 31,		
2009	$	130
2010		135
2011		146
2012		91
2013		-
Thereafter		9,672
	$	10,174

10. SLM FINANCIAL CORPORATION LOAN AGREEMENT

The Company entered into a Tiered Discount Loan Program agreement, effective September 1, 2007, with SLM Financial Corporation ("SLM") to provide up to $16.0 million of private non-recourse loans to qualifying students. Under this agreement, the Company was required to pay SLM either 20% or 30% of all loans disbursed, depending on each student borrower's credit score. The Company was billed at the beginning of each month based on loans disbursed during the prior month. For the year ended December 31, 2008, $0.5 million of loans were disbursed, resulting in a $0.1 million loss on sale of receivables. Loss on sale of receivables is included in selling, general and administrative expenses in the accompanying statements of income.

In January 2008, SLM notified the Company that it was terminating its tiered discount loan program, effective February 18, 2008.

11. STOCKHOLDERS' EQUITY

On June 8, 2005, the Company adopted the Lincoln Educational Services Corporation 2005 Long-Term Incentive Plan (the "LTIP"). The LTIP permits the granting of stock options, restricted share units, performance share units, stock appreciation rights and other equity awards, as determined by the Company's compensation committee. The compensation committee has the authority, among other things, to determine eligibility to receive awards, the type of awards to be granted, the number of shares of stock subject to, or cash amount payable in connection with, the awards and the terms and conditions of each award (including vesting, forfeiture, payment, exercisability and performance periods and targets). The maximum number of shares of our common stock that may be issued for all purposes under the LTIP is 1,000,000 shares plus any shares of common stock remaining available for issuance under the Lincoln Technical Institute Management Stock Option Plan ("2002 Plan"). Any shares of our common stock that (i) correspond to awards under the LTIP or the 2002 Plan that are forfeited or expire for any reason without having been exercised or settled or (ii) are tendered or withheld to pay the exercise price of an award or to satisfy a participant's tax withholding obligations will be added back to the maximum number of shares available for issuance under the LTIP.

Under the Company's LTIP, certain employees received restricted stock totaling 200,000 shares, valued at $2.9 million, on October 30, 2007; 80,000 shares, valued at $1.0 million, on February 29, 2008; 8,000 shares, valued at $0.1 million, on May 2, 2008; and 8,000 shares, valued at $0.1 million, on May 5, 2008. As of December 31, 2008, there were a total of 296,000 restricted shares awarded and 40,000 shares vested under the LTIP. The restricted shares vest ratably on the first through fifth anniversary of the grant date; however, there is no vesting period on the right to vote or the right to receive dividends on these restricted shares. The recognized restricted stock expense for the years ended December 31, 2008 and 2007 was $0.8 million and $0.1 million, respectively. The deferred compensation or unrecognized restricted stock expense under the LTIP as of December 31, 2008 and 2007 was $3.2 million and $2.8 million, respectively.

Pursuant to the Company's 2005 Non-Employee Directors Restricted Stock Plan (the "Non-Employee Directors Plan"), each non-employee director of the Company receives an annual award of restricted shares of common stock on the date of the Company's annual meeting of shareholders. The number of shares granted to each non-employee director is based on the fair market value of a share of common stock on that date. The restricted shares vest ratably on the first through third anniversary of the grant date; however, there is no vesting period on the right to vote or the right to receive dividends on these restricted shares. As of December 31, 2008, there were a total of 84,954 shares awarded and 37,772 shares vested under the Non-Employee Directors Plan. The recognized restricted stock expense for the years ended December 31, 2008, 2007 and 2006 was $0.3 million, respectively. The deferred compensation or unrecognized restricted stock expense under the Non-Employee Directors Plan as of December 31, 2008 and 2007 was $0.4 million, respectively.

On April 1, 2008, the Company's Board of Directors approved the repurchase of up to 1,000,000 shares of its common stock over the period of one year. The purchases may be made in the open market or in privately negotiated transactions from time to time as permitted by securities laws and other legal requirements. The timing, manner, price and amount of any repurchases will be determined by the Company in its discretion and will be subject to economic and market conditions, stock price, applicable legal requirements and other factors. The program may be suspended or discontinued at any time. During the year ended December 31, 2008, the Company repurchased 615,000 shares of its common stock for approximately $6.6 million at an average price of $10.70 per share.

The fair value of the stock options used to compute stock-based compensation is the estimated present value at the date of grant using the Black-Scholes option pricing model. The weighted average fair values of options granted during 2008, 2007, and 2006 were $6.69, $6.78, and $9.68, respectively, using the following weighted average assumptions for grants:

	At December 31,		
	2008	**2007**	**2006**
Expected volatility	57.23%	55.42%	55.10%
Expected dividend yield	0%	0%	0%
Expected life (term)	6 Years	6 Years	6 Years
Risk-free interest rate	2.76-3.29%	4.36%	4.13-4.84%
Weighted-average exercise price during the year	$ 11.97	$ 11.96	$ 17.00

The expected volatility considers the volatility of certain of our competitors' common stock that has been traded for a period commensurate with the expected life. The expected term of options granted represents the period of time that options granted are expected to be outstanding. The risk-free rate used is based on the published U.S. Treasury yield curve in effect at the time of grant for instruments with a similar life. The dividend yield is 0% as the Company has never declared or paid dividends on our common stock and we do not anticipate declaring or paying dividends on our common stock in the foreseeable future.

The following is a summary of transactions pertaining to the option plans:

	Shares	Weighted Average Exercise Price Per Share	Weighted Average Remaining Contractual Term	Aggregate intrinsic Value (in thousands)
Outstanding December 31, 2005	1,839,173	7.26		
Granted	256,000	17.00		
Cancelled	(103,072)	13.98		
Exercised	(263,876)	3.56		$ 3,444
Outstanding December 31, 2006	1,728,225	8.85	6.31 years	10,255
Granted	185,500	11.96		
Cancelled	(181,474)	12.02		
Exercised	(220,088)	3.34		1,811
Outstanding December 31, 2007	1,512,163	9.65	5.83 years	9,156
Granted	145,500	11.97		
Cancelled	(93,500)	15.01		
Exercised	(89,948)	2.43		1,018
Outstanding December 31, 2008	1,474,215	9.98	5.25 years	6,808
Exercisable as of December 31, 2008	1,154,633	8.92	4.42 years	6,506

As of December 31, 2008, we estimate that unrecognized pre-tax compensation expense for all unvested stock option awards, in the amount of approximately $1.1 million which will be expensed over the weighted-average period of approximately 1.2 years. In 2009, 174,333 shares are expected to vest.

The following table presents a summary of options outstanding at December 31, 2008:

	At December 31, 2008				
	Stock Options Outstanding			Stock Options Exercisable	
Range of Exercise Prices	Shares	Contractual Weighted Average life (years)	Weighted Average Price	Shares	Weighted Exercise Price
$ 3.10	628,507	3.03	$ 3.10	628,507	$ 3.10
$ 4.00-$13.99	299,000	8.50	11.82	63,678	11.26
$ 14.00-$19.99	429,208	6.15	15.26	375,048	14.97
$ 20.00-$25.00	117,500	5.61	22.88	87,400	23.10
	1,474,215	5.25	9.98	1,154,633	8.92

12. PENSION PLAN

The Company sponsors a noncontributory defined benefit pension plan covering substantially all of the Company's union employees. Benefits are provided based on employees' years of service and earnings. This plan was frozen on December 31, 1994 for non-union employees.

The following table sets forth the plan's funded status and amounts recognized in the consolidated financial statements:

	Year Ended December 31, 2008	2007
CHANGES IN BENEFIT OBLIGATIONS:		
Benefit obligation-beginning of year	$ 14,062	$ 14,624
Service cost	113	115
Interest cost	893	831
Actuarial (gain) loss	484	(965)
Benefits paid	(558)	(543)
Benefit obligation at end of year	14,994	14,062
CHANGE IN PLAN ASSETS:		
Fair value of plan assets-beginning of year	15,758	15,731
Actual (loss) return on plan assets	(4,540)	570
Benefits paid	(559)	(543)
Fair value of plan assets-end of year	10,659	15,758
FAIR VALUE IN EXCESS OF BENEFIT OBLIGATION FUNDED STATUS:	$ (4,335)	$ 1,696

Amounts recognized in the consolidated balance sheets consist of:

	At December 31, 2008	2007
Noncurrent assets	$ -	$ 1,696
Noncurrent liabilities	$ (4,335)	$ -

Amounts recognized in accumulated other comprehensive loss consist of:

	Year Ended December 31, 2008	2007
Accumulated loss	$ (9,567)	$ (3,537)
Deferred income taxes	3,784	1,451
Accumulated other comprehensive loss	$ (5,783)	$ (2,086)

The accumulated benefit obligation was $14.8 million and $13.9 million at December 31, 2008 and 2007, respectively.

The following table provides the components of net periodic cost/(income) for the plan:

	Year Ended December 31, 2008	2007
COMPONENTS OF NET PERIODIC BENEFIT COST (INCOME)		
Service cost	$ 113	$ 115
Interest cost	894	831
Expected return on plan assets	(1,233)	(1,233)
Recognized net actuarial loss	228	223
Net periodic benefit cost (income)	$ 2	$ (64)

The estimated net loss, transition obligation and prior service cost for the plan that will be amortized from accumulated other comprehensive income into net periodic benefit cost over the next year are ($0.8) million, $0 million and $0 million.

Fair value of total plan assets by major asset category as of December 31:

	2008	2007
Equity securities	42%	49%
Fixed income	48%	37%
International equities	10%	14%
Cash and equivalents	0%	0%
Total	100%	100%

Weighted-average assumptions used to determine benefit obligations as of December 31:

	2008	2007
Discount rate	6.27%	6.37%
Rate of compensation increase	4.00%	4.00%

Weighted-average assumptions used to determine net periodic pension cost for years ended December 31:

	2008	2007	2006
Discount rate	6.37%	5.82%	5.75%
Rate of compensation increase	4.00%	4.00%	4.00%
Long-term rate of return	8.00%	8.00%	8.00%

As this plan was frozen to non-union employees on December 31, 1994, the difference between the benefit obligation and accumulated benefit obligation is not significant in any year.

The Company invests plan assets based on a total return on investment approach, pursuant to which the plan assets include a diversified blend of equity and fixed income investments toward a goal of maximizing the long-term rate of return without assuming an unreasonable level of investment risk. The Company determines the level of risk based on an analysis of plan liabilities, the extent to which the value of the plan assets satisfies the plan liabilities and the plan's financial condition. The investment policy includes target allocations ranging from 30% to 70% for equity investments, 20% to 60% for fixed income investments and 0% to 10% for cash equivalents. The equity portion of the plan assets represents growth and value stocks of small, medium and large companies. The Company measures and monitors the investment risk of the plan assets both on a quarterly basis and annually when the Company assesses plan liabilities.

The Company uses a building block approach to estimate the long-term rate of return on plan assets. This approach is based on the capital markets assumption that the greater the volatility, the greater the return over the long term. An analysis of the historical performance of equity and fixed income investments, together with current market factors such as the inflation and interest rates, are used to help make the assumptions necessary to estimate a long-term rate of return on plan assets. Once this estimate is made, the Company reviews the portfolio of plan assets and makes adjustments thereto that the Company believes are necessary to reflect a diversified blend of equity and fixed income investments that is capable of achieving the estimated long-term rate of return without assuming an unreasonable level of investment risk. The Company also compares the portfolio of plan assets to those of other pension plans to help assess the suitability and appropriateness of the plan's investments.

While the Company does not expect to make any contributions to the plan in 2009, after considering the funded status of the plan, movements in the discount rate, investment performance and related tax consequences, the Company may choose to make contributions to the plan in any given year.

The total amount of the Company’s contributions paid under its pension plan was $0 for each of the years ended December 31, 2008 and 2007, respectively. The net periodic benefit expense was $2 thousand for the year ended December 31, 2008. The net periodic benefit income was $64 thousand for the year ended December 31, 2007.

Information about the expected benefit payments for the plan is as follows:

Year Ending December 31,		
2009	$	733
2010		819
2011		847
2012		886
2013		974
Years 2014-2018		5,828

The Company has a 401(k) defined contribution plan for all eligible employees. Employees may contribute up to 15% of their compensation into the plan. The Company will contribute an additional 30% of the employee's contributed amount on the first 6% of compensation. For the years ended December 31, 2008, 2007 and 2006 the Company's expense for the 401(k) plan amounted to $1.4 million, $1.2 million and $0.9 million, respectively.

13. INCOME TAXES

Components of the provision for income taxes from continuing operations were as follows:

	Year Ended December 31,		
	2008	2007	2006
Current:			
Federal	$ 10,960	$ 8,538	$ 12,585
State	2,679	2,484	3,162
Total	13,639	11,022	15,747
Deferred:			
Federal	(159)	(776)	(2,908)
State	(139)	(314)	(747)
Total	(298)	(1,090)	(3,655)
Total provision	$ 13,341	$ 9,932	$ 12,092

The components of the deferred tax assets are as follows:

	At December 31, 2008	At December 31, 2007
Deferred tax assets		
Current:		
Accrued vacation	$ 117	$ 102
Allowance for bad debts	5,773	4,662
Total current deferred tax assets	5,890	4,764
Deferred tax liabilities		
Current:		
Accrued student fees	(263)	(189)
Total current deferred tax liabilities	(263)	(189)
Total net current deferred tax assets	5,627	4,575
Noncurrent:		
Accrued rent	2,530	2,455
Stock-based compensation	2,390	2,048
Depreciation	8,360	7,554
Prepaid pension asset	1,714	-
Sale leaseback-deferred gain	2,067	2,025
Total noncurrent deferred tax assets	17,061	14,082
Deferred tax liabilities		
Noncurrent:		
Other intangibles	(2,893)	(2,294)
Goodwill	(7,088)	(5,592)
Prepaid pension cost	-	(696)
Total deferred tax liabilities	(9,981)	(8,582)
Total net noncurrent deferred tax assets	7,080	5,500
Total net deferred tax assets	$ 12,707	$ 10,075

The difference between the actual tax provision and the tax provision that would result from the use of the Federal statutory rate is as follows:

	Year Ended December 31, 2008		2007		2006	
Income from continuing operations before taxes	$ 33,536		$ 23,759		$ 29,176	
Expected tax	$ 11,737	35.0%	$ 8,316	35.0%	$ 10,212	35.0%
State tax expense (net of federal benefit)	1,651	4.9	1,411	6.0	1,570	5.4
Other	(47)	(0.1)	205	0.8	310	1.0
Total	$ 13,341	39.8%	$ 9,932	41.8%	$ 12,092	41.4%

The Company adopted the FIN No. 48 in 2006. At that time the Company established a liability of $0.1 million. In 2007 and 2008 there have been no adjustments or settlements related to such uncertain tax positions. Accordingly, at December 31, 2008, the Company's liability remained $0.1 million. The Company believes that it is reasonably possible that the $0.1 million of unrecognized tax benefits associated with FIN No. 48 will be resolved by December 31, 2009.

The Company or one of its subsidiaries files income tax returns in the U.S. federal jurisdiction, and various states. The Company is no longer subject to U.S. federal income tax examinations for years before 2004 and generally, is no longer subject to state and local income tax examinations by tax authorities for years before 2003.

14. SEGMENT REPORTING

The Company's principal business is providing post-secondary education. Accordingly, the Company's operations aggregate into one reporting segment.

15. RELATED PARTY TRANSACTIONS

On May 12, 2008, the Company repurchased from Five Mile River Capital Partners and Steven W. Hart an aggregate 100,000 shares of our common stock for $11.25 per share for a total cost of $1.1 million. Hart Capital LLC is the managing member of Five Mile River Capital Partners LLC, our second largest stockholder. Steven W. Hart is the owner and president of Hart Capital LLC and is a former member of our board of directors. At the time of the transaction Hart Capital beneficially owned, through Five Mile River Capital LLC, 8.3% of our outstanding shares of common stock.

On October 15, 2007, the Company entered into a Separation and Release Agreement with Lawrence E. Brown, our former Vice Chairman. Under this agreement Mr. Brown's employment terminated as of the close of business on October 31, 2007. For a period of 14 months following the date of separation of employment, Mr. Brown continued to provide transitional services to the Company, not to exceed ten hours per month. In consideration for a release of claims, the Company paid Mr. Brown a lump sum cash payment of $0.5 million and reimbursed Mr. Brown for the employer-portion of the premiums due for continuation of coverage under COBRA through December 31, 2008. Mr. Brown was entitled to the use of his automobile and reimbursement of associated costs by us through December 31, 2008. In addition, pursuant to the terms of the agreement, Mr. Brown agreed to be subject to certain restrictive covenants, which, among other things, prohibited him for the duration of 14 months following the date of separation of employment, from (i) competing against the Company and (ii) soliciting the Company or any of our affiliates' or subsidiaries' employees, consultants, clients or customers through December 31, 2008.

Pursuant to the Employment Agreement between Shaun E. McAlmont and the Company, the Company agreed to pay and reimburse Mr. McAlmont the reasonable costs of his relocation from Denver, Colorado to West Orange, New Jersey in the year ended December 31, 2006. Such relocation assistance included the purchase by the Company of Mr. McAlmont's home in Denver, Colorado. The $0.5 million price paid for Mr. McAlmont's home equaled the average of the amount of two independent appraisers selected by the Company. This amount is reflected in property, equipment and facilities in the accompanying consolidated balance sheets.

16. DERIVATIVE INSTRUMENTS AND HEDGING ACTIVITIES

On May 22, 2006, the Company assumed a mortgage note payable with an accompanying interest rate swap (the "SWAP") as part of the acquisition of the New England Institute of Technology at Palm Beach, Inc. in the amount of $7.2 million. The Company accounted for the interest rate swap agreement in accordance with SFAS No. 133*, Accounting for Derivative Instruments and Hedging Activities*, as amended. Under the swap agreement, the Company paid a fixed rate tied to the one month LIBOR rate until May 1, 2013 and received a variable rate of 6.48%. The SWAP was accounted for as an ineffective hedge as it did not meet the requirements set forth under SFAS No. 133. Accordingly, other income (loss) includes a loss of $0.2 million as of December 31, 2006. The Company repaid the mortgage note in November 2006. As a result the SWAP agreement was terminated in 2006 and the Company received $0.2 million for the fair market value.

17. COMMITMENTS AND CONTINGENCIES

Lease Commitments—The Company leases office premises, educational facilities and various equipment for varying periods through the year 2023 at basic annual rentals (excluding taxes, insurance, and other expenses under certain leases) as follows:

Year Ending December 31,	Finance Obligations	Operating Leases	Capital Leases
2009	$ 1,381	$ 17,840	$ 167
2010	1,381	15,935	161
2011	1,381	15,247	161
2012	1,381	14,811	94
2013	1,381	13,479	-
Thereafter	4,259	63,498	-
	11,164	140,810	583
Less amount representing interest	(11,164)	-	(81)
	$ -	$ 140,810	$ 502

On December 28, 2001, the Company completed a sale and a leaseback of four owned facilities to a third party for net proceeds of approximately $8.8 million. The initial term of the lease is 15 years with two ten-year extensions. The lease is an operating lease that starts at $1.2 million in the first year and increases annually by the consumer price index. The lease includes an option near the end of the initial lease term to purchase the facilities at fair value, as defined. This transaction is being accounted for as a lease obligation. The net proceeds received have been reflected in the consolidated balance sheet as a finance obligation. The lease payments are included as a component of interest expense.

Rent expense, included in operating expenses in the accompanying financial statements for the three years ended December 31, 2008 is $17.2 million, $16.7 million, and $15.7 million, respectively. Interest expense related to the financing obligation in the accompanying financial statements for the years ended December 31, 2008, 2007 and 2006 is $1.4 million, $1.3 million and $1.3 million, respectively.

Capital Expenditures—The Company has entered into commitments to expand or renovate campuses. These commitments are in the range of $3.0 to $5.0 million in the aggregate and are due within the next 12 months.

Litigation and Regulatory Matters—In the ordinary conduct of our business, we are subject to periodic lawsuits, investigations and claims, including, but not limited to, claims involving students or graduates and routine employment matters. Although we cannot predict with certainty the ultimate resolution of lawsuits, investigations and claims asserted against us, we do not believe that any currently pending legal proceeding to which we are a party will have a material adverse effect on our business, financial condition, results of operation or cash flows.

Student Loans—At December 31, 2008, the Company had outstanding net loan commitments to its students to assist them in financing their education of approximately $16.5 million.

Vendor Relationship—On April 1, 2006, the Company entered into an agreement with Snap-on Industrial ("Snap-on") which expires on March 31, 2011. The Company has agreed to grant Snap-on exclusive rights to our certain automotive campuses to display advertising and to train our students with the exception of one pre-existing vendor contract. The Company earns credits that are redeemable for tools and equipment based on the number of automotive graduates quarterly. In addition, credits are earned on our purchases as well as purchases made by students enrolled in our automotive programs. Snap-on receivable for credits not redeemed for the years ended December 31, 2008 and 2007 was $0.3 million and $0.5 million, respectively.

In October 1, 2005, the Company entered into an agreement with Snap-on exclusively for our Queens, NY campus opened March 27, 2006 which expires on November 30, 2011. We have agreed to grant Snap-on exclusive rights to in school advertising and supplying all student training tools and equipment, as well as our automotive equipment purchases. In exchange, Snap-on agreed to advance tools and equipment needed to build out the school, not to exceed $1.0 million at list price. The equipment advance is offset by credits earned through purchases by the Queens campus and their students. Snap-on liability resulting from advanced equipment received in excess of credits earned for the years ended December 31, 2008 and 2007, was $0.5 million and $0.6 million, respectively.

Executive Employment Agreements—The Company entered into employment contracts with key executives that provide for continued salary payments if the executives are terminated for reasons other than cause, as defined in the agreements. The future employment contract commitments for such employees were approximately $4.0 million at December 31, 2008.

Change in Control Agreements—In the event of a change of control several key executives will receive continue salary payments based on their employment agreements.

Surety Bonds—Each of our campuses must be authorized by the applicable state education agency in which the campus is located to operate and to grant degrees, diplomas or certificates to its students. The campuses are subject to extensive, ongoing regulation by each of these states. In addition, our campuses are required to be authorized by the applicable state education agencies of certain other states in which our campuses recruit students. The Company is required to post surety bonds on behalf of our campuses and education representatives with multiple states to maintain authorization to conduct our business. At December 31, 2008, we have posted surety bonds in the total amount of approximately $13.7 million.

18. UNAUDITED QUARTERLY FINANCIAL INFORMATION

Quarterly financial information for 2008 and 2007 is as follows (in thousands except per share data):

	Quarter			
2008	**First**	**Second**	**Third**	**Fourth**
Revenues	$ 84,047	$ 85,056	$ 100,481	$ 107,323
Operating income	1,249	2,686	10,391	21,248
Net income	484	1,241	5,706	12,763
Income per share:				
Basic				
Net income per share	$ 0.02	$ 0.05	$ 0.23	$ 0.51
Diluted				
Net income per share	$ 0.02	$ 0.05	$ 0.22	$ 0.49

	Quarter			
2007	**First**	**Second**	**Third**	**Fourth**
Revenues	$ 76,170	$ 74,744	$ 86,566	$ 90,294
Operating (loss) income	(1,164)	1,966	8,079	17,013
(Loss) income from continuing operations	(930)	768	4,370	9,620
Loss from discontinued operations	(688)	(2,468)	(2,331)	-
Net (loss) income	(1,618)	(1,700)	2,039	9,620
(Loss) income per share:				
Basic				
(Loss) earnings per share from continuing operations	$ (0.04)	$ 0.03	$ 0.17	$ 0.38
Loss per share from discontinued operations	(0.02)	(0.10)	(0.09)	-
Net (loss) income per share	$ (0.06)	$ (0.07)	$ 0.08	$ 0.38
Diluted				
(Loss) earnings per share from continuing operations	$ (0.04)	$ 0.03	$ 0.17	$ 0.37
Loss per share from discontinued operations	(0.02)	(0.10)	(0.09)	-
Net (loss) income per share	$ (0.06)	$ (0.07)	$ 0.08	$ 0.37

19. DISCONTINUED OPERATIONS

On July 31, 2007 the Company's Board of Directors approved a plan to cease operations at the Company's Plymouth Meeting, Pennsylvania, Norcross, Georgia and Henderson, Nevada campuses. As a result of the above decision, the Company reviewed the related goodwill and long-lived assets for possible impairment in accordance with SFAS No. 142, "*Goodwill and Other Intangible Assets,"* and SFAS No. 144, "*Accounting for the Impairment or Disposal of Long-Lived Assets."*

As of September 30, 2007, all operations had ceased at these campuses and, accordingly, the results of operations of these campuses have been reflected in the accompanying statements of operations as "Discontinued Operations" for all periods presented.

The results of operations at these three campuses for each of the two year period ended December 31, 2007 were comprised of the following (in thousands):

	Year Ended December 31,	
	2007	2006
Revenue	$ 4,230	$ 10,876
Operating Expenses	(13,760)	(13,493)
	(9,530)	(2,617)
Benefit for income taxes	(4,043)	(1,085)
Loss from discontinued operations	$ (5,487)	$ (1,532)

20. SUBSEQUENT EVENTS

On January 20, 2009, the Company completed the acquisition of four of the five institutions comprising Baran Institute of Technology ("Baran"), for approximately $24.9 million in cash, net of cash acquired, subject to contractual post closing adjustments. Baran consists of five distinct institutions serving approximately 1,900 students and offers associate and diploma programs in the fields of automotive, skilled trades, health sciences and culinary arts. The four institutions the Company acquired on January 20, 2009 are Baran Institute of Technology ("BIT"), Connecticut Culinary Institute ("CCI"), Americare School of Nursing ("ASN"), and Engine City Technical Institute ("ECTI"). The Company also acquired the membership interests of Hartford Urban Ventures, LLC and certain assets and assumed certain liabilities of Educational Properties, LLC, which provide support services to Baran. In connection with these acquisitions, the Company recorded a charge of approximately $0.02 per share in the fourth quarter of 2008 and for the year ended December 31, 2008 and we expect to record a charge of approximately $0.01 per share in the first quarter of 2009 to reflect the expenses related to the acquisitions.

On February 18, 2009, we sold common stock in a public offering and received net proceeds of approximately $14.0 million.

LINCOLN EDUCATIONAL SERVICES CORPORATION

Schedule II—Valuation and Qualifying Accounts

(in thousands)

Description	Balance at Beginning of Period	Charged to Expense	Accounts Written-off	Balance at End of Period
Allowance accounts for the year ended:				
December 31, 2008				
Student receivable allowance	$ 11,403	$ 21,642	$ (18,307)	$ 14,738
December 31, 2007				
Student receivable allowance	$ 11,536	$ 17,767	$ (17,900)	$ 11,403
December 31, 2006				
Student receivable allowance	$ 7,647	$ 15,590	$ (11,701)	$ 11,536

EXHIBIT 10.3

[LINCOLN EDUCATIONAL SERVICES CORPORATION LETTERHEAD]

January 14, 2009

Mr. David F. Carney
c/o Lincoln Educational Services Corporation
200 Executive Drive, Suite 340
West Orange, New Jersey 07052

Dear Dave:

Reference is made to the Employment Agreement dated as of February 1, 2007 (the "Employment Agreement"), between Lincoln Educational Services Corporation, a New Jersey corporation (the "Company") and you. Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Employment Agreement. It is our mutual intention to amend the Employment Agreement as set forth below, and accordingly, the parties hereto agree as follows:

1. Section 2.1 of the Employment Agreement is hereby deleted in its entirety and the following inserted in its place:

> "2.1 Position and Duties. The Company hereby continues to employ the Executive, and the Executive agrees to serve, as Chairman and Chief Executive Officer of the Company through April 29, 2009 and Executive Chairman of the Company from April 30, 2009 though the end of the Employment Period, upon the terms and conditions contained in this Agreement. The Executive shall report to the Board of Directors of the Company (the "Board") and perform duties and services for the Company commensurate with the Executive's position. Except as may otherwise be approved in advance by the Board or the Compensation Committee of the Board (the "Committee"), the Executive shall render his services exclusively to the Company during his employment under this Agreement and shall devote substantially all of his working time and efforts to the business and affairs of the Company."

2. Section 2.2 of the Employment Agreement is hereby deleted in its entirety and the following inserted in its place:

> "2.2 Term of Employment. The Executive's employment under this Agreement shall terminate on December 31, 2010, unless terminated earlier pursuant to Section 5 or extended pursuant to Section 6.1 (the "Employment Period")."

2. Section 3.1 of the Employment Agreement is hereby deleted in its entirety and the following inserted in its place:

> "3.1 Base Salary. Subject to the provisions of Sections 5 and 6, the Executive shall be entitled to receive a base salary (the "Base Salary") at a rate of $425,000 per annum during the Employment Period, such rate to be effective as of January 1, 2009. Such rate may be adjusted upwards, but not downwards, from time-to-time by the Board or the Committee, in their sole discretion. The Base Salary shall be paid in equal installments on a biweekly basis or in accordance with the Company's current payroll practices, less all required deductions. The Base Salary shall be pro-rated for any period of service less than a full year."

This letter agreement constitutes an amendment to all applicable provisions of the Employment Agreement. All of the other provisions of the Employment Agreement, that are not modified hereunder, shall remain in full force and effect.

Please confirm your agreement to the foregoing by signing the enclosed counterpart copy of this letter in the space provided below and returning such signed counterpart to the Company, whereupon, after full execution by both parties, this letter will constitute an agreement between us.

Sincerely,

Lincoln Educational Services Corporation

By: /s/ James J. Burke, Jr.
Name: James J. Burke, Jr.
Title: Chairman of Compensation Committee

Accepted and Agreed:

/s/ David F. Carney
David F. Carney
Date: January 19, 2009

EXHIBIT 10.6

[LINCOLN EDUCATIONAL SERVICES CORPORATION LETTERHEAD]

January 14, 2009

Mr. Scott M. Shaw
c/o Lincoln Educational Services Corporation
200 Executive Drive, Suite 340
West Orange, New Jersey 07052

Dear Scott:

Reference is made to the Employment Agreement dated as of February 1, 2007 (the "Employment Agreement"), between Lincoln Educational Services Corporation, a New Jersey corporation (the "Company") and you. Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Employment Agreement. It is our mutual intention to amend the Employment Agreement as set forth below, and accordingly, the parties hereto agree as follows:

1. Section 2.1 of the Employment Agreement is hereby deleted in its entirety and the following inserted in its place:

"2.1 Position and Duties. The Company hereby continues to employ the Executive, and the Executive agrees to serve, as Executive Vice President and Chief Administrative Officer of the Company, upon the terms and conditions contained in this Agreement. The Executive shall report to the Chief Executive Officer of the Company and perform duties and services for the Company commensurate with the Executive's position. Except as may otherwise be approved in advance by the Board of Directors of the Company (the "Board") or the Compensation Committee of the Board (the "Committee"), the Executive shall render his services exclusively to the Company during his employment under this Agreement and shall devote substantially all of his working time and efforts to the business and affairs of the Company."

2. Section 2.2 of the Employment Agreement is hereby deleted in its entirety and the following inserted in its place:

"2.2 Term of Employment. The Executive's employment under this Agreement shall terminate on December 31, 2010, unless terminated earlier pursuant to Section 5 or extended pursuant to Section 6.1 (the "Employment Period")."

3. Section 3.1 of the Employment Agreement is hereby deleted in its entirety and the following inserted in its place:

> "3.1 Base Salary. Subject to the provisions of Sections 5 and 6, the Executive shall be entitled to receive a base salary (the "Base Salary") at a rate of $325,000 per annum during the Employment Period, such rate to be effective as of January 1, 2009. Such rate may be adjusted upwards, but not downwards, from time-to-time by the Board or the Committee, in their sole discretion. The Base Salary shall be paid in equal installments on a biweekly basis or in accordance with the Company's current payroll practices, less all required deductions. The Base Salary shall be pro-rated for any period of service less than a full year."

This letter agreement constitutes an amendment to all applicable provisions of the Employment Agreement. All of the other provisions of the Employment Agreement, that are not modified hereunder, shall remain in full force and effect.

Please confirm your agreement to the foregoing by signing the enclosed counterpart copy of this letter in the space provided below and returning such signed counterpart to the Company, whereupon, after full execution by both parties, this letter will constitute an agreement between us.

Sincerely,

Lincoln Educational Services Corporation

By: /s/ David F. Carney
Name: David F. Carney
Title: Chairman & Chief Executive Officer

Accepted and Agreed:

/s/ Scott M. Shaw
Scott M. Shaw

Date: January 19, 2009

EXHIBIT 10.8

[LINCOLN EDUCATIONAL SERVICES CORPORATION LETTERHEAD]

January 14, 2009

Mr. Cesar Ribeiro
c/o Lincoln Educational Services Corporation
200 Executive Drive, Suite 340
West Orange, New Jersey 07052

Dear Cesar:

Reference is made to the Employment Agreement dated as of February 1, 2007 (the "Employment Agreement"), between Lincoln Educational Services Corporation, a New Jersey corporation (the "Company") and you. Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Employment Agreement. It is our mutual intention to amend the Employment Agreement as set forth below, and accordingly, the parties hereto agree as follows:

1. Section 2.1 of the Employment Agreement is hereby deleted in its entirety and the following inserted in its place:

"2.1 Position and Duties. The Company hereby continues to employ the Executive, and the Executive agrees to serve, as Senior Vice President and Chief Financial Officer of the Company, upon the terms and conditions contained in this Agreement. The Executive shall report to the Chief Executive Officer of the Company and perform duties and services for the Company commensurate with the Executive's position. Except as may otherwise be approved in advance by the Board of Directors of the Company (the "Board") or the Compensation Committee of the Board (the "Committee"), the Executive shall render his services exclusively to the Company during his employment under this Agreement and shall devote substantially all of his working time and efforts to the business and affairs of the Company."

2. Section 2.2 of the Employment Agreement is hereby deleted in its entirety and the following inserted in its place:

"2.2 Term of Employment. The Executive's employment under this Agreement shall terminate on December 31, 2010, unless terminated earlier pursuant to Section 5 or extended pursuant to Section 6.1 (the "Employment Period")."

3. Section 3.1 of the Employment Agreement is hereby deleted in its entirety and the following inserted in its place:

> "3.1 Base Salary. Subject to the provisions of Sections 5 and 6, the Executive shall be entitled to receive a base salary (the "Base Salary") at a rate of $315,000 per annum during the Employment Period, such rate to be effective as of January 1, 2009. Such rate may be adjusted upwards, but not downwards, from time-to-time by the Board or the Committee, in their sole discretion. The Base Salary shall be paid in equal installments on a biweekly basis or in accordance with the Company's current payroll practices, less all required deductions. The Base Salary shall be pro-rated for any period of service less than a full year."

This letter agreement constitutes an amendment to all applicable provisions of the Employment Agreement. All of the other provisions of the Employment Agreement, that are not modified hereunder, shall remain in full force and effect.

Please confirm your agreement to the foregoing by signing the enclosed counterpart copy of this letter in the space provided below and returning such signed counterpart to the Company, whereupon, after full execution by both parties, this letter will constitute an agreement between us.

Sincerely,

Lincoln Educational Services Corporation

By: /s/ David F. Carney
Name: David F. Carney
Title: Chairman & Chief Executive Officer

Accepted and Agreed:

/s/ Cesar Ribeiro
Cesar Ribeiro

Date: January 19, 2009

EXHIBIT 10.10

[LINCOLN EDUCATIONAL SERVICES CORPORATION LETTERHEAD]

January 14, 2009

Mr. Shaun E. McAlmont
c/o Lincoln Educational Services Corporation
200 Executive Drive, Suite 340
West Orange, New Jersey 07052

Dear Shaun:

Reference is made to the Employment Agreement dated as of February 1, 2007 (the “Employment Agreement”), between Lincoln Educational Services Corporation, a New Jersey corporation (the “Company”) and you. Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Employment Agreement. It is our mutual intention to amend the Employment Agreement as set forth below, and accordingly, the parties hereto agree as follows:

1. Section 2.1 of the Employment Agreement is hereby deleted in its entirety and the following inserted in its place:

“2.1 Position and Duties. The Company hereby continues to employ the Executive, and the Executive agrees to serve, as President and Chief Operating Officer of the Company through April 29, 2009 and President and Chief Executive Officer of the Company from April 30, 2009 though the end of the Employment Period, upon the terms and conditions contained in this Agreement. The Executive shall report to the Chief Executive Officer of the Company through April 29, 2009 and shall report to the Executive Chairman of the Company thereafter and perform duties and services for the Company commensurate with the Executive’s position. Except as may otherwise be approved in advance by the Board of Directors of the Company (the “Board”) or the Compensation Committee of the Board (the “Committee”), the Executive shall render his services exclusively to the Company during his employment under this Agreement and shall devote substantially all of his working time and efforts to the business and affairs of the Company.”

2. Section 2.2 of the Employment Agreement is hereby deleted in its entirety and the following inserted in its place:

“2.2 Term of Employment. The Executive’s employment under this Agreement shall terminate on December 31, 2010, unless terminated earlier pursuant to Section 5 or extended pursuant to Section 6.1 (the “Employment Period”).”

2. Section 3.1 of the Employment Agreement is hereby deleted in its entirety and the following inserted in its place:

> "3.1 Base Salary. Subject to the provisions of Sections 5 and 6, the Executive shall be entitled to receive a base salary (the "Base Salary") at a rate of $375,000 per annum during the Employment Period, such rate to be effective as of January 1, 2009. Such rate may be adjusted upwards, but not downwards, from time-to-time by the Board or the Committee, in their sole discretion. The Base Salary shall be paid in equal installments on a biweekly basis or in accordance with the Company's current payroll practices, less all required deductions. The Base Salary shall be pro-rated for any period of service less than a full year."

This letter agreement constitutes an amendment to all applicable provisions of the Employment Agreement. All of the other provisions of the Employment Agreement, that are not modified hereunder, shall remain in full force and effect.

Please confirm your agreement to the foregoing by signing the enclosed counterpart copy of this letter in the space provided below and returning such signed counterpart to the Company, whereupon, after full execution by both parties, this letter will constitute an agreement between us.

Sincerely,

Lincoln Educational Services Corporation

By: /s/ David F. Carney
Name: David F. Carney
Title: Chairman and Chief Executive Officer

Accepted and Agreed:

/s/ Shaun E. McAlmont
Shaun E. McAlmont

Date: January 19, 2009

EXHIBIT 10.21

STOCK PURCHASE AGREEMENT

among

LINCOLN TECHNICAL INSTITUTE, INC.,

NN ACQUISITION, LLC,

BRAD BARAN,

BARBARA BARAN,

UGP EDUCATION PARTNERS, LLC,

UGPE PARTNERS, INC.

and

MERION INVESTMENT PARTNERS, L.P.

Dated as of January 20, 2009

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STOCK PURCHASE AGREEMENT (this "Agreement"), dated as of January 20, 2009, among LINCOLN TECHNICAL INSTITUTE, INC., a New Jersey corporation (the "Parent"), NN ACQUISITION, LLC, a Delaware limited liability company and wholly owned subsidiary of the Parent (the "Purchaser"), BRAD BARAN ("Baran"), BARBARA BARAN, UGP EDUCATION PARTNERS, LLC, a Delaware limited liability company ("UGP"), MERION INVESTMENT PARTNERS, L.P., a Delaware limited partnership ("Merion") and UGPE PARTNERS, INC., a Delaware corporation ("UGPE"; each of Baran, Barbara Baran, UGP, Merion and UGPE, a "Seller" and collectively, the "Sellers").

WHEREAS, the Sellers own 100% of the issued and outstanding shares (the "BIT Shares") of common stock, no par value per share (the "BIT Common Stock"), of Baran Institute of Technology, Inc., a Connecticut corporation ("BIT");

WHEREAS, Baran, UGPE and Merion own 100% of the limited liability company interests (the "HUV Interests") of Hartford Urban Ventures, LLC, a Connecticut limited liability company ("HUV");

WHEREAS, BIT owns 100% of each of Connecticut Culinary Institute, Inc., a Connecticut corporation ("CCI"), Americare Acquisition LLC, a Delaware limited liability company ("Americare"), and Engine City Technical Institute, a New Jersey corporation ("Engine City");

WHEREAS, BIT owns and operates a post-secondary educational institution in Connecticut with one campus located in East Windsor, Connecticut (the "BIT Institution"), that is engaged in the business of providing educational services with respect to, among other things, autobody, automotive, commercial driver's license training, motorcycle technology, diesel technology, electrical technology, heating, ventilation, air conditioning and refrigeration technology and welding technology (the "BIT Business");

WHEREAS, HUV is engaged in the business of leasing space to the Institutions (the "HUV Business");

WHEREAS, CCI owns and operates a post-secondary educational institution in Connecticut with two campuses located in Hartford, Connecticut and Suffield, Connecticut (the "CCI Institution"), that is engaged in the business of providing educational services with respect to, among other things, culinary arts (the "CCI Business");

WHEREAS, Americare owns and operates Americare School of Nursing, a post-secondary educational institution in Florida with two campuses located in Fern Park, Florida and St. Petersburg, Florida (the "Americare Institution"), that is engaged in the business of providing educational services with respect to, among other things, healthcare careers (the "Americare Business");

WHEREAS, Engine City owns and operates a post-secondary educational institution in New Jersey with one campus located in South Plainfield, New Jersey (the "Engine City Institution"), that is engaged in the business of providing educational services with respect to, among other things, diesel mechanics (the "Engine City Business");

WHEREAS, the Sellers wish to sell to the Purchaser, and the Purchaser wishes to purchase from the Sellers, the Shares (as hereinafter defined) and the HUV Interests, upon the terms and subject to the conditions set forth herein;

WHEREAS, Baran, UGP, Merion, the Parent and the Purchaser are simultaneously with the execution of this Agreement entering into a Stock Purchase Agreement (the "Clemens Agreement") for the purchase of all of the outstanding stock of Hospitality Acquisition Corporation (dba Clemens College), a Connecticut corporation ("Clemens"); and

WHEREAS, the employees of Educational Properties, LLC are used in connection with the Businesses and the parties wish to transfer such employees and certain liabilities in connection therewith to the Purchaser.

NOW, THEREFORE, in consideration of the premises and the mutual agreements and covenants hereinafter set forth, the parties hereby agree as follows:

ARTICLE I
DEFINITIONS

Section 1.01 Certain Defined Terms. For purposes of this Agreement:

"ABHES" means the Accrediting Bureau of Health Education Schools.

"Accounting Principles" means the guidelines, rules and procedures described on Section 1.01(a) of the Disclosure Schedule.

"Accrediting Body" means any entity or organization, whether governmental, private or quasi-private, whether foreign or domestic, which engages in the granting or withholding of accreditation of post-secondary institutions in accordance with standards and requirements relating to the performance, operations, financial condition, and/or academic standards of such institutions, including the ACCSCT, the ACFF, the ABHES and the ADA.

"ACCSCT" means the Accrediting Commission of Career Schools and Colleges of Technology.

"ACFF" means the American Culinary Federation Foundation.

"Acquisition Documents" means this Agreement, the Ancillary Agreements and any certificate, report or other document delivered pursuant to this Agreement or the transactions contemplated by this Agreement.

"Acquisition Obligations" means the obligations (financial or otherwise) of BIT under the Americare Agreement and the Engine City Agreement.

"Action" means any Claim, action, suit, arbitration, proceeding or investigation by or before any Governmental Authority or Educational Agency.

“ADA” means the American Dental Association.

“Affiliate” means, with respect to any specified Person, any other Person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, such specified Person.

“Americare Agreement” means the Asset Purchase Agreement dated August 8, 2007, as amended, by and among BIT, Americare School of Nursing, Inc., Americare School of Nursing of St. Pete, LLC Gerald Newman and Americare.

“Ancillary Agreements” means the Escrow Agreement, the General Release, the Lease and the Assignments of Lease.

“Assets” means the assets and properties of the Companies and the Subsidiaries.

“Assignments of Lease” means the Assignment of Lease with respect to each property set forth on Section 1.01(b) of the Disclosure Schedule and entered into by the Purchaser and the entity/entities listed opposite each such property on Section 1.01(b) of the Disclosure Schedule.

“Business Day” means any day that is not a Saturday, a Sunday or other day on which banks are required or authorized by Law to be closed in New York, New York.

“Businesses” means, collectively, the BIT Business, the HUV Business, the CCI Business, the Americare Business and the Engine City Business.

“CCI Lease” means the Lease, dated as of July 12, 2007, by and between Farmington Imlay Associates LLC and CCI.

“CERCLA” means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended.

“CERCLIS” means the Comprehensive Environmental Response, Compensation and Liability Information System, as updated through the Closing.

“Claims” means any and all administrative, regulatory or judicial actions, suits, demands, demand letters, claims, liens, notices of noncompliance or violation, investigations, proceedings, consent orders or consent agreements, but excluding Educational Claims.

“Closing” means the closing of the transactions contemplated by this Agreement.

“Closing Balance Sheet” means the balance sheet (including the related notes and schedules thereto), dated as of the date hereof, prepared and delivered by the Purchaser in accordance with Section 2.05 and setting forth the consolidated Net Working Capital with respect to the Companies and the Subsidiaries.

“Closing Date” means the date on which the Closing occurs.

"Code" means the Internal Revenue Code of 1986, as amended.

"Companies" means, collectively, BIT and HUV. Each such company is referred to individually as a "Company".

"Companies IP Licenses" means those (a) licenses of Intellectual Property by any Company or any Subsidiary or an Affiliate of any Company or any Subsidiary to third parties, (b) licenses of Intellectual Property by third parties to any Company or any Subsidiary or an Affiliate of any Company or any Subsidiary and (c) agreements between any Company or any Subsidiary and third parties relating to the development or use of Intellectual Property, the development or transmission of data, or the use, modification, framing, linking advertisement, or other practices with respect to Internet web sites, in each case, that are used or held for use in connection with the Businesses.

"Compliance Date" means January 1, 2005.

"control" (including the terms "controlled by" and "under common control with"), with respect to the relationship between or among two or more Persons, means the possession, directly or indirectly or as trustee, personal representative or executor, of the power to direct or cause the direction of the affairs or management of a Person, whether through the ownership of voting securities, as trustee, personal representative or executor, by contract, credit arrangement or otherwise.

"Conveyance Taxes" means all sales, use, value-added, transfer, stamp, stock transfer, real property transfer or gains and similar Taxes and any transfer, recording, registration and similar fees.

"Current Assets" means cash, accounts receivable, inventories, prepaid expenses and other assets that could be converted to cash in less than one year, in accordance with GAAP and GAGAS.

"Current Liabilities" means amounts owed for accounts payable, notes payable, line of credit, capital lease obligations, unearned tuition, student deposits, deferred meal plan, deferred housing costs, deferred promotional income, accrued expenses, deferred tax liability and income tax payable and other liabilities that are due within one year, in accordance with GAAP and GAGAS.

"Disclosure Schedule" means the Disclosure Schedule, dated as of the date hereof, delivered by the Sellers to the Purchaser in connection with this Agreement.

"ECAR" means Eligibility and Certification Approval Report(s) issued to the Institutions.

"Educational Agency" means any Person, entity or organization, whether governmental, government chartered, private, or quasi-private, that engages in granting or withholding Educational Approvals for, administers financial assistance to or for students of, or otherwise regulates, private post-secondary schools in accordance with standards relating to performance, recruiting, operation, financial condition or academic standards of such schools, including U.S. DOE, any Accrediting Body, the Commission for Independent Education of the Florida Department of Education, the State of New Jersey Department of Education and New Jersey Department of Labor and Workforce Development, the State of Connecticut Board of Governors for Higher Education, the Immigration and Naturalization Service of the United States Department of Justice and the Department of Homeland Security.

"Educational Approval" means any license, permit, consent, franchise, approval, authorization, certificate, U.S. DOE Approval or accreditation issued or required to be issued by an Educational Agency to an Institution or to any campus or other facility operated by such Institution with respect to any aspect of such Institution's operations subject to the oversight of such Educational Agency.

"Educational Claims" means any and all administrative, regulatory or judicial actions, suits, demands, demand letters, claims, liens, notices of noncompliance or violation, investigations, program reviews, audits, proceedings, consent orders or consent agreements arising out of the operation of an Institution or the application thereto of any Educational Law or with respect to any Educational Approval required to be held by such Institution under any Educational Law.

"Educational Law" means any Law, regulation or binding standard issued or administered by, or related to, any Educational Agency.

"Encumbrance" means any security interest, pledge, hypothecation, mortgage, lien (including environmental and Tax liens), violation, charge, lease, license, encumbrance, servient easement, adverse claim, reversion, reverter, preferential arrangement or restrictive covenant, condition or restriction of any kind, including any restriction on the use, voting, transfer, receipt of income or other exercise of any attributes of ownership.

"Engine City Agreement" means the Stock Purchase Agreement, dated as of April 29, 2008, by and among Daniel Kasper, Engine City and BIT.

"Environment" means surface waters, groundwaters, sediment, soil, subsurface strata and outdoor or indoor ambient air.

"Environmental Claims" means any Claims relating to any Environmental Law or any Environmental Permit, including (a) any and all Claims by Governmental Authorities for enforcement, cleanup, removal, response, remedial or other actions or damages pursuant to any applicable Environmental Law and (b) any and all Claims by any Person seeking damages, contribution, indemnification, cost recovery, compensation or injunctive relief resulting from Hazardous Materials or arising from alleged injury or threat of injury to health, safety or the Environment.

"Environmental Laws" means all Laws and any judicial or administrative interpretation thereof, including any judicial or administrative order, consent decree or judgment, relating to the Environment, health, safety, natural resources or Hazardous Materials, including CERCLA; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. § 5101 et seq.; the Clean Water Act, 33 U.S.C. § 1251 et seq.; the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq.; the Clean Air Act, 42 U.S.C. § 7401 et seq.; the Safe Drinking Water Act, 42 U.S.C. § 300f et seq.; the Atomic Energy Act, 42 U.S.C. § 2011 et seq.; the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. § 136 et seq.; and the Federal Food, Drug and Cosmetic Act, 21 U.S.C. § 301 et seq.

"Environmental Permits" means all permits, approvals, identification numbers, licenses and other authorizations required under or issued pursuant to any applicable Environmental Law.

"Escrow Account" means the account established, designated and maintained by the Escrow Agent pursuant to the terms of the Escrow Agreement.

"Escrow Agent" means JPMorgan Chase Bank, National Association.

"Escrow Agreement" means the Escrow Agreement executed by the Purchaser, the Seller's Representative and the Escrow Agent.

"Escrow Amount" means $2,000,000.

"Estimated Closing Balance Sheet" means the consolidated balance sheet (including the related notes and schedules thereto) of the Companies and the Subsidiaries dated as of the date hereof and prepared and delivered pursuant to Section 2.05(a).

"Exchange Act" means the Securities Exchange Act of 1934, as amended.

"Excluded Taxes" means (a) all Income Taxes owed by the Sellers or any of their Affiliates for any period; (b) all Taxes relating to the Assets or any Company, Subsidiary or Institution for any Pre-Closing Period, including the portion of a Straddle Period ending on the Closing Date; (c) Taxes imposed on the Purchaser or any of its Affiliates or any Company or Subsidiary as a result of any breach by the Sellers or any of their present or past Affiliates of a warranty or misrepresentation, or breach of any covenant relating to Taxes; (d) all Taxes for which the Purchaser, its Affiliates or any Company or Subsidiary is liable by reason of the Sellers, any Company or any Subsidiary being a member of a consolidated, combined, unitary, affiliated or similar group that includes any Person (other than a Company or a Subsidiary) prior to the Closing, by reason of a Tax sharing, Tax indemnity or similar agreement entered into by any Company, Subsidiary or any of their present or past Affiliates prior to the Closing (other than this Agreement) or by reason of transferee or successor Liability arising in respect of a transaction undertaken by any Company, Subsidiary or any of their present or past Affiliates prior to the Closing; and (e) fifty percent (50%) of all Conveyance Taxes payable in connection with the transactions contemplated by this Agreement.

"GAAP" means United States generally accepted accounting principles and practices in effect from time to time applied consistently throughout the periods involved.

"GAGAS" means generally accepted government auditing standards.

"General Release" means the General Release and Discharge executed by the Sellers.

"Governmental Authority" means any United States federal, state, local, or similar government, governmental, regulatory or administrative authority, agency or commission or any court, tribunal, or judicial or arbitral body, but excluding any Educational Agency.

"Governmental Order" means any order, writ, judgment, injunction, decree, stipulation, determination or award entered by or with any Governmental Authority.

"Hazardous Materials" means (a) petroleum and petroleum products, radioactive materials, asbestos-containing materials, mold, urea formaldehyde foam insulation, transformers or other equipment that contain polychlorinated biphenyls and radon gas; (b) any other chemicals, materials or substances defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," "contaminants" or "pollutants," or words of similar import, under any applicable Environmental Law; and (c) any other chemical, material or substance which is regulated by, or with respect to which liability may be imposed under, any Environmental Law.

"HEA" means the Higher Education Act of 1965, as amended, 20 U.S.C. § 1001 et seq., any amendments or successor statutes thereto, and its implementing regulations.

"Income Taxes" means Taxes imposed on or measured by reference to gross or net income or receipts, and franchise, net worth, capital or other doing business Taxes.

"Indebtedness" means, with respect to any Person, (a) all indebtedness of such Person, whether or not contingent, for borrowed money; (b) all obligations of such Person for the deferred purchase price of property or services; (c) all indebtedness created or arising under any conditional sale or other title retention agreement with respect to property acquired by such Person (even though the rights and remedies of the seller or lender under such agreement in the event of default are limited to repossession or sale of such property); (d) all obligations of such Person as lessee under leases that have been or should be, in accordance with GAAP, recorded as capital leases; (e) all obligations, contingent or otherwise, of such Person under acceptance, Letter of Credit or similar facilities; (f) all obligations of such Person to purchase, redeem, retire, defease or otherwise acquire for value any capital stock of such Person or any warrants, rights or options to acquire such capital stock, valued, in the case of redeemable preferred stock, at the greater of its voluntary or involuntary liquidation preference plus accrued and unpaid dividends; (g) all Indebtedness of others referred to in clauses (a) through (f) above guaranteed directly or indirectly in any manner by such Person; and (h) all Indebtedness referred to in clauses (a) through (f) above secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Encumbrance on property (including accounts and contract rights) owned by such Person, even though such Person has not assumed or become liable for the payment of such Indebtedness. For the avoidance of doubt, "Indebtedness" shall not include any intercompany indebtedness among the Companies, the Subsidiaries and/or the Institutions.

"Indemnified Party" means a Purchaser Indemnified Party or a Seller Indemnified Party, as the case may be.

"Indemnifying Party" means the Sellers or the Indemnifying Purchasers, as the case may be.

"Indemnifying Purchasers" means the Purchaser and the Parent.

"Institutions" means, collectively, the BIT Institution, the CCI Institution, the Americare Institution and the Engine City Institution, including, in each case, any campus or other facility at which any such Institution offers any portion of an educational program. Each such institution is referred to individually as an "Institution".

"Intellectual Property" means: (a) patents and patent applications; (b) trademarks, service marks, domain names, trade dress, logos, trade names, corporate names and slogans, together with the goodwill associated therewith; (c) copyrights; (d) Software, data, databases, data rights and Internet websites; (e) confidential and proprietary information, including trade secrets and know-how; (f) advertising and promotional rights and rights to privacy and publicity; (g) registrations and applications for registration of the foregoing, including reissues, divisions, continuations, continuations-in-part, extensions, renewals and reexaminations thereof; (h) all common law rights thereto; and (i) proprietary rights in curricula, course design and educational services.

"Inventory" means all inventory, merchandise, goods and other personal property maintained, held or stored by or for any Company or Subsidiary at the Closing, and any prepaid deposits for any of the same.

"IRS" means the Internal Revenue Service of the United States.

"Knowledge of the Sellers" means the actual knowledge, after due inquiry, of Baran, Barbara Baran, Stephen Schwartz, John Milne, Robert Miner, George Cinquegrana, Stan Lau and Randy Rock.

"Law" means any United States federal, state, local or similar statute, law, ordinance, regulation, rule, code, order, or Accrediting Body standard, including any Educational Law.

"Lease" means the lease agreement, between the Educational Properties, LLC and the Purchaser with respect to the property located at 1760 Mapleton Avenue, Suffield, Connecticut.

"Leased Real Property" means the real property leased by any Company or Subsidiary, as tenant, together with, to the extent leased by any Company or Subsidiary, all buildings and other structures, facilities or improvements currently or hereafter located thereon, all fixtures, systems, equipment and items of personal property of any Company or Subsidiary attached or appurtenant thereto and all easements, licenses, rights and appurtenances relating to the foregoing.

"Letter of Credit" means any instruments or documents issued by a bank guaranteeing the payment of a customer's drafts up to a stated amount for a specified period.

"Liabilities" means any and all debts, liabilities and obligations, whether accrued or fixed, absolute or contingent, asserted or unasserted, matured or unmatured or determined or determinable, including those arising under any Law (including any Environmental Law or Educational Law), Action or Governmental Order and those arising under any contract, agreement, arrangement, commitment or undertaking.

"Licensed Intellectual Property" means Intellectual Property licensed to any Company or Subsidiary, an Affiliate of any Company or Subsidiary, or any Institution and used or held for use in connection with the Businesses.

"Material Adverse Effect" means any circumstance, change in or effect on any Business, Institution, Company or Subsidiary that, individually or in the aggregate with all other circumstances, changes in or effects on any Business, Institution, Company or Subsidiary, is or is reasonably likely to be materially adverse to the business, operations, assets, liabilities, results of operations or the condition (financial or otherwise) of any Institution, Company or Subsidiary; provided, however, that in no event shall any of the following be deemed to constitute a Material Adverse Effect: circumstances, changes or effects resulting from (a) the announcement of the execution of this Agreement or compliance with the terms of, or the taking of any action required by, this Agreement other than (i) pursuant to any requirement to operate in the ordinary course of business consistent with past practice or to make the representations and warranties of the Sellers accurate or (ii) the consummation of the transactions contemplated hereby, (b) acts of war, sabotage, terrorism, military actions or the escalation thereof, (c) a change in applicable Laws, regulations or accounting rules after the date hereof, (d) a change in general economic, political or financial market conditions, or (e) a change in conditions generally applicable to the industry in which any Institution, Company or Subsidiary operates except, in the case of the foregoing clauses (b), (c), (d) and (e) where such circumstances, changes or effects affect such Institution, Company or Subsidiary in a manner materially disproportionate to other Persons in the industries in which the Institutions, Companies and Subsidiaries conduct their business.

"Net Working Capital" means the excess of consolidated Current Assets over consolidated Current Liabilities for the Companies and the Subsidiaries, in accordance with GAAP and GAGAS, as shown on the Estimated Closing Balance Sheet or the Closing Balance Sheet, as the case may be.

"Owned Intellectual Property" means Intellectual Property owned by any Company or any Subsidiary, an Affiliate of any Company or any Subsidiary, or the Institutions and used or held for use in connection with the Businesses.

"Owned Real Property" means the real property owned by any Company or any Subsidiary, together with all buildings and other structures, facilities or improvements currently or hereafter located thereon, all fixtures, systems, equipment and items of personal property of any Company or any Subsidiary attached or appurtenant thereto and all easements, licenses, rights and appurtenances relating to the foregoing.

"Permitted Encumbrances" means such of the following as to which no enforcement, collection, execution, levy or foreclosure proceeding shall have been commenced and as to which no Company or Subsidiary is otherwise subject to civil or criminal liability due to its existence: (a) (i) liens for Taxes, assessments and governmental charges or levies not yet due and payable or (ii) Taxes for which any Company or any Subsidiary is contesting in good faith, and for which in the case of (i) and (ii) adequate reserves have been maintained in accordance with GAAP; (b) Encumbrances imposed by Law, such as materialmen's, mechanics', carriers', workmen's and repairmen's liens and other similar liens arising in the ordinary course of business securing obligations that (i) are not overdue for a period of more than 30 days and (ii) are not in excess of $5,000 in the case of a single property or $10,000 in the aggregate at any time; (c) pledges or deposits to secure obligations under workers' compensation laws or similar legislation or to secure public or statutory obligations; (d) zoning laws and ordinances, minor survey exceptions, reciprocal easement agreements and other customary encumbrances on or defects in title to real or personal property that (i) were not incurred in connection with any Indebtedness, (ii) do not render title to the property encumbered thereby unmarketable and (iii) do not, individually or in the aggregate, materially adversely affect the value of or the use of such property for its current and anticipated purposes; and (e) liens securing rental payments under capital lease arrangements.

"Person" means any individual, partnership, firm, corporation, limited liability company, association, trust, unincorporated organization or other entity, as well as any syndicate or group that would be deemed to be a person under Section 13(d)(3) of the Exchange Act.

"Pre-Closing Period" means any taxable period (or portion of a taxable period) ending on or prior to the Closing Date.

"Preferred Stock" means issued and outstanding shares of Series D 11% Redeemable Cumulative Preferred Stock of BIT, Series E Convertible Preferred Stock of BIT and Series A Convertible Preferred Stock of Engine City to be redeemed immediately prior to the Closing.

"Purchase Price Bank Accounts" means the bank accounts in the United States to be designated by the Sellers in a written notice to the Purchaser at least one Business Day before the Closing.

"Purchaser's Accountants" means Deloitte & Touche LLP, independent accountants of the Purchaser.

"Real Property" means the Leased Real Property and the Owned Real Property.

"Receivables" means any and all accounts receivable (including Student Accounts Receivable), notes and other amounts receivable from third parties, including customers and employees, arising from the conduct of the Businesses before the Closing Date, whether or not in the ordinary course, together with any unpaid financing charges accrued thereon.

"Release" means disposing, discharging, injecting, spilling, leaking, leaching, dumping, emitting, escaping, emptying, seeping, placing and the like into or upon any land or water or air or otherwise entering into the Environment.

"Remedial Action" means "remove", "removal", "remedy" or "remedial action" as those terms are defined in Section 101(23) and (24) of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601.

"SEC" means the Securities and Exchange Commission.

"Securities Act" means the Securities Act of 1933, as amended.

"Sellers' Accountants" means Knutte & Associates, P.C.

"Shares" means the BIT Shares.

"Software" means all (i) computer programs, applications, systems and code, including software implementations of algorithms, models and methodologies, and source code and object code, (ii) Internet and intranet websites, databases and compilations, including data and collections of data, whether machine-readable or otherwise, (iii) development and design tools, library functions and compilers, (iv) technology supporting websites, and the contents and audiovisual displays of websites, and (v) documentation, other works of authorship and media, including user manuals and training materials, relating to or embodying any of the foregoing or on which any of the foregoing is recorded.

"Straddle Period" means any taxable period beginning on or prior to and ending after the Closing Date.

"Student Accounts Receivable" means any Company's or any Subsidiary's accounts receivable for student tuition, fees and institutional charges (including U.S. DOE accounts receivable) with respect to students currently attending the Institutions as of the Closing Date, as determined in accordance with GAAP applied on a basis consistent with the past practices of the Companies and the Subsidiaries.

"Subsidiaries" means, collectively, CCI, Americare and Engine City. Each such company is referred to individually as a "Subsidiary".

"Target Working Capital" means $(6,240,651).

"Tax" or "Taxes" means any and all taxes and other fees, levies, duties, tariffs, imposts and other charges that are in the nature of taxes (together with any and all interest, penalties, additions to tax and additional amounts imposed with respect thereto) imposed by any Governmental Authority or taxing authority, including: taxes or other charges on or with respect to income, franchises, windfall or other profits, gross receipts, property, sales, use, capital stock, payroll, employment, social security, workers' compensation, unemployment compensation, or net worth; taxes or other charges in the nature of excise, withholding, ad valorem, stamp, transfer, value-added, or gains taxes.

"Tax Returns" means all returns, computations, reports and statements required to be filed with any Governmental Authority with respect to Taxes.

“Title IV” means Title IV of the HEA and all definitional and other provisions set forth elsewhere in the HEA that are referenced in Title IV or that relate to any Title IV provision.

“Title IV Programs” means the programs of federal student financial assistance administered pursuant to Title IV of the HEA.

“TPPPA” means a temporary provisional program participation agreement executed by the U.S. DOE and issued to an Institution following the Closing for an interim period allowing U.S. DOE’s further review of the Purchaser’s application for U.S. DOE Approval of the Institution following a change in ownership.

“Treasury Regulations” means the Treasury Regulations (including Temporary Treasury Regulations) promulgated by the United States Department of Treasury with respect to the Code or other federal tax statutes.

“U.S.” and “United States” means the United States of America.

“U.S. DOE” means the United States Department of Education.

“U.S. DOE Approval” means a provisional program participation agreement issued and countersigned by the Secretary of U.S. DOE, or his designee, in conjunction with an accurate ECAR (but not including a TPPPA) that is complete and accurate in all material respects, certifying an institution for participation in the Title IV Programs that does not include any condition that would materially impair the Parent’s operations.

Section 1.02 Definitions. The following terms have the meanings set forth in the Sections set forth below:

Definition	Location
“Agreement”	Preamble
“Americare”	Recitals
“Americare Business”	Recitals
“Americare Institution”	Recitals
“Ancillary Lease Documents”	3.15(d)
“Audited Financial Statements”	3.06(a)
“Baran”	Preamble
“Basket”	7.04(a)
“BIT”	Recitals
“BIT Business”	Recitals
“BIT Common Stock”	Recitals
“BIT Institution”	Recitals
“BIT Shares”	Recitals
“Cap”	7.04(a)
“CCI”	Recitals
“CCI Business”	Recitals
“CCI Institution”	Recitals
“Clemens”	Recitals

Definition	Location
“Clemens Agreement”	Recitals
“Engine City”	Recitals
“Engine City Business”	Recitals
“Engine City Institution”	Recitals
“ERISA”	3.17(a)
“Financial Statements”	3.06(a)
“HUV”	Recitals
“HUV Business”	Recitals
“HUV Interests”	Recitals
“Independent Accounting Firm”	2.05(c)(ii)
“Interim Financial Statements”	3.06(a)
“Internal Controls”	3.06(d)
“lease”	3.13(a)(xxiii)
“Loss”	7.02(a)
“Material Contracts”	3.13(a)
“Merion”	Preamble
“Multiemployer Plan”	3.17(b)
“Multiple Employer Plan”	3.17(b)
“Non-Disclosure Agreement”	5.01(a)
“Options”	3.15(d)
“Parent”	Preamble
“Plans”	3.17(a)(ii)
“Policy Guidelines”	3.26(e)
“Purchase Price”	2.02
“Purchaser”	Preamble
“Purchaser Indemnified Party”	7.02(a)
“Required Consents”	3.05
“Restricted Business”	5.06(a)
“Restricted Period”	5.06(a)
“Seller”	Preamble
“Seller Indemnified Party”	7.03(a)
“Sellers”	Preamble
“Sellers’ Representative”	7.08(a)
“Tangible Personal Property”	3.16(a)
“Third Party Claim”	7.05(b)
“Transferred Employee”	5.05(b)
“UGP”	Preamble
“UGPE”	Preamble
“WARN Act”	3.17(g)

Section 1.03 Interpretation and Rules of Construction. In this Agreement, except to the extent otherwise provided or indicated, or that the context otherwise requires:

(a) when a reference is made in this Agreement to an Article, Section, Exhibit or Schedule, such reference is to an Article or Section of, or a Schedule or Exhibit to, this Agreement;

(b) the table of contents and headings for this Agreement are for reference purposes only and do not affect in any way the meaning or interpretation of this Agreement;

(c) whenever the words “include,” “includes” or “including” are used in this Agreement, they are deemed to be followed by the words “without limitation”;

(d) the words “hereof,” “herein” and “hereunder” and words of similar import, when used in this Agreement, refer to this Agreement as a whole and not to any particular provision of this Agreement;

(e) all terms defined in this Agreement have the defined meanings when used in any certificate or other document made or delivered pursuant hereto, unless otherwise defined therein;

(f) the definitions contained in this Agreement are applicable to the singular as well as the plural forms of such terms;

(g) any Law defined or referred to herein or in any agreement or instrument that is referred to herein means such Law or statute as from time to time amended, modified or supplemented, including by succession of comparable successor Laws;

(h) references to a Person are also to its successors and permitted assigns; and

(i) the use of “or” is not intended to be exclusive unless expressly indicated otherwise.

ARTICLE II

PURCHASE AND SALE

Section 2.01 Purchase and Sale of the BIT Shares and the HUV Interests. Upon the terms and subject to the conditions of this Agreement, on the date hereof, the Sellers shall sell, assign, transfer, convey and deliver, or cause to be sold, assigned, transferred, conveyed and delivered, to the Purchaser, the BIT Shares and the HUV Interests, and the Purchaser shall purchase the BIT Shares and the HUV Interests.

Section 2.02 Purchase Price. Subject to the adjustments set forth in Section 2.05, the purchase price for the Shares, the HUV Interests and the covenants contained in Section 5.06 shall be an amount in cash equal to Twenty-Eight Million Dollars ($28,000,000) (the “Purchase Price”) which shall be allocated $26,450,000 to the Shares, $250,000 to the HUV Interests and $1,300,000 to the covenants contained in Section 5.06.

Section 2.03 Deliveries by the Sellers. (a) On or prior to the date hereof, the Sellers shall have delivered or caused to be delivered to the Purchaser:

(i) stock certificates evidencing the BIT Shares duly endorsed in blank, or accompanied by stock powers duly executed in blank, in form satisfactory to the Purchaser and with all required stock transfer tax stamps affixed;

(ii) instruments of sale, transfer and conveyance evidencing and effecting the transfer of the HUV Interests to the Purchaser, in form satisfactory to the Purchaser;

(iii) evidence in the form of a Bill of Sale and Assumption Agreement that the assets listed on Section 2.03(a)(iii)(1) of the Disclosure Schedule have been assigned to BIT and the liabilities listed on Section 2.03(a)(iii)(2) of the Disclosure Schedule have been assumed by BIT, in a form satisfactory to the Purchaser;

(iv) a counterpart of the Escrow Agreement, duly executed by the Sellers' Representative;

(v) a counterpart of the Lease, duly executed by Educational Properties, LLC;

(vi) the Assignments of Lease, each duly executed by all the parties thereto;

(vii) the General Release, duly executed by the Sellers;

(viii) a receipt for the Purchase Price, less the Escrow Amount;

(ix) the resignations, effective as of the Closing, of all of the directors and officers of each Company and each Subsidiary, except for such persons as shall have been designated in writing prior to the date hereof by the Purchaser to the Sellers;

(x) a copy of (i) the certificate of incorporation (or other similar organizational document), as amended, of each Company and each Subsidiary, certified by the Secretary of State in their respective jurisdictions of organization, as of a date not earlier than five Business Days prior to the date hereof and accompanied by a certificate of the Secretary or Assistant Secretary of such Company or Subsidiary, dated as of the date hereof, stating that no amendments have been made to such certificate of incorporation (or other similar organizational document) since such date, and (ii) the by-laws of each Company and each Subsidiary, certified by the Secretary or Assistant Secretary of such Company or Subsidiary;

(xi) a certificate of non-foreign status (in a form reasonably acceptable to the Purchaser) pursuant to Section 1.1445-2(b)(2) of the Treasury Regulations of each Seller (provided that if a Seller is a disregarded entity then such certificate shall be provided by its sole beneficial owner);

(xii) a good standing certificate for each Company and each Subsidiary from the Secretary of State in their respective jurisdictions of organization and from the Secretary of State in each other jurisdiction in which the operation of such Company's or Subsidiary's business in such jurisdiction, requires such Company or Subsidiary to qualify to do business as a foreign corporation, in each case dated as of a date not earlier than five Business Days prior to the date hereof;

(xiii) a true and complete copy, certified by the Secretary or an Assistant Secretary of each of UGP, Merion and UGPE, of the resolutions duly and validly adopted by the board of directors/managers of such Seller evidencing its authorization of the execution and delivery of this Agreement and the Ancillary Agreements to which such Seller is a party and the consummation of the transactions contemplated hereby and thereby;

(xiv) a certificate of the Secretary or an Assistant Secretary of each of UGP, Merion and UGPE certifying the names and signatures of the officers of such Seller authorized to sign this Agreement and the Ancillary Agreements and the other documents to be delivered hereunder and thereunder;

(xv) the Transfer of Establishment – Form III executed by BIT;

(xvi) evidence satisfactory to the Purchaser that (i) the Sellers shall have contributed, or caused to be contributed, to the capital of each Company and Subsidiary, the difference between (i) the intercompany Indebtedness owed by such Company or Subsidiary to any Seller or its Affiliates (other than any Company or Subsidiary) as of the Closing Date and (ii) the intercompany Indebtedness owed by any Seller or its Affiliates (other than any Company or Subsidiary) to any Company or Subsidiary as of the Closing Date, and all such intercompany Indebtedness shall cease to exist and be of no further force or effect;

(xvii) evidence that all contracts or arrangements between any Company, Subsidiary or Institution, on the one hand, and any Seller or any Affiliate of any Seller (other than Clemens or a Company, Subsidiary or Institution) shall have been terminated or amended to exclude any Company, Subsidiary or Institution as a party thereto;

(xviii) an executed Termination of Lease Agreement with respect to the CCI Lease;

(xix) an executed lease agreement between Farmington Imlay Associates LLC and the Purchaser, in a form satisfactory to the Purchaser; and

(xx) evidence of payment by the Sellers of each amount set forth on Section 2.03(a)(xx) of the Disclosure Schedules to the Person listed opposite such amount on Section 2.03(a)(xx) of the Disclosure Schedules.

Section 2.04 Deliveries by the Purchaser. (b) On or prior to the date hereof, the Purchaser shall have delivered or caused to be delivered to the Sellers:

(i) the Purchase Price, less the Escrow Amount, in the manner set forth in Section 2.04(a)(i) of the Disclosure Schedule, by wire transfer in immediately available funds to the Purchase Price Bank Accounts;

(ii) a counterpart of the Lease, duly executed by the Purchaser;

(iii) counterparts of the Escrow Agreement, duly executed by the Purchaser and the Escrow Agent;

(iv) a true and complete copy of the written consent of the board of directors of the Purchaser evidencing its authorization of the execution and delivery by the Purchaser of this Agreement and the Ancillary Agreements to which the Purchaser is a party and the consummation of the transactions contemplated hereby and thereby;

(v) a certificate of the Secretary or an Assistant Secretary of the Purchaser certifying the names and signatures of the officers of the Purchaser authorized to sign this Agreement and the Ancillary Agreements and the other documents to be delivered hereunder and thereunder; and

(vi) the Transfer of Establishment – Form III executed by the Purchaser.

(b) At the Closing, the Purchaser shall deliver or cause to be delivered to the Escrow Agent, in accordance with the Escrow Agreement, the Escrow Amount by wire transfer in immediately available funds to the Escrow Account.

Section 2.05 Adjustment of Purchase Price. The Purchase Price shall be subject to adjustment on and after the date hereof as specified in this Section 2.05:

(a) Estimated Closing Balance Sheet. At least three Business Days prior to the date hereof, the Sellers shall have delivered to the Purchaser the Estimated Closing Balance Sheet. The Sellers shall have prepared the Estimated Closing Balance Sheet in accordance with GAAP and GAGAS, and the Estimated Closing Balance Sheet shall set forth the Sellers' good faith estimate of the consolidated Net Working Capital with respect to the Companies and the Subsidiaries as of the date hereof. The Sellers shall make available to the Purchaser the work papers used in preparing the Estimated Closing Balance Sheet. If the Net Working Capital reflected on the Estimated Closing Balance Sheet exceeds the Target Working Capital (or is negative by a lesser amount than the Target Working Capital), then the Purchase Price payable by the Purchaser on the date hereof shall be adjusted upwards in an amount equal to such excess (or amount by which such Net Working Capital is a lesser negative amount than the Target Working Capital). If the Net Working Capital reflected on the Estimated Closing Balance Sheet is less than the Target Working Capital (or is negative by a greater amount than the Target Working Capital), then the Purchase Price payable by the Purchaser on the date hereof shall be adjusted downward in an amount equal to such deficiency (or amount by which such Net Working Capital is a greater negative amount than the Target Working Capital).

(b) Closing Balance Sheet. On or prior to January 30, 2009, provided that the Purchaser provides the assistance necessary for Sellers to complete such statement, the Sellers shall deliver to the Purchaser a revised Estimated Closing Balance Sheet, prepared in accordance with GAAP and GAGAS and setting forth the Sellers' good faith calculation of the consolidated Net Working Capital with respect to the Companies and the Subsidiaries as of the date hereof. The Sellers shall make available to the Purchaser the work papers used in preparing such balance sheet. As promptly as practicable, but in any event within 45 Business Days following the date hereof, the Purchaser shall prepare and deliver to the Sellers' Representative the Closing Balance Sheet, prepared in accordance with GAAP and GAGAS.

(c) Disputes. (i) The Sellers' Representative may dispute any amounts reflected on the Closing Balance Sheet delivered by the Purchaser, but only on the basis that the amounts reflected on such Closing Balance Sheet were not arrived at in accordance with GAAP and GAGAS or were arrived at based on mathematical or clerical error. If the Sellers' Representative intends to dispute any such amounts, the Sellers' Representative shall notify the Purchaser and the Purchaser's Accountants in writing of each disputed item, specifying the amount thereof in dispute and setting forth, in reasonable detail, the basis for such dispute, within 30 Business Days of the delivery by the Purchaser of the Closing Balance Sheet to the Sellers' Representative. In the event of such a dispute, the Sellers' Representative and the Purchaser shall attempt to reconcile the disputed amounts, and any resolution agreed by them as to such disputed amounts shall be final, conclusive and binding on the parties hereto.

(ii) If the Sellers' Representative and the Purchaser are unable to reach a resolution with such effect within 30 Business Days of the receipt by the Purchaser and the Purchaser's Accountants of the Sellers' Representative's written notice of dispute, the Sellers' Representative and the Purchaser shall submit the items remaining in dispute for resolution to an independent accounting firm of national reputation mutually acceptable to the Sellers and the Purchaser (such accounting firm being referred to herein as an "Independent Accounting Firm"), which shall, within 30 Business Days after such submission, determine and report to the Sellers' Representative and the Purchaser upon such remaining disputed items, and such determination shall be final, conclusive and binding on the Sellers and the Purchaser. The fees and expenses of the Independent Accounting Firm shall be allocated between the Sellers, on the one hand, and the Purchaser, on the other hand, in the same proportion as the aggregate amount of such remaining disputed items so submitted to the Independent Accounting Firm that is unsuccessfully disputed by each such party (as finally determined by the Independent Accounting Firm) bears to the total amount of such remaining disputed items so submitted.

(ii) In acting under this Section 2.05, the Sellers' Accountants, the Purchaser's Accountants and the Independent Accounting Firm shall be entitled to the privileges and immunities of arbitrators.

(d) Purchase Price Adjustment. (i) The Closing Balance Sheet shall be deemed final upon the earliest to occur of (A) the Sellers' Representative's failure to notify the Purchaser of a dispute by the 30th Business Day after the Purchaser's delivery of the Closing Balance Sheet to the Sellers' Representative, (B) the resolution of all disputes, pursuant to Section 2.05(c)(i), by the Sellers' Accountants and the Purchaser's Accountants and (C) the resolution of all disputes, pursuant to Section 2.05(c)(ii), by the Independent Accounting Firm.

(ii) If the Net Working Capital reflected on the Estimated Closing Balance Sheet exceeds the Net Working Capital reflected on the Closing Balance Sheet (or is negative by a lesser amount than the Net Working Capital reflected on the Closing Balance Sheet), then the Purchase Price shall be adjusted downward in an amount equal to such excess (or amount by which such Net Working Capital is a lesser negative amount than the Net Working Capital reflected on the Closing Balance Sheet), and within five Business days of the Closing Balance Sheet being deemed final, the Sellers' Representative shall pay the amount of such excess to the Purchaser by wire transfer in immediately available funds. If the Sellers' Representative shall fail to pay the amount of such deficiency within the period specified in the immediately preceding sentence, then the Purchaser may deliver written notice to the Escrow Agent and the Sellers' Representative specifying such amount, and the Escrow Agent shall, within three Business Days of its receipt of such notice and in accordance with the terms of the Escrow Agreement, pay such amount to the Purchaser out of the Escrow Account by wire transfer in immediately available funds. No failure of the Purchaser to deliver a notice of the type specified in the immediately preceding sentence shall relieve the Sellers' Representative of the obligation to pay the amount of such deficiency to the Purchaser.

(iii) If the Net Working Capital reflected on the Estimated Closing Balance Sheet is less than the Net Working Capital reflected on the Closing Balance Sheet (or is negative by a greater amount than the Net Working Capital reflected on the Closing Balance Sheet), then the Purchase Price shall be adjusted upward in an amount equal to such deficiency (or amount by which such Net Working Capital is a greater negative amount than the Net Working Capital reflected on the Closing Balance Sheet), and within five Business days of the Closing Balance Sheet being deemed final, the Purchaser shall pay the amount of such deficiency to the Sellers, in the manner set forth in Section 2.04(a)(i) of the Disclosure Schedule, by wire transfer in immediately available funds to the Purchase Price Bank Accounts.

Section 2.06 Escrow. In accordance with the terms of the Escrow Agreement, on the date hereof the Purchaser shall deposit the Escrow Amount in the Escrow Account. The Escrow Account shall be managed and paid out by the Escrow Agent in accordance with the terms of the Escrow Agreement.

Section 2.07 Withholding. The Purchaser shall be entitled at any time to deduct and withhold from any portion of the Purchase Price otherwise payable pursuant to this Agreement such amounts as Purchaser is required to deduct and withhold and pay over to applicable taxing authorities with respect to the making of such payment under the Code or any applicable provision of state or local Tax Law. To the extent that amounts are so withheld by the Purchaser, the Purchaser shall pay over such amounts to the applicable taxing authorities. To the extent that amounts are so withheld by the Purchaser and paid over to the applicable taxing authority, such amounts shall be treated for all purposes as having been paid to the Sellers.

ARTICLE III

REPRESENTATIONS AND WARRANTIES OF THE SELLERS

As an inducement to the Purchaser to enter into this Agreement, except as set forth in the Disclosure Schedule (each section of which qualifies the correspondingly numbered representation and warranty or covenant herein; provided, that the disclosure of any fact or item in any Section of the Disclosure Schedule shall, should the existence of such factor or item be relevant to any other Section, be deemed to be disclosed with respect to that Section, so long as the relevance of such disclosure to such other Section is reasonably apparent on the face of such disclosure), each of the Sellers hereby, jointly and severally (except with respect to Sections 3.01(b), (c), (d) and (e), pursuant to which each Seller represents and warrants each statement therein only to the extent directly applicable to such Seller), represents and warrants to the Purchaser and the Parent as follows:

Section 3.01 Organization, Authority and Qualification. (a) Each Company is a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation and has all necessary corporate power and authority to own, operate or lease the properties and assets now owned, operated or leased by it and to carry on the Businesses as it has been and is currently conducted. Each Company is duly licensed or qualified to do business and is in good standing in each jurisdiction which the properties owned or leased by it or the operation of any Institution makes such licensing or qualification necessary, except to the extent that the failure to be so licensed or qualified and in good standing would not (i) adversely affect the ability of such Company to carry out its obligations under, and to consummate the transactions contemplated by, this Agreement and the Ancillary Agreements to which it is a party or (ii) otherwise have a Material Adverse Effect. All corporate actions taken by each Company have been duly authorized, and no Company has taken any action that in any respect conflicts with, constitutes a default under, or results in a violation of, any provision of its certificate of incorporation or by-laws. True and correct copies of the certificate of incorporation and by-laws of each Company, each in effect on the date hereof, have been delivered or made available by the Sellers to the Purchaser.

(b) UGPE is a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation and has all necessary corporate power and authority to enter into this Agreement and the Ancillary Agreements to which it is a party, to carry out its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. UGPE is duly licensed or qualified to do business and is in good standing in each jurisdiction which the properties owned or leased by it or the operation of its business makes such licensing or qualification necessary, except to the extent that the failure to be so licensed or qualified and in good standing would not (i) adversely affect the ability of UGPE to carry out its obligations under, and to consummate the transactions contemplated by, this Agreement and the Ancillary Agreements to which it is a party or (ii) otherwise have a Material Adverse Effect. The execution and delivery by UGPE of this Agreement and the Ancillary Agreements to which it is a party, the performance by UGPE of its obligations hereunder and thereunder and the consummation by UGPE of the transactions contemplated hereby and thereby have been duly authorized by all requisite corporate action. This Agreement has been, and upon their execution the Ancillary Agreements to which UGPE is a party shall have been, duly executed and delivered by UGPE and (assuming due authorization, execution and delivery by the other parties hereto and thereto) this Agreement constitutes, and upon their execution such Ancillary Agreements shall constitute, legal, valid and binding obligations of UGPE, enforceable against UGPE in accordance with their respective terms, except as the same may be limited by applicable bankruptcy, insolvency (including all laws relating to fraudulent transfers), reorganization, moratorium or similar laws affecting creditors' rights generally, now or hereafter in effect, and subject to the effect of general principles of equity (regardless of whether considered in a proceeding at law or in equity).

(c) UGP is a limited liability company duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation and has all necessary limited liability company power and authority to enter into this Agreement and the Ancillary Agreements to which it is a party, to carry out its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. UGP is duly licensed or qualified to do business and is in good standing in each jurisdiction which the properties owned or leased by it or the operation of its business makes such licensing or qualification necessary, except to the extent that the failure to be so licensed or qualified and in good standing would not (i) adversely affect the ability of UGP to carry out its obligations under, and to consummate the transactions contemplated by, this Agreement and the Ancillary Agreements to which it is a party or (ii) otherwise have a Material Adverse Effect. The execution and delivery by UGP of this Agreement and the Ancillary Agreements to which it is a party, the performance by UGP of its obligations hereunder and thereunder and the consummation by UGP of the transactions contemplated hereby and thereby have been duly authorized by all requisite action on the part of UGP and its members. This Agreement has been, and upon their execution the Ancillary Agreements to which UGP is a party shall have been, duly executed and delivered by UGP and (assuming due authorization, execution and delivery by the other parties hereto and thereto) this Agreement constitutes, and upon their execution such Ancillary Agreements shall constitute, legal, valid and binding obligations of UGP, enforceable against UGP in accordance with their respective terms, except as the same may be limited by applicable bankruptcy, insolvency (including all laws relating to fraudulent transfers), reorganization, moratorium or similar laws affecting creditors' rights generally, now or hereafter in effect, and subject to the effect of general principles of equity (regardless of whether considered in a proceeding at law or in equity).

(d) Merion is a limited partnership duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation and has all necessary power and authority to enter into this Agreement and the Ancillary Agreements to which it is a party, to carry out its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. Merion is duly licensed or qualified to do business and is in good standing in each jurisdiction which the properties owned or leased by it or the operation of its business makes such licensing or qualification necessary, except to the extent that the failure to be so licensed or qualified and in good standing would not (i) adversely affect the ability of Merion to carry out its obligations under, and to consummate the transactions contemplated by, this Agreement and the Ancillary Agreements to which Merion is a party or (ii) otherwise have a Material Adverse Effect. The execution and delivery by Merion of this Agreement and the Ancillary Agreements to which Merion is a party, the performance by Merion of its obligations hereunder and thereunder and the consummation by Merion of the transactions contemplated hereby and thereby have been duly authorized by all requisite action on the part of Merion and its partners. This Agreement has been, and upon their execution the Ancillary Agreements to which Merion is a party shall have been, duly executed and delivered by Merion, and (assuming due authorization, execution and delivery by the other parties hereto and thereto) this Agreement constitutes, and upon their execution such Ancillary Agreements shall constitute, legal, valid and binding obligations of Merion, enforceable against Merion in accordance with their respective terms, except as the same may be limited by applicable bankruptcy, insolvency (including all laws relating to fraudulent transfers), reorganization, moratorium or similar laws affecting creditors' rights generally, now or hereafter in effect, and subject to the effect of general principles of equity (regardless of whether considered in a proceeding at law or in equity).

(e) Each of Baran and Barbara Baran is an individual and has all requisite right, power and authority and full legal capacity to execute and deliver this Agreement and the Ancillary Agreements to which Baran or Barbara Baran is a party, to perform his or her obligations hereunder and thereunder, and to consummate the transactions contemplated hereby and thereby. This Agreement has been, and upon his execution the Ancillary Agreements to which Baran or Barbara Baran is a party will be, duly and validly executed and delivered by Baran or Barbara Baran, as the case may be, and (assuming due authorization, execution and delivery by the other parties hereto and thereto) this Agreement constitutes, and upon their execution such Ancillary Agreements shall constitute, legal, valid and binding obligations of Baran or Barbara Baran, enforceable against Baran or Barbara Baran in accordance with their respective terms, except as the same may be limited by applicable bankruptcy, insolvency (including all laws relating to fraudulent transfers), reorganization, moratorium or similar laws affecting creditors' rights generally, now or hereafter in effect, and subject to the effect of general principles of equity (regardless of whether considered in a proceeding at law or in equity).

Section 3.02 Subsidiaries. (a) Section 3.02(a) of the Disclosure Schedule sets forth for each Subsidiary its name, type of entity, the jurisdiction and date of its incorporation or organization, its authorized capital stock, partnership capital or equivalent, the number and type of its issued and outstanding shares of capital stock, partnership interests or similar ownership interests and the current ownership of such shares, partnership interests or similar ownership interests.

(b) Except as set forth on Section 3.02(b) of the Disclosure Schedule, other than the Subsidiaries, there are no other corporations, partnerships, joint ventures, associations or other entities in which any Company or Subsidiary owns, of record or beneficially, any direct or indirect equity or other interest or any right (contingent or otherwise) to acquire the same. Other than the Subsidiaries, no Company or Subsidiary is a member of (nor is any part of any Business conducted through) any partnership and no Company or Subsidiary is a participant in any joint venture or similar arrangement.

(c) Each Subsidiary that is a corporation: (i) is a corporation duly organized, validly existing and in good standing under the laws of its jurisdiction of incorporation, (ii) has all necessary power and authority to own, operate or lease the properties and assets owned, operated or leased by such Subsidiary and to carry on its business as it has been and is currently conducted by such Subsidiary and (iii) is duly licensed or qualified to do business and is in good standing in each jurisdiction in which the properties owned or leased by it or the operation of its business makes such licensing or qualification necessary, except to the extent that the failure to be so licensed or qualified and in good standing would not (x) adversely affect the ability of the Sellers to carry out their obligations under, and to consummate the transactions contemplated by, this Agreement and the Ancillary Agreements or (y) otherwise have a Material Adverse Effect. Each Subsidiary that is not a corporation: (i) is duly organized, validly existing and in good standing under the laws of its jurisdiction of organization, (ii) has all necessary power and authority to own, operate or lease the properties and assets owned, operated or leased by such Subsidiary and to carry on its business as it has been and is currently conducted by such Subsidiary and (iii) is duly licensed or qualified to do business and is in good standing in each jurisdiction in which the properties owned or leased by it or the operation of its business makes such licensing or qualification necessary, except to the extent that the failure to be so licensed or qualified and in good standing would not (x) adversely affect the ability of the Sellers to carry out their obligations under, and to consummate the transactions contemplated by, this Agreement and the Ancillary Agreements or (y) otherwise have a Material Adverse Effect.

(d) All corporate or other actions taken by each Subsidiary have been duly authorized and no Subsidiary has taken any action that in any respect conflicts with, constitutes a default under, or results in a violation of any provision of its certificate of incorporation or by-laws (or similar organizational documents). True and complete copies of the certificate of incorporation and by-laws (or similar organizational documents), in each case as in effect on the date hereof, of each Subsidiary have been delivered or made available by the Sellers to the Purchaser.

Section 3.03 Capitalization. (a) The authorized capital stock or other ownership interests of each Company is set forth in Section 3.03(a) of the Disclosure Schedule. All of the issued and outstanding shares of capital stock or other ownership interests of each Company are duly authorized, validly issued, fully paid and nonassessable. None of the issued and outstanding Shares or HUV Interests were issued in violation of any preemptive rights. Except as set forth in Section 3.03(a) of the Disclosure Schedule, there are no options, warrants, convertible securities or other rights, agreements, arrangements or commitments of any character relating to the Shares, the HUV Interests or obligating any Seller or any Company to issue or sell any Shares or HUV Interests, or any other interest in, any Company. There are no outstanding contractual obligations of BIT or HUV to repurchase, redeem or otherwise acquire any shares of BIT Common Stock or any HUV Interests, respectively, or to provide funds to, or make any investment (in the form of a loan, capital contribution or otherwise) in, any other Person. The Shares and the HUV Interests constitute all of the issued and outstanding capital stock or other ownership interests of the Companies and are owned of record and beneficially by the Sellers as set forth in Section 3.03(a) of the Disclosure Schedule free and clear of all Encumbrances, other than Permitted Encumbrances. The Preferred Stock set forth in Section 3.03(a) of the Disclosure Schedule shall have been redeemed as of the date hereof. Upon consummation of the transactions contemplated by this Agreement and registration of the Shares and the HUV Interests in the name of the Purchaser in the stock or other records of the Companies, the Purchaser, assuming it shall have purchased the Shares and the HUV Interests for value in good faith and without notice of any adverse claim, will own all the issued and outstanding capital stock or other ownership interests of each Company free and clear of all Encumbrances, other than Permitted Encumbrances. Upon consummation of the transactions contemplated by this Agreement, the Shares and the HUV Interests will be fully paid and nonassessable. There are no voting trusts, stockholder agreements, proxies or other agreements or understandings in effect with respect to the voting or transfer of any of the Shares or the HUV Interests.

(b) The stock or other register of each Company accurately records: (i) the name and address of each Person owning shares of capital stock or other ownership interests of such Company and (ii) the certificate number of each certificate evidencing shares of capital stock or other ownership interests issued by such Company, the number of shares or other ownership interests evidenced by each such certificate, the date of issuance thereof and, in the case of cancellation, the date of cancellation.

(c) All the outstanding shares of capital stock of each Subsidiary that is a corporation are validly issued, fully paid, nonassessable and, except with respect to wholly owned Subsidiaries, free of preemptive rights and are owned by BIT, whether directly or indirectly, free and clear of all Encumbrances, other than Permitted Encumbrances. There are no options, warrants, convertible securities or other rights, agreements, arrangements or commitments of any character relating to the capital stock of any Subsidiary or obligating any Seller, any Company or any Subsidiary to issue or sell any shares of capital stock of, or any other interest in, any Subsidiary. Except as set forth on Section 3.03(c) of the Disclosure Schedule, there are no voting trusts, stockholder agreements, proxies or other agreements or understandings in effect with respect to the voting or transfer of any shares of capital stock of or any other interests in any Subsidiary.

(d) The stock or other register of each Subsidiary accurately records: (i) the name and address of each Person owning shares of capital stock or other ownership interests of such Subsidiary and (ii) the certificate number of each certificate evidencing shares of capital stock or other ownership interests issued by such Subsidiary, the number of shares or other ownership interests evidenced by each such certificate, the date of issuance thereof and, in the case of cancellation, the date of cancellation.

Section 3.04 No Conflict. Assuming that all consents, approvals, authorizations filings, notifications and other actions described in Section 3.04 and Section 3.05 of the Disclosure Schedule have been obtained or made, the execution, delivery and performance by any Seller of this Agreement and the Ancillary Agreements to which any Seller is a party do not and will not (a) violate, conflict with or result in the breach of any provision of the certificate of incorporation or by-laws of any Seller, Company or Subsidiary, (b) conflict with or violate (or cause an event that could have a Material Adverse Effect as a result of) any Law or Governmental Order applicable to any Seller, Company or Subsidiary or any of their respective assets, properties or businesses or (c) conflict with, result in any breach of, constitute a default (or event that with the giving of notice or lapse of time, or both, would become a default) under, require any consent under, or give to others any rights of termination, amendment, acceleration, suspension, revocation or cancellation of, or result in the creation of any Encumbrance, other than Permitted Encumbrances, on any of the Shares, the HUV Interests or the Assets pursuant to, any note, bond, mortgage or indenture, contract, agreement, lease, sublease, license, permit, franchise or other instrument or arrangement to which or any Seller, Company or Subsidiary is a party or by which any of the Shares, the HUV Interests or the Assets is bound or affected, except, in the case of this clause (c), to the extent that such conflicts, breaches, defaults or other matters would not (i) adversely affect the ability of any Seller, Company or Subsidiary to carry out its or his obligations under, and to consummate the transactions contemplated by, this Agreement and the Ancillary Agreements to which such Seller, Company or Subsidiary is a party or (ii) otherwise have a Material Adverse Effect.

Section 3.05 Governmental Consents and Approvals. Except for the consents, approvals and notifications that must be obtained or given prior to the Closing as set forth on Section 3.05 of the Disclosure Schedule (the "Required Consents"), the execution, delivery and performance by each Seller of this Agreement and each Ancillary Agreement to which the such Seller is a party, as the case may be, do not and will not require any consent, approval, authorization or other order of, action by, filing with or notification to, any Governmental Authority or Educational Agency. To the Knowledge of the Sellers, there is no reason why all the Required Consents will not be received.

Section 3.06 Financial Information; Books and Records; No Undisclosed Liabilities. (a) True and complete copies of (i) the audited consolidated balance sheet of the Companies and Clemens as of December 31, 2007, and the related audited consolidated statements of income, retained earnings, shareholders' equity and changes in financial position of the Companies and Clemens, together with all related notes and schedules thereto, accompanied by the reports thereon, if any, of the Sellers' Accountants (collectively referred to herein as the "Audited Financial Statements") and (ii) the unaudited consolidated balance sheet of the Companies and Clemens for the nine-month period ending September 30, 2008 and the related consolidated financial statements of Companies and Clemens, together with all related notes and schedules thereto (collectively referred to herein as the "Interim Financial Statements") have been delivered or made available by the Sellers to the Purchaser. The Audited Financial Statements and the Interim Financial Statements are hereinafter collectively referred to as the "Financial Statements". The Financial Statements (A) were prepared in accordance with the books of account and other financial records of Clemens, the Companies and the Subsidiaries, (B) present fairly, in all material respects, the financial condition and results of operations of Clemens, the Companies and the Subsidiaries as of the dates thereof or for the period covered thereby (subject, in the case of the Interim Financial Statements, to normal year-end adjustments), (C) have been prepared in accordance with GAAP and GAGAS, on a basis consistent with the Accounting Principles and the past practices of Clemens, the Companies and the Subsidiaries, and (D) include all adjustments (consisting only of normal recurring accruals) that are necessary for a fair presentation in all material respects of the financial condition of Clemens, the Companies and the Subsidiaries and the results of the operations of Clemens, the Companies and the Subsidiaries as of the dates thereof or for the period covered thereby.

(b) The books of account and other financial records of the Companies and the Subsidiaries: (i) reflect all items of income and expense and all assets and Liabilities required to be reflected therein in accordance with GAAP applied on a basis consistent with the past practices of the Companies and the Subsidiaries, respectively, (ii) are in all material respects complete and correct, and do not contain or reflect any material inaccuracies or discrepancies and (iii) have been maintained in accordance with good business and accounting practices.

(c) The minute books of the Companies and the Subsidiaries reflecting records of actions taken by the shareholders or members, boards of directors/managers and all committees of the boards of directors/managers of the Companies and the Subsidiaries have been provided or made available to the Purchaser and are complete and accurate in all material respects.

(d) The Companies and the Subsidiaries have established and maintain a system of internal accounting controls ("Internal Controls") sufficient to comply with all legal and accounting requirements applicable to the Companies, the Subsidiaries and the Institutions and to provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP and GAGAS, subject to the adjustments set forth in the Accounting Principles. Except as set forth in Section 3.06(d) of the Disclosure Schedule, there are no significant deficiencies or material weaknesses in the design or operation of such Internal Controls, and the Companies and the Subsidiaries have not been advised by any independent auditor or other third party that any such significant deficiency or material weakness in such Internal Controls exists or existed. Except as set forth in Section 3.06(d) of the Disclosure Schedule, no Company or any Subsidiary nor any of their respective directors, officers, employees, auditors, accountants or representatives has received or otherwise had or obtained knowledge of any complaint, allegation, assertion or claim, whether written or oral, regarding the accounting or auditing practices, procedures, methodologies or methods of the Companies and the Subsidiaries or their respective Internal Controls, including any complaint, allegation, assertion or claim that the Companies and the Subsidiaries have engaged in questionable financial reporting, accounting or auditing practices. There has not been any fraud, whether or not material, that involves management or other employees who have a significant role in the Internal Controls or, to the Knowledge of the Sellers, any allegations or investigations of any such fraud.

(e) There are no Liabilities of the Companies and the Subsidiaries, other than Liabilities (i) reflected or reserved against in the Financial Statements, (ii) set forth in Section 3.06(e) of the Disclosure Schedule, or (iii) incurred since September 30, 2008 in the ordinary course of business, consistent with the past practice of the Companies and the Subsidiaries and which do not and could not have a Material Adverse Effect.

Section 3.07 Receivables. Set forth in Section 3.07 of the Disclosure Schedule is an aged list of the Receivables as of September 30, 2008. All Receivables arising from the date thereof until the Closing have or will have arisen in the ordinary course of business from bona fide transactions and constitute or will constitute only valid, undisputed claims of any Company, Subsidiary or Institution, and no valid claims of setoff or other defenses or counterclaims have been formally asserted with respect thereto, other than normal cash discounts accrued in the ordinary course of business consistent with the past practices of the Companies and the Subsidiaries or as reserved for in the Financial Statements.

Section 3.08 Conduct in the Ordinary Course; Absence of Certain Changes, Events and Conditions. Since December 31, 2007, the Businesses have been conducted in the ordinary course consistent with past practice. As amplification and not limitation of the foregoing, since such date, except as set forth in Section 3.08 of the Disclosure Schedule, no Company, Subsidiary or Institution has:

(a) permitted or allowed any of the Assets to be subjected in any material respect to any Encumbrance, other than Permitted Encumbrances and Encumbrances that will be released at or prior to the Closing;

(b) except in the ordinary course of business consistent with past practice, discharged or otherwise obtained the release of any Encumbrance related to any Company or Subsidiary, or paid or otherwise discharged any material Liability related to any Company or Subsidiary, other than current liabilities incurred in the ordinary course of business consistent with past practice;

(c) written down or written up in any material respect (or failed to write down or write up in accordance with accounting methods consistent with past practice) the value of any Inventory or Receivables or revalued in any material respect any of the Assets other than in the ordinary course of business consistent with past practices and in accordance with GAAP;

(d) made any change in any method of accounting or accounting practice or policy used by any Company or Subsidiary, other than such changes required by GAAP;

(e) amended, terminated, cancelled or compromised any material claims of any Company or Subsidiary or waived any other rights of material value to any Company or Subsidiary;

(f) sold, transferred, leased, subleased or licensed to any Person, or abandoned or otherwise disposed of any properties or assets, real, personal or mixed (including leasehold interests and intangible property) of the Businesses other than in the ordinary course of business consistent with past practice;

(g) redeemed any of the capital stock or declared, made or paid any dividends or distributions (whether in cash, securities or other property) to the holder(s) of capital stock of any Company or Subsidiary with respect to such capital stock;

(h) merged with, entered into a consolidation with or acquired an interest of 5% or more in any Person or acquired a substantial portion of the assets or business of any Person or any division or line of business thereof, or otherwise acquired any material assets other than in the ordinary course of business consistent with past practice;

(i) made any capital expenditure or commitment for any capital expenditure in excess of $60,000 individually or $150,000 in the aggregate;

(j) issued any sales orders or otherwise agreed to make any purchases involving exchanges in value in excess of $35,000 individually or $100,000 in the aggregate;

(k) incurred any Indebtedness in excess of $25,000 individually or $100,000 in the aggregate;

(l) made any loan to, guaranteed any Indebtedness of, or otherwise incurred any Indebtedness on behalf of, any Person;

(m) failed to pay any creditor any material amount owed to such creditor when due;

(n) (i) granted or announced any increase in the wages, salaries, compensation, bonuses, incentives, pension or other benefits payable by any Company or Subsidiary to any of its employees, including any increase or change pursuant to any Plan, or (ii) established or increased or promised to increase any benefits under any Plan in either case, except as required by Law or involving ordinary increases consistent with the past practices of the Companies and the Subsidiaries;

(o) entered into any agreement, arrangement or transaction with any directors, managers, officers, employees, consultants, stockholders or members any Company, Subsidiary or Institution (or with any relative, beneficiary, spouse or Affiliate thereof);

(p) entered into any agreement, arrangement or transaction with any Person or Governmental Authority providing for the furnishing of services by any Company, Subsidiary or Institution at a discount to rates or tuition amounts charged by such Company, Subsidiary or Institution as of December 31, 2007;

(q) terminated, discontinued, closed or disposed of any facility or other business operation, or laid off any employees (other than layoffs of fewer than 50 employees in any six-month period in the ordinary course of business consistent with past practice) or implemented any early retirement, separation or other program providing early retirement window benefits within the meaning of Section 1.401(a)-4 of the Treasury Regulations or announced or planned any such action or program for the future;

(r) allowed any permit required of any Company, Subsidiary or Institution by any Governmental Authority or any Environmental Permit in connection with the ownership or operation of the Businesses and the Institutions to lapse or terminate or failed to renew any insurance policy or any such permit or Environmental Permit that is scheduled to terminate or expire within 45 calendar days of the Closing Date;

(s) failed to maintain each Company's, Subsidiary's and Institution's buildings, property and equipment in good repair and operating condition, ordinary wear and tear excepted;

(t) suffered any casualty loss or damage with respect to any of the Assets which in the aggregate have a replacement cost of more than $50,000, whether or not such loss or damage shall have been covered by insurance;

(u) amended or modified or consented to the termination of any Material Contract or any Company's, Subsidiary's or Institution's rights thereunder;

(v) made any material charitable contribution;

(w) suffered any Material Adverse Effect;

(x) agreed, whether in writing or otherwise, to take any of the actions specified in this Section 3.08, or granted any options to purchase, rights of first refusal, rights of first offer or any similar rights or commitments with respect to any of the actions specified in this Section 3.08, except as expressly contemplated by this Agreement and the Ancillary Agreements;

(y) failed to comply in any material respect with or remain in material compliance with any Educational Law applicable to such Company, Subsidiary, Institution, or the Businesses, or to maintain in full force and effect any Educational Approval necessary for the Businesses' and the Institution's existing operations and such Company or Subsidiary has not received written notice from any Educational Agency of any such failure;

(z) unless required by applicable Law, made any material change in any of its established practices or procedures for complying with any Educational Law;

(aa) made, changed or revoked any material Tax election or settled or compromised any Tax liability or consented to any claim or assessment relating to Taxes or any waiver of the statute of limitations for any such claim or assessment, in each case, with respect to the Assets or any Company or Subsidiary; or

(bb) not shortened or lengthened the customary payment cycles for any of its payables or receivables.

Section 3.09 Litigation. Except as set forth in Section 3.09 of the Disclosure Schedule, there are no Actions, Claims or Educational Claims by or against any Company, Subsidiary or Institution (or by or against any Seller or any Affiliate thereof and relating to the Businesses, the Companies, the Subsidiaries or the Institutions) or affecting any of the Assets or the Businesses pending before any Governmental Authority or Educational Agency (nor, to the Knowledge of the Sellers, threatened to be brought by or before any Governmental Authority or Educational Agency). Timely claims for insurance with respect to all such Actions, Claims and Educational Claims set forth in Section 3.09 of the Disclosure Schedule have been submitted by or on behalf of the applicable Company, Subsidiary or Institution. None of the Sellers, Companies, Subsidiaries or Institutions nor any of their respective assets and properties, including the Assets, is subject to any Governmental Order or order of any Educational Agency (nor, to the Knowledge of the Sellers, are any Governmental Orders or orders of any Educational Agency threatened to be imposed) that has or has had a Material Adverse Effect or could affect the legality, validity or enforceability of this Agreement, any Ancillary Agreement or the consummation of the transactions contemplated hereby or thereby.

Section 3.10 Compliance with Laws. (a) The Companies, the Subsidiaries and the Institutions have conducted and continue to conduct the Businesses in accordance in all material respects with all Laws (excluding Educational Laws) and Governmental Orders applicable to the Companies, the Subsidiaries and the Institutions or the Assets, and no Company, Subsidiary or Institution is in violation in any material respect of any such Law or Governmental Order. No Company, Subsidiary or Institution has, in the last three years, received any written communication from any Governmental Authority alleging that such Company, Subsidiary or Institution is not in compliance in any material respect with any Law or Governmental Order that has not been resolved.

(b) Section 3.10(b) of the Disclosure Schedule sets forth a brief description of each Governmental Order applicable to the Companies, the Subsidiaries, the Institutions or the Assets, and no such Governmental Order has or has had a Material Adverse Effect or could affect the legality, validity or enforceability of this Agreement, any Ancillary Agreement or the consummation of the transactions contemplated hereby or thereby.

Section 3.11 Environmental and Other Permits and Licenses; Related Matters. Except as set forth on Section 3.11(b)(ii) and (c) of the Disclosure Schedule:

(a) Each Company, Subsidiary and Institution is in compliance in all material respects with all applicable Environmental Laws. Each Company, Subsidiary and Institution has all material Environmental Permits required under Environmental Law, all such permits are in full force and effect and each Company, Subsidiary and Institution is in material compliance therewith.

(b) There has been no Release of any Hazardous Material (i) by any Company, Subsidiary or Institution, (ii) to the Knowledge of the Sellers, on the Real Property, (iii) to the Knowledge of the Sellers, on any property formerly leased, used or occupied by any Company, Subsidiary or Institution during the period of any Company's, Subsidiary's or Institutions' lease, use or occupancy thereof, or (iv) on any property formerly owned by any Company, Subsidiary or Institution during the period of any Company's, Subsidiary's or Institution's ownership thereof, in the case of (i), (ii), (iii) and (iv), that requires any Remedial Action.

(c) There are no Environmental Claims pending (or, to the Knowledge of the Sellers, threatened) against any Company, Subsidiary or Institution, and there are no circumstances that can reasonably be expected to form the basis of any such Environmental Claim, including, to the Knowledge of the Sellers, with respect to any off-site disposal location currently or formerly used by any Company, Subsidiary or Institution or any of its predecessors or with respect to previously owned or operated facilities.

(d) No Company or Subsidiary is conducting, or has undertaken or completed or funded, any Remedial Action relating to any Release or threatened Release of any Hazardous Material at the Real Property or at any other site, location or operation, either voluntarily or pursuant to the order of any Governmental Authority or the requirements of any Environmental Law or Environmental Permit.

(e) To the Knowledge of the Sellers, there is no asbestos or asbestos-containing material on any of the Real Property that requires abatement, removal or encapsulation pursuant to Environmental Law.

(f) None of the Real Property is listed or proposed for listing, nor to the Knowledge of the Sellers does the Real Property adjoin any other property that is listed or proposed for listing, on the National Priorities List or CERCLIS or on any analogous federal, state or local list.

(g) To the Knowledge of the Sellers, there are no wetlands or any areas subject to any legal requirement or restriction in any way related to wetlands (including requirements or restrictions related to buffer or transition areas or open waters) at or affecting the Real Property.

(h) The Sellers have provided or made available to the Purchaser copies of (i) any environmental assessment or audit reports or other similar studies or analyses relating to the Businesses, the Real Property or the Companies or the Subsidiaries in their possession, and (ii) all insurance policies issued at any time that may provide coverage to any Company, Subsidiary or Institution for environmental matters.

(i) There are no underground storage tanks, surface impoundments, septic tanks, pits, sumps or lagoons in which Hazardous Materials are being or have been treated, stored or disposed on the Real Property by the Sellers.

(j) Except with respect to the property located at 97 Newberry Road, East Windsor, Connecticut, neither the execution of this Agreement or the Ancillary Agreements nor the consummation of the transactions contemplated hereby or thereby will require any Remedial Action or notice to or consent of any Governmental Authority or third party pursuant to any applicable Environmental Law or Environmental Permit.

(k) Except with respect to Section 3.05 and Section 3.08, the representations set forth in this Section 3.11 are the only representations with respect to environmental matters.

Section 3.12 No Preferential Rights. There is no contract, agreement or other arrangement granting any Person any preferential right to purchase any of the Assets (other than in the ordinary course of business consistent with past practice), or any of the Shares or the HUV Interests.

Section 3.13 Material Contracts. (a) Section 3.13(a) of the Disclosure Schedule lists each of the following types of contracts and agreements (including oral agreements) of each Company, Subsidiary and Institution (such contracts and agreements, together with all contracts, agreements, leases and subleases concerning the use, occupancy, management or operation of any Leased Real Property (including all contracts, agreements, leases and subleases relating to Intellectual Property and all contracts, agreements, leases and subleases relating to Tangible Personal Property), being "Material Contracts"):

(i) each contract or agreement, or related series of agreements, that cannot be cancelled by a Company, Subsidiary or Institution on 30 days' notice or less without penalty or further payment and under the terms of which such Company, Subsidiary or Institution: (A) is likely to pay or otherwise give consideration of more than $25,000 in the aggregate during the calendar year ended December 31, 2009; (B) is likely to pay or otherwise give consideration of more than $50,000 in the aggregate over the remaining term of such contract; (C) is reasonably likely to be entitled to receive consideration of more than $25,000 in the aggregate during the calendar year ended December 31, 2009; or (D) is likely to be entitled to receive consideration of more than $50,000 in the aggregate over the remaining term of the contract;

(ii) all advertising agency, sales promotion, market research, marketing, web site creation and maintenance, consulting and advertising contracts and agreements to which any Company, Subsidiary or Institution is a party and involving the payment of consideration of more than $25,000 in the aggregate;

(iii) all management contracts and contracts with independent contractors or consultants (or similar arrangements) to which any Company, Subsidiary or Institution is a party and that are not cancelable without penalty or further payment and without more than 30 days' notice;

(iv) all contracts and agreements relating to Indebtedness of any Company, Subsidiary or Institution;

(v) all contracts and agreements between any Company, Subsidiary or Institution, on the one hand, and any Educational Agency, on the other hand, but excluding any Educational Approval;

(vi) all contracts and agreements that limit or purport to limit the ability of any Company, Subsidiary or Institution to compete in any line of business or with any Person or in any geographic area or during any period of time;

(vii) all contracts and agreement between any Company, Subsidiary or Institution, on the one hand, and any Seller or any Affiliate of any Seller (other than Clemens, a Company, Subsidiary or Institution), on the other hand;

(viii) all contracts and agreements between any Company, Subsidiary or Institution, on the one hand, and any of its respective directors, managers, officers, employees, stockholders or members (or any relative, beneficiary, spouse or Affiliate thereof), on the other hand, other than any oral contracts of employment terminable on no more than 30 days' notice without penalty or further payment obligation;

(ix) all material contracts, agreements and leases relating to the use, occupancy, management or operation of the Leased Real Property;

(x) all material agreements included in the Companies IP Licenses (and exclusive of any agreements or licenses included in the Companies IP Licenses that arise from the purchase of any commercially available "off-the-shelf" computer software products that are not material to the Businesses, or any other "shrink-wrap" or "click-wrap" licenses or agreements that are included in the Companies IP Licenses and that are not material to the Businesses);

(xi) all agreements regarding any special pricing, discount or reduced tuition arrangement including agreements providing for tuition or pricing that is materially inconsistent with the tuition reflected in the enrollment agreements, catalogs, and other written materials of any Company, Subsidiary or Institution disseminated to students and prospective students;

(xii) all joint venture, community college, partnership or similar agreements involving a sharing of profits, losses, costs or liabilities with any other Person;

(xiii) all agreements with any Third-Party Servicer, as that term is defined in 34 C.F.R. § 668.2;

(xiv) all agreements in existence since the Compliance Date under which any Company, Subsidiary or Institution provides or has provided educational instruction on behalf of any other institution or organization, or another institution provides or has provided educational instruction on behalf of any Company, Subsidiary or Institution, including all consortium, contractual, internship, externship or articulation agreements;

(xv) all agreements respecting the funding of student scholarships;

(xvi) all agreements under which any Company, Subsidiary or Institution is a lender;

(xvii) all agreements for the sale of tuition receivables;

(xviii) all marketing agreements and agreements for student recruiting and retention services (other than agreements with employees of Clemens or any Company, Subsidiary or Institution);

(xix) all agreements by which any Company, Subsidiary or Institution provides or facilitates scholarships or grants;

(xx) all agreements by which any Company, Subsidiary or Institution provides private capital loans to students attending any Institution;

(xxi) all agreements for student recruiting services whether entered into with an employee or with third parties;

(xxii) all amendments, supplements, and modifications (whether oral or written) in respect of any of the foregoing; and

(xxiii) all other contracts and agreements, whether or not made in the ordinary course of business, the absence of which would have a Material Adverse Effect.

For purposes of this Agreement, the term "lease" shall include any and all leases, subleases, sale/leaseback agreements or similar arrangements.

(b) Except as set forth in Section 3.13(b) of the Disclosure Schedule, each Material Contract: (i) is valid and binding on the Seller, Company, Institution or Subsidiary that is a party thereto and, to the Knowledge of Sellers, on the other parties thereto and is in full force and effect, (ii) does not require consent, approval or notice to any third party as a result of the transactions contemplated by this Agreement and the Ancillary Agreements, and (iii) assuming receipt of the Required Consents, upon consummation of the transactions contemplated by this Agreement and the Ancillary Agreements shall continue in full force and effect without penalty or other adverse consequence. No Company, Subsidiary or Institution is in breach of, or default under, any Material Contract and no Company, Subsidiary or Institution has received written notice from any third party to any Material Contract alleging or asserting any such breach or default or any notice of termination or cancellation thereof.

(c) To the Knowledge of the Sellers, no other party to any Material Contract is in material breach thereof or default thereunder, and no Company, Subsidiary or Institution has given any notice of termination, cancellation, breach or default under any Material Contract.

(d) The Sellers have made available to the Purchaser true and complete copies of all written Material Contracts and has provided to the Purchaser a summary of all oral Material Contracts (if any).

Section 3.14 Intellectual Property. (a) Section 3.14(a) of the Disclosure Schedule sets forth a true and complete list of (i) all patents and patent applications, registered trademarks and trademark applications, registered copyrights and copyright applications, and domain names included in the Owned Intellectual Property, if any (ii) all Companies IP Licenses, other than commercially available off-the-shelf computer software products licensed pursuant to shrink-wrap or click-wrap licenses that are not material to the Businesses or any other "shrink-wrap" or "click-wrap" licenses or agreements that are included in the Companies IP Licenses and that are not material to the Businesses, if any, and (iii) any other Owned Intellectual Property material to the Businesses.

(b) The conduct of the Businesses as currently conducted does not infringe, misappropriate, or otherwise violate the Intellectual Property of any third party, and no Claim has been asserted that the conduct of the Businesses as currently conducted infringes, misappropriates or otherwise violates the Intellectual Property of any third party. With respect to each item of Owned Intellectual Property, a Company or Subsidiary is the exclusive owner of the entire right, title and interest in and to such Intellectual Property free and clear of any Encumbrances, other than Permitted Encumbrances, and is entitled to use such Intellectual Property on an unrestricted basis in the continued operation of the Businesses. With respect to each item of Licensed Intellectual Property a Company or Subsidiary has the right to use such Intellectual Property in the continued operation of the Businesses in accordance with the terms of the Companies IP Licenses governing such Intellectual Property.

(c) Except as set forth in Section 3.14(c) of the Disclosure Schedule, to the Knowledge of the Sellers, no Person is engaging in any activity that infringes, dilutes, misappropriates, or otherwise violates the Owned Intellectual Property. Each Companies IP License is valid and enforceable, is binding on a Company, Institution or Subsidiary and, to the Knowledge of the Sellers, on the other parties thereto, is in full force and effect, and no party to any Companies IP License is in material breach thereof or default thereunder.

Section 3.15 Real Property. (a) No Company or Subsidiary holds title to any Owned Real Property.

(b) Section 3.15(b) of the Disclosure Schedule lists: (i) the street address of each parcel of Leased Real Property and (ii) the identity of the lessor, lessee and current occupant (if different from lessee) of each such parcel of Leased Real Property.

(c) There is no material violation of any Law (including any building, planning or zoning law) relating to any of the Real Property. The Sellers have made available to the Purchaser true, legible and complete copies of each deed for each parcel of Leased Real Property and all the title insurance policies, title reports, surveys, certificates of occupancy, environmental reports and audits, appraisals, permits, other Encumbrances, title documents and other documents relating to or otherwise affecting the Real Property, the operations of any Company, Subsidiary or Institution thereon or any other uses thereof. A Company, Subsidiary or Institution is in peaceful and undisturbed possession of each parcel of Real Property, and there are no contractual or legal restrictions that preclude or restrict the ability to use the Real Property for the purposes for which it is currently being used. All existing water, sewer, steam, gas, electricity, telephone, cable, fiber optic cable, Internet access and other utilities required for the construction, use, occupancy, operation and maintenance of the Real Property are adequate for the conduct of the Businesses as they have been and currently are conducted. There are no material latent defects or material adverse physical conditions affecting the Real Property or any of the facilities, buildings, structures, erections, improvements, fixtures, fixed assets and personalty of a permanent nature annexed, affixed or attached to, located on or forming part of the Real Property. No Company, Subsidiary or Institution has leased any parcel or any portion of any parcel of Real Property to any other Person and no other Person has any rights to the use, occupancy or enjoyment thereof pursuant to any lease, license, occupancy or other agreement, nor have the Sellers assigned its interest under any lease listed in Section 3.15(b) of the Disclosure Schedule to any third party.

(d) Section 3.15(d) of the Disclosure Schedule sets forth a true and complete list of all leases relating to the Leased Real Property and any and all ancillary documents (the "Ancillary Lease Documents") pertaining thereto (including all amendments, modifications, supplements, exhibits, schedules, addenda and restatements thereto and thereof and all consents, including consents for alterations, assignments and sublets, documents recording variations, memoranda of lease, options, rights of expansion, extension, first refusal and first offer and evidence of commencement dates and expiration dates). Except as set forth in Section 3.15(d) of the Disclosure Schedule, with respect to each of such leases, no Company, Subsidiary or Institution has exercised or given any notice of exercise of, nor has any lessor or landlord exercised or received any notice of exercise by a lessor or landlord of, any option, right of first offer or right of first refusal contained in any such lease or sublease, including any such option or right pertaining to purchase, expansion, renewal, extension or relocation (collectively, "Options").

(e) The interests of the Companies, Subsidiaries and Institutions in the Leased Real Property to be transferred pursuant to this Agreement are sufficient in all material respects for the continued conduct of the Businesses after the Closing in substantially the same manner as conducted prior to the Closing.

(f) There are no condemnation proceedings or eminent domain proceedings of any kind pending or, to the Knowledge of the Sellers, threatened against the Leased Real Property.

(g) (i) All the Leased Real Property is occupied under a valid and current certificate of occupancy or similar permit, (ii) the transactions contemplated by this Agreement and the Ancillary Agreements will not require the issuance of any new or amended certificate of occupancy, and (iii) to the Knowledge of the Sellers, there are no facts that would prevent the Real Property from being occupied by any Company, Subsidiary or Institution after the Closing in the same manner as occupied by any Company, Subsidiary or Institution immediately prior to the Closing.

(h) All improvements on the Real Property constructed by or on behalf of any Company, Subsidiary or Institution or constructed by or on behalf of any other Person, were constructed in compliance in all material respects with all applicable Laws (including any building, planning or zoning Laws) affecting such Real Property.

(i) No improvements on the Real Property and none of the current uses and conditions thereof violate any Encumbrance, applicable deed restrictions or other applicable covenants, restrictions, agreements, existing site plan approvals, zoning or subdivision regulations or urban redevelopment plans as modified by any duly issued variances, and no permits, licenses or certificates pertaining to the ownership or operation of all improvements on the Real Property, other than those which are transferable with the Real Property, are required by any Governmental Authority having jurisdiction over the Real Property.

(j) All improvements on any Real Property are wholly within the lot limits of such Real Property and do not encroach on any adjoining premises or Encumbrance benefiting such Real Property, and there are no encroachments on any Real Property or any easement or property right or benefit appurtenant thereto by any improvements located on any adjoining premises.

(k) There have been no improvements of a value in excess of $10,000 in the aggregate made to or constructed on any Real Property within the applicable period for the filing of mechanics' liens.

(l) The rental set forth in each lease of the Leased Real Property is the actual rental being paid, and there are no separate agreements or understandings with respect to the same.

(m) A Company, Subsidiary or Institution has the full right to exercise any Options contained in the leases pertaining to the Leased Real Property on the terms and conditions contained therein and upon due exercise would be entitled to enjoy the full benefit of such Options with respect thereto.

(n) Other than the amounts listed on Section 2.03(a)(xx) of the Disclosure Schedule there are no payments or Taxes currently due with respect to any Leased Real Property or any real property leased by Clemens.

Section 3.16 Tangible Personal Property. (a) Section 3.16(a) of the Disclosure Schedule lists each item or distinct group of equipment, supplies, furniture, fixtures, personalty, books and other tangible personal property (the "Tangible Personal Property") used at each Institution having an individual value equal to or greater than $5,000.

(b) Section 3.16(b) of the Disclosure Schedule sets forth a true and complete list of all leases for Tangible Personal Property and any and all material ancillary documents pertaining thereto (including all amendments, consents and evidence of commencement dates and expiration dates) having an individual value equal to or greater than $5,000.

Section 3.17 Employee Benefit Matters.

(a) Plans and Material Documents. Section 3.17(a) of the Disclosure Schedule lists (i) all employee benefit plans (as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974 ("ERISA")) and all bonus, stock option, stock purchase, restricted stock, incentive, deferred compensation, retiree medical or life insurance, supplemental retirement, severance or other benefit plans, programs or arrangements, and all employment, termination, severance or other contracts or agreements to which each Company or Subsidiary is a party (other than any oral contracts of employment terminable on no more than 30 days' notice without penalty or further payment obligation), with respect to which any Company or Subsidiary has any obligation or that are maintained, contributed to or sponsored by any Company or Subsidiary for the benefit of any current or former employee, officer, director or consultant of any Company or Subsidiary (other than any oral contracts of employment terminable on no more than 30 days' notice without penalty or further payment obligation) and (ii) any contracts, arrangements or understandings between any Seller or any of its Affiliates and any employee or consultant of any Company or Subsidiary, including any contracts, arrangements or understandings relating to the sale of any Company or Subsidiary (collectively, the "Plans"). The Sellers have made available to the Purchaser a complete and accurate copy of each written Plan and a summary of the material terms of any unwritten Plan and there are no other employee benefit plans, programs, arrangements or agreements, whether formal or informal, whether in writing or not, to which any Company or Subsidiary is a party, with respect to which any Company or Subsidiary has any obligation or that are maintained, contributed to or sponsored by any Company or Subsidiary for the benefit of any current or former employee, officer, director or consultant of any Company or Subsidiary.

(b) Absence of Certain Types of Plans. None of the Plans is a multiemployer plan (within the meaning of Section 3(37) or 4001(a)(3) of ERISA) (a "Multiemployer Plan") or a single employer pension plan (within the meaning of Section 4001(a)(15) of ERISA) for which any Company or any Subsidiary could incur liability under Section 4063 or 4064 of ERISA (a "Multiple Employer Plan"). None of the Plans provides for the payment of separation, severance, termination or similar-type benefits to any Person or obligates any Company or Subsidiary to pay separation, severance, termination or similar-type benefits solely as a result of any transaction contemplated by this Agreement or as a result of a "change in control", within the meaning of such term under Section 280G of the Code. None of the Plans provides for or promises retiree medical, disability or life insurance benefits to any current or former employee, officer or director of any Company or Subsidiary. Each of the Plans is subject only to the Laws of the United States or a political subdivision thereof.

(c) Compliance with Applicable Law. Each Plan is now and has always been operated in all material respects in accordance with the requirements of all applicable Law, including ERISA and the Code. Each Company and Subsidiary has performed all obligations required to be performed by it under, is not in any respect in default under or in violation of, and has no knowledge of any default or violation by any party to, any Plan. No Action is pending or, to the Knowledge of the Sellers, threatened with respect to any Plan (other than claims for benefits in the ordinary course), and no material fact or event exists that could give rise to any such Action or claim.

(d) Qualification of Certain Plans. Each Plan that is intended to be qualified under Section 401(a) of the Code or Section 401(k) of the Code has received a favorable determination letter from the IRS that it is so qualified, and each trust established in connection with any Plan that is intended to be exempt from federal income taxation under Section 501(a) of the Code has received a determination letter from the IRS that it is so exempt, and no fact or event has occurred since the date of such determination letter from the IRS to affect adversely the qualified status of any such Plan or the exempt status of any such trust. Each trust maintained or contributed to by any Company or Subsidiary that is intended to be qualified as a voluntary employees' beneficiary association and that is intended to be exempt from federal income taxation under Section 501(c)(9) of the Code has received a favorable determination letter from the IRS that it is so qualified and so exempt, and no fact or event has occurred since the date of such determination by the IRS to adversely affect such qualified or exempt status.

(e) Absence of Certain Liabilities and Events. There has been no prohibited transaction (within the meaning of Section 406 of ERISA or Section 4975 of the Code) with respect to any Plan. No Company or Subsidiary has incurred any liability for any penalty or tax arising under Section 4971, 4972, 4980, 4980B or 6652 of the Code or any liability under Section 502 of ERISA, and no fact or event exists that could give rise to any such liability. No Company or Subsidiary has incurred any liability under, arising out of or by operation of Title IV of ERISA (other than liability for premiums to the Pension Benefit Guaranty Corporation arising in the ordinary course), including any liability in connection with (i) the termination or reorganization of any employee benefit plan subject to Title IV of ERISA or (ii) the withdrawal from any Multiemployer Plan or Multiple Employer Plan, and no fact or event exists that could give rise to any such liability. No complete or partial termination has occurred within the five years preceding the date hereof with respect to any Plan. No reportable event (within the meaning of Section 4043 of ERISA) has occurred or is expected to occur with respect to any Plan subject to Title IV of ERISA. No Plan had an accumulated funding deficiency (within the meaning of Section 302 of ERISA or Section 412 of the Code), whether or not waived, as of the most recently ended plan year of such Plan. None of the assets of any Company or Subsidiary is the subject of any lien arising under Section 302(f) of ERISA or Section 412(n) of the Code; no Company or Subsidiary has been required to post any security under Section 307 of ERISA or Section 401(a)(29) of the Code; and no fact or event exists which could give rise to any such lien or requirement to post any such security.

(f) Plan Contributions and Funding. All contributions, premiums or payments required to be made with respect to any Plan prior to the Closing Date have been or will be made on or before their due dates. All such contributions have been fully deducted for income tax purposes and no such deduction has been challenged or disallowed by any Governmental Authority, and to the Knowledge of the Sellers, no fact or event exists that could give rise to any such challenge or disallowance.

(g) WARN Act. Each Company and Subsidiary is in compliance with the requirements of the Workers Adjustment and Retraining Notification Act (the "WARN Act") and has no Liabilities pursuant to the WARN Act.

Section 3.18 Labor Matters. (a) No Company, Subsidiary or Institution is a party to any collective bargaining agreement or other labor union contract applicable to persons employed by any Company, Subsidiary or Institution, and to the Knowledge of the Sellers, currently there are no organizational campaigns, petitions or other unionization activities seeking recognition of a collective bargaining unit that could materially affect any Company, Subsidiary or Institution.

(b) There are no unfair labor practice complaints pending against any Company, Subsidiary or Institution before the National Labor Relations Board or any other Governmental Authority.

(c) Each Company and Subsidiary is currently in compliance in all material respects with all applicable Laws relating to the employment of labor, including those related to wages, hours, collective bargaining and the payment and withholding of taxes and other sums as required by the appropriate Governmental Authority and has withheld and paid to the appropriate Governmental Authority or is holding for payment not yet due to such Governmental Authority all amounts required to be withheld from employees of any Company or Subsidiary and is not liable for any arrears of wages, Taxes, penalties or other sums for failure to comply with any of the foregoing.

(d) Each Company and Subsidiary has paid in full to all its respective employees, or adequately accrued for in accordance with GAAP, all wages, salaries, commissions, bonuses, benefits and other compensation due to or on behalf of such employees.

(e) There is no Claim with respect to payment of wages, salary or overtime pay that has been asserted or is now pending or, to the Knowledge of the Sellers, threatened before any Governmental Authority with respect to any Persons currently or formerly employed by any Company or Subsidiary.

(f) No Company or Subsidiary is a party to, or otherwise bound by, any consent decree with, or citation by, any Governmental Authority relating to employees or employment practices.

(g) There is no charge or proceeding with respect to a violation of any occupational safety or health standard that has been asserted or is now pending or, to the Knowledge of the Sellers, threatened, with respect to any Company or Subsidiary.

(h) Except as set forth in Section 3.18(h) of the Disclosure Schedule, there is no charge of discrimination in employment or employment practices, for any reason, including age, gender, race, religion or other legally protected category, which has been asserted or is now pending or, to the Knowledge of the Sellers, threatened before the United States Equal Employment Opportunity Commission, or any other Governmental Authority, with respect to any Company or Subsidiary.

Section 3.19 Assets. (a) Except as set forth on Section 3.19(a) of the Disclosure Schedule, each Company or Subsidiary has good and marketable title to, or in the case of leased Assets and Licensed Intellectual Property, a valid and subsisting leasehold interest in or lawful right to use, as applicable, all the Assets, free and clear of all Encumbrances except Permitted Encumbrances.

(b) A Company or Subsidiary, as the case may be, owns, leases or has the legal right to use, as applicable, all the properties and assets, including the Owned Intellectual Property, the Licensed Intellectual Property, the Companies IP Licenses, the Leased Real Property and the Tangible Personal Property, used or intended to be used in the conduct of the Businesses or otherwise owned, leased or used by a Company or any Subsidiary, and, with respect to contract rights, is a party to and enjoys the right to the benefits of all contracts, agreements and other arrangements used or intended to be used by the Company or any Subsidiary or in or relating to the conduct of the Businesses, all of which properties, assets and rights constitute Assets.

(c) The Assets constitute all the properties, assets and rights forming a part of, used, new or intended to be used in, and all such properties, assets and rights as are necessary in the conduct of the Businesses, and at all times the Sellers have caused the Assets to be maintained in accordance with good business practice, and all the Assets are in good operating condition and repair and are suitable for the purposes for which they are used and intended (subject to ordinary wear and tear).

(d) The Sellers have the complete and unrestricted power and unqualified right to sell, assign, transfer, convey and deliver the Assets to the Purchaser without penalty or other adverse consequences. Following the consummation of the transactions contemplated by this Agreement and the execution of the instruments of transfer contemplated by this Agreement, the Purchaser will own, with good, valid and marketable title, or lease, under valid and subsisting leases, or otherwise acquire the interests of the Sellers in the Assets, free and clear of any Encumbrances, other than Permitted Encumbrances, and without incurring any penalty or other adverse consequence, including any increase in rentals, royalties, or license or other fees imposed as a result of, or arising from, the consummation of the transactions contemplated by this Agreement.

Section 3.20 Student Lists. (a) Section 3.20(a) of the Disclosure Schedule lists the names and educational programs of all students enrolled at each Institution as of the date hereof for the then current academic period.

(b) Section 3.20(b) of the Disclosure Schedule lists the names and intended educational programs of all students enrolled at each Institution as of the date hereof for future academic periods and not otherwise included in Section 3.20(a) of the Disclosure Schedule.

Section 3.21 Student Financial Records. True and complete copies of the financial records for each student have been provided or made available to the Purchaser by the Sellers.

Section 3.22 Certain Interests. Except as set forth in Section 3.22 of the Disclosure Schedule, no director, manager, member, stockholder or officer of any Seller, Company, Subsidiary or Institution, and no relative or spouse (or relative of such spouse) who resides with, or is a dependent of, any such Person:

(a) has any direct or indirect financial interest in or with respect to (i) any competitor or supplier of any Company, Subsidiary or Business or (ii) any other party to any arrangement or contract (including a lease) relating to any Company, Subsidiary or Business; provided, however, that the ownership of securities representing no more than one percent of the outstanding voting power of any competitor or supplier, and which are also listed on any national securities exchange, shall not be deemed to be a "financial interest" so long as the Person owning such securities has no other connection or relationship with such competitor or supplier;

(b) owns, directly or indirectly, in whole or in part, or has any other interest in any tangible or intangible property which any Company, Subsidiary or Institution uses or has used in the conduct of the Businesses or otherwise; or

(c) has outstanding any Indebtedness to any Company, Subsidiary or Institution.

Section 3.23 Taxes. (a) (i) All Tax Returns required by applicable Law to be filed by or with respect to each Company and each Subsidiary prior to the Closing Date have been or will be timely filed; (ii) all Taxes required to be shown on such Tax Returns or otherwise due prior to the Closing Date in respect of each Company and each Subsidiary have been or will be timely paid; (iii) all such Tax Returns are true, correct and complete in all material respects; (iv) no adjustment relating to such Tax Returns has been proposed formally or informally by any Governmental Authority, and no basis exists for any such adjustment; (v) there are no pending or, to the Knowledge of the Sellers, threatened Actions for the assessment or collection of Taxes against any Company or Subsidiary; (vi) there are no Tax liens on any assets of any Company or Subsidiary, other than Permitted Encumbrances; (vii) no Seller nor any Affiliate of any Seller is a party to any agreement or arrangement that would result, separately or in the aggregate, in the actual or deemed payment by any Company or Subsidiary of any "excess parachute payments" within the meaning of Section 280G of the Code (without regard to Section 280G(b)(4) of the Code); (viii) no acceleration of the vesting schedule for any property that is substantially unvested within the meaning of the regulations under Section 83 of the Code will occur in connection with the transactions contemplated by this Agreement; (ix) none of the Sellers is a foreign person as such term is defined in Section 1445 of the Code; (x) each Company and Subsidiary has properly and timely withheld, collected and deposited all Taxes that are required to be withheld, collected and deposited under applicable Law; (xi) no Company or Subsidiary is doing business in or engaged in a trade or business in any jurisdiction in which it has not filed all required Tax Returns, and no notice or inquiry has been received from any jurisdiction in which Tax Returns have not been filed by such Company or Subsidiary to the effect that the filing of Tax Returns may be required; and (xii) no Company or Subsidiary has been at any time a member of any consolidated, unitary, combined, affiliated or similar group for Tax purposes (other than, with respect to the Companies and the Subsidiaries, a group that includes only Clemens or other Companies or Subsidiaries) or a member of any partnership or joint venture or the holder of a beneficial interest in any trust for any period for which the statute of limitations for any Tax has not expired.

(b) (i) there are no outstanding waivers or agreements extending the statute of limitations for any period with respect to any Tax to which any Company or Subsidiary may be subject; (ii) there are no requests for information currently outstanding that could affect the Taxes of any Company or Subsidiary; (iii) there are no proposed reassessments of any property owned by any Company or Subsidiary or other proposals that could increase the amount of any Tax to which such Company or Subsidiary would be subject; (iv) no power of attorney that is currently in force has been granted with respect to any matter relating to Taxes that could affect any Company or Subsidiary; (v) no Company or Subsidiary (A) has an unrecaptured overall foreign loss within the meaning of Section 904(f) of the Code, or (B) has participated in or cooperated with an international boycott within the meaning of Section 999 of the Code; (vi) no Company or Subsidiary has any (A) income reportable for a period ending after the Closing but attributable to a transaction (e.g., an installment sale) occurring in, or a change in accounting method made for, a period ending on or prior to the Closing that resulted in a deferred reporting of income from such transaction or from such change in accounting method (other than a deferred intercompany transaction) or (B) deferred gain or loss arising out of any deferred intercompany transaction; and (vii) no Indebtedness attributable to any Company or Subsidiary is characterized as equity for federal income Tax purposes.

(c) (i) Section 3.23(c) of the Disclosure Schedule lists all income, information, franchise and similar Tax Returns (federal, state, local and foreign) filed with respect to each Company and Subsidiary for taxable periods ended on or after January 1, 2004, indicates the most recent income, information, franchise or similar Tax Return for each relevant jurisdiction for which an audit has been completed or the statute of limitations has lapsed, and indicates all Tax Returns that currently are the subject of audit; (ii) the Sellers have delivered or made available to the Purchaser correct and complete copies of all federal, state and foreign income, information, franchise and similar Tax Returns, examination reports, and statements of deficiencies assessed against or agreed to by any Company or Subsidiary since January 1, 2005; and (iii) the Sellers have delivered or made available to the Purchaser a true and complete copy of any tax-sharing or allocation agreement or arrangement involving any Company or Subsidiary and a true and complete description of any such unwritten or informal agreement or arrangement.

(d) On the Estimated Closing Balance Sheet, reserves and allowances have been provided, and on the Closing Balance Sheet, reserves and allowances will be provided, in each case adequate to satisfy all Liabilities for Taxes relating to the Companies and the Subsidiaries for all taxable periods through the Closing (without regard to the materiality thereof).

Section 3.24 Insurance. All material assets, properties and risks of each Company and Subsidiary are, and for the past five years have been, covered by valid and, except for insurance policies that have expired under their terms in the ordinary course, currently effective insurance policies or binders of insurance (including general liability insurance, property insurance and workers' compensation insurance) issued in favor of a Company or Subsidiary, as the case may be, in each case with responsible insurance companies, in such types and amounts and covering such risks as are consistent with customary practices and standards of companies engaged in businesses and operations similar to those of such Company or Subsidiary, as the case may be.

Section 3.25 Educational Approvals. (a) Section 3.25(a) of the Disclosure Schedule lists, with respect to each Company, Subsidiary and Institution, each Educational Approval issued by any Educational Agency since the Compliance Date to such Company, Subsidiary or Institution (i) with respect to any educational program(s) offered by such Company, Subsidiary or Institution, (ii) with respect to the authority of each Company, Subsidiary or Institution to recruit students in any state where it engages employees or agents to recruit students, and (iii) with respect to all locations, branches, campuses, buildings, classrooms, learning sites, and facilities at which any portion of an educational program is offered or taught in whole or in part by or in association with such Institution. The Sellers have delivered or made available to Purchaser complete and correct copies of all Educational Approvals.

(b) The current Educational Approvals set forth on Section 3.25(a) of the Disclosure Schedule are in full force and effect, including provisional and non-provisional certifications, and no proceeding for the suspension, limitation, revocation, condition, restriction, withdrawal, termination or cancellation of any of them is pending or, to the Knowledge of the Sellers, has been threatened. There are no facts, circumstances or omissions concerning any Company, Subsidiary or Institution that could result in such a proceeding. No Company, Subsidiary or Institution has received any notice that any of the Educational Approvals set forth on Section 3.25(a) of the Disclosure Schedule will not be renewed (to the extent that renewal is required) and there is no basis for any such nonrenewal (if applicable).

Section 3.26 Compliance with Educational Laws. (a) Since the Compliance Date, and except as set forth on Section 3.26(a) of the Disclosure Schedule, each Company, Subsidiary and Institution has been and is in compliance in all material respects with any and all applicable Educational Laws.

(i) Each Company, Subsidiary and Institution currently hold and, since the Compliance Date, have held all Educational Approvals required under all laws, rules, regulations, standards and requirements of any Educational Agency, including all Educational Approvals for each education program such Company, Subsidiary or Institution has offered and for each campus, location, or facility where such entity offered all or any portion of an educational program.

(ii) Since the Compliance Date, each Company, Subsidiary and Institution has complied in all material respects with the terms and conditions of all such Educational Approvals. Since the Compliance Date, each Company, Subsidiary and Institution has complied with all Educational Laws of all applicable Educational Agencies.

(iii) Since the Compliance Date, each Company, Subsidiary and Institution has timely notified, and obtained all required approvals from all applicable Educational Agencies for each substantive change in such Company, Subsidiary or Institution, including any addition of new education programs or changes in ownership, control or governance.

(iv) Since the Compliance Date, no Company, Subsidiary or Institution has received notice that such Company, Subsidiary or Institution is in violation of any of the terms or conditions of any Educational Approval or alleging the failure to hold or obtain any Educational Approval. There are no facts or circumstances concerning the operations or management of any Institution that reasonably could result in the denial or delay in issuance of any Educational Approval to be issued in connection with the consummation of the transactions contemplated under this Agreement.

(v) Section 3.26(a)(v) of the Disclosure Schedule lists each program pursuant to which financial assistance is provided or, since the Compliance Date, has been provided, to or on behalf of the students of each Institution.

(vi) The facilities listed on Section 3.26(a)(vi) of the Disclosure Schedule are and, since the Compliance Date, have been the only addresses at which each Company, Subsidiary and Institution have offered educational instruction or otherwise operated. With respect to any facility that has closed or at which an Institution ceased operating instruction, the relevant Company, Subsidiary and Institution materially complied with all applicable laws and all Accrediting Body and Educational Agency standards related to the closure or cessation of instruction at a location or campus, including requirements for teaching out students from that location or campus.

(b) Without limiting the foregoing provisions in Section 3.26(a):

(i) Each Company, Subsidiary and Institution possess, and since the Compliance Date, has possessed, all requisite Educational Approvals to operate such Institution in each jurisdiction in which such Institution is located or in which they conduct any operations or are otherwise required to obtain such Educational Approvals, including providing educational services in person or via distance learning, student marketing or recruiting.

(ii) Each Institution is, and since the Compliance Date has been, fully or provisionally certified by the U.S. DOE to participate in the Title IV Programs and is party to, and in compliance with, a valid and effective Program Participation Agreement with the U.S. DOE that is in full force and effect. No Company, Subsidiary or Institution is subject to, or since the Compliance Date has been, threatened with, any fine, limitation, suspension or termination proceeding, or subject to any other action or proceeding by the U.S. DOE that could result in the suspension, limitation, conditioning, or termination of certification or eligibility, or a liability or fine. To the Knowledge of the Sellers, there are no facts, circumstances, or omissions concerning the Companies, Subsidiaries or Institutions that reasonably could result in such an action by the U.S. DOE.

(iii) Each Company, Subsidiary and Institution is, and since the Compliance Date have been, in material compliance with all applicable rules, regulations and requirements pertaining to the Institutions' participation in the Title IV Programs. To the Knowledge of the Sellers, there are no facts, circumstances, or omissions concerning any Company, Subsidiary or Institution that reasonably could result in a finding of material non-compliance with regard to such rules, regulations and requirements. Without limiting the foregoing:

(A) Since the Compliance Date, each educational program offered by each Institution, including programs involving externships, internships or consortium agreements, was and is an eligible program in accordance with all applicable rules, regulations and requirements, including the requirements of 34 C.F.R. § 668.8, and each Company, Subsidiary and Institution have properly measured the length of such educational programs for the purpose of disbursing Title IV Program funding to students enrolled in each such program.

(B) Since the Compliance Date, each Institution has possessed the Educational Approvals necessary for each campus, branch, additional location and other facility or site at which such Institution offered or students received all or part of an educational program and at which students received funds under the Title IV Programs. Since the Compliance Date, each Institution has been duly qualified as a "proprietary institution of higher education" as defined at 34 C.F.R. § 600.5.

(C) Except as set forth on Section 3.26(b)(iii)(C) of the Disclosure Schedule, since the Compliance Date, no Company, Subsidiary or Institution has received notice from the U.S. DOE or any Educational Agency that such Company, Subsidiary or Institution lacked financial responsibility or administrative capability for any period.

(D) Each Institution is and has been financially responsible in accordance with the provisions of 34 C.F.R. §§ 668.171-175 and any predecessor regulations for each fiscal year ending on or after the Compliance Date.

(E) Since the Compliance Date, no Company, Subsidiary or Institution has received notice of a request by any Educational Agency or governmental entity that such Company, Subsidiary or Institution post a Letter of Credit or other form of surety with respect to such Institution for any reason, including any request for a Letter of Credit based on late refunds pursuant to 34 C.F.R. § 668.173, 34 C.F.R. § 668.15 or any predecessor regulation.

(F) Except as set forth on Section 3.26(b)(iii)(F) of the Disclosure Schedule, since the Compliance Date, the U.S. DOE has not placed any Company, Subsidiary or Institution on either the cash monitoring or reimbursement methods of payment.

(G) Since the Compliance Date, each Company, Subsidiary and Institution has timely filed with the U.S. DOE all required compliance audits and audited financial statements, including those required by 34 C.F.R. § 668.23 or any predecessor regulation.

(H) Except as listed in Section 3.26(b)(iii)(H) of the Disclosure Schedule, no audits, program reviews, investigations or visits have been conducted by an Educational Agency or by a Governmental Authority in connection with an Educational Approval or an Institution since the Compliance Date, including but not limited to any U.S. DOE or guaranty agency program reviews, U.S. DOE Office of Inspector General audits, U.S. DOE Office of Inspector General investigations and Department of Justice investigations. Except as listed in Section 3.26(b)(iii)(H) of the Disclosure Schedule, there is no audit, program review, investigation, or visit that remains pending or is scheduled to occur. The Sellers have provided or made available to the Purchaser true and complete copies of all correspondence, reports, determinations, audits or other documents related to the items listed on Section 3.26(b)(iii)(H) of the Disclosure Schedule.

(I) Except as disclosed on Section 3.26(b)(iii)(I) of the Disclosure Schedule, since the Compliance Date, each Company, Subsidiary and Institution has calculated and paid refunds and calculated dates of withdrawal and leaves of absence in material accordance with all applicable rules, regulations and requirements, including the requirements of 34 C.F.R. § 668.22, 34 C.F.R. § 682.605 and any predecessor regulations.

(J) Except as listed in Section 3.26(b)(iii)(J) of the Disclosure Schedule, since the Compliance Date, each Company, Subsidiary and Institution has disbursed and processed Title IV Program funds in material accordance with all applicable rules, regulations and requirements, including the requirements of 34 C.F.R. § 668.164, 34 C.F.R. § 682.604 and any predecessor regulations.

(K) Except as listed in Section 3.26(b)(iii)(K) of the Disclosure Schedule, since the Compliance Date, each Company, Subsidiary and Institution has properly determined students' eligibility to obtain Title IV Program funds for which they are eligible prior to disbursing, and have disbursed, all Title IV Program funds in material accordance with all applicable rules, regulations and requirements, including the requirements of 34 C.F.R. § 682.201, 34 C.F.R. § 668, Subpart C, and any predecessor regulation.

(L) Since the Compliance Date, each Company, Subsidiary and Institution has at all times complied with the limitations in 34 C.F.R. § 600.7 on the number of courses that the Institutions may offer by correspondence or telecommunications, the number of students who may enroll in such courses, the number of students that were incarcerated, and the number of students that had neither a high school diploma nor the recognized equivalent of a high school diploma.

(M) Section 3.26(b)(iii)(M) of the Disclosure Schedule lists the official published cohort default rates for each Institution calculated by the U.S. DOE and issued pursuant to 34 C.F.R. § 668.181-186 or predecessor regulations, for the federal fiscal years 2004, 2005 and 2006.

(N) No Company, Subsidiary or Institution receives funds as a result of Federal Perkins Loans.

(O) For each fiscal year ending on or after the Compliance Date, no Company, Subsidiary or Institution has derived more than ninety percent (90%) of its revenues from Title IV Program funds, as determined in accordance with the applicable provisions of the HEA and 34 C.F.R. § 600.5(d) and § 600.5(e) and guidance issued thereunder. Section 3.26(b)(iii)(O) of the Disclosure Schedule lists a correct statement of the percentage of revenue from Title IV Program funds as determined in accordance with the applicable provisions of the HEA and 34 C.F.R. § 600.5(d) and § 600.5(e) for each of such fiscal years.

(iv) Except as set forth on Section 3.26(b)(iv) of the Disclosure Schedule, no Company, Subsidiary or Institution is, nor since the Compliance Date, has been placed on probation, reporting, monitoring or warning status with any Educational Agency, nor has any Institution been subject to any adverse action by any Educational Agency (including being directed to show cause why accreditation or other Educational Approval should not be revoked, withdrawn, conditioned, suspended, or limited) to revoke, withdraw, deny, suspend, condition or limit its accreditation or other Educational Approval. To the Knowledge of the Sellers, there are no facts, circumstances or omissions concerning any Company, Subsidiary or Institution that reasonably could lead to any such actions by an Educational Agency.

(v) Each Company, Subsidiary and Institution has materially complied with all written stipulations, conditions and other requirements imposed by any Educational Agency at the time of, or since, the last issuance of any Educational Approval, including but not limited to the timely filing of all required reports and responses.

(vi) No Company, Subsidiary or Institution provides, or since the Compliance Date, has provided or contracted with any entity that provides, any commission, bonus or other incentive payment based directly or indirectly on success in securing enrollments or awarding financial aid to any persons or entities engaged in any student recruiting or admissions activities or in making decisions regarding the awarding of student financial aid.

(vii) Since the Compliance Date, all student financial aid grants and loans, disbursements and record keeping relating thereto have been completed by the Institutions in material compliance with all federal and state requirements, and there are no material deficiencies in respect thereto. Except as disclosed on Section 3.26(b)(vii) of the Disclosure Schedule, since the Compliance Date, the students at each Institution have been funded in material accordance with the rules regarding the proper time for disbursement and in the amount for which they were eligible, and such students' records conform in form and substance, in all material respects, to all relevant regulatory requirements. All appropriate reports and surveys have been accurately prepared, in all material respects, and filed timely.

(viii) Since the Compliance Date, no principal, affiliate (as those terms are defined in 34 C.F.R. Part 85), owner, shareholder, member, manager, trustee, or officer of any Company, Subsidiary or Institution or any other individual or entity holding an ownership interest in any Company, Subsidiary or Institution, whether legal or equitable, is or has been a principal, affiliate, owner, shareholder or trustee or held an ownership interest, whether legal or equitable, in any other post-secondary institution (whether or not participating in the Title IV Programs).

(ix) Except as set forth on Section 3.26(b)(ix) of the Disclosure Schedule, since the Compliance Date, no Company, Subsidiary or Institution, nor any Person that exercises substantial control over any Institution (as the term "substantial control" is defined in 34 C.F.R. § 668.174(c)(3)) or member of such Person's family (as the term "family" is defined in 34 C.F.R. § 668.174(c)(4)), alone or together, (A) exercises or exercised substantial control over another school or third-party servicer (as that term is defined in 34 C.F.R. § 668.2) that owes a liability for a violation of a Title IV Program requirement or (B) owes a liability for a Title IV Program violation.

(x) No Company, Subsidiary or Institution, nor any Person or entity that exercises substantial control over any Company, Subsidiary or Institution, or member of such Person's family, has filed for relief in bankruptcy or had entered against it an order for relief in bankruptcy.

(xi) No Company, Subsidiary, Institution or any of their employees has pled guilty to, pled nolo contendere to, or been found guilty of, a crime involving the acquisition, use or expenditure of funds under the Title IV Programs or been judicially determined to have committed fraud involving Title IV Program funds.

(xii) To the Knowledge of the Sellers, no Company, Subsidiary or Institution employs nor, since the Compliance Date, has employed in a capacity that involves the administration of Title IV Program funds or the receipt of funds under the Title IV Programs, any individual that has been convicted of, or has pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of federal, state, or local government funds, or has been administratively or judicially determined to have committed fraud or any other material violation of Law involving federal, state or local government funds. To the Knowledge of the Sellers, no Company, Subsidiary or Institution has contracted with any institution or third-party servicer that has been limited, suspended or terminated under the HEA, for a reason involving the acquisition, use, or expenditure of federal, state, or local government funds, or that has been administratively or judicially determined to have committed fraud or any other material violation of Law involving federal, state or local government funds. To the Knowledge of the Sellers, no Company, Subsidiary or Institution has contracted with or employed any individual, agency or organization that has been, or whose officers or employees have been convicted of, or pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of federal, state, or local government funds, or have been administratively or judicially determined to have committed fraud or any other material violation of Law involving federal, state, or local government funds.

(xiii) Except as listed in Section 3.26(b)(xiii) of the Disclosure Schedule, no Company, Subsidiary or Institution provides, or since the Compliance Date, has provided, any educational instruction on behalf of any other institution or organization of any sort other than such Institution. No other institution or organization of any sort provides, or since the Compliance Date, has provided, any educational instruction on behalf of such Institution.

(xiv) No principal or, to the Knowledge of the Sellers, affiliate of any Company, Subsidiary or Institution has been debarred or suspended, or engaged in any activity that is a cause for debarment or suspension, pursuant to the U.S. DOE regulations at 34 C.F.R. Part 85.

(c) Except as listed in Section 3.26(c) of the Disclosure Schedule, no Company, Subsidiary or Institution has received notice of any written student complaints or employee grievances made to such Company, Subsidiary or Institution, or to any Accrediting Body or Educational Agency, whether received from any current or former student or any applicant, or received from any Educational Agency in relation to any such complaint or grievance, or sent by or on behalf of such Company, Subsidiary or Institution in regard to any such complaint, in each case (except as expressly otherwise indicated), on or after the Compliance Date. The Sellers have delivered or made available to the Purchaser correct and complete copies of any such written complaint or grievance and related correspondence.

(d) The Sellers have delivered or made available to the Purchaser true and materially complete copies of all correspondence (excluding general correspondence routinely sent to, or received from, any Educational Agency) received from or sent by or on behalf of any Company, Subsidiary or Institution to any Educational Agency to the extent such correspondence (i) was sent or received since the Compliance Date or relates to any issue that remains pending, and (ii) relates to (A) any notice that any Educational Approval is not in full force and effect or that an event has occurred which constitutes or, with the giving of notice or the passage of time or both, would constitute a breach or violation thereunder; (B) any notice that any Company, Subsidiary, Institution, or any Affiliate, employee, or agent of any Company, Subsidiary or Institution has violated or is violating any Educational Law, including any law related to the Title IV Programs, or any criterion, rule, standard, or other written guidance of any applicable accrediting body, or any law, regulation, or requirement related to maintaining and retaining in full force and effect any and all Educational Approvals necessary for the existing operations of, and receipt of financial assistance by, any Company, Subsidiary or Institution; (C) any audits, program reviews, inquiries, investigations, or site visits conducted by any Educational Agency, any guaranty agency, or any independent auditor reviewing compliance by any Company, Subsidiary or Institution with any Educational Law or Educational Approval; (D) the qualification of any Company, Subsidiary, Institution or any Affiliate thereof for the receipt of financial assistance; (E) any written notice of an intent to limit, suspend, terminate, revoke, cancel, not renew, or condition the Educational Approvals of, or the provision of financial assistance to, any Company, Subsidiary, Institution or to any Institution's students; (F) any written notice of an intent or threatened intent to condition the provision of financial assistance to any Company, Subsidiary or Institution on the posting of a Letter of Credit or other surety in favor of the U.S. DOE; (G) written notice of an intent to provisionally certify the eligibility of any Company, Subsidiary or Institution to participate in the Title IV Programs; or (H) the placement or removal of any Company, Subsidiary or Institution on or from the reimbursement method of payment or any method of payment other than the advance payment method under the Title IV Programs.

(e) Section 3.26(e) of the Disclosure Schedule sets forth a complete list of all policy manuals and other statements of procedures or instruction relating to (i) recruitment of students at each Institution, including procedures for assisting in the application by prospective students for direct or indirect funding under state or Title IV Programs; (ii) admissions procedures, including any descriptions of procedures for insuring compliance with federal, state and accrediting body requirements applicable to such procedures; (iii) procedures for encouraging and verifying attendance, minimum required attendance policies, and other relevant criteria relating to course performance requirements and completion; and (iv) procedures for processing, disbursing, and returning Title IV Program funds, except as contained in the catalogs of each Company, Subsidiary or Institution previously provided or made available to the Purchaser (collectively, the "Policy Guidelines"). The Sellers have delivered or made available to the Purchaser true, correct and materially complete copies of all Policy Guidelines.

(f) Since the Compliance Date, the operations of each Company, Subsidiary and Institution has been conducted in material accordance with the Policy Guidelines which comply in all material respects with all applicable rules, regulations and requirements. Complete and correct books and records for all present and past students attending each Institution have been maintained consistent with the operations of a school business in all material respects. All forms and records have been prepared, completed, maintained and filed in material accordance with all applicable laws, and are materially complete and correct.

(g) Since the Compliance Date, no Company, Subsidiary or Institution has received any written or oral notice of, and there is not any currently unresolved investigation, review, audit, compliance review or site visit relating to any Institution's participation in and administration of the Title IV Programs or other financial assistance programs or its compliance with the requirements of any other Educational Agency. The Sellers have delivered or made available to the Purchaser correct and complete copies of all annual federal financial aid compliance audits and audited financial statements filed with the U.S. DOE pursuant to 34 C.F.R. § 668.23 for all fiscal years ending after the Compliance Date and have listed in Section 3.26(g) of the Disclosure Schedule and provided or made available correct and complete copies of all material correspondence related to any draft or final investigative reports, program reviews, audits or compliance reviews received from any other Educational Agency since the Compliance Date. Other than the matters listed in Section 3.26(g) of the Disclosure Schedule, to the Knowledge of the Sellers, there are no current investigations, reviews or audits of the operation of the financial assistance programs of the Institutions or any current investigation, review or audit of any institution by any Educational Agency or other governmental authority.

(h) Except as set forth in Section 3.26(h) of the Disclosure Schedule, there are no surety bonds or other forms of security that any Company, Subsidiary or Institution have been required to file since the Compliance Date with any Educational Agency with respect to its state authorization, federal eligibility, recruiter permits or other matters.

(i) No Company, Subsidiary or Institution has paid or otherwise extended any points, premiums, payments or additional interest of any kind to any eligible lender or any other party to secure funds for making loans or induce a lender to make loans to either the students or parents of students at any Institution or to a particular category of students or their parents. No Institution or any officer, employee or agent of any Company, Subsidiary or Institution has solicited, accepted, or received, directly or indirectly, any benefit or item of more than nominal value from or on behalf of a lending institution in connection with educational loans for or on behalf of any Company's, Subsidiary's or Institution's students. No Company, Subsidiary or Institution has received any written notice of any investigation by any Governmental Authority or Educational Agency that any lender or marketing agent has provided, directly or indirectly, points, premiums, payments, or other inducements to any Company, Subsidiary, Institution, or any employee or agent of any Company or Subsidiary, to secure applicants for Federal Family Education Loan Program loans. No lender or marketing agent has provided, directly or indirectly, points, premiums, payments, or other inducements to any Company, Subsidiary or Institution, or any employee or agent of any Company, Subsidiary or Institution, to secure applicants for Federal Family Education Loan Program loans.

(j) Since the Compliance Date, all employees of each Company, Subsidiary and Institution engaged in student recruiting activities have maintained the necessary state approvals to conduct such activities. Each Company, Subsidiary and Institution has maintained material compliance with the rules and regulations applicable to the recruitment of students.

(k) Since the Compliance Date, each Company, Subsidiary and Institution has complied with federal and state laws regarding misrepresentation including but not limited to 34 C.F.R. § 668 subpart F, and (i) have not included in its catalogs or advertising literature reference to any Educational Approval which such Company, Subsidiary or Institution did not at the time possess, and (ii) have not misrepresented prospective or enrolled students that the academic programs provided by such Company, Subsidiary or Institution prepare students for any certification, licensure or employment test for which such Company, Subsidiary or Institution is or was not qualified or authorized to prepare students. Section 3.26(k) of the Disclosure Schedule lists all certification, licensure or employment tests for which each Company, Subsidiary and Institution represents its academic programs prepare students.

(l) To the Knowledge of the Sellers, there exists no fact or set of facts with respect to the operation of any Institution prior to the Closing Date which could have a negative effect on the ability of the Institution to obtain any Educational Approval under the ownership of the Purchaser without such burdensome or unusual conditions as, in the reasonable determination of the Purchaser, would materially reduce the economic benefits that the Purchaser expects to receive from the consummation of the transactions contemplated by this Agreement.

Section 3.27 Employees. Section 3.27 of the Disclosure Schedule lists the name, place of employment, the current annual salary rates, bonuses, deferred or contingent compensation, pension, accrued vacation, "golden parachute" and other like benefits paid or payable (in cash or otherwise) in 2007 (except with respect to Engine City and Americare) and 2008, the date of employment and a description of the position and job function of each current salaried employee, officer, director, consultant or agent of any Company, Subsidiary or Institution.

Section 3.28 Certain Business Practices. No Seller, Company, Subsidiary or Institution or any of their respective directors, officers, agents, representatives or employees (in their capacity as directors, officers, agents, representatives or employees) has: (a) used any funds for unlawful contributions, gifts, entertainment or other unlawful expenses relating to political activity in respect of the Businesses; (b) directly or indirectly, paid or delivered any fee, commission or other sum of money or item of property, however characterized, to any finder, agent, or other party acting on behalf of or under the auspices of a governmental official or Governmental Authority, in the United States or any other country, which is in any manner illegal under any Law of the United States or any other country having jurisdiction; or (c) made any other unlawful payment or given any other unlawful consideration in respect of the Businesses.

Section 3.29 Brokers. No broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement or the Ancillary Agreements based upon arrangements made by or on behalf of any Seller.

Section 3.30 Acquisition Obligations. Except as set forth on Section 3.30 of the Disclosure Schedule, no Company or Subsidiary has any further Acquisition Obligations.

Section 3.31 Payment Obligations. The Sellers have paid all outstanding amounts with respect to and satisfied in full, and have delivered to the Purchaser "payoff" letters or similar release or confirmations from third parties in forms reasonably satisfactory to the Purchaser with respect to, the obligations set forth in Section 3.31 of the Disclosure Schedule and, as of the date hereof, no Company or Subsidiary has any Liability with respect to any such obligations.

Section 3.32 No Other Representations. None of the Sellers, or any of their respective affiliates, directors, officers, employees, agents or representatives has made, or shall be deemed to have made, and no Seller is liable for or bound in any manner by, any express or implied representations, warranties, guaranties, promises or statements pertaining to their business or any of their assets except as specifically set forth in this Agreement or the Ancillary Agreements.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES OF PARENT AND THE PURCHASER

As an inducement to the Sellers to enter into this Agreement, the Parent and the Purchaser hereby represents and warrants to the Sellers as follows:

Section 4.01 Organization, Authorization and Qualification of the Parent and the Purchaser. (a) The Purchaser is a limited liability company duly organized and validly existing and in good standing under the laws of the State of Delaware and has not conducted any business operations except operations incident to the transactions contemplated by this Agreement. As of the Closing, the Purchaser shall not have any assets or Liabilities. The Purchaser has all necessary power and authority to enter into this Agreement and the Ancillary Agreements to which the Purchaser is a party, to carry out its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery by the Purchaser of this Agreement and the Ancillary Agreements to which the Purchaser is a party, the performance by the Purchaser of its obligations hereunder and thereunder and the consummation by the Purchaser of the transactions contemplated hereby and thereby have been duly authorized by all requisite action on the part of the Purchaser. This Agreement has been, and upon their execution the Ancillary Agreements to which the Purchaser is a party shall have been, duly executed and delivered by the Purchaser, and (assuming due authorization, execution and delivery by the other parties hereto and thereto) this Agreement constitutes, and upon their execution such Ancillary Agreements shall constitute, legal, valid and binding obligations of the Purchaser, enforceable against the Purchaser in accordance with their respective terms, except as the same may be limited by applicable bankruptcy, insolvency (including all laws relating to fraudulent transfers), reorganization, moratorium or similar laws affecting creditors' rights generally, now or hereafter in effect, and subject to the effect of general principles of equity (regardless of whether considered in a proceeding at law or in equity).

(b) The Parent is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has all necessary power and authority to enter into this Agreement and the Ancillary Agreements to which the Parent is a party, to carry out its obligations hereunder and thereunder and to consummate the transactions contemplated by this Agreement and the Ancillary Agreements. The Parent is duly licensed or qualified to do business and is in good standing in each jurisdiction which the properties owned or leased by it or the operation of its business makes such licensing or qualification necessary, except to the extent that the failure to be so licensed or qualified and in good standing would not (i) adversely affect the ability of the Parent to carry out its obligations under, and to consummate the transactions contemplated by, this Agreement and the Ancillary Agreements to which the Parent is a party or (ii) otherwise have a material adverse effect on the business, results of operations or financial condition of the Parent. The execution and delivery by the Parent of this Agreement and the Ancillary Agreements to which the Parent is a party, the performance by the Parent of its obligations hereunder and thereunder and the consummation by the Parent of the transactions contemplated by this Agreement and the Ancillary Agreements have been duly authorized by all requisite action on the part of the Parent, and, if required by Law, its shareholders. This Agreement has been, and upon their execution the Ancillary Agreements to which the Parent is a party shall have been, duly executed and delivered by the Parent, and (assuming due authorization, execution and delivery by the other parties hereto and thereto) this Agreement constitutes, and upon their execution such Ancillary Agreements shall constitute, legal, valid and binding obligations of the Parent, enforceable against the Parent in accordance with their respective terms, except as the same may be limited by applicable bankruptcy, insolvency (including all laws relating to fraudulent transfers), reorganization, moratorium or similar laws affecting creditors' rights generally, now or hereafter in effect, and subject to the effect of general principles of equity (regardless of whether considered in a proceeding at law or in equity).

(c) To the knowledge of the Parent and the Purchaser, there exists no fact or set of facts with respect to the Purchaser that would reasonably be likely to have a negative effect on the ability of any Institution to obtain the approval of the change in ownership by any Educational Agency listed in Section 4.03 of the Disclosure Schedule.

Section 4.02 No Conflict. Assuming the making and obtaining of all filings, notifications, consents, approvals, authorizations and other actions referred to in Section 4.03 of the Disclosure Schedule, except as may result from any facts or circumstances relating solely to the Seller, the execution, delivery and performance by the Parent and the Purchaser of this Agreement and the Ancillary Agreements to which the Parent or the Purchaser is a party, as the case may be, do not and will not (a) violate, conflict with or result in the breach of any provision of the certificate of formation or limited liability agreement of the Parent or the Purchaser, (b) conflict with or violate any Law or Governmental Order applicable to the Parent or the Purchaser or (c) conflict with, or result in any breach of, constitute a default (or event that with the giving of notice or lapse of time, or both, would become a default) under, require any consent under, or give to others any rights of termination, amendment, acceleration, suspension, revocation or cancellation of, any note, bond, mortgage or indenture, contract, agreement, lease, license, permit, franchise or other instrument or arrangement to which the Parent or the Purchaser is a party or to which any of its assets or properties are bound or affected, which would materially and adversely affect the ability of the Parent or the Purchaser to carry out their obligations under, and to consummate the transactions contemplated by, this Agreement or the Ancillary Agreements to which the Parent or the Purchaser is a party, as the case may be.

Section 4.03 Governmental Consents and Approvals. Except for the Required Consents or as otherwise set forth on Section 4.03 of the Disclosure Schedule, the execution, delivery and performance by the Parent and the Purchaser of this Agreement and each Ancillary Agreement to which the Parent or the Purchaser is a party, as the case may be, do not and will not require any consent, approval, authorization or other order of, action by, filing with, or notification to any Governmental Authority or Educational Agency. To the knowledge of the Parent and the Purchaser there is no reason why all the Required Consents or the consents listed on Section 4.03 of the Disclosure Schedule will not be received.

Section 4.04 Litigation. No Action by or against the Parent or the Purchaser is pending or, to the knowledge of the Parent or the Purchaser, threatened, that could affect the legality, validity or enforceability of this Agreement, any Ancillary Agreement or the consummation of the transactions contemplated hereby or thereby.

Section 4.05 Brokers. No broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement or the Ancillary Agreements based upon arrangements made by or on behalf of the Parent or the Purchaser.

Section 4.06 No Other Representations. None of the Parent, the Purchaser, or any of their affiliates, directors, officers, employees, agents or representatives has made, or shall be deemed to have made, and neither the Parent nor the Purchaser is liable for or bound in any manner by, any express or implied representations, warranties, guaranties, promises or statements pertaining to their business or any of their assets except as specifically set forth in this Agreement or the Ancillary Agreements.

ARTICLE V

ADDITIONAL AGREEMENTS

Section 5.01 Access to Information.

(a) Subject to Section 6.06 (relating to Tax matters), until the later of (i) seven years after the Closing and (ii) the expiration of the relevant record retention period under any Governmental Authority or Educational Agency requirements, none of the Sellers, the Companies, the Subsidiaries, the Purchaser or the Parent will destroy or otherwise dispose of any of the books, records, files or documents in its possession that relate to the Companies, Subsidiaries or Institutions for the periods prior to the Closing without giving the other party hereto at least 90 days' prior written notice and an opportunity, at such other party's cost and expense, to take possession or make extracts or copies thereof. "Books, records, files or documents" shall include copies of any insurance policies, testing logs, applications for admission, all student records, including student accounts, accreditation reports, personnel files, financial statements, operational reports, policies and procedures, correspondence, all reports prepared for or provided to any Governmental Authority or Educational Agency, all records retained pursuant to relevant Governmental Authority or Educational Agency requirements and any other books, records, files or documents. After the Closing Date, each party hereto shall permit the other party, its officers, counsel, accountants and other authorized representatives during normal business hours and on reasonable prior written notice, to have access to and examine and make copies of any books, records, files or documents in its possession that relate to or concern the Institutions or their operations for the periods prior to the Closing; provided that such access does not unreasonably interfere with the operations of the party providing such access; provided, further, that the party requesting access to such books, records, files or documents will bear any costs, other than wages and salaries and employee benefits of relevant personnel, of obtaining such access. All information obtained shall be kept confidential in accordance with the Non-Disclosure Agreement, dated June 6, 2008, by and between Lincoln Educational Services Corporation and BIT, as amended on July 23, 2008 and the Non-Disclosure Agreement, dated July 10, 2008, by and among Lincoln Educational Services Corporation, BIT and UGP (the "Non-Disclosure Agreement").

(b) Each Seller agrees to, and shall cause its agents, representatives, employees, officers and directors to, keep confidential all nonpublic information in their possession regarding the Assets, any Company, Subsidiary, Institution or Business (including any information made available to the Sellers pursuant to this Section 5.01) unless the Parent and the Purchaser consent to such disclosure; provided, however, that no Seller will be required to maintain as confidential any information that (i) becomes generally available to the public other than as a result of disclosure by any Seller or any of their respective agents, representatives, employees, officers and directors in breach of this Agreement; (ii) is subsequently received by any Company, Subsidiary or Institution or any of their Affiliates or representatives from a third party that is not under any obligation of confidentiality to the Parent or the Purchaser with respect to such information or (iii) is required to be disclosed pursuant to the terms of a valid subpoena or order by any Governmental Authority or Educational Agency or under any Law or other legal requirement; provided further that, in the event that any Seller or any such agent, representative, employee, officer or director becomes legally compelled to disclose any such information, (A) such Seller shall provide the Purchaser with prompt written notice of such requirement so that the Purchaser may seek a protective order or other remedy or waive compliance with this Section 5.01 and (B) in the event that such protective order or other remedy is not obtained or the Purchaser waives compliance with this Section 5.01, furnish only that portion of such confidential information which is legally required to be provided and exercise its best efforts to obtain assurances that confidential treatment will be accorded such information.

Section 5.02 Regulatory and Other Authorizations Post-Closing. (a) The Sellers shall cooperate fully with the Purchaser at the Purchaser's expense and use all commercially reasonable efforts in good faith to assist the Purchaser in obtaining all Required Consents and any other authorizations, consents, orders and approvals (including any authorizations, consents, orders and approvals listed in Section 4.03 of the Disclosure Schedule) that may be or become necessary for its execution and delivery of, and the performance of its obligations pursuant to, this Agreement, the Ancillary Agreements; provided, however, that no Seller shall have any obligation to give any guaranty or other consideration of any nature in connection with any authorizations, consents, orders and approvals. The Sellers agree to provide to the Purchaser such information as any Educational Agencies or the other parties may require, in connection with their review of any related application. The Sellers agree to cooperate at the Purchaser's expense after the Closing to assist the Purchaser to obtain or renew any Educational Approvals or any other necessary authorizations and approvals from Governmental Authorities or Educational Agencies with respect to the Institutions, including obtaining U.S. DOE Approvals on a provisional basis after the Closing Date.

(b) The Sellers shall cooperate at the Purchaser's expense and use all commercially reasonable efforts, in good faith, to assist the Purchaser in prosecuting and expediting any necessary applications in respect of the Institutions' continued participation in the Title IV Programs.

(c) The Sellers and the Purchaser agree that, in the event that any consent, approval or authorization necessary or desirable to preserve for the Businesses, the Companies or any Subsidiary any right or benefit under any lease, license, contract, commitment or other agreement or arrangement to which the Sellers, the Companies or any Subsidiary is a party is not obtained prior to the date hereof, the Sellers will , at the Purchaser's expense, subsequent to the date hereof, cooperate with the Purchaser, the Companies or any such Subsidiary in attempting to obtain such consent, approval or authorization as promptly thereafter as practicable.

Section 5.03 Use of Intellectual Property. The Sellers acknowledge that, from and after the date hereof, (a) the applicable Owned Intellectual Property shall be owned by the Purchaser, a Company or a Subsidiary, that no Seller nor any of their Affiliates shall have any rights in such Owned Intellectual Property and that no Seller nor any of their Affiliates will contest the ownership or validity of any rights of the Purchaser or any Company or Subsidiary in or to such Owned Intellectual Property, and (b) no Seller nor any of their Affiliates shall use any of the applicable Owned Intellectual Property or Licensed Intellectual Property.

Section 5.04 Payments on Behalf of Affiliates. Payments made or received by the Purchaser pursuant to Article II or Article VII hereof shall, in appropriate circumstances, be made on behalf of, or received in trust for the benefit of, the relevant Affiliate of the Purchaser. The Purchaser may direct in writing any such payment to be made by or to the appropriate Affiliate, and the Sellers shall comply with any such direction received at least two Business Days prior to the date such payment is due.

Section 5.05 Employees. (a) As of the date hereof, all existing employment agreements to which any Company or Subsidiary is a party shall be terminated.

(b) The Purchaser shall make an offer of employment, effective as of the date hereof to all of the employees of Educational Properties, LLC as listed on Section 5.05 of the Disclosure Schedule (each a "Transferred Employee"). The medical, dental and health plans of the Purchaser or its Affiliate applicable to each Transferred Employee (A) shall not contain any exclusions for pre-existing conditions, (B) shall cover as of the date hereof each Transferred Employee who was covered by a comparable Plan immediately prior to the date hereof and (C) shall credit each Transferred Employee for the 2009 plan year of such Company or Subsidiary with all deductibles and co-payments applicable to the portion of such plan year occurring prior to the date hereof. In addition, the Purchaser or its Affiliate shall grant each Transferred Employee full credit for all periods of employment with any Seller, Company or Subsidiary for eligibility, vesting and accrual purposes under the employee benefit plans of the Purchaser or its Affiliate applicable to such Transferred Employee (except that this sentence shall not obligate the Purchaser or any of its Affiliates to grant benefit accrual service under any defined benefit pension plan for any period of employment occurring prior to the date hereof); provided, however, that such crediting of service shall not operate to duplicate any benefit to any such employee or the funding for any such benefit.

Section 5.06 Non-Competition. (a) Each of Baran and Barbara Baran hereby agrees that, for a period of three years after the date hereof (the "Restricted Period"), he or she shall not engage, directly or indirectly, in any business anywhere in the United States that provides products or services of the kind provided by the Businesses and the Institutions as of the date hereof (a "Restricted Business") or, without the prior written consent of the Purchaser (such consent not to be unreasonably withheld) and the Parent, directly or indirectly, own an interest in, manage, operate, join, control, lend money or render financial or other assistance to or participate in or be connected with, as an officer, employee, partner, shareholder, consultant or otherwise, any Restricted Business; provided, however, that each of Baran and Barbara Baran may own, directly or indirectly, solely as an investment, up to 2% of any class of any securities traded on a national securities exchange of any business that engages in the Restricted Business. Nothing contained in this Section 5.06(a) shall prohibit Baran or Barbara Baran from conducting the Clemens business as it is being conducted on the date hereof.

(b) As a separate and independent covenant, each of Baran and Barbara Baran agrees that, for the Restricted Period, such Seller will in no way, directly or indirectly, interfere with or attempt to interfere with any officers, employees, representatives or agents of the Businesses and the Institutions in a manner relating to the Businesses that adversely affects such person's performance of duties with respect to the Businesses, or induce or attempt to induce any of them to leave the employ of the Purchaser or the Institutions or violate the terms of their contracts, or any employment arrangements, with the Purchaser; provided, however, that the foregoing will not prohibit a general solicitation to the public of general advertising.

(c) The individual Restricted Period with respect to Baran or Barbara Baran, respectively, shall be extended by the length of any period during which such individual is in breach of the terms of this Section 5.06.

(d) Each of Baran and Barbara Baran acknowledges that the covenants set forth in this Section 5.06 are an essential element of this Agreement and that, but for his or her agreement to comply with these covenants, the Parent and the Purchaser would not have entered into this Agreement. Each of Baran and Barbara Baran acknowledges that this Section 5.06 constitutes an independent covenant that shall not be affected by performance or nonperformance of any other provision of this Agreement by the Parent or the Purchaser. Each of Baran and Barbara Baran has independently consulted with his or her respective counsel and after such consultation agrees that the covenants set forth in this Section 5.06 are reasonable and proper.

Section 5.07 Payment Obligations. On the date hereof, the Sellers shall pay all outstanding amounts with respect to and satisfy in full, and shall deliver to the Purchaser "payoff" letters or similar releases or confirmations from third parties in forms reasonably satisfactory to the Purchaser with respect to, the obligations set forth in Section 5.07 of the Disclosure Schedule.

Section 5.08 Connecticut Transfer Act. In connection with the sale of the Shares of BIT to the Purchaser, the Sellers shall, at the Sellers' sole cost and expense, comply with the Connecticut Transfer Act, including conducting or funding any investigation or Remedial Action required thereunder, with respect to the property located at 97 Newberry Road, East Windsor, Connecticut.

Section 5.09 Reimbursement of Restricted Cash. If prior to December 31, 2009 the Purchaser, or any of its Affiliates, is no longer required to maintain the Letter of Credit issued on behalf of Americare in favor of the U.S. DOE, at the time such Letter of Credit is released, the Purchaser shall release all collateral supporting the existing Letter of Credit and shall deliver to the Sellers that amount of cash (not to exceed $361,604) reflected in the "restricted cash" line item in the Financial Statements that is allocable to such Letter of Credit, in the manner set forth in Section 2.04(a)(i) of the Disclosure Schedule , within three Business Days of such release.

Section 5.10 December 31, 2008 Financials. On or prior to January 30, 2009, provided that the Purchaser provides the assistance necessary for Sellers to complete such documents, the Sellers shall deliver to the Purchaser, the unaudited consolidated balance sheet of the Companies and Clemens for the three-month period ending December 31, 2008 and the related consolidated financial statements of Companies and Clemens, together with all related notes and schedules thereto.

Section 5.11 Further Action. Each of the parties hereto shall use all reasonable efforts to take, or cause to be taken, all appropriate action, do or cause to be done all things necessary, proper or advisable under applicable Law, and to execute and deliver such documents and other papers, as may be required to carry out the provisions of this Agreement and consummate and make effective the transactions contemplated by this Agreement.

ARTICLE VI

TAX MATTERS

Section 6.01 Indemnity. (a) The Sellers agree to indemnify and hold harmless, on a joint and several basis, the Purchaser, the Companies and the Subsidiaries against Excluded Taxes and, except as otherwise provided in Section 6.04, against any loss, damage, liability or expense, including reasonable fees for attorneys and other outside consultants incurred in contesting or otherwise in connection with any such Taxes; provided, however, that the Sellers shall only be liable for a particular Tax to the extent in excess of the amount specifically identified and reserved for such Tax for purposes of, and taken into account in computing, Net Working Capital; provided, further, that any indemnity obligations in respect of Income Taxes of the Sellers shall be several but not joint. All Taxes payable under this Section 6.01 shall first be satisfied from the Escrow Amount.

(b) In the case of Taxes that are payable with respect to a Straddle Period, the portion of any such Tax that is allocable to the portion of the Straddle Period ending on the date of the Closing shall be:

(i) in the case of Taxes that are either (x) based upon or related to income or receipts, or (y) imposed in connection with any sale or other transfer or assignment of property (real or personal, tangible or intangible) (other than conveyances pursuant to this Agreement, as provided under Section 6.07), deemed equal to the amount which would be payable if the taxable year ended on the date of the Closing; and

(ii) in the case of Taxes imposed on a periodic basis with respect to the assets of the Companies and the Subsidiaries or otherwise measured by the level of any item, deemed to be the amount of such Taxes for the entire period (or, in the case of such Taxes determined on an arrears basis, the amount of such Taxes for the immediately preceding period), multiplied by a fraction, the numerator of which is the number of calendar days in the period ending on the date of the Closing and the denominator of which is the number of calendar days in the entire Straddle Period. Any credit or refund resulting from an overpayment of Taxes for a Straddle Period shall be prorated based upon the method employed in this Section 6.01(b) taking into account the type of the Tax to which the refund relates. In the case of any Tax based upon or measured by capital (including net worth or long-term debt) or intangibles, any amount thereof required to be allocated under this Section 6.01(b) shall be computed by reference to the level of such items on the date of the Closing. All determinations necessary to effect the foregoing allocations shall be made in a manner consistent with prior practice of the Companies and the Subsidiaries.

Section 6.02 Returns and Payments. (a) From the date of this Agreement through and after the Closing, the Sellers shall prepare and file or otherwise furnish in proper form to the appropriate Governmental Authority (or cause to be prepared and filed or so furnished) in a timely manner all Tax Returns relating to the Companies and the Subsidiaries, as applicable, that are due on or before or relate to any taxable period ending on or before the Closing Date (and the Purchaser shall do the same with respect to any Straddle Period). Tax Returns of the Companies and the Subsidiaries not yet filed for any taxable period that begins before the Closing Date shall be prepared in a manner consistent with past practices employed with respect to the Companies and the Subsidiaries (except to the extent that counsel for the Sellers, the Companies or the Subsidiaries renders a legal opinion that there is no reasonable basis in law therefor or determines that a Tax Return cannot be so prepared and filed without being subject to penalties). With respect to any such Tax Return required to be filed by the Purchaser or the Sellers, for a taxable period that ends on or before, or includes, the Closing Date, the filing party shall provide the other party with a copy of such completed Tax Return and, if applicable, a statement certifying the amount of Tax shown on such Tax Return that is allocable to such other party pursuant to Section 6.01(b), together with appropriate supporting information and schedules at least 20 Business Days prior to the due date (including any extension hereof) for the filing of such Tax Return, and such other party shall have the right to review and comment on such Tax Return and statement prior to the filing of such Tax Return (which comments the filing party shall consider in good faith).

(b) The Sellers shall pay, or cause to be paid, when due and payable all Taxes with respect to the Companies and the Subsidiaries, as applicable, for any taxable period ending on or before the Closing Date, and the Purchaser shall so pay or cause to be paid Taxes for any Straddle Period (subject to its right of indemnification from the Sellers by the date set forth in Section 6.05 for Taxes attributable to the portion of any Straddle Period that ends on the Closing Date pursuant to Sections 6.01(a) and 6.01(b)). Notwithstanding the foregoing, the Sellers shall only be liable for a particular Tax of a Company or any Subsidiary for any Pre-Closing Period or portion of a Straddle Period that ends on the Closing Date to the extent that the amount of such Tax exceeds the amount specifically identified and reserved for purposes of, and taken into account in computing, Net Working Capital.

Section 6.03 Refunds. Any Tax refund (including any interest with respect thereto) relating to the Companies and the Subsidiaries for any Pre-Closing Period, other than Tax refunds to the extent of the amount included in Net Working Capital, shall be the property of the Sellers, and if received by the Purchaser or any Company or Subsidiary shall be paid over promptly to the Sellers (in the manner set forth in Section 2.04(a)(i) of the Disclosure Schedule). Notwithstanding the foregoing, (a) any Tax refund (or equivalent benefit to the Sellers through a reduction in Tax liability) for any Pre-Closing Period arising out of the carryback of a loss or credit incurred by any Company or Subsidiary in any Post-Closing Period shall be the property of the Purchaser and, if received by the Sellers, shall be paid over promptly to the Purchaser; and (b) if a taxing authority subsequently disallows any refund with respect to which the Sellers have received a payment pursuant to this Section 6.03, the Sellers shall promptly pay (or cause to be paid) to the Purchaser the full amount of such refund (including any interest with respect thereto).

Section 6.04 Contests. (a) After the Closing, the Purchaser shall promptly notify the Sellers' Representative in writing of any written notice of a proposed assessment or claim in an audit or administrative or judicial proceeding of the Purchaser or any Company or Subsidiary which, if determined adversely to the taxpayer, would be grounds for indemnification under this Article VI; provided, however, that the failure to give such notice will not affect the Purchaser's right to indemnification under this Article VI except to the extent, if any, that, but for such failure, the Sellers could have avoided all or a portion of the Tax liability in question.

(b) In the case of an audit or administrative or judicial proceeding that relates to taxable periods ending on or before the Closing Date, provided that, and only to the extent that, the Sellers acknowledge in writing their liability under this Agreement to hold the Purchaser, the Companies and the Subsidiaries harmless against the full amount of any adjustment which may be made as a result of such audit or proceeding, the Sellers' Representative shall have the right at his expense to participate in and control the conduct of such audit or proceeding; the Purchaser also may participate in any such audit or proceeding at its own expense and, if the Sellers' Representative does not assume the defense of any such audit or proceeding, the Purchaser may defend the same in such manner as it may deem appropriate, including settling such audit or proceeding after fifteen days prior written notice to the Sellers' Representative setting forth the terms and conditions of settlement. Notwithstanding anything to the contrary contained in Section 7.05, in the event that issues relating to a potential adjustment for which the Sellers have acknowledged liability are required to be contested in the same audit or proceeding as separate issues relating to a potential adjustment for which the Purchaser would be liable, the Purchaser shall have the right, at its expense, to control the audit or proceeding with respect to the latter issues; provided, however, that the Purchaser shall not have the right to settle any such matter without the consent of the Sellers' Representative, which consent shall not be unreasonably withheld.

(c) Notwithstanding anything to the contrary contained in Section 6.04, with respect to issues relating to a potential adjustment for which both the Sellers (as evidenced by their written acknowledgement under this Section 6.04) and the Purchaser or any Company or Subsidiary could be liable, (i) both the Sellers' Representative and the Purchaser may participate in the audit or proceeding; (ii) the audit or proceeding shall be controlled by that party which would bear the burden of the greater portion of the sum of the adjustment and any corresponding adjustments that may reasonably be anticipated for future taxable periods; and (iii) the controlling party shall not settle any such matter without the consent of the non-controlling party (which consent shall not be unreasonably withheld). The principle set forth in this Section 6.04(c) also shall govern for purposes of deciding any issue that must be decided jointly (including choice of judicial forum) in situations in which separate issues are otherwise controlled under this Article VI by the Purchaser and the Sellers' Representative.

(d) With respect to any Tax audit or proceeding for a taxable period that begins before the Closing Date, neither the Purchaser nor the Sellers' Representative shall enter into any compromise or agree to settle any claim pursuant to such audit or proceeding which would adversely affect the other party for such taxable period or a subsequent taxable period without the written consent of the other party, which consent may not be unreasonably withheld. The Purchaser and the Sellers' Representative agree to cooperate, and the Purchaser agrees to cause the Companies and the Subsidiaries to cooperate, in the defense against or compromise of any claim in any such audit or proceeding.

Section 6.05 Time of Payment. Payment by the Sellers of any amounts due under this Article VI in respect of Taxes shall be made (a) at least three Business Days before the due date of the applicable estimated or final Tax Return required to be filed by the Purchaser on which is required to be reported income for a taxable period ending after the Closing Date for which the Sellers are responsible under Sections 6.01(a) and 6.01(b) without regard to whether the Tax Return shows overall net income or loss for such period or (b) within three Business Days following an agreement between the Sellers' Representative and the Purchaser that an indemnity amount is payable, an assessment of a Tax by a taxing authority, or a "determination" as defined in Section 1313(a) of the Code. If liability under this Article VI is in respect of costs or expenses other than Taxes, payment by the Sellers of any amounts due under this Article VI shall be made within five Business Days after the date when the Sellers' Representative has been notified by the Purchaser that the Sellers have a liability for a determinable amount under this Article VI and is provided with calculations or other materials supporting such liability.

Section 6.06 Tax Cooperation and Exchange of Information. The Sellers and the Purchaser shall provide each other with such cooperation and information as either of them reasonably may request of the other (and the Purchaser shall cause the Companies and the Subsidiaries to provide such cooperation and information) in (a) filing any Tax Return, amended Tax Return or claim for refund, (b) determining a liability for Taxes or a right to a refund of Taxes, (c) participating in or conducting any audit or other proceeding in respect of Taxes, or (d) making representations to or furnishing information to parties subsequently desiring to purchase any part of the Assets, the Business or any Company or Subsidiary from the Purchaser. Such cooperation and information shall include providing copies of relevant Tax Returns or portions thereof, together with related work papers and documents relating to rulings or other determinations by taxing authorities. The Sellers and the Purchaser shall make themselves (and their respective employees) reasonably available on a mutually convenient basis to provide explanations of any documents or information provided under this Section 6.06. Notwithstanding anything to the contrary in Section 5.01, each Seller and the Purchaser shall retain all Tax Returns, work papers and all material records or other documents in its possession (or in the possession of its Affiliates) relating to Tax matters of the Companies and the Subsidiaries for any taxable period that includes the date of the Closing and for all prior taxable periods until the later of (i) the expiration of the statute of limitations of the taxable periods to which such Tax Returns and other documents relate, without regard to extensions, and (ii) six years following the due date (without extension) for such Tax Returns. After such time, before any Seller or the Purchaser shall dispose of any such documents in his, her or its possession (or in the possession of Affiliates), the other parties shall be given an opportunity, after 90 days prior written notice, to remove and retain all or any part of such documents as such other party may select (at such other party's expense). Any information obtained under this Section 6.06 shall be kept confidential, except as may be otherwise necessary in connection with the filing of Tax Returns or claims for refund or in conducting an audit or other proceeding.

Section 6.07 Conveyance Taxes. The Sellers, on the one hand, and the Purchaser, on the other hand, shall each be liable for and shall hold the other harmless against, on a joint and several basis in the case of the Sellers, 50% of any Conveyance Taxes which become payable in connection with the transactions contemplated by this Agreement. The Sellers, after the review and consent by the Purchaser, shall file such applications and documents as shall permit any such Conveyance Taxes to be assessed and paid on or prior to the Closing in accordance with any available pre-sale filing procedure. The Purchaser shall execute and deliver all instruments and certificates necessary to enable the Sellers to comply with the foregoing. The Purchaser shall complete and execute a resale or other exemption certificate with respect to the inventory items sold hereunder, and shall provide the Sellers with an executed copy thereof.

Section 6.08 Amended Tax Returns. (a) Any amended Tax Return of either Company or any of the Subsidiaries or claim for Tax refund on behalf of either Company or any of the Subsidiaries for any period ending on or prior to the Closing Date may be filed, or caused to be filed, by the Sellers' Representative; provided that the Sellers' Representative shall not, without the prior written consent of the Purchaser (which consent shall not be unreasonably withheld), make or cause to be made, any such filing, to the extent such filing, if accepted, reasonably might change the Tax Liability of the Purchaser for any period ending after the Closing Date. Notwithstanding the foregoing, the Purchaser may amend any Tax Return to the extent such amendment would not adversely affect or increase the Sellers' liability for any Tax or adversely affect the Sellers' claim for any Tax refund.

(b) Any amended Tax Return of either Company or any of the Subsidiaries or claim for Tax refund on behalf of either Company or any of the Subsidiaries for any period ending after the Closing Date shall be filed, or caused to be filed, only by the Purchaser; provided that the Purchaser shall not, without the prior written consent of the Sellers' Representative (which consent shall not be unreasonably withheld), make or cause to be made, any such filing, to the extent such filing, if accepted, reasonably might change the Tax Liability of the Sellers for (i) any period ending on or prior to the Closing Date or (ii) any portion of a Straddle Period ending on the Closing Date.

Section 6.09 Tax Covenants.

(a) The Purchaser covenants that without obtaining the prior written consent of the Sellers' Representative it will not, and will not cause or permit either Company, the Subsidiaries or any Affiliate of Purchaser, to (i) take any action on the Closing Date other than in the ordinary course of business that could give rise to any Tax liability of Sellers or any indemnification obligation of Sellers under Section 7.02, or (ii) make a material Tax election under Section 338(g) of the Code with respect to the transactions contemplated hereby.

(b) After the Closing Date, the Purchaser, the Companies and/or the Subsidiaries will not, without obtaining the written consent of the Sellers' Representative (which consent shall not be unreasonably withheld), agree to the waiver or any extension of the statute of limitations relating to any Taxes of any Company or Subsidiary for any Pre-Closing Period (other than Taxes with respect to any Straddle Period) other than extensions of time to file Tax Returns obtained in the ordinary course. Notwithstanding the foregoing, if the Sellers do not respond to a request for written consent from the Purchaser within five days, the Sellers will be irrevocably deemed to consent to such waiver or extension.

Section 6.10 Miscellaneous. (a) The Sellers and the Purchaser agree to treat all payments made by either of them to or for the benefit of the other (including any payments to any Company or Subsidiary) under this Article VI, under other indemnity provisions of this Agreement and for any misrepresentations or breaches of warranties or covenants as adjustments to the Purchase Price and that such treatment shall govern for purposes hereof except to the extent that the Laws of a particular jurisdiction provide otherwise.

(b) All payments payable under any tax sharing agreement or arrangement (other than this Agreement) between any Seller, on the one hand, and any Company or Subsidiary, on the other hand, for any taxable period ending on or prior to the Closing Date shall be calculated on a basis consistent with past practice and shall be payable in full prior to the Closing. Any such tax sharing agreement or arrangement (other than this Agreement) between any Seller and any Company or Subsidiary shall be terminated prior to the Closing.

(c) Notwithstanding any provisions in this Agreement to the contrary, the obligations of the Sellers to indemnify and hold harmless the Purchaser and the Companies and Subsidiaries pursuant to this Article VI, and the representations and warranties contained in Section 3.23, shall terminate at the close of business on the 60th day following the expiration of the applicable statute of limitations with respect to the Tax liabilities in question (giving effect to any waiver, mitigation or extension thereof).

(d) From and after the date of this Agreement, no Seller shall, without the prior written consent of the Purchaser (which may, in its sole and absolute discretion, withhold such consent), make, or cause or permit to be made, any Tax election that would materially affect any Company or Subsidiary.

(e) For purposes of this Article VI, "the Purchaser" and "a Seller," respectively, shall include each member of the affiliated group of corporations of which it is or becomes a member (other than any Company or Subsidiary, except to the extent expressly referenced).

(f) The Purchaser shall be entitled to recover professional fees and related costs that it may reasonably incur to enforce the provisions of this Article VI.

(g) Notwithstanding anything to the contrary in this Agreement, the rights and obligations of the parties with respect to indemnification for any and all Tax matters shall be governed solely by this Article VI.

ARTICLE VII

INDEMNIFICATION

Section 7.01 Survival of Representations and Warranties. (a) The representations and warranties of the Sellers contained in this Agreement and the Ancillary Agreements to which any Seller is a party shall survive the Closing for 15 months from the Closing Date; provided, however, that (i) the representations and warranties made pursuant to Section 3.01 (Organization), Section 3.03 (Capitalization) and Section 3.29 (Brokers) shall survive indefinitely, (ii) the representations and warranties dealing with Tax matters shall survive as provided in Section 6.10(c) hereof, (iii) the representations and warranties made pursuant to Section 3.11 (Environmental), Section 3.26 (Compliance With Educational Laws) and Section 3.25 (Education Approvals) shall survive the Closing for 36 months from the Closing Date. Neither the period of survival nor the liability of the Sellers with respect to the Sellers' representations and warranties shall be reduced by any investigation made at any time by or on behalf of the Purchaser. If written notice of a claim has been given prior to the expiration of the applicable representations and warranties by the Purchaser to the Sellers, then the relevant representations and warranties shall survive as to such claim until such claim has been finally resolved.

(b) The representations and warranties of the Parent and the Purchaser contained in this Agreement and the Ancillary Agreements to which the Parent or the Purchaser is a party shall survive the Closing for 15 months from the Closing Date. Neither the period of survival nor the liability of the Parent or the Purchaser with respect to such party's representations and warranties shall be reduced by any investigation made at any time by or on behalf of the Sellers. If written notice of a claim has been given prior to the expiration of the applicable representations and warranties by the Sellers to the Parent or the Purchaser, then the relevant representations and warranties shall survive as to such claim until such claim has been finally resolved.

Section 7.02 Indemnification by the Sellers. (a) The Parent, the Purchaser and their respective Affiliates, and the officers, directors, employees and agents of the foregoing (each a "Purchaser Indemnified Party") shall be indemnified and held harmless, on a joint and several basis, by the Sellers for and against any and all Liabilities, Taxes, losses, damages, claims, costs and expenses, interest, awards, judgments and penalties (including reasonable attorneys' fees and expenses) actually suffered or incurred by them (including any Action brought or otherwise initiated by any of them) (hereinafter a "Loss") arising out of or resulting from:

(i) the breach of any representation or warranty made by any Seller contained in any Acquisition Document (it being understood that such representations and warranties shall be interpreted without giving effect to any limitations or qualifications as to "materiality" (including the word "material") or "Material Adverse Effect" set forth therein);

(ii) the breach of any covenant or agreement by any Seller contained in any Acquisition Document;

(iii) any and all Losses suffered or incurred by the Purchaser, or any Company or Subsidiary by reason of, or in connection with, any claim or cause of action of any third party to the extent arising out of any action, inaction, event, condition, liability or obligation of any Seller or the Businesses occurring or existing prior to the date hereof;

(iv) any Liability arising from or relating to the CCI Lease;

(v) any Liability relating to BIT's compliance with the Connecticut Transfer Act, including any Liability relating to or arising from BIT's status as the certifying party;

(vi) any Liability relating to the Acquisition Obligations, other than those disclosed on Section 3.30 of the Disclosure Schedule;

(vii) any Environmental Claim arising from or relating to any action, omission, condition or circumstance occurring, failing to occur or existing on or prior to the Closing that relates in any way to Engine City; any Release of Hazardous Materials at, to, on or from the Engine City Institution that occurs on or prior to the Closing, including any pre-Closing or post-Closing migration of such Release and any Remedial Action whenever conducted relating to such Release; and any violation of or non-compliance with any Environmental Law or Environmental Permit by Engine City that occurs pre-Closing, including any post-Closing continuation of such violation or non-compliance except to the extent such continuation was caused by the negligence of the Purchaser; or

(viii) any and all Losses (A) arising out of or resulting from the termination of employment, for any reason at any time prior to the date six months following the Closing Date, of any of the employees of any Company or Subsidiary listed on Section 7.02(a)(viii)(A) of the Disclosure Schedule, which Losses arise pursuant to any arrangements made with such employees prior to Closing or (B) in respect of or relating to (y) the Transferred Employees for periods on or prior to the Closing Date, other than those assumed liabilities listed on Section 7.02(a)(viii)(B) of the Disclosure Schedule or (z) any current or former employees of, or other service providers to, Educational Properties, LLC other than the Transferred Employees.

(b) Subject to Section 7.04, to the extent that the undertakings of the Sellers set forth in this Section 7.02 may be unenforceable, the Sellers shall contribute the maximum amount that it is permitted to contribute under applicable Law to the payment and satisfaction of all Losses incurred by the Purchaser Indemnified Parties.

(c) The joint and several liability of all of the Sellers set forth in Sections 6.01(a) or 7.02(a) shall only apply to Losses to the extent that such Losses may be satisfied from the funds remaining in the Escrow Account. For all Losses (i) in excess of the funds remaining in the Escrow Account or (ii) which arise under Sections 6.01(a) or 7.02(a) after disbursement of the funds remaining in the Escrow Account, subject to any limitations set forth in Section 7.04, only Baran, Barbara Baran, UGP and UGPE (and no other Seller) shall be jointly and severally liable for such Losses. Notwithstanding anything to the contrary set forth hereinabove, with respect to any Losses suffered pursuant to a breach described in Section 7.02(a)(ii), each Seller shall be liable severally, and not jointly, based upon which Seller is responsible for such Losses, and the Purchaser shall only be entitled to pursue indemnification for such Losses from such breaching Seller (and no other Seller).

Section 7.03 Indemnification by the Parent and the Purchaser. (a) The Sellers and their officers, directors, employees and agents (each a "Seller Indemnified Party") shall be indemnified and held harmless by each of the Parent and the Purchaser, jointly and severally, for and against any and all Losses arising out of or resulting from:

(i) the breach of any representation or warranty made by the Parent or the Purchaser contained in this Agreement or any of the Ancillary Agreements to which the Parent or the Purchaser is a party; or

(ii) the breach of any covenant or agreement by the Parent or the Purchaser contained in this Agreement or any of the Ancillary Agreements to which the Parent or the Purchaser is a party.

(b) To the extent that the undertakings of the Parent or the Purchaser set forth in this Section 7.03 may be unenforceable, the Parent or the Purchaser shall contribute the maximum amount that it is permitted to contribute under applicable Law to the payment and satisfaction of all Losses incurred by the Seller Indemnified Parties.

Section 7.04 Limits on Indemnification. (a) Notwithstanding anything to the contrary contained in this Agreement, (a) the Sellers shall not be liable to any Purchaser Indemnified Party for any claim for indemnification pursuant to Section 7.02(a)(i) and Section 7.02(a)(iii), unless and until the aggregate amount of indemnifiable Losses which may be recovered by the Purchaser Indemnified Party under this Agreement (together with the amounts of indemnifiable Losses which may be recovered by the Purchaser Indemnified Party under the Clemens Agreement) equals or exceeds $300,000 (the "Basket"), after which the Sellers shall be liable only for those Losses under Section 7.02(a)(i) and Section 7.02(a)(iii) of this Agreement and Section 8.02(a)(i) and Section 8.02(a)(iii) of the Clemens Agreement in excess of the Basket, and (b) the maximum amount of indemnifiable Losses which may be recovered by the Purchaser Indemnified Parties pursuant to Section 7.02(a)(i) and Section 7.02(a)(iii) of this Agreement and Section 8.02(a)(i) and Section 8.02(a)(iii) of the Clemens Agreement, as applicable, shall be $5,000,000 (the "Cap"). Notwithstanding the foregoing, the Basket and the Cap limitations set forth in this Section 7.04 shall not apply with respect to Tax matters.

(b) Notwithstanding anything to the contrary contained in this Agreement, (a) the Parent and the Purchaser shall not be liable to any Seller Indemnified Party for any claim for indemnification pursuant to Section 7.03(a)(i), unless and until the aggregate amount of indemnifiable Losses which may be recovered by the Seller Indemnified Party under this Agreement (together with the amounts of indemnifiable Losses which may be recovered by the Seller Indemnified Party under the Clemens Agreement) equals or exceeds the Basket, after which the Parent and the Purchaser shall be liable only for those Losses under Section 7.03(a)(i) of this Agreement and Section 8.03(a)(i) of the Clemens Agreement in excess of the Basket, and (b) the maximum amount of indemnifiable Losses which may be recovered by the Seller Indemnified Parties pursuant to Section 7.03(a)(i) of this Agreement and Section 8.03(a)(i) of the Clemens Agreement shall be the Cap.

(c) Notwithstanding Section 7.02 or Section 7.03, no Indemnified Party shall be entitled to indemnification under this Article VII with respect to any amounts taken into consideration in computing any adjustment to the Purchase Price pursuant to Section 2.05.

(d) The remedies provided in Section 6.01 and this Article VII shall constitute the exclusive remedies of the parties hereto at law following the Closing for any breach of a representation, warranty or covenant contained in this Agreement or any other Acquisition Document and the parties hereto waive any other remedy which they or any other person entitled to be indemnified pursuant to Section 6.01 or this Article VII may have at law with respect to any breach of any such representation, warranty or covenant.

Section 7.05 Indemnification Procedures. (a) An Indemnified Party shall give the Indemnifying Party notice of any matter that an Indemnified Party has determined has given or could give rise to a right of indemnification under this Agreement, within 30 days of such determination, stating the amount of the Loss, if known, and method of computation thereof, and containing a reference to the provisions of this Agreement in respect of which such right of indemnification is claimed or arises.

(b) If an Indemnified Party shall receive notice of any Action, audit, demand or assessment (each, a "Third Party Claim") against it or which may give rise to a claim for a Loss under this Article VII, within 30 days of the receipt of such notice, the Indemnified Party shall give the Indemnifying Party notice of such Third Party Claim; provided, however, that the failure to provide such notice shall not release the Indemnifying Party from any of its obligations under this Article VII except to the extent that the Indemnifying Party is materially prejudiced by such failure and shall not relieve the Indemnifying Party from any other obligation or Liability that it may have to any Indemnified Party otherwise than under this Article VII. If the Indemnifying Party acknowledges in writing its obligation to indemnify the Indemnified Party hereunder against any Losses that may result from such Third Party Claim, then the Indemnifying Party shall be entitled to assume and control the defense of such Third Party Claim at its expense and through counsel of its choice if it gives written notice of its intention to do so to the Indemnified Party within ten days of the receipt of notice from the Indemnified Party of such Third Party Claim; provided, however, that if there exists or is reasonably likely to exist a conflict of interest based upon the opinion of counsel of such Indemnified Party that would make it inappropriate in the judgment of the Indemnified Party in its reasonable discretion for the same counsel to represent both the Indemnified Party and the Indemnifying Party, then the Indemnified Party shall be entitled to retain its own counsel, at the expense of the Indemnifying Party; provided, however, that the Indemnified Party shall only be entitled to retain one separate counsel for which the Indemnified Party reasonably determined counsel is required. In the event that the Indemnifying Party exercises the right to undertake any such defense against any such Third Party Claim as provided above, the Indemnified Party shall cooperate with the Indemnifying Party in such defense and make available to the Indemnifying Party, at the Indemnifying Party's expense, all witnesses, pertinent records, materials and information in the Indemnified Party's possession or under the Indemnified Party's control relating thereto as is reasonably required by the Indemnifying Party. Similarly, in the event the Indemnified Party is, directly or indirectly, conducting the defense against any such Third Party Claim, the Indemnifying Party shall cooperate with the Indemnified Party in such defense and make available to the Indemnified Party, at the Indemnifying Party's expense, all such witnesses, records, materials and information in the Indemnifying Party's possession or under the Indemnifying Party's control relating thereto as is reasonably required by the Indemnified Party. No such Third Party Claim may be settled by the Indemnifying Party without the prior written consent of the Indemnified Party, which consent shall be given or withheld by the Indemnified Party in its sole discretion, provided that if such settlement is a purely economic settlement that involves the full release of the Indemnified Party and the Indemnifying Party agrees to pay all amounts payable pursuant to such settlement, the Indemnified Party's consent will not be unreasonably withheld. Notwithstanding the foregoing, if an Indemnified Party reasonably believes an adverse determination with respect to any Educational Claim could adversely affect any Educational Approval of an Institution or an Institution's ability to participate fully in the Title IV Programs, the Indemnified Party may, by notice to the Indemnifying Party, assume the exclusive right to defend, compromise, or settle such matter, provided that the Indemnifying Party shall not be bound by a settlement effected without its consent (which may not be unreasonably withheld).

Section 7.06 Distributions from Escrow Account. Subject to Section 6.01 and Section 7.07 below, all Losses payable under this Article VII and Section 6.01(a) shall first be satisfied by the Escrow Amount. In the event that (a) the Sellers shall not have objected to the amount claimed by the Purchaser for indemnifications with respect to any Loss in accordance with the procedures set forth in the Escrow Agreement or (b) the Sellers have delivered notice of its disagreement as to the amount of any indemnification requested by the Purchaser and either (i) the Sellers, on the one hand, and the Purchaser, on the other hand, shall have subsequent to the giving of such notice, mutually agreed that the Sellers are obligated to indemnify the Purchaser for a specified amount and the Purchaser and the Sellers' Representative shall have so jointly notified the Escrow Agent or (ii) a final nonappealable judgment shall have been rendered by the court having jurisdiction over the matters relating to such claim by the Purchaser for indemnification from the Sellers and the Escrow Agent shall have received in the case of clause (i) above, written instructions from the Sellers' Representative and the Purchaser or, in the case of clause (ii) above, a copy of the final nonappealable judgment of the court, the Escrow Agent shall deliver to the Purchaser from the Escrow Account any amount determined to be owed to the Purchaser under this Article VII in accordance with the Escrow Agreement. If and to the extent the Escrow Amount is insufficient to cover any amount determined to be owed to the Purchaser under Section 6.01(a) or this Article VII, then Baran, Barbara Baran, UGP and UGPE (and no other Seller) shall pay the amount of such deficiency to the Purchaser by wire transfer in immediately available funds to a bank account designated by the Purchaser, subject to the provisions of Section 7.06.

Section 7.07 Mitigation. Notwithstanding the indemnification requirements of the Sellers set forth in Section 7.02, in the event that (a) any of the Purchaser Indemnified Parties intends to seek indemnification for Losses under Section 7.02 and (b) such Losses are recoverable by the Purchaser Indemnified Parties under the Americare Agreement or the Engine City Agreement, such Purchaser Indemnified Party must first seek recovery under the Americare Agreement or the Engine City Agreement, as applicable, for such Losses to the same extent as they would if such Losses were not subject to indemnification hereunder; provided, that nothing in this Section 7.07 shall release the Sellers from their obligations under Section 7.02.

Section 7.08 Sellers' Representative. (a) By the execution and delivery of this Agreement, each of the Sellers hereby irrevocably constitutes and appoints Baran, as the true and lawful agent and attorney in fact (in such capacity, the "Sellers' Representative") of the Sellers with full power of substitution to act in the name, place and stead of the Sellers with respect to this Agreement, the Escrow Agreement and the transactions contemplated hereby and thereby as the Sellers' Representative may deem appropriate, and to act on behalf of the Sellers in any litigation or arbitration involving this Agreement or the Escrow Agreement, do or refrain from doing all such further acts and things, and execute all such documents as the Sellers' Representative shall deem necessary or appropriate in connection with the transactions contemplated by this Agreement and the Escrow Agreement, including the power:

(i) to act for the Sellers with regard to matters pertaining to the determination of the Purchase Price, the adjustment to the Purchase Price and pertaining to the indemnification referred to in this Agreement, including the power to settle any indemnity claim on behalf of the Sellers and to transact matters of litigation;

(ii) to execute and deliver all ancillary agreements, certificates and documents that the Sellers' Representative deems necessary or appropriate in connection with the consummation of the transactions contemplated by this Agreement and the Escrow Agreement;

(iii) to receive funds and give receipts for funds, including in respect of any adjustments to the Purchase Price or any amounts distributed under the Escrow Agreement;

(iv) to do or refrain from doing any further act or deed on behalf of the Sellers that the Sellers' Representative deems necessary or appropriate in its sole discretion relating to the subject matter of this Agreement or the Escrow Agreement as fully and completely as the Sellers could do if personally present;

(v) to receive service of process in connection with any claims under this Agreement or the Escrow Agreement; and

(vi) to accept notices in accordance with Section 9.02.

(b) Baran hereby agrees and consents to his appointment as the Sellers' Representative pursuant to this Section 7.08, effective as of the date of this Agreement. The appointment of the Sellers' Representative shall be deemed coupled with an interest and shall be irrevocable, and the Purchaser and any other Person may conclusively and absolutely rely, without inquiry, upon any action or decision of the Sellers' Representative in all matters referred to herein. All actions and decisions of Sellers' Representative shall be binding and conclusive on each Seller. All notices required to be made or delivered by the Purchaser to the Sellers and shall be made to the Sellers' Representative for the benefit of the Sellers and shall discharge in full all notice requirements of the Purchaser to the Sellers with respect thereto. The Sellers hereby confirm all that the Sellers' Representative shall do or cause to be done by virtue of its appointment as the Sellers' Representative of the Sellers. The Sellers' Representative shall act for the Sellers on all of the matters set forth in this Agreement and the Escrow Agreement in the manner the Sellers' Representative believes to be in the best interest of the Sellers and consistent with the obligations under this Agreement and the Escrow Agreement, but the Sellers' Representative shall not be responsible to the Sellers for any loss or damages the Sellers may suffer by the performance by the Sellers' Representative of its duties under this Agreement or the Escrow Agreement, other than loss or damage arising from intentional violation of the law by the Sellers' Representative of his duties under this Agreement or the Escrow Agreement.

(c) If any individual Seller should die or become incapacitated, if any trust or estate should terminate or if any other similar event should occur, any action taken by the Sellers' Representative pursuant to this Section 7.08 shall be valid as if such death or incapacity, termination or other event had not occurred, regardless of whether or not the Sellers' Representative or the Purchaser shall have received notice of such death, incapacity, termination or similar event. The Person appointed as Sellers' Representative may resign as such at any time on not less than five Business Days' notice to the Sellers and the Parent. A vacancy in the position of Sellers' Representative shall be filled by a Person determined by the holders of a majority in interest of the amount then held in the Escrow Account.

ARTICLE VIII

AMENDMENT AND WAIVER

Section 8.01 Amendment. This Agreement may not be amended or modified except (a) by an instrument in writing signed by or on behalf of the parties hereto or (b) by a waiver in accordance with Section 8.02.

Section 8.02 Waiver. Any party hereto may (a) extend the time for the performance of any of the obligations or other acts of another party, (b) waive any inaccuracies in the representations and warranties of another party contained herein or in any document delivered by another party pursuant hereto or (c) waive compliance with any of the agreements of another party or conditions to such party's obligations contained herein. Any such extension or waiver shall be valid only if set forth in an instrument in writing signed by the party or parties to be bound thereby. Any waiver of any term or condition shall not be construed as a waiver of any subsequent breach or a subsequent waiver of the same term or condition, or a waiver of any other term or condition of this Agreement. The failure of any party to assert any of its rights hereunder shall not constitute a waiver of any of such rights. All rights and remedies existing under this Agreement are cumulative to, and not exclusive of, any rights or remedies otherwise available.

ARTICLE IX

GENERAL PROVISIONS

Section 9.01 Expenses. Except as otherwise specified in this Agreement, all costs and expenses, including fees and disbursements of counsel, financial advisors and accountants, incurred in connection with this Agreement and the transactions contemplated by this Agreement shall be paid by the party incurring such costs and expenses, whether or not the Closing shall have occurred.

Section 9.02 Notices. All notices, requests, claims, demands and other communications hereunder shall be in writing and shall be given or made (and shall be deemed to have been duly given or made upon receipt) by delivery in person, by nationally recognized overnight courier service, by telecopy, by facsimile, by email or by registered or certified mail (postage prepaid, return receipt requested) to the respective parties at the following addresses (or at such other address for a party as shall be specified in a notice given in accordance with this Section 9.02):

(a) if to the Sellers Representative:

Brad Baran
25 Cobtail Way
Simsbury, CT 06070
Telephone: (203) 494-6134
Facsimile: (860) 627-4308

(b) if to the Sellers

Brad and Barbara Baran
25 Cobtail Way
Simsbury, CT 06070
Telephone: (203) 494-6134
Facsimile: (860) 627-4308
UGP Education Partners, LLC
Two Greenwich Office Park
Greenwich, CT 06831
Telephone: (203) 422-0650
Facsimile: (203) 422-0659
Attention: Stan Lau

Merion Investment Partners, L.P.
Merion Building, Suite 210
700 S. Henderson Rd.
King of Prussia, PA 19406
Facsimile: (610) 965-1654
Attention: William M. Means

UGPE Partners, Inc.
Two Greenwich Office Park
Greenwich, CT 06831
Telephone: (203) 422-0650
Facsimile: (203) 422-0659
Attention: Stan Lau

with a copy to:

Blank Rome LLP
405 Lexington Avenue
New York, NY 10174
Telephone: (212) 885-5435
Facsimile: (212) 885-5001
Attention: Peter Schnur, Esq.

and

Updike, Kelly & Spellacy, P.C.
One State Street
Hartford, CT 06103
Telephone: (860) 548-2651
Attention: David E. Sturgess, Esq.

(c) if to the Parent or the Purchaser:

NN Acquisition, LLC
c/o Lincoln Educational Services Corporation
200 Executive Drive
West Orange, NJ 07052
Telephone: (973) 736-9340
Facsimile: (973) 243-0841
Attention: David F. Carney, Chairman and Chief Executive Officer

with a copy to:

Shearman & Sterling LLP
599 Lexington Avenue
New York, NY 10022-6069
Telephone: (212) 848-4000
Facsimile: (646) 848-8966
Attention: Eliza W. Swann, Esq.

Section 9.03 Public Announcements. No party hereto shall make, or cause to be made, any press release or public announcement in respect of this Agreement or the transactions contemplated by this Agreement or otherwise communicate with any news media without the prior written consent of the other parties, and the parties shall cooperate as to the timing and contents of any such press release or public announcement.

Section 9.04 Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any Law or public policy, all other terms and provisions of this Agreement shall nevertheless remain in full force and effect for so long as the economic or legal substance of the transactions contemplated by this Agreement is not affected in any manner materially adverse to any party. In addition, if any one or more of the provisions contained in this Agreement is for any reason held to be excessively broad as to duration, geographical scope, activity or subject, it is to be construed by limiting and reducing it, so as to be enforceable to the extent compatible with the applicable Law as it then appears. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner in order that the transactions contemplated by this Agreement are consummated as originally contemplated to the greatest extent possible.

Section 9.05 Entire Agreement. This Agreement, the Ancillary Agreements and the Non-Disclosure Agreement constitute the entire agreement of the parties hereto with respect to the subject matter hereof and thereof and supersede all prior agreements and undertakings, both written and oral, between the Sellers on the one hand, and the Parent and the Purchaser, on the other hand, with respect to the subject matter hereof and thereof.

Section 9.06 Assignment. This Agreement may not be assigned by any party hereto by operation of law or otherwise without the express written consent of the other parties hereto (which consent may be granted or withheld in the sole discretion of such parties); provided, that the Purchaser may assign this Agreement or any of its rights and obligations hereunder to one or more Affiliates of the Purchaser without the consent of the Sellers.

Section 9.07 No Third Party Beneficiaries. This Agreement shall be binding upon and inure solely to the benefit of the parties hereto and their permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other Person, including any union or any employee or former or retired employee of any Seller or spouse or dependents of such Persons, any legal or equitable right, benefit or remedy of any nature whatsoever, including any rights of employment for any specified period, under or by reason of this Agreement.

Section 9.08 Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York applicable to contracts executed in and to be performed entirely within that State. All Actions arising out of or relating to this Agreement shall be heard and determined exclusively in any New York state or federal court. The parties hereto hereby (a) submit to the exclusive jurisdiction of any state or federal court sitting in the State of New York for the purpose of any Action arising out of or relating to this Agreement brought by any party hereto, and (b) irrevocably waive, and agree not to assert by way of motion, defense, or otherwise, in any such Action, any claim that it is not subject personally to the jurisdiction of the above-named courts, that its property is exempt or immune from attachment or execution, that the Action is brought in an inconvenient forum, that the venue of the Action is improper, or that this Agreement or the transactions contemplated by this Agreement may not be enforced in or by any of the above-named courts.

Section 9.09 Waiver of Jury Trial. Each of the parties hereto hereby waives to the fullest extent permitted by applicable Law any right it may have to a trial by jury with respect to any litigation directly or indirectly arising out of, under or in connection with this Agreement or the transactions contemplated by this Agreement. Each of the parties hereto (a) certifies that no representative, agent or attorney of any other party has represented, expressly or otherwise, that such other party would not, in the event of litigation, seek to enforce that foregoing waiver and (b) acknowledges that neither it nor the other parties hereto has been induced to enter into this Agreement and the transactions contemplated by this Agreement, as applicable, by, among other things, the mutual waivers and certifications in this Section 9.09.

Section 9.10 Specific Performance. Each party hereto agrees and acknowledges that remedies at law for any breach of its or his obligations under this Agreement are inadequate and will cause irreparable harm and that in addition thereto, the non-breaching parties shall be entitled to seek equitable relief, including injunction and specific performance, to prevent or cure the violation of any party’s obligations hereunder.

Section 9.11 Headings. The descriptive headings contained in this Agreement are included for convenience of reference only and shall not affect in any way the meaning or interpretation of this Agreement.

Section 9.12 Counterparts. This Agreement may be executed and delivered (including by facsimile transmission) in two or more counterparts, and by the different parties hereto in separate counterparts, each of which when executed shall be deemed to be an original, but all of which taken together shall constitute one and the same agreement.

Section 9.13 Exhibits and Disclosure Schedule. The Exhibits to this Agreement and the Disclosure Schedule are a part of this Agreement as if set forth in full herein.

IN WITNESS WHEREOF, the Parent, the Purchaser and the Sellers and the have caused this Agreement to be executed by their respective officers thereunto duly authorized, as of the date first written above.

LINCOLN TECHNICAL INSTITUTE, INC.

By: /s/ David F. Carney
Name: David F. Carney
Title: CEO

NN ACQUISITION, LLC

By: /s/ David F. Carney
Name: David F. Carney
Title: CEO

BRAD BARAN

/s/ Brad Baran

BARBARA BARAN

/s/ Barbara Baran

UGP EDUCATION PARTNERS, LLC

By: /s/ George V. Cinquegrana
Name: George V. Cinquegrana
Title: Partner

MERION INVESTMENT PARTNERS, L.P.
By: MERION FINANCIAL PARTNERS, L.P.,
Its General Partner
By: MERION FUND MANAGEMENT, LLC
Its General Partner

By: /s/ William M. Means
Name: William M. Means
Title: Managing Partner

UGPE PARTNERS, INC.

By: /s/ George V. Cinquegrana
Name: George V. Cinquegrana
Title: Partner

EXHIBIT 10.22

STOCK PURCHASE AGREEMENT

---

among

LINCOLN TECHNICAL INSTITUTE, INC.,

NN ACQUISITION, LLC,

BRAD BARAN,

UGP EDUCATION PARTNERS, LLC,

MERION INVESTMENT PARTNERS, L.P.

and, for certain limited purposes only,

UGPE PARTNERS, INC.

Dated as of January 20, 2009

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<u>Exhibits</u>
Exhibit A – Form of Assignment of Lease
Exhibit B – Form of General Release

STOCK PURCHASE AGREEMENT (this "Agreement"), dated as of January 20, 2009, among LINCOLN TECHNICAL INSTITUTE, INC., a New Jersey corporation (the "Parent"), NN ACQUISITION, LLC, a Delaware limited liability company and wholly owned subsidiary of the Parent (the "Purchaser"), BRAD BARAN ("Baran") UGP EDUCATION PARTNERS, LLC, a Delaware limited liability company ("UGP"), MERION INVESTMENT PARTNERS, L.P., a Delaware limited partnership ("Merion"; each of Baran, UGP and Merion, a "Seller" and collectively, the "Sellers"), and, for certain limited purposes only, UGPE PARTNERS, INC., a Delaware corporation ("UGPE").

WHEREAS, the Sellers own 100% of the issued and outstanding shares (the "Shares") of common stock, $0.01 par value per share (the "Clemens Common Stock"), of Hospitality Acquisition Corporation (dba Clemens College), a Connecticut corporation (the "Company");

WHEREAS, the Company owns and operates a post-secondary educational institution in Connecticut with one campus located in Suffield, Connecticut (the "Institution"), that is engaged in the business of providing educational services with respect to, among other things, hospitality management and culinary arts management (the "Business");

WHEREAS, the Sellers wish to sell to the Purchaser, and the Purchaser wishes to purchase from the Sellers, the Shares, upon the terms and subject to the conditions set forth herein (the "Acquisition");

WHEREAS, the Sellers, UGPE Partners, Inc., Barbara Baran, the Parent and the Purchaser are simultaneously with the execution of this Agreement entering into a Stock Purchase Agreement (the "BIT Agreement") for the purchase of all of the outstanding limited liability company interests of Hartford Urban Ventures, LLC, a Connecticut limited liability company ("HUV"), and all of the outstanding stock of Baran Institute of Technology, Inc., a Connecticut corporation ("BIT"; and together with the Company and HUV, the "Companies"), as well as its subsidiaries, Connecticut Culinary Institute, Inc., a Connecticut corporation ("CCI"), Americare Acquisition LLC, a Delaware limited liability company ("Americare"), and Engine City Technical Institute, a New Jersey corporation ("Engine City"; and together with CCI and Americare, the "Subsidiaries"); and

WHEREAS, for certain limited purposes only, UGPE has agreed to be a party to this Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual agreements and covenants hereinafter set forth, the parties hereby agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01 Certain Defined Terms. For purposes of this Agreement:

"ABHES" means the Accrediting Bureau of Health Education Schools.

"Accounting Principles" means the guidelines, rules and procedures described on Section 1.01(a) of the Disclosure Schedule.

"Accrediting Body" means any entity or organization, whether governmental, private or quasi-private, whether foreign or domestic, which engages in the granting or withholding of accreditation of post-secondary institutions in accordance with standards and requirements relating to the performance, operations, financial condition, and/or academic standards of such institutions, including the ACCSCT, the ABHES and the CIHE.

"ACCSCT" means the Accrediting Commission of Career Schools and Colleges of Technology.

"Acquisition Documents" means this Agreement, the Ancillary Agreements and any certificate, report or other document delivered pursuant to this Agreement or the transactions contemplated by this Agreement.

"Action" means any Claim, action, suit, arbitration, proceeding or investigation by or before any Governmental Authority or Educational Agency.

"Affiliate" means, with respect to any specified Person, any other Person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, such specified Person.

"Ancillary Agreements" means the Escrow Agreement, the General Release and the Assignments of Lease.

"Assets" means the assets and properties of the Company.

"Assignments of Lease" means the Assignment of Lease, in the form attached hereto as Exhibit A, with respect to each property set forth in Section 1.01(b) of the Disclosure Schedule and entered into by the Purchaser and the entity/entities listed opposite each such property on Section 1.01(b) of the Disclosure Schedule.

"Business Day" means any day that is not a Saturday, a Sunday or other day on which banks are required or authorized by Law to be closed in New York, New York.

"CERCLA" means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended.

"CERCLIS" means the Comprehensive Environmental Response, Compensation and Liability Information System, as updated through the Closing.

"CIHE" means the Commission on Institutions of Higher Education of the New England Association of Schools and Colleges.

"Claims" means any and all administrative, regulatory or judicial actions, suits, demands, demand letters, claims, liens, notices of noncompliance or violation, investigations, proceedings, consent orders or consent agreements, but excluding Educational Claims.

"Closing Balance Sheet" means the balance sheet (including the related notes and schedules thereto), dated as of the Closing Date, prepared and delivered by the Purchaser in accordance with Section 2.06 and setting forth the Net Working Capital with respect to the Company.

"Code" means the Internal Revenue Code of 1986, as amended.

"Company IP Licenses" means those (a) licenses of Intellectual Property by the Company or an Affiliate of the Company to third parties, (b) licenses of Intellectual Property by third parties to the Company or an Affiliate of the Company and (c) agreements between the Company and third parties relating to the development or use of Intellectual Property, the development or transmission of data, or the use, modification, framing, linking advertisement, or other practices with respect to Internet web sites, in each case, that are used or held for use in connection with the Business.

"Compliance Date" means January 1, 2005.

"control" (including the terms "controlled by" and "under common control with"), with respect to the relationship between or among two or more Persons, means the possession, directly or indirectly or as trustee, personal representative or executor, of the power to direct or cause the direction of the affairs or management of a Person, whether through the ownership of voting securities, as trustee, personal representative or executor, by contract, credit arrangement or otherwise.

"Conveyance Taxes" means all sales, use, value-added, transfer, stamp, stock transfer, real property transfer or gains and similar Taxes and any transfer, recording, registration and similar fees.

"Current Assets" means cash, accounts receivable, inventories, prepaid expenses and other assets that could be converted to cash in less than one year, in accordance with GAAP and GAGAS.

"Current Liabilities" means amounts owed for accounts payable, notes payable, line of credit, capital lease obligations, unearned tuition, student deposits, deferred meal plan, deferred housing costs, deferred promotional income, accrued expenses, deferred tax liability and income tax payable and other liabilities that are due within one year, in accordance with GAAP and GAGAS.

"Disclosure Schedule" means the Disclosure Schedule, dated as of the date hereof, delivered by the Sellers to the Purchaser in connection with this Agreement.

"ECAR" means Eligibility and Certification Approval Report(s) issued to the Institution.

"Educational Agency" means any Person, entity or organization, whether governmental, government chartered, private, or quasi-private, that engages in granting or withholding Educational Approvals for, administers financial assistance to or for students of, or otherwise regulates, private post-secondary schools in accordance with standards relating to performance, recruiting, operation, financial condition or academic standards of such schools, including U.S. DOE, any Accrediting Body, the State of Connecticut Board of Governors for Higher Education, the Immigration and Naturalization Service of the United States Department of Justice and the Department of Homeland Security.

"Educational Approval" means any license, permit, consent, franchise, approval, authorization, certificate, U.S. DOE Approval or accreditation issued or required to be issued by an Educational Agency to the Institution or to any campus or other facility operated by the Institution with respect to any aspect of the Institution's operations subject to the oversight of such Educational Agency.

"Educational Claims" means any and all administrative, regulatory or judicial actions, suits, demands, demand letters, claims, liens, notices of noncompliance or violation, investigations, program reviews, audits, proceedings, consent orders or consent agreements arising out of the operation of the Institution or the application thereto of any Educational Law or with respect to any Educational Approval required to be held by the Institution under any Educational Law.

"Educational Law" means any Law, regulation or binding standard issued or administered by, or related to, any Educational Agency.

"Encumbrance" means any security interest, pledge, hypothecation, mortgage, lien (including environmental and Tax liens), violation, charge, lease, license, encumbrance, servient easement, adverse claim, reversion, reverter, preferential arrangement or restrictive covenant, condition or restriction of any kind, including any restriction on the use, voting, transfer, receipt of income or other exercise of any attributes of ownership.

"Environment" means surface waters, groundwaters, sediment, soil, subsurface strata and outdoor or indoor ambient air.

"Environmental Claims" means any Claims relating to any Environmental Law or any Environmental Permit, including (a) any and all Claims by Governmental Authorities for enforcement, cleanup, removal, response, remedial or other actions or damages pursuant to any applicable Environmental Law and (b) any and all Claims by any Person seeking damages, contribution, indemnification, cost recovery, compensation or injunctive relief resulting from Hazardous Materials or arising from alleged injury or threat of injury to health, safety or the Environment.

"Environmental Laws" means all Laws and any judicial or administrative interpretation thereof, including any judicial or administrative order, consent decree or judgment, relating to the Environment, health, safety, natural resources or Hazardous Materials, including CERCLA; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. § 5101 et seq.; the Clean Water Act, 33 U.S.C. § 1251 et seq.; the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq.; the Clean Air Act, 42 U.S.C. § 7401 et seq.; the Safe Drinking Water Act, 42 U.S.C. § 300f et seq.; the Atomic Energy Act, 42 U.S.C. § 2011 et seq.; the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. § 136 et seq.; and the Federal Food, Drug and Cosmetic Act, 21 U.S.C. § 301 et seq.

"Environmental Permits" means all permits, approvals, identification numbers, licenses and other authorizations required under or issued pursuant to any applicable Environmental Law.

"Escrow Account" means the account established, designated and maintained by the Escrow Agent pursuant to the terms of the Escrow Agreement.

"Escrow Agent" means JPMorgan Chase Bank, National Association.

"Escrow Agreement" means the Escrow Agreement executed by the Purchaser, the Seller's Representative and the Escrow Agent.

"Escrow Amount" means $2,000,000.

"Estimated Closing Balance Sheet" means the balance sheet (including the related notes and schedules thereto) for the Company dated as of the Closing Date and prepared and delivered pursuant to Section 2.06(a).

"Exchange Act" means the Securities Exchange Act of 1934, as amended.

"Excluded Taxes" means (a) all Income Taxes owed by the Sellers or any of their Affiliates for any period; (b) all Taxes relating to the Assets or the Company or the Institution for any Pre-Closing Period, including the portion of a Straddle Period ending on the Closing Date; (c) Taxes imposed on the Purchaser or any of its Affiliates or any of the Companies or Subsidiaries as a result of any breach by the Sellers or any of their present or past Affiliates of a warranty or misrepresentation, or breach of any covenant relating to Taxes; (d) all Taxes for which the Purchaser, its Affiliates or the Company is liable by reason of the Sellers, the Company being a member of a consolidated, combined, unitary, affiliated or similar group that includes any Person prior to the Closing, by reason of a Tax sharing, Tax indemnity or similar agreement entered into by the Company or any of its present or past Affiliates prior to the Closing (other than this Agreement) or by reason of transferee or successor Liability arising in respect of a transaction undertaken by the Company or any of its present or past Affiliates prior to the Closing; and (e) fifty percent (50%) of all Conveyance Taxes payable in connection with the transactions contemplated by this Agreement.

"GAAP" means United States generally accepted accounting principles and practices in effect from time to time applied consistently throughout the periods involved.

"GAGAS" means generally accepted government auditing standards.

"General Release" means the General Release and Discharge, in the form attached hereto as Exhibit B, to be executed by the Sellers at the Closing.

"Governmental Authority" means any United States federal, state, local, or similar government, governmental, regulatory or administrative authority, agency or commission or any court, tribunal, or judicial or arbitral body, but excluding any Educational Agency.

"Governmental Order" means any order, writ, judgment, injunction, decree, stipulation, determination or award entered by or with any Governmental Authority.

"Hazardous Materials" means (a) petroleum and petroleum products, radioactive materials, asbestos-containing materials, mold, urea formaldehyde foam insulation, transformers or other equipment that contain polychlorinated biphenyls and radon gas; (b) any other chemicals, materials or substances defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," "contaminants" or "pollutants," or words of similar import, under any applicable Environmental Law; and (c) any other chemical, material or substance which is regulated by, or with respect to which liability may be imposed under, any Environmental Law.

"HEA" means the Higher Education Act of 1965, as amended, 20 U.S.C. § 1001 et seq., any amendments or successor statutes thereto, and its implementing regulations.

"Income Taxes" means Taxes imposed on or measured by reference to gross or net income or receipts, and franchise, net worth, capital or other doing business Taxes.

"Indebtedness" means, with respect to any Person, (a) all indebtedness of such Person, whether or not contingent, for borrowed money; (b) all obligations of such Person for the deferred purchase price of property or services; (c) all indebtedness created or arising under any conditional sale or other title retention agreement with respect to property acquired by such Person (even though the rights and remedies of the seller or lender under such agreement in the event of default are limited to repossession or sale of such property); (d) all obligations of such Person as lessee under leases that have been or should be, in accordance with GAAP, recorded as capital leases; (e) all obligations, contingent or otherwise, of such Person under acceptance, Letter of Credit or similar facilities; (f) all obligations of such Person to purchase, redeem, retire, defease or otherwise acquire for value any capital stock of such Person or any warrants, rights or options to acquire such capital stock, valued, in the case of redeemable preferred stock, at the greater of its voluntary or involuntary liquidation preference plus accrued and unpaid dividends; (g) all Indebtedness of others referred to in clauses (a) through (f) above guaranteed directly or indirectly in any manner by such Person; and (h) all Indebtedness referred to in clauses (a) through (f) above secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Encumbrance on property (including accounts and contract rights) owned by such Person, even though such Person has not assumed or become liable for the payment of such Indebtedness. For the avoidance of doubt, "Indebtedness" shall not include any intercompany indebtedness among the Companies, the Subsidiaries and/or the Institutions.

"Indemnified Party" means a Purchaser Indemnified Party or a Seller Indemnified Party, as the case may be.

"Indemnifying Party" means the Sellers or the Indemnifying Purchasers, as the case may be.

"Indemnifying Purchasers" means the Purchaser and the Parent.

"Institutions" means, collectively, (i) the Institution, (ii) the post-secondary educational institution in Connecticut with one campus located in East Windsor, Connecticut owned and operated by BIT, (iii) Americare School of Nursing, a post-secondary educational institution in Florida with two campuses located in Fern Park, Florida and St. Petersburg, Florida owned and operated by Americare and (iv) the post-secondary educational institution in New Jersey with one campus located in South Plainfield, New Jersey owned and operated by Engine City, including, in each case, any campus or other facility at which any such institution offers any portion of an educational program.

"Intellectual Property" means: (a) patents and patent applications; (b) trademarks, service marks, domain names, trade dress, logos, trade names, corporate names and slogans, together with the goodwill associated therewith; (c) copyrights; (d) Software, data, databases, data rights and Internet websites; (e) confidential and proprietary information, including trade secrets and know-how; (f) advertising and promotional rights and rights to privacy and publicity; (g) registrations and applications for registration of the foregoing, including reissues, divisions, continuations, continuations-in-part, extensions, renewals and reexaminations thereof; (h) all common law rights thereto; and (i) proprietary rights in curricula, course design and educational services.

"Inventory" means all inventory, merchandise, goods and other personal property maintained, held or stored by or for the Company at the Closing, and any prepaid deposits for any of the same.

"IRS" means the Internal Revenue Service of the United States.

"Knowledge of the Sellers" means the actual knowledge, after due inquiry, of Baran, Barbara Baran, Stephen Schwartz, John Milne, Robert Miner, George Cinquegrana, Stan Lau and Randy Rock.

"Law" means any United States federal, state, local or similar statute, law, ordinance, regulation, rule, code, order, or Accrediting Body standard, including any Educational Law.

"Leased Real Property" means the real property leased by the Company, as tenant, together with, to the extent leased by the Company, all buildings and other structures, facilities or improvements currently or hereafter located thereon, all fixtures, systems, equipment and items of personal property of the Company attached or appurtenant thereto and all easements, licenses, rights and appurtenances relating to the foregoing.

"Letter of Credit" means any instruments or documents issued by a bank guaranteeing the payment of a customer's drafts up to a stated amount for a specified period.

"Liabilities" means any and all debts, liabilities and obligations, whether accrued or fixed, absolute or contingent, asserted or unasserted, matured or unmatured or determined or determinable, including those arising under any Law (including any Environmental Law or Educational Law), Action or Governmental Order and those arising under any contract, agreement, arrangement, commitment or undertaking.

"Licensed Intellectual Property" means Intellectual Property licensed to the Company, an Affiliate of the Company, or the Institution and used or held for use in connection with the Business.

"Material Adverse Effect" means any circumstance, change in or effect on the Business, the Institution, or the Company that, individually or in the aggregate with all other circumstances, changes in or effects on the Business, the Institution, or the Company, is or is reasonably likely to be materially adverse to the business, operations, assets, liabilities, results of operations or the condition (financial or otherwise) of the Institution or the Company; provided, however, that in no event shall any of the following be deemed to constitute a Material Adverse Effect: (a) circumstances, changes or effects resulting from (i) the announcement of the execution of this Agreement or compliance with the terms of, or the taking of any action required by, this Agreement other than (A) pursuant to any requirement to operate in the ordinary course of business consistent with past practice or to make the representations and warranties of the Sellers accurate or (B) the consummation of the transactions contemplated hereby, (ii) acts of war, sabotage, terrorism, military actions or the escalation thereof, (iii) a change in applicable Laws, regulations or accounting rules after the date hereof, (iv) a change in general economic, political or financial market conditions, (v) a change in conditions generally applicable to the industry in which the Institution or Company operates except, in the case of the foregoing clauses (ii), (iii), (iv) and (v) where such circumstances, changes or effects affect the Institution or the Company in a manner materially disproportionate to other Persons in the industries in which the Institution and the Company conducts their business or (b) circumstances, changes or effects that do not or would not reasonably be expected to result in aggregate Losses to the Company or the Institution of less than One Million Dollars ($1,000,000).

"Net Working Capital" means the excess of Current Assets over Current Liabilities for the Company, in accordance with GAAP and GAGAS, as shown on the Estimated Closing Balance Sheet or the Closing Balance Sheet, as the case may be.

"Owned Intellectual Property" means Intellectual Property owned by the Company, an Affiliate of the Company, or the Institution and used or held for use in connection with the Business.

"Owned Real Property" means the real property owned by the Company, together with all buildings and other structures, facilities or improvements currently or hereafter located thereon, all fixtures, systems, equipment and items of personal property of the Company attached or appurtenant thereto and all easements, licenses, rights and appurtenances relating to the foregoing.

"Permitted Encumbrances" means such of the following as to which no enforcement, collection, execution, levy or foreclosure proceeding shall have been commenced and as to which the Company is otherwise subject to civil or criminal liability due to its existence: (a) (i) liens for Taxes, assessments and governmental charges or levies not yet due and payable or (ii) Taxes for which the Company is contesting in good faith, and for which in the case of (i) and (ii) adequate reserves have been maintained in accordance with GAAP; (b) Encumbrances imposed by Law, such as materialmen's, mechanics', carriers', workmen's and repairmen's liens and other similar liens arising in the ordinary course of business securing obligations that (i) are not overdue for a period of more than 30 days and (ii) are not in excess of $5,000 in the case of a single property or $10,000 in the aggregate at any time; (c) pledges or deposits to secure obligations under workers' compensation laws or similar legislation or to secure public or statutory obligations; (d) zoning laws and ordinances, minor survey exceptions, reciprocal easement agreements and other customary encumbrances on or defects in title to real or personal property that (i) were not incurred in connection with any Indebtedness, (ii) do not render title to the property encumbered thereby unmarketable and (iii) do not, individually or in the aggregate, materially adversely affect the value of or the use of such property for its current and anticipated purposes; and (e) liens securing rental payments under capital lease arrangements.

"Person" means any individual, partnership, firm, corporation, limited liability company, association, trust, unincorporated organization or other entity, as well as any syndicate or group that would be deemed to be a person under Section 13(d)(3) of the Exchange Act.

"Pre-Closing Period" means any taxable period (or portion of a taxable period) ending on or prior to the Closing Date.

"Preferred Stock" means issued and outstanding shares of Series A Preferred Stock of the Company and Series B Convertible Preferred Stock of the Company to be redeemed immediately prior to the Closing.

"Purchase Price Bank Accounts" means the bank accounts in the United States to be designated by the Sellers in a written notice to the Purchaser at least one Business Day before the Closing.

"Purchaser's Accountants" means Deloitte & Touche LLP, independent accountants of the Purchaser.

"Real Property" means the Leased Real Property and the Owned Real Property.

"Receivables" means any and all accounts receivable (including Student Accounts Receivable), notes and other amounts receivable from third parties, including customers and employees, arising from the conduct of the Business before the Closing Date, whether or not in the ordinary course, together with any unpaid financing charges accrued thereon.

"Release" means disposing, discharging, injecting, spilling, leaking, leaching, dumping, emitting, escaping, emptying, seeping, placing and the like into or upon any land or water or air or otherwise entering into the Environment.

"Remedial Action" means "remove", "removal", "remedy" or "remedial action" as those terms are defined in Section 101(23) and (24) of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601.

"SEC" means the Securities and Exchange Commission.

"Securities Act" means the Securities Act of 1933, as amended.

"Sellers' Accountants" means Knutte & Associates, P.C.

"Software" means all (i) computer programs, applications, systems and code, including software implementations of algorithms, models and methodologies, and source code and object code, (ii) Internet and intranet websites, databases and compilations, including data and collections of data, whether machine-readable or otherwise, (iii) development and design tools, library functions and compilers, (iv) technology supporting websites, and the contents and audiovisual displays of websites, and (v) documentation, other works of authorship and media, including user manuals and training materials, relating to or embodying any of the foregoing or on which any of the foregoing is recorded.

"Straddle Period" means any taxable period beginning on or prior to and ending after the Closing Date.

"Student Accounts Receivable" means the Company's accounts receivable for student tuition, fees and institutional charges (including U.S. DOE accounts receivable) with respect to students currently attending the Institution as of the Closing Date, as determined in accordance with GAAP applied on a basis consistent with the past practices of the Company.

"Target Working Capital" means $185,683.

"Tax" or "Taxes" means any and all taxes and other fees, levies, duties, tariffs, imposts and other charges that are in the nature of taxes (together with any and all interest, penalties, additions to tax and additional amounts imposed with respect thereto) imposed by any Governmental Authority or taxing authority, including: taxes or other charges on or with respect to income, franchises, windfall or other profits, gross receipts, property, sales, use, capital stock, payroll, employment, social security, workers' compensation, unemployment compensation, or net worth; taxes or other charges in the nature of excise, withholding, ad valorem, stamp, transfer, value-added, or gains taxes.

"Tax Returns" means all returns, computations, reports and statements required to be filed with any Governmental Authority with respect to Taxes.

"Title IV" means Title IV of the HEA and all definitional and other provisions set forth elsewhere in the HEA that are referenced in Title IV or that relate to any Title IV provision.

"Title IV Programs" means the programs of federal student financial assistance administered pursuant to Title IV of the HEA.

"TPPPA" means a temporary provisional program participation agreement executed by the U.S. DOE and issued to the Institution following the Closing for an interim period allowing U.S. DOE's further review of the Purchaser's application for U.S. DOE Approval of the Institution following a change in ownership.

"Treasury Regulations" means the Treasury Regulations (including Temporary Treasury Regulations) promulgated by the United States Department of Treasury with respect to the Code or other federal tax statutes.

"U.S." and "United States" means the United States of America.

"U.S. DOE" means the United States Department of Education.

"U.S. DOE Approval" means a provisional program participation agreement issued and countersigned by the Secretary of U.S. DOE, or his designee, in conjunction with an accurate ECAR (but not including a TPPPA) that is complete and accurate in all material respects, certifying an institution for participation in the Title IV Programs that does not include any condition that would materially impair the Parent's operations.

Section 1.02 Definitions. The following terms have the meanings set forth in the Sections set forth below:

Definition	Location
"Acquisition"	Recitals
"Agreement"	Preamble
"Americare"	Recitals
"Ancillary Lease Documents"	3.15(d)
"Baran"	Preamble
"Basket"	8.04(a)
"BIT"	Recitals
"BIT Agreement"	Recitals
"Business"	Recitals
"Cap"	8.04(a)
"CCI"	Recitals
"Closing"	2.03
"Closing Date"	2.03
"Company"	Recitals
"Companies"	Recitals
"Engine City"	Recitals
"ERISA"	3.17(a)
"Financial Statements"	3.06(a)
"HUV"	Recitals
"Independent Accounting Firm"	2.06(c)(ii)
"Internal Controls"	3.06(d)
"Institution"	Recitals
"lease"	3.13(a)
"Loss"	8.02(a)

“Material Contracts”	3.13(a)
“Merion”	Preamble
“Multiemployer Plan”	3.17(b)
“Multiple Employer Plan”	3.17(b)
“Non-Disclosure Agreement”	5.02(b)
“Options”	3.15(d)
“Parent”	Preamble
“Plans”	3.17(a)(ii)
“Policy Guidelines”	3.26(e)
“Purchase Price”	2.02
“Purchaser”	Preamble
“Purchaser Indemnified Party”	8.02(a)
“Required Consents”	3.05
“Restricted Business”	5.10(a)
“Restricted Period”	5.10(a)
“Seller”	Preamble
“Seller Indemnified Party”	8.03(a)
“Sellers”	Preamble
“Sellers’ Representative”	8.07(a)
“Shares”	Recitals
“Subsidiaries”	Recitals
“Tangible Personal Property”	3.16(a)
“Third Party Claim”	8.05(b)
“UGP”	Preamble
“UGPE”	Preamble
“WARN Act”	3.17(g)

Section 1.03 Interpretation and Rules of Construction. In this Agreement, except to the extent otherwise provided or indicated, or that the context otherwise requires:

(a) when a reference is made in this Agreement to an Article, Section, Exhibit or Schedule, such reference is to an Article or Section of, or a Schedule or Exhibit to, this Agreement;

(b) the table of contents and headings for this Agreement are for reference purposes only and do not affect in any way the meaning or interpretation of this Agreement;

(c) whenever the words “include,” “includes” or “including” are used in this Agreement, they are deemed to be followed by the words “without limitation”;

(d) the words “hereof,” “herein” and “hereunder” and words of similar import, when used in this Agreement, refer to this Agreement as a whole and not to any particular provision of this Agreement;

(e) all terms defined in this Agreement have the defined meanings when used in any certificate or other document made or delivered pursuant hereto, unless otherwise defined therein;

(f) the definitions contained in this Agreement are applicable to the singular as well as the plural forms of such terms;

(g) any Law defined or referred to herein or in any agreement or instrument that is referred to herein means such Law or statute as from time to time amended, modified or supplemented, including by succession of comparable successor Laws;

(h) references to a Person are also to its successors and permitted assigns; and

(i) the use of "or" is not intended to be exclusive unless expressly indicated otherwise.

ARTICLE II

PURCHASE AND SALE

Section 2.01 Purchase and Sale of the Shares. Upon the terms and subject to the conditions of this Agreement, at the Closing, the Sellers shall sell, assign, transfer, convey and deliver, or cause to be sold, assigned, transferred, conveyed and delivered, to the Purchaser, the Shares, and the Purchaser shall purchase the Shares.

Section 2.02 Purchase Price. Subject to the adjustments set forth in Section 2.06, the purchase price for the Shares and the covenants contained in Section 5.10 shall be an amount in cash equal to Three Million Dollars ($3,000,000) (the "Purchase Price") which shall be allocated $2,800,000 to the Shares and $200,000 to the covenants contained in Section 5.10.

Section 2.03 Closing. Subject to the terms and conditions of this Agreement, the sale and purchase of the Shares contemplated by this Agreement shall take place at a closing (the "Closing") to be held at the offices of Shearman & Sterling LLP, 599 Lexington Avenue, New York, New York at 10:00 A.M., New York time (a) within the first five Business Days of the month following the month in which the satisfaction or waiver of the conditions to the obligations of the parties set forth in Article VII has occurred, or (b) at such other time or on such other date as the Sellers and the Purchaser may mutually agree upon in writing (the date on which the Closing takes place being the "Closing Date").

Section 2.04 Deliveries by the Sellers. (a) On or prior to the Closing Date, the Sellers shall have delivered or caused to be delivered to the Purchaser:

(i) stock certificates evidencing the Shares duly endorsed in blank, or accompanied by stock powers duly executed in blank, in form satisfactory to the Purchaser and with all required stock transfer tax stamps affixed;

(ii) the Assignments of Lease, each duly executed by all the parties thereto;

(iii) the General Release, duly executed by the Sellers;

(iv) a receipt for the Purchase Price;

(v) the resignations, effective as of the Closing, of all of the directors and officers of the Company, except for such persons as shall have been designated in writing prior to the Closing Date by the Purchaser to the Sellers;

(vi) a certificate of non-foreign status (in a form reasonably acceptable to the Purchaser) pursuant to Section 1.1445-2(b)(2) of the Treasury Regulations of each Seller (provided that if a Seller is a disregarded entity then such certificate shall be provided by its sole beneficial owner);

(vii) a copy of (i) the certificate of incorporation (or other similar organizational document), as amended, of the Company, certified by the Secretary of State in its jurisdiction of organization, as of a date not earlier than five Business Days prior to the Closing Date and accompanied by a certificate of the Secretary or Assistant Secretary of the Company, dated as of the Closing Date, stating that no amendments have been made to such certificate of incorporation (or other similar organizational document) since such date, and (ii) the by-laws of the Company, certified by the Secretary or Assistant Secretary of the Company;

(viii) a good standing certificate for the Company from the Secretary of State in its jurisdiction of organization and from the Secretary of State in each other jurisdiction in which the operation of the Company's business in such jurisdiction, requires the Company to qualify to do business as a foreign corporation, in each case dated as of a date not earlier than five Business Days prior to the Closing Date;

(ix) a certificate of the Secretary or an Assistant Secretary of each of UGP and Merion certifying the names and signatures of the officers of such Seller authorized to sign this Agreement and the Ancillary Agreements and the other documents to be delivered hereunder and thereunder; and

(x) such other certificates and documents that the Purchaser is entitled to receive from the Sellers pursuant to Section 7.02 as a condition of the Purchaser's obligations to consummate the Acquisition.

Section 2.05 Deliveries by the Purchaser. (a) On or prior to the Closing Date, the Purchaser shall have delivered or caused to be delivered to the Sellers:

(i) the Purchase Price, in the manner set forth in Section 2.05(a)(i) of the Disclosure Schedule, by wire transfer in immediately available funds to the Purchase Price Bank Accounts;

(ii) a certificate of the Secretary or an Assistant Secretary of the Purchaser certifying the names and signatures of the officers of the Purchaser authorized to sign this Agreement and the Ancillary Agreements and the other documents to be delivered hereunder and thereunder;

(iii) a true and complete copy, certified by the Secretary or an Assistant Secretary of the Purchaser, of the resolutions duly and validly adopted by the board of managers of the Purchaser, evidencing its authorization of the execution and delivery of this Agreement and the Ancillary Agreements to which the Purchaser is a party and the consummation of the transactions contemplated hereby and thereby subject only to the conditions set forth herein;

(iv) such other certificates and documents that the Sellers are entitled to receive from the Purchaser pursuant to Section 7.01 as a condition of the Sellers' obligations to consummate the Acquisition.

(b) On the date hereof (and pursuant to the BIT Agreement), the Purchaser shall deliver or cause to be delivered to the Escrow Agent, in accordance with the Escrow Agreement, the Escrow Amount by wire transfer in immediately available funds to the Escrow Account.

Section 2.06 Adjustment of Purchase Price. The Purchase Price shall be subject to adjustment on and after the date hereof as specified in this Section 2.06:

(a) Estimated Closing Balance Sheet. At least five Business Days prior to the Closing Date, the Sellers shall deliver to the Purchaser the Estimated Closing Balance Sheet. The Sellers shall prepare the Estimated Closing Balance Sheet in accordance with GAAP and GAGAS, and the Estimated Closing Balance Sheet shall set forth the Sellers' good faith estimate of the Net Working Capital of the Company as of the Closing Date. The Sellers shall make available to the Purchaser the work papers used in preparing the Estimated Closing Balance Sheet. If the Net Working Capital reflected on the Estimated Closing Balance Sheet exceeds the Target Working Capital, then the Purchase Price payable by the Purchaser at the Closing shall be adjusted upwards in an amount equal to such excess. If the Net Working Capital reflected on the Estimated Closing Balance Sheet is less than the Target Working Capital, then the Purchase Price payable by the Purchaser at the Closing shall be adjusted downward in an amount equal to such deficiency.

(b) Closing Balance Sheet. Within 30 Business Days following the Closing Date, the Sellers shall deliver to the Purchaser a revised Estimated Closing Balance Sheet, prepared in accordance with GAAP and GAGAS and setting forth the Sellers' good faith calculation of the Net Working Capital with respect to the Company as of the Closing Date. The Sellers shall make available to the Purchaser the work papers used in preparing such balance sheet. As promptly as practicable, but in any event within 45 Business Days following the Closing Date, the Purchaser shall prepare and deliver to the Sellers' Representative the Closing Balance Sheet, prepared in accordance with GAAP and GAGAS.

(c) Disputes. (i) The Sellers' Representative may dispute any amounts reflected on the Closing Balance Sheet delivered by the Purchaser, but only on the basis that the amounts reflected on such Closing Balance Sheet were not arrived at in accordance with GAAP and GAGAS or were arrived at based on mathematical or clerical error. If the Sellers' Representative intends to dispute any such amounts, the Sellers' Representative shall notify the Purchaser and the Purchaser's Accountants in writing of each disputed item, specifying the amount thereof in dispute and setting forth, in reasonable detail, the basis for such dispute, within 30 Business Days of the delivery by the Purchaser of the Closing Balance Sheet to the Sellers' Representative. In the event of such a dispute, the Sellers' Representative and the Purchaser shall attempt to reconcile the disputed amounts, and any resolution agreed by them as to such disputed amounts shall be final, conclusive and binding on the parties hereto.

(ii) If the Sellers' Representative and the Purchaser are unable to reach a resolution with such effect within 30 Business Days of the receipt by the Purchaser and the Purchaser's Accountants of the Sellers' Representative's written notice of dispute, the Sellers' Representative and the Purchaser shall submit the items remaining in dispute for resolution to an independent accounting firm of national reputation mutually acceptable to the Sellers and the Purchaser (such accounting firm being referred to herein as an "Independent Accounting Firm"), which shall, within 30 Business Days after such submission, determine and report to the Sellers' Representative and the Purchaser upon such remaining disputed items, and such determination shall be final, conclusive and binding on the Sellers and the Purchaser. The fees and expenses of the Independent Accounting Firm shall be allocated between the Sellers, on the one hand, and the Purchaser, on the other hand, in the same proportion as the aggregate amount of such remaining disputed items so submitted to the Independent Accounting Firm that is unsuccessfully disputed by each such party (as finally determined by the Independent Accounting Firm) bears to the total amount of such remaining disputed items so submitted.

(iii) In acting under this Section 2.06, the Sellers' Accountants, the Purchaser's Accountants and the Independent Accounting Firm shall be entitled to the privileges and immunities of arbitrators.

(d) Purchase Price Adjustment. (i) The Closing Balance Sheet shall be deemed final upon the earliest to occur of (A) the Sellers' Representative's failure to notify the Purchaser of a dispute by the 30th Business Day after the Purchaser's delivery of the Closing Balance Sheet to the Sellers' Representative, (B) the resolution of all disputes, pursuant to Section 2.06(c)(i), by the Sellers' Accountants and the Purchaser's Accountants and (C) the resolution of all disputes, pursuant to Section 2.06(c)(ii), by the Independent Accounting Firm.

(ii) If the Net Working Capital reflected on the Estimated Closing Balance Sheet exceeds the Net Working Capital reflected on the Closing Balance Sheet, then the Purchase Price shall be adjusted downward in an amount equal to such excess, and within five Business days of the Closing Balance Sheet being deemed final, the Sellers' Representative shall pay the amount of such excess to the Purchaser by wire transfer in immediately available funds. If the Sellers' Representative shall fail to pay the amount of such deficiency within the period specified in the immediately preceding sentence, then the Purchaser may deliver written notice to the Escrow Agent and the Sellers' Representative specifying such amount, and the Escrow Agent shall, within three Business Days of its receipt of such notice and in accordance with the terms of the Escrow Agreement, pay such amount to the Purchaser out of the Escrow Account by wire transfer in immediately available funds. No failure of the Purchaser to deliver a notice of the type specified in the immediately preceding sentence shall relieve the Sellers' Representative of the obligation to pay the amount of such deficiency to the Purchaser.

(iii) If the Net Working Capital reflected on the Estimated Closing Balance Sheet is less than the Net Working Capital reflected on the Closing Balance Sheet, then the Purchase Price shall be adjusted upward in an amount equal to such deficiency, and within five Business days of the Closing Balance Sheet being deemed final, the Purchaser shall pay the amount of such deficiency to the Sellers, in the manner set forth in Section 2.05(a)(i) of the Disclosure Schedule, by wire transfer in immediately available funds to the Purchase Price Bank Accounts.

Section 2.07 Escrow. In accordance with the terms of the Escrow Agreement, on the date hereof (and pursuant to the BIT Agreement) the Purchaser shall deposit the Escrow Amount in the Escrow Account. The Escrow Account shall be managed and paid out by the Escrow Agent in accordance with the terms of the Escrow Agreement.

Section 2.08 Withholding. The Purchaser shall be entitled at any time to deduct and withhold from any portion of the Purchase Price otherwise payable pursuant to this Agreement such amounts as Purchaser is required to deduct and withhold and pay over to applicable taxing authorities with respect to the making of such payment under the Code or any applicable provision of state or local Tax Law. To the extent that amounts are so withheld by the Purchaser, the Purchaser shall pay over such amounts to the applicable taxing authorities. To the extent that amounts are so withheld by the Purchaser and paid over to the applicable taxing authority, such amounts shall be treated for all purposes as having been paid to the Sellers.

ARTICLE III

REPRESENTATIONS AND WARRANTIES OF THE SELLERS AND UGPE

As an inducement to the Purchaser to enter into this Agreement, except as set forth in the Disclosure Schedule (each section of which qualifies the correspondingly numbered representation and warranty or covenant herein; provided, that the disclosure of any fact or item in any Section of the Disclosure Schedule shall, should the existence of such factor or item be relevant to any other Section, be deemed to be disclosed with respect to that Section, so long as the relevance of such disclosure to such other Section is reasonably apparent on the face of such disclosure), each of the Sellers hereby, jointly and severally (except with respect to Sections 3.01(b), (c) and (d), pursuant to which each Seller represents and warrants each statement therein only to the extent directly applicable to such Seller), and, solely with respect to Section 3.01(e), UGPE hereby, represents and warrants to the Purchaser and the Parent as follows:

Section 3.01 Organization, Authority and Qualification. (a) The Company is a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation and has all necessary corporate power and authority to own, operate or lease the properties and assets now owned, operated or leased by it and to carry on the Business as it has been and is currently conducted. The Company is duly licensed or qualified to do business and is in good standing in each jurisdiction which the properties owned or leased by it or the operation of the Institution makes such licensing or qualification necessary, except to the extent that the failure to be so licensed or qualified and in good standing would not (i) adversely affect the ability of the Company to carry out its obligations under, and to consummate the transactions contemplated by, this Agreement and the Ancillary Agreements to which it is a party or (ii) otherwise have a Material Adverse Effect. All corporate actions taken by the Company have been duly authorized, and the Company has not taken any action that in any respect conflicts with, constitutes a default under, or results in a violation of, any provision of its certificate of incorporation or by-laws. True and correct copies of the certificate of incorporation and by-laws of the Company, each in effect on the date hereof, have been delivered or made available by the Sellers to the Purchaser.

(b) UGP is a limited liability company duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation and has all necessary limited liability company power and authority to enter into this Agreement and the Ancillary Agreements to which it is a party, to carry out its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. UGP is duly licensed or qualified to do business and is in good standing in each jurisdiction which the properties owned or leased by it or the operation of its business makes such licensing or qualification necessary, except to the extent that the failure to be so licensed or qualified and in good standing would not (i) adversely affect the ability of UGP to carry out its obligations under, and to consummate the transactions contemplated by, this Agreement and the Ancillary Agreements to which it is a party or (ii) otherwise have a Material Adverse Effect. The execution and delivery by UGP of this Agreement and the Ancillary Agreements to which it is a party, the performance by UGP of its obligations hereunder and thereunder and the consummation by UGP of the transactions contemplated hereby and thereby have been duly authorized by all requisite action on the part of UGP and its members. This Agreement has been, and upon their execution the Ancillary Agreements to which UGP is a party shall have been, duly executed and delivered by UGP and (assuming due authorization, execution and delivery by the other parties hereto and thereto) this Agreement constitutes, and upon their execution such Ancillary Agreements shall constitute, legal, valid and binding obligations of UGP, enforceable against UGP in accordance with their respective terms, except as the same may be limited by applicable bankruptcy, insolvency (including all laws relating to fraudulent transfers), reorganization, moratorium or similar laws affecting creditors' rights generally, now or hereafter in effect, and subject to the effect of general principles of equity (regardless of whether considered in a proceeding at law or in equity).

(c) Merion is a limited partnership duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation and has all necessary power and authority to enter into this Agreement and the Ancillary Agreements to which it is a party, to carry out its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. Merion is duly licensed or qualified to do business and is in good standing in each jurisdiction which the properties owned or leased by it or the operation of its business makes such licensing or qualification necessary, except to the extent that the failure to be so licensed or qualified and in good standing would not (i) adversely affect the ability of Merion to carry out its obligations under, and to consummate the transactions contemplated by, this Agreement and the Ancillary Agreements to which Merion is a party or (ii) otherwise have a Material Adverse Effect. The execution and delivery by Merion of this Agreement and the Ancillary Agreements to which Merion is a party, the performance by Merion of its obligations hereunder and thereunder and the consummation by Merion of the transactions contemplated hereby and thereby have been duly authorized by all requisite action on the part of Merion and its partners. This Agreement has been, and upon their execution the Ancillary Agreements to which Merion is a party shall have been, duly executed and delivered by Merion, and (assuming due authorization, execution and delivery by the other parties hereto and thereto) this Agreement constitutes, and upon their execution such Ancillary Agreements shall constitute, legal, valid and binding obligations of Merion, enforceable against Merion in accordance with their respective terms, except as the same may be limited by applicable bankruptcy, insolvency (including all laws relating to fraudulent transfers), reorganization, moratorium or similar laws affecting creditors' rights generally, now or hereafter in effect, and subject to the effect of general principles of equity (regardless of whether considered in a proceeding at law or in equity).

(d) Baran is an individual and has all requisite right, power and authority and full legal capacity to execute and deliver this Agreement and the Ancillary Agreements to which he is a party, to perform his obligations hereunder and thereunder, and to consummate the transactions contemplated hereby and thereby. This Agreement has been, and upon his execution the Ancillary Agreements to which Baran is a party will be, duly and validly executed and delivered by Baran and (assuming due authorization, execution and delivery by the other parties hereto and thereto) this Agreement constitutes, and upon their execution such Ancillary Agreements shall constitute, legal, valid and binding obligations of Baran, enforceable against Baran in accordance with their respective terms, except as the same may be limited by applicable bankruptcy, insolvency (including all laws relating to fraudulent transfers), reorganization, moratorium or similar laws affecting creditors' rights generally, now or hereafter in effect, and subject to the effect of general principles of equity (regardless of whether considered in a proceeding at law or in equity). The failure of the spouse of Baran to be a party or signatory to this Agreement shall not (i) prevent Baran from performing his obligations and consummating the transactions contemplated hereunder or (ii) prevent this Agreement from constituting the legal, valid and binding obligation of Baran in accordance with its terms.

(e) (i) UGPE is a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation and has all necessary corporate power and authority to enter into this Agreement and the Ancillary Agreements to which it is a party, to carry out its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. UGPE is duly licensed or qualified to do business and is in good standing in each jurisdiction which the properties owned or leased by it or the operation of its business makes such licensing or qualification necessary, except to the extent that the failure to be so licensed or qualified and in good standing would not (i) adversely affect the ability of UGPE to carry out its obligations under, and to consummate the transactions contemplated by, this Agreement and the Ancillary Agreements to which it is a party or (ii) otherwise have a Material Adverse Effect. The execution and delivery by UGPE of this Agreement and the Ancillary Agreements to which it is a party, the performance by UGPE of its obligations hereunder and thereunder and the consummation by UGPE of the transactions contemplated hereby and thereby have been duly authorized by all requisite corporate action. This Agreement has been, and upon their execution the Ancillary Agreements to which UGPE is a party shall have been, duly executed and delivered by UGPE and (assuming due authorization, execution and delivery by the other parties hereto and thereto) this Agreement constitutes, and upon their execution such Ancillary Agreements shall constitute, legal, valid and binding obligations of UGPE, enforceable against UGPE in accordance with their respective terms, except as the same may be limited by applicable bankruptcy, insolvency (including all laws relating to fraudulent transfers), reorganization, moratorium or similar laws affecting creditors' rights generally, now or hereafter in effect, and subject to the effect of general principles of equity (regardless of whether considered in a proceeding at law or in equity).

(ii) Assuming that all consents, approvals, authorizations filings, notifications and other actions described in Section 3.04 and Section 3.05 of the Disclosure Schedule have been obtained or made, the execution, delivery and performance by UGPE of this Agreement and the Ancillary Agreements to which it is a party do not and will not (A) violate, conflict with or result in the breach of any provision of the certificate of incorporation or by-laws of UGPE, (B) conflict with or violate (or cause an event that could have a Material Adverse Effect as a result of) any Law or Governmental Order applicable to UGPE or any of its assets, properties or businesses or (C) conflict with, result in any breach of, constitute a default (or event that with the giving of notice or lapse of time, or both, would become a default) under, require any consent under, or give to others any rights of termination, amendment, acceleration, suspension, revocation or cancellation of, or result in the creation of any Encumbrance, other than Permitted Encumbrances, on any of the Shares or the Assets pursuant to, any note, bond, mortgage or indenture, contract, agreement, lease, sublease, license, permit, franchise or other instrument or arrangement to which UGPE is a party or by which any of the Shares or the Assets is bound or affected, except, in the case of this clause (C), to the extent that such conflicts, breaches, defaults or other matters would not (1) adversely affect the ability of UGPE to carry out its obligations under, and to consummate the transactions contemplated by, this Agreement and the Ancillary Agreements to which UGPE is a party or (2) otherwise have a Material Adverse Effect.

(iii) Except for the Required Consents, the execution, delivery and performance by UGPE of this Agreement and each Ancillary Agreement to which it is a party do not and will not require any consent, approval, authorization or other order of, action by, filing with or notification to, any Governmental Authority or Educational Agency. To the knowledge of UGPE, there is no reason why all the Required Consents will not be received.

Section 3.02 Subsidiaries. There are no other corporations, partnerships, joint ventures, associations or other entities in which the Company owns, of record or beneficially, any direct or indirect equity or other interest or any right (contingent or otherwise) to acquire the same. The Company is not a member of (nor is any part of the Business conducted through) any partnership and the Company is not a participant in any joint venture or similar arrangement.

Section 3.03 Capitalization. (a) The authorized capital stock or other ownership interests of the Company is set forth in Section 3.03(a) of the Disclosure Schedule. All of the issued and outstanding shares of capital stock or other ownership interests of the Company are duly authorized, validly issued, fully paid and nonassessable. None of the issued and outstanding Shares were issued in violation of any preemptive rights. Except for the Preferred Stock and as set forth in Section 3.03(a) of the Disclosure Schedule, there are no options, warrants, convertible securities or other rights, agreements, arrangements or commitments of any character relating to the Shares or obligating any Seller or the Company to issue or sell any Shares, or any other interest in, the Company. There are no outstanding contractual obligations of the Company to repurchase, redeem or otherwise acquire any shares of Clemens Common Stock or to provide funds to, or make any investment (in the form of a loan, capital contribution or otherwise) in, any other Person. The Shares constitute all of the issued and outstanding capital stock or other ownership interests of the Company and are owned of record and beneficially by the Sellers as set forth in Section 3.03(a) of the Disclosure Schedule free and clear of all Encumbrances, other than Permitted Encumbrances. Upon consummation of the transactions contemplated by this Agreement and registration of the Shares in the name of the Purchaser in the stock or other records of the Company, the Purchaser, assuming it shall have purchased the Shares for value in good faith and without notice of any adverse claim, will own all the issued and outstanding capital stock or other ownership interests of the Company free and clear of all Encumbrances, other than Permitted Encumbrances. Upon consummation of the transactions contemplated by this Agreement, the Shares will be fully paid and nonassessable. There are no voting trusts, stockholder agreements, proxies or other agreements or understandings in effect with respect to the voting or transfer of any of the Shares.

(b) The stock or other register of the Company accurately records: (i) the name and address of each Person owning shares of capital stock or other ownership interests of the Company and (ii) the certificate number of each certificate evidencing shares of capital stock or other ownership interests issued by the Company, the number of shares or other ownership interests evidenced by each such certificate, the date of issuance thereof and, in the case of cancellation, the date of cancellation.

Section 3.04 No Conflict. Assuming that all consents, approvals, authorizations filings, notifications and other actions described in Section 3.04 and Section 3.05 of the Disclosure Schedule have been obtained or made, the execution, delivery and performance by any Seller of this Agreement and the Ancillary Agreements to which any Seller is a party do not and will not (a) violate, conflict with or result in the breach of any provision of the certificate of incorporation or by-laws of any Seller or the Company, (b) conflict with or violate (or cause an event that could have a Material Adverse Effect as a result of) any Law or Governmental Order applicable to any Seller or the Company or any of their respective assets, properties or businesses or (c) conflict with, result in any breach of, constitute a default (or event that with the giving of notice or lapse of time, or both, would become a default) under, require any consent under, or give to others any rights of termination, amendment, acceleration, suspension, revocation or cancellation of, or result in the creation of any Encumbrance, other than Permitted Encumbrances, on any of the Shares or the Assets pursuant to, any note, bond, mortgage or indenture, contract, agreement, lease, sublease, license, permit, franchise or other instrument or arrangement to which any Seller or the Company is a party or by which any of the Shares or the Assets is bound or affected, except, in the case of this clause (c), to the extent that such conflicts, breaches, defaults or other matters would not (i) adversely affect the ability of any Seller or the Company to carry out its or his obligations under, and to consummate the transactions contemplated by, this Agreement and the Ancillary Agreements to which such Seller or the Company is a party or (ii) otherwise have a Material Adverse Effect.

Section 3.05 Governmental Consents and Approvals. Except for the consents, approvals and notifications that must be obtained or given prior to the Closing as set forth on Section 3.05 of the Disclosure Schedule (the "Required Consents"), the execution, delivery and performance by each Seller of this Agreement and each Ancillary Agreement to which such Seller is a party, as the case may be, do not and will not require any consent, approval, authorization or other order of, action by, filing with or notification to, any Governmental Authority or Educational Agency. To the Knowledge of the Sellers, there is no reason why all the Required Consents will not be received.

Section 3.06 Financial Information; Books and Records; No Undisclosed Liabilities. (a) True and complete copies of (1) the unaudited balance sheet of the Company for the fiscal year ended December 31, 2007, and the related unaudited statements of income, retained earnings, shareholders' equity and changes in financial position of the Company, together with all related notes and schedules thereto and (2) the unaudited balance sheet of the Company for the nine-month period ending September 30, 2008 and the related financial statements of the Company, together with all related notes and schedules thereto (collectively referred to herein as the "Financial Statements") have been delivered or made available by the Sellers to the Purchaser. The Financial Statements (A) were prepared in accordance with the books of account and other financial records of the Company, (B) present fairly, in all material respects, the financial condition and results of operations of the Company as of the dates thereof or for the period covered thereby, (C) have been prepared in accordance with GAAP and GAGAS, on a basis consistent with the Accounting Principles and the past practices of the Company, and (D) include all adjustments (consisting only of normal recurring accruals) that are necessary for a fair presentation in all material respects of the financial condition of the Company and the results of the operations of the Company as of the dates thereof or for the period covered thereby.

(b) The books of account and other financial records of the Company: (i) reflect all items of income and expense and all assets and Liabilities required to be reflected therein in accordance with GAAP applied on a basis consistent with the past practices of the Company, respectively, (ii) are in all material respects complete and correct, and do not contain or reflect any material inaccuracies or discrepancies and (iii) have been maintained in accordance with good business and accounting practices.

(c) The minute books of the Company reflecting records of actions taken by the shareholders or members, boards of directors/managers and all committees of the boards of directors/managers of the Company have been provided or made available to the Purchaser and are complete and accurate in all material respects.

(d) The Company has established and maintains a system of internal accounting controls ("Internal Controls") sufficient to comply with all legal and accounting requirements applicable to the Company and the Institution and to provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP and GAGAS, subject to the adjustments set forth in the Accounting Principles. Except as set forth in Section 3.06(d) of the Disclosure Schedule, there are no significant deficiencies or material weaknesses in the design or operation of such Internal Controls, and the Company has not been advised by any independent auditor or other third party that any such significant deficiency or material weakness in such Internal Controls exists or existed. Except as set forth in Section 3.06(d) of the Disclosure Schedule, neither the Company nor any of its respective directors, officers, employees, auditors, accountants or representatives has received or otherwise had or obtained knowledge of any complaint, allegation, assertion or claim, whether written or oral, regarding the accounting or auditing practices, procedures, methodologies or methods of the Company or its Internal Controls, including any complaint, allegation, assertion or claim that the Company has engaged in questionable financial reporting, accounting or auditing practices. There has not been any fraud, whether or not material, that involves management or other employees who have a significant role in the Internal Controls or, to the Knowledge of the Sellers, any allegations or investigations of any such fraud.

(e) There are no Liabilities of the Company, other than Liabilities (i) reflected or reserved against in the Financial Statements, (ii) set forth in Section 3.06(e) of the Disclosure Schedule, or (iii) incurred since September 30, 2008 in the ordinary course of business, consistent with the past practice of the Company and which do not and could not have a Material Adverse Effect.

Section 3.07 Receivables. Set forth in Section 3.07 of the Disclosure Schedule is an aged list of the Receivables as of September 30, 2008. All Receivables arising from the date thereof until the Closing have or will have arisen in the ordinary course of business from bona fide transactions and constitute or will constitute only valid, undisputed claims of the Company or the Institution, and no valid claims of setoff or other defenses or counterclaims have been formally asserted with respect thereto, other than normal cash discounts accrued in the ordinary course of business consistent with the past practices of the Company or as reserved for in the Financial Statements.

Section 3.08 Conduct in the Ordinary Course; Absence of Certain Changes, Events and Conditions. Since December 31, 2007, the Business has been conducted in the ordinary course consistent with past practice. As amplification and not limitation of the foregoing, since such date, except as set forth in Section 3.08 of the Disclosure Schedule, neither the Company nor the Institution has:

(a) permitted or allowed any of the Assets to be subjected in any material respect to any Encumbrance, other than Permitted Encumbrances and Encumbrances that will be released at or prior to the Closing;

(b) except in the ordinary course of business consistent with past practice, discharged or otherwise obtained the release of any Encumbrance related to the Company or paid or otherwise discharged any material Liability related to the Company, other than current liabilities incurred in the ordinary course of business consistent with past practice;

(c) written down or written up in any material respect (or failed to write down or write up in accordance with accounting methods consistent with past practice) the value of any Inventory or Receivables or revalued in any material respect any of the Assets other than in the ordinary course of business consistent with past practices and in accordance with GAAP;

(d) made any change in any method of accounting or accounting practice or policy used by the Company, other than such changes required by GAAP;

(e) amended, terminated, cancelled or compromised any material claims of the Company or waived any other rights of material value to the Company;

(f) sold, transferred, leased, subleased or licensed to any Person, or abandoned or otherwise disposed of any properties or assets, real, personal or mixed (including leasehold interests and intangible property) of the Business other than in the ordinary course of business consistent with past practice;

(g) redeemed any of the capital stock or declared, made or paid any dividends or distributions (whether in cash, securities or other property) to the holder(s) of capital stock of the Company with respect to such capital stock;

(h) merged with, entered into a consolidation with or acquired an interest of 5% or more in any Person or acquired a substantial portion of the assets or business of any Person or any division or line of business thereof, or otherwise acquired any material assets other than in the ordinary course of business consistent with past practice;

(i) made any capital expenditure or commitment for any capital expenditure in excess of $10,000 individually or $50,000 in the aggregate;

(j) issued any sales orders or otherwise agreed to make any purchases involving exchanges in value in excess of $10,000 individually or $50,000 in the aggregate;

(k) incurred any Indebtedness in excess of $10,000 individually or $50,000 in the aggregate;

(l) made any loan to, guaranteed any Indebtedness of, or otherwise incurred any Indebtedness on behalf of, any Person;

(m) failed to pay any creditor any material amount owed to such creditor when due;

(n) (i) granted or announced any increase in the wages, salaries, compensation, bonuses, incentives, pension or other benefits payable by the Company to any of its employees, including any increase or change pursuant to any Plan, or (ii) established or increased or promised to increase any benefits under any Plan in either case, except as required by Law or involving ordinary increases consistent with the past practices of the Company;

(o) entered into any agreement, arrangement or transaction with any directors, officers, employees, consultants, or stockholders of the Company or the Institution (or with any relative, beneficiary, spouse or Affiliate thereof);

(p) entered into any agreement, arrangement or transaction with any Person or Governmental Authority providing for the furnishing of services by the Company or the Institution at a discount to rates or tuition amounts charged by the Company or the Institution as of December 31, 2007;

(q) terminated, discontinued, closed or disposed of any facility or other business operation, or laid off any employees (other than layoffs of fewer than 50 employees in any six-month period in the ordinary course of business consistent with past practice) or implemented any early retirement, separation or other program providing early retirement window benefits within the meaning of Section 1.401(a)-4 of the Treasury Regulations or announced or planned any such action or program for the future;

(r) allowed any permit required of the Company or the Institution by any Governmental Authority or any Environmental Permit in connection with the ownership or operation of the Business and the Institution to lapse or terminate or failed to renew any insurance policy or any such permit or Environmental Permit that is scheduled to terminate or expire within 45 calendar days of the Closing Date;

(s) failed to maintain the Company's and the Institution's buildings, property and equipment in good repair and operating condition, ordinary wear and tear excepted;

(t) suffered any casualty loss or damage with respect to any of the Assets which in the aggregate have a replacement cost of more than $20,000, whether or not such loss or damage shall have been covered by insurance;

(u) amended or modified or consented to the termination of any Material Contract or the Company's or the Institution's rights thereunder;

(v) made any material charitable contribution;

(w) suffered any Material Adverse Effect;

(x) agreed, whether in writing or otherwise, to take any of the actions specified in this Section 3.08, or granted any options to purchase, rights of first refusal, rights of first offer or any similar rights or commitments with respect to any of the actions specified in this Section 3.08, except as expressly contemplated by this Agreement and the Ancillary Agreements;

(y) failed to comply in any material respect with or remain in material compliance with any Educational Law applicable to the Company, the Institution, or the Business, or to maintain in full force and effect any Educational Approval necessary for the Business' and the Institution's existing operations and the Company has not received written notice from any Educational Agency of any such failure;

(z) unless required by applicable Law, made any material change in any of its established practices or procedures for complying with any Educational Law;

(aa) made, changed or revoked any material Tax election or settled or compromised any Tax liability or consented to any claim or assessment relating to Taxes or any waiver of the statute of limitations for any such claim or assessment, in each case, with respect to the Assets or the Company; or

(bb) not shortened or lengthened the customary payment cycles for any of its payables or receivables.

Section 3.09 Litigation. Except as set forth in Section 3.09 of the Disclosure Schedule, there are no Actions, Claims or Educational Claims by or against the Company, or the Institution (or by or against any Seller or any Affiliate thereof and relating to the Business, the Company or the Institution) or affecting any of the Assets or the Business pending before any Governmental Authority or Educational Agency (nor, to the Knowledge of the Sellers, threatened to be brought by or before any Governmental Authority or Educational Agency). Timely claims for insurance with respect to all such Actions, Claims and Educational Claims set forth in Section 3.09 of the Disclosure Schedule have been submitted by or on behalf of the Company or the Institution. Neither the Sellers, the Company, or the Institution nor any of their respective assets and properties, including the Assets, is subject to any Governmental Order or order of any Educational Agency (nor, to the Knowledge of the Sellers, are any Governmental Orders or orders of any Educational Agency threatened to be imposed) that has or has had a Material Adverse Effect or could affect the legality, validity or enforceability of this Agreement, any Ancillary Agreement or the consummation of the transactions contemplated hereby or thereby.

Section 3.10 Compliance with Laws. (a) The Company and the Institution have conducted and continue to conduct the Business in accordance in all material respects with all Laws (excluding Educational Laws) and Governmental Orders applicable to the Company and the Institution or the Assets, and neither the Company nor the Institution is in violation in any material respect of any such Law or Governmental Order. Neither the Company nor the Institution has, in the last three years, received any written communication from any Governmental Authority alleging that such Company or the Institution is not in compliance in any material respect with any Law or Governmental Order that has not been resolved.

(b) Section 3.10(b) of the Disclosure Schedule sets forth a brief description of each Governmental Order applicable to the Company, the Institution or the Assets, and no such Governmental Order has or has had a Material Adverse Effect or could affect the legality, validity or enforceability of this Agreement, any Ancillary Agreement or the consummation of the transactions contemplated hereby or thereby.

Section 3.11 Environmental and Other Permits and Licenses; Related Matters.

(a) The Company and the Institution are in compliance in all material respects with all applicable Environmental Laws. The Company and the Institution have all material Environmental Permits required under Environmental Law, all such permits are in full force and effect and the Company and the Institution are in material compliance therewith.

(b) There has been no Release of any Hazardous Material (i) by the Company or the Institution, (ii) to the Knowledge of the Sellers, on the Real Property, (iii) to the Knowledge of the Sellers, on any property formerly leased, used or occupied by the Company or the Institution during the period of the Company's or the Institution's lease, use or occupancy thereof, or (iv) on any property formerly owned by the Company or the Institution during the period of the Company's or the Institution's ownership thereof, in the case of (i), (ii), (iii) and (iv), that requires any Remedial Action.

(c) There are no Environmental Claims pending (or, to the Knowledge of the Sellers, threatened) against the Company or the Institution, and there are no circumstances that can reasonably be expected to form the basis of any such Environmental Claim, including, to the Knowledge of the Sellers, with respect to any off-site disposal location currently or formerly used by the Company or the Institution or any of its predecessors or with respect to previously owned or operated facilities.

(d) The Company is not conducting, or has undertaken or completed or funded, any Remedial Action relating to any Release or threatened Release of any Hazardous Material at the Real Property or at any other site, location or operation, either voluntarily or pursuant to the order of any Governmental Authority or the requirements of any Environmental Law or Environmental Permit.

(e) To the Knowledge of the Sellers, there is no asbestos or asbestos-containing material on any of the Real Property that requires abatement, removal or encapsulation pursuant to Environmental Law.

(f) None of the Real Property is listed or proposed for listing, nor to the Knowledge of the Sellers does the Real Property adjoin any other property that is listed or proposed for listing, on the National Priorities List or CERCLIS or on any analogous federal, state or local list.

(g) To the Knowledge of the Sellers, there are no wetlands or any areas subject to any legal requirement or restriction in any way related to wetlands (including requirements or restrictions related to buffer or transition areas or open waters) at or affecting the Real Property.

(h) The Sellers have provided or made available to the Purchaser copies of (i) any environmental assessment or audit reports or other similar studies or analyses relating to the Business, the Real Property or the Company in their possession, and (ii) all insurance policies issued at any time that may provide coverage to the Company or the Institution for environmental matters.

(i) There are no underground storage tanks, surface impoundments, septic tanks, pits, sumps or lagoons in which Hazardous Materials are being or have been treated, stored or disposed on the Real Property by the Sellers.

(j) Neither the execution of this Agreement or the Ancillary Agreements nor the consummation of the transactions contemplated hereby or thereby will require any Remedial Action or notice to or consent of any Governmental Authority or third party pursuant to any applicable Environmental Law or Environmental Permit.

(k) Except with respect to Section 3.05 and Section 3.08, the representations set forth in this Section 3.11 are the only representations with respect to environmental matters.

Section 3.12 No Preferential Rights. There is no contract, agreement or other arrangement granting any Person any preferential right to purchase any of the Assets (other than in the ordinary course of business consistent with past practice), or any of the Shares.

Section 3.13 Material Contracts. (a) Section 3.13(a) of the Disclosure Schedule lists each of the following types of contracts and agreements (including oral agreements) of the Company and the Institution (such contracts and agreements, together with all contracts, agreements, leases and subleases concerning the use, occupancy, management or operation of any Leased Real Property (including all contracts, agreements, leases and subleases relating to Intellectual Property and all contracts, agreements, leases and subleases relating to Tangible Personal Property), being "Material Contracts"):

(i) each contract or agreement, or related series of agreements, that cannot be cancelled by the Company or the Institution on 30 days' notice or less without penalty or further payment and under the terms of which the Company or the Institution: (A) is likely to pay or otherwise give consideration of more than $25,000 in the aggregate during the calendar year ended December 31, 2009; (B) is likely to pay or otherwise give consideration of more than $50,000 in the aggregate over the remaining term of such contract; (C) is reasonably likely to be entitled to receive consideration of more than $25,000 in the aggregate during the calendar year ended December 31, 2009; or (D) is likely to be entitled to receive consideration of more than $50,000 in the aggregate over the remaining term of the contract;

(ii) all advertising agency, sales promotion, market research, marketing, web site creation and maintenance, consulting and advertising contracts and agreements to which the Company or the Institution is a party and involving the payment of consideration of more than $25,000 in the aggregate;

(iii) all management contracts and contracts with independent contractors or consultants (or similar arrangements) to which the Company or the Institution is a party and that are not cancelable without penalty or further payment and without more than 30 days' notice;

(iv) all contracts and agreements relating to Indebtedness of the Company or the Institution;

(v) all contracts and agreements between the Company or the Institution, on the one hand, and any Educational Agency, on the other hand, but excluding any Educational Approval;

(vi) all contracts and agreements that limit or purport to limit the ability of the Company or the Institution to compete in any line of business or with any Person or in any geographic area or during any period of time;

(vii) all contracts and agreement between the Company or the Institution, on the one hand, and any Seller or any Affiliate of any Seller (other than the other Companies, the Subsidiaries or the other Institutions), on the other hand;

(viii) all contracts and agreements between the Company or the Institution, on the one hand, and any of its directors, managers, officers, employees, stockholders or members (or any relative, beneficiary, spouse or Affiliate thereof), on the other hand, other than any oral contracts of employment terminable on no more than 30 days' notice without penalty or further payment obligation;

(ix) all material contracts, agreements and leases relating to the use, occupancy, management or operation of the Leased Real Property;

(x) all material agreements included in the Company IP Licenses (and exclusive of any agreements or licenses included in the Company IP Licenses that arise from the purchase of any commercially available "off-the-shelf" computer software products that are not material to the Business, or any other "shrink-wrap" or "click-wrap" licenses or agreements that are included in the Company IP Licenses and that are not material to the Business);

(xi) all agreements regarding any special pricing, discount or reduced tuition arrangement including agreements providing for tuition or pricing that is materially inconsistent with the tuition reflected in the enrollment agreements, catalogs, and other written materials of the Company or the Institution disseminated to students and prospective students;

(xii) all joint venture, community college, partnership or similar agreements involving a sharing of profits, losses, costs or liabilities with any other Person;

(xiii) all agreements with any Third-Party Servicer, as that term is defined in 34 C.F.R. § 668.2;

(xiv) all agreements in existence since the Compliance Date under which the Company or the Institution provides or has provided educational instruction on behalf of any other institution or organization, or another institution provides or has provided educational instruction on behalf of the Company or the Institution, including all consortium, contractual, internship, externship or articulation agreements;

(xv) all agreements respecting the funding of student scholarships;

(xvi) all agreements under which the Company or the Institution is a lender;

(xvii) all agreements for the sale of tuition receivables;

(xviii) all marketing agreements and agreements for student recruiting and retention services (other than agreements with employees of the other Companies, the Subsidiaries or the other Institutions);

(xix) all agreements by which the Company or the Institution provides or facilitates scholarships or grants;

(xx) all agreements by which the Company or the Institution provides private capital loans to students attending the Institution;

(xxi) all agreements for student recruiting services whether entered into with an employee or with third parties;

(xxii) all amendments, supplements, and modifications (whether oral or written) in respect of any of the foregoing; and

(xxiii) all other contracts and agreements, whether or not made in the ordinary course of business, the absence of which would have a Material Adverse Effect.

For purposes of this Agreement, the term "lease" shall include any and all leases, subleases, sale/leaseback agreements or similar arrangements.

(b) Except as set forth in Section 3.13(b) of the Disclosure Schedule, each Material Contract: (i) is valid and binding on the Seller, the Company or the Institution that is a party thereto and, to the Knowledge of Sellers, on the other parties thereto and is in full force and effect, (ii) does not require consent, approval or notice to any third party as a result of the transactions contemplated by this Agreement and the Ancillary Agreements, and (iii) assuming receipt of the Required Consents, upon consummation of the transactions contemplated by this Agreement and the Ancillary Agreements shall continue in full force and effect without penalty or other adverse consequence. Neither the Company nor the is in breach of, or default under, any Material Contract and neither the Company nor the Institution has received written notice from any third party to any Material Contract alleging or asserting any such breach or default or any notice of termination or cancellation thereof.

(c) To the Knowledge of the Sellers, no other party to any Material Contract is in material breach thereof or default thereunder, and neither the Company nor the Institution has given any notice of termination, cancellation, breach or default under any Material Contract.

(d) The Sellers have made available to the Purchaser true and complete copies of all written Material Contracts and has provided to the Purchaser a summary of all oral Material Contracts (if any).

Section 3.14 Intellectual Property. (a) Section 3.14(a) of the Disclosure Schedule sets forth a true and complete list of (i) all patents and patent applications, registered trademarks and trademark applications, registered copyrights and copyright applications, and domain names included in the Owned Intellectual Property, if any (ii) all Company IP Licenses, other than commercially available off-the-shelf computer software products licensed pursuant to shrink-wrap or click-wrap licenses that are not material to the Business or any other "shrink-wrap" or "click-wrap" licenses or agreements that are included in the Company IP Licenses and that are not material to the Business, if any, and (iii) any other Owned Intellectual Property material to the Business.

(b) The conduct of the Business as currently conducted does not infringe, misappropriate, or otherwise violate the Intellectual Property of any third party, and no Claim has been asserted that the conduct of the Business as currently conducted infringes, misappropriates or otherwise violates the Intellectual Property of any third party. With respect to each item of Owned Intellectual Property, the Company is the exclusive owner of the entire right, title and interest in and to such Intellectual Property free and clear of any Encumbrances, other than Permitted Encumbrances, and is entitled to use such Intellectual Property on an unrestricted basis in the continued operation of the Business. With respect to each item of Licensed Intellectual Property the Company has the right to use such Intellectual Property in the continued operation of the Business in accordance with the terms of the Company IP Licenses governing such Intellectual Property.

(c) Except as set forth in Section 3.14(c) of the Disclosure Schedule, to the Knowledge of the Sellers, no Person is engaging in any activity that infringes, dilutes, misappropriates, or otherwise violates the Owned Intellectual Property. Each Company IP License is valid and enforceable, is binding on the Company or the Institution and, to the Knowledge of the Sellers, on the other parties thereto, is in full force and effect, and no party to any Company IP License is in material breach thereof or default thereunder.

Section 3.15 Real Property. (a) The Company does not hold title to any Owned Real Property.

(b) Section 3.15(b) of the Disclosure Schedule lists: (i) the street address of each parcel of Leased Real Property and (ii) the identity of the lessor, lessee and current occupant (if different from lessee) of each such parcel of Leased Real Property.

(c) There is no material violation of any Law (including any building, planning or zoning law) relating to any of the Real Property. The Sellers have made available to the Purchaser true, legible and complete copies of each deed for each parcel of Leased Real Property and all the title insurance policies, title reports, surveys, certificates of occupancy, environmental reports and audits, appraisals, permits, other Encumbrances, title documents and other documents relating to or otherwise affecting the Real Property, the operations of the Company or the Institution thereon or any other uses thereof. The Company or the Institution is in peaceful and undisturbed possession of each parcel of Real Property, and there are no contractual or legal restrictions that preclude or restrict the ability to use the Real Property for the purposes for which it is currently being used. All existing water, sewer, steam, gas, electricity, telephone, cable, fiber optic cable, Internet access and other utilities required for the construction, use, occupancy, operation and maintenance of the Real Property are adequate for the conduct of the Business as they have been and currently are conducted. There are no material latent defects or material adverse physical conditions affecting the Real Property or any of the facilities, buildings, structures, erections, improvements, fixtures, fixed assets and personalty of a permanent nature annexed, affixed or attached to, located on or forming part of the Real Property. Neither the Company nor the Institution has leased any parcel or any portion of any parcel of Real Property to any other Person and no other Person has any rights to the use, occupancy or enjoyment thereof pursuant to any lease, license, occupancy or other agreement, nor have the Sellers assigned its interest under any lease listed in Section 3.15(b) of the Disclosure Schedule to any third party.

(d) Section 3.15(d) of the Disclosure Schedule sets forth a true and complete list of all leases relating to the Leased Real Property and any and all ancillary documents (the "Ancillary Lease Documents") pertaining thereto (including all amendments, modifications, supplements, exhibits, schedules, addenda and restatements thereto and thereof and all consents, including consents for alterations, assignments and sublets, documents recording variations, memoranda of lease, options, rights of expansion, extension, first refusal and first offer and evidence of commencement dates and expiration dates). Except as set forth in Section 3.15(d) of the Disclosure Schedule, with respect to each of such leases, neither the Company, nor the Institution has exercised or given any notice of exercise of, nor has any lessor or landlord exercised or received any notice of exercise by a lessor or landlord of, any option, right of first offer or right of first refusal contained in any such lease or sublease, including any such option or right pertaining to purchase, expansion, renewal, extension or relocation (collectively, "Options").

(e) The interests of the Company and the Institution in the Leased Real Property to be transferred pursuant to this Agreement are sufficient in all material respects for the continued conduct of the Business after the Closing in substantially the same manner as conducted prior to the Closing.

(f) There are no condemnation proceedings or eminent domain proceedings of any kind pending or, to the Knowledge of the Sellers, threatened against the Leased Real Property.

(g) (i) All the Leased Real Property is occupied under a valid and current certificate of occupancy or similar permit, (ii) the transactions contemplated by this Agreement and the Ancillary Agreements will not require the issuance of any new or amended certificate of occupancy, and (iii) to the Knowledge of the Sellers, there are no facts that would prevent the Real Property from being occupied by the Company or the Institution after the Closing in the same manner as occupied by the Company or the Institution immediately prior to the Closing.

(h) All improvements on the Real Property constructed by or on behalf of the Company or the Institution or constructed by or on behalf of any other Person, were constructed in compliance in all material respects with all applicable Laws (including any building, planning or zoning Laws) affecting such Real Property.

(i) No improvements on the Real Property and none of the current uses and conditions thereof violate any Encumbrance, applicable deed restrictions or other applicable covenants, restrictions, agreements, existing site plan approvals, zoning or subdivision regulations or urban redevelopment plans as modified by any duly issued variances, and no permits, licenses or certificates pertaining to the ownership or operation of all improvements on the Real Property, other than those which are transferable with the Real Property, are required by any Governmental Authority having jurisdiction over the Real Property.

(j) All improvements on any Real Property are wholly within the lot limits of such Real Property and do not encroach on any adjoining premises or Encumbrance benefiting such Real Property, and there are no encroachments on any Real Property or any easement or property right or benefit appurtenant thereto by any improvements located on any adjoining premises.

(k) There have been no improvements of a value in excess of $10,000 in the aggregate made to or constructed on any Real Property within the applicable period for the filing of mechanics' liens.

(l) The rental set forth in each lease of the Leased Real Property is the actual rental being paid, and there are no separate agreements or understandings with respect to the same.

(m) The Company or the Institution has the full right to exercise any Options contained in the leases pertaining to the Leased Real Property on the terms and conditions contained therein and upon due exercise would be entitled to enjoy the full benefit of such Options with respect thereto.

Section 3.16 Tangible Personal Property. (a) Section 3.16(a) of the Disclosure Schedule lists each item or distinct group of equipment, supplies, furniture, fixtures, personalty, books and other tangible personal property (the "Tangible Personal Property") used at the Institution having an individual value equal to or greater than $5,000.

(b) Section 3.16(b) of the Disclosure Schedule sets forth a true and complete list of all leases for Tangible Personal Property and any and all material ancillary documents pertaining thereto (including all amendments, consents and evidence of commencement dates and expiration dates) having an individual value equal to or greater than $5,000.

Section 3.17 Employee Benefit Matters. (a) Plans and Material Documents. Section 3.17(a) of the Disclosure Schedule lists (i) all employee benefit plans (as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974 ("ERISA")) and all bonus, stock option, stock purchase, restricted stock, incentive, deferred compensation, retiree medical or life insurance, supplemental retirement, severance or other benefit plans, programs or arrangements, and all employment, termination, severance or other contracts or agreements to which the Company is a party (other than any oral contracts of employment terminable on no more than 30 days' notice without penalty or further payment obligation), with respect to which the Company has any obligation or that are maintained, contributed to or sponsored by the Company for the benefit of any current or former employee, officer, director or consultant of the Company (other than any oral contracts of employment terminable on no more than 30 days' notice without penalty or further payment obligation) and (ii) any contracts, arrangements or understandings between any Seller or any of its Affiliates and any employee or consultant of the Company, including any contracts, arrangements or understandings relating to the sale of the Company (collectively, the "Plans"). The Sellers have made available to the Purchaser a complete and accurate copy of each written Plan and a summary of the material terms of any unwritten Plan and there are no other employee benefit plans, programs, arrangements or agreements, whether formal or informal, whether in writing or not, to which the Company is a party, with respect to which the Company has any obligation or that are maintained, contributed to or sponsored by the Company for the benefit of any current or former employee, officer, director or consultant of the Company.

(b) Absence of Certain Types of Plans. None of the Plans is a multiemployer plan (within the meaning of Section 3(37) or 4001(a)(3) of ERISA) (a "Multiemployer Plan") or a single employer pension plan (within the meaning of Section 4001(a)(15) of ERISA) for which the Company could incur liability under Section 4063 or 4064 of ERISA (a "Multiple Employer Plan"). None of the Plans provides for the payment of separation, severance, termination or similar-type benefits to any Person or obligates the Company to pay separation, severance, termination or similar-type benefits solely as a result of any transaction contemplated by this Agreement or as a result of a "change in control", within the meaning of such term under Section 280G of the Code. None of the Plans provides for or promises retiree medical, disability or life insurance benefits to any current or former employee, officer or director of the Company. Each of the Plans is subject only to the Laws of the United States or a political subdivision thereof.

(c) Compliance with Applicable Law. Each Plan is now and has always been operated in all material respects in accordance with the requirements of all applicable Law, including ERISA and the Code. The Company has performed all obligations required to be performed by it under, is not in any respect in default under or in violation of, and has no knowledge of any default or violation by any party to, any Plan. No Action is pending or, to the Knowledge of the Sellers, threatened with respect to any Plan (other than claims for benefits in the ordinary course), and no material fact or event exists that could give rise to any such Action or claim.

(d) Qualification of Certain Plans. Each Plan that is intended to be qualified under Section 401(a) of the Code or Section 401(k) of the Code has received a favorable determination letter from the IRS that it is so qualified, and each trust established in connection with any Plan that is intended to be exempt from federal income taxation under Section 501(a) of the Code has received a determination letter from the IRS that it is so exempt, and no fact or event has occurred since the date of such determination letter from the IRS to affect adversely the qualified status of any such Plan or the exempt status of any such trust. Each trust maintained or contributed to by the Company that is intended to be qualified as a voluntary employees' beneficiary association and that is intended to be exempt from federal income taxation under Section 501(c)(9) of the Code has received a favorable determination letter from the IRS that it is so qualified and so exempt, and no fact or event has occurred since the date of such determination by the IRS to adversely affect such qualified or exempt status.

(e) Absence of Certain Liabilities and Events. There has been no prohibited transaction (within the meaning of Section 406 of ERISA or Section 4975 of the Code) with respect to any Plan. The Company has not incurred any liability for any penalty or tax arising under Section 4971, 4972, 4980, 4980B or 6652 of the Code or any liability under Section 502 of ERISA, and no fact or event exists that could give rise to any such liability. The Company has not incurred any liability under, arising out of or by operation of Title IV of ERISA (other than liability for premiums to the Pension Benefit Guaranty Corporation arising in the ordinary course), including any liability in connection with (i) the termination or reorganization of any employee benefit plan subject to Title IV of ERISA or (ii) the withdrawal from any Multiemployer Plan or Multiple Employer Plan, and no fact or event exists that could give rise to any such liability. No complete or partial termination has occurred within the five years preceding the date hereof with respect to any Plan. No reportable event (within the meaning of Section 4043 of ERISA) has occurred or is expected to occur with respect to any Plan subject to Title IV of ERISA. No Plan had an accumulated funding deficiency (within the meaning of Section 302 of ERISA or Section 412 of the Code), whether or not waived, as of the most recently ended plan year of such Plan. None of the assets of the Company is the subject of any lien arising under Section 302(f) of ERISA or Section 412(n) of the Code; the Company has not been required to post any security under Section 307 of ERISA or Section 401(a)(29) of the Code; and no fact or event exists which could give rise to any such lien or requirement to post any such security.

(f) Plan Contributions and Funding. All contributions, premiums or payments required to be made with respect to any Plan prior to the Closing Date have been or will be made on or before their due dates. All such contributions have been fully deducted for income tax purposes and no such deduction has been challenged or disallowed by any Governmental Authority, and to the Knowledge of the Sellers, no fact or event exists that could give rise to any such challenge or disallowance.

(g) WARN Act. The Company is in compliance with the requirements of the Workers Adjustment and Retraining Notification Act (the "WARN Act") and has no Liabilities pursuant to the WARN Act.

Section 3.18 Labor Matters. (a) Neither the Company nor the Institution is a party to any collective bargaining agreement or other labor union contract applicable to persons employed by the Company or the Institution, and to the Knowledge of the Sellers, currently there are no organizational campaigns, petitions or other unionization activities seeking recognition of a collective bargaining unit that could materially affect the Company or the Institution.

(b) There are no unfair labor practice complaints pending against the Company or the Institution before the National Labor Relations Board or any other Governmental Authority.

(c) The Company is currently in compliance in all material respects with all applicable Laws relating to the employment of labor, including those related to wages, hours, collective bargaining and the payment and withholding of taxes and other sums as required by the appropriate Governmental Authority and has withheld and paid to the appropriate Governmental Authority or is holding for payment not yet due to such Governmental Authority all amounts required to be withheld from employees of the Company and is not liable for any arrears of wages, Taxes, penalties or other sums for failure to comply with any of the foregoing.

(d) The Company has paid in full to all its respective employees, or adequately accrued for in accordance with GAAP, all wages, salaries, commissions, bonuses, benefits and other compensation due to or on behalf of such employees.

(e) There is no Claim with respect to payment of wages, salary or overtime pay that has been asserted or is now pending or, to the Knowledge of the Sellers, threatened before any Governmental Authority with respect to any Persons currently or formerly employed by the Company.

(f) The Company is not a party to, or otherwise bound by, any consent decree with, or citation by, any Governmental Authority relating to employees or employment practices.

(g) There is no charge or proceeding with respect to a violation of any occupational safety or health standard that has been asserted or is now pending or, to the Knowledge of the Sellers, threatened, with respect to the Company.

(h) Except as set forth in Section 3.18(h) of the Disclosure Schedule, there is no charge of discrimination in employment or employment practices, for any reason, including age, gender, race, religion or other legally protected category, which has been asserted or is now pending or, to the Knowledge of the Sellers, threatened before the United States Equal Employment Opportunity Commission, or any other Governmental Authority with respect to the Company.

Section 3.19 Assets. (a) Except as set forth on Section 3.19(a) of the Disclosure Schedule, the Company has good and marketable title to, or in the case of leased Assets and Licensed Intellectual Property, a valid and subsisting leasehold interest in or lawful right to use, as applicable, all the Assets, free and clear of all Encumbrances except Permitted Encumbrances.

(b) The Company owns, leases or has the legal right to use, as applicable, all the properties and assets, including the Owned Intellectual Property, the Licensed Intellectual Property, the Company IP Licenses, the Leased Real Property and the Tangible Personal Property, used or intended to be used in the conduct of the Business or otherwise owned, leased or used by the Company, and, with respect to contract rights, is a party to and enjoys the right to the benefits of all contracts, agreements and other arrangements used or intended to be used by the Company or in or relating to the conduct of the Business, all of which properties, assets and rights constitute Assets.

(c) The Assets constitute all the properties, assets and rights forming a part of, used, new or intended to be used in, and all such properties, assets and rights as are necessary in the conduct of the Business, and at all times the Sellers have caused the Assets to be maintained in accordance with good business practice, and all the Assets are in good operating condition and repair and are suitable for the purposes for which they are used and intended (subject to ordinary wear and tear).

(d) The Sellers have the complete and unrestricted power and unqualified right to sell, assign, transfer, convey and deliver the Assets to the Purchaser without penalty or other adverse consequences. Following the consummation of the transactions contemplated by this Agreement and the execution of the instruments of transfer contemplated by this Agreement, the Purchaser will own, with good, valid and marketable title, or lease, under valid and subsisting leases, or otherwise acquire the interests of the Sellers in the Assets, free and clear of any Encumbrances, other than Permitted Encumbrances, and without incurring any penalty or other adverse consequence, including any increase in rentals, royalties, or license or other fees imposed as a result of, or arising from, the consummation of the transactions contemplated by this Agreement.

Section 3.20 Student Lists. (a) Section 3.20(a) of the Disclosure Schedule lists the names and educational programs of all students enrolled at the Institution as of the date hereof for the then current academic period.

(b) Section 3.20(b) of the Disclosure Schedule lists the names and intended educational programs of all students enrolled at the Institution as of the date hereof for future academic periods and not otherwise included in Section 3.20(a) of the Disclosure Schedule.

Section 3.21 Student Financial Records. True and complete copies of the financial records for each student have been provided or made available to the Purchaser by the Sellers.

Section 3.22 Certain Interests. Except as set forth in Section 3.22 of the Disclosure Schedule, no director, manager, member, stockholder or officer of any Seller, the Company or the Institution, and no relative or spouse (or relative of such spouse) who resides with, or is a dependent of, any such Person:

(a) has any direct or indirect financial interest in or with respect to (i) any competitor or supplier of the Company or the Business or (ii) any other party to any arrangement or contract (including a lease) relating to the Company or the Business; provided, however, that the ownership of securities representing no more than one percent of the outstanding voting power of any competitor or supplier, and which are also listed on any national securities exchange, shall not be deemed to be a "financial interest" so long as the Person owning such securities has no other connection or relationship with such competitor or supplier;

(b) owns, directly or indirectly, in whole or in part, or has any other interest in any tangible or intangible property which the Company or the Institution uses or has used in the conduct of the Business or otherwise; or

(c) has outstanding any Indebtedness to the Company or the Institution.

Section 3.23 Taxes. (a) (i) All Tax Returns required by applicable Law to be filed by or with respect to the Company prior to the Closing Date have been or will be timely filed; (ii) all Taxes required to be shown on such Tax Returns or otherwise due prior to the Closing Date in respect of the Company have been or will be timely paid; (iii) all such Tax Returns are true, correct and complete in all material respects; (iv) no adjustment relating to such Tax Returns has been proposed formally or informally by any Governmental Authority, and no basis exists for any such adjustment; (v) there are no pending or, to the Knowledge of the Sellers, threatened Actions for the assessment or collection of Taxes against the Company; (vi) there are no Tax liens on any assets of the Company, other than Permitted Encumbrances; (vii) no Seller nor any Affiliate of any Seller is a party to any agreement or arrangement that would result, separately or in the aggregate, in the actual or deemed payment by the Company of any "excess parachute payments" within the meaning of Section 280G of the Code (without regard to Section 280G(b)(4) of the Code); (viii) no acceleration of the vesting schedule for any property that is substantially unvested within the meaning of the regulations under Section 83 of the Code will occur in connection with the transactions contemplated by this Agreement; (ix) none of the Sellers is a foreign person as such term is defined in Section 1445 of the Code; (x) the Company has properly and timely withheld, collected and deposited all Taxes that are required to be withheld, collected and deposited under applicable Law; (xi) the Company is not doing business in or engaged in a trade or business in any jurisdiction in which it has not filed all required Tax Returns, and no notice or inquiry has been received from any jurisdiction in which Tax Returns have not been filed by the Company to the effect that the filing of Tax Returns may be required; and (xii) the Company has not been at any time a member of any consolidated, unitary, combined, affiliated or similar group for Tax purposes (other than, with respect to the Company, a group that includes only other Companies or Subsidiaries) or a member of any partnership or joint venture or the holder of a beneficial interest in any trust for any period for which the statute of limitations for any Tax has not expired.

(b) (i) there are no outstanding waivers or agreements extending the statute of limitations for any period with respect to any Tax to which the Company may be subject; (ii) there are no requests for information currently outstanding that could affect the Taxes of the Company; (iii) there are no proposed reassessments of any property owned by the Company or other proposals that could increase the amount of any Tax to which the Company would be subject; (iv) no power of attorney that is currently in force has been granted with respect to any matter relating to Taxes that could affect the Company; (v) the Company (A) does not have an unrecaptured overall foreign loss within the meaning of Section 904(f) of the Code, or (B) has not participated in or cooperated with an international boycott within the meaning of Section 999 of the Code; (vi) the Company has no (A) income reportable for a period ending after the Closing but attributable to a transaction (e.g., an installment sale) occurring in, or a change in accounting method made for, a period ending on or prior to the Closing that resulted in a deferred reporting of income from such transaction or from such change in accounting method (other than a deferred intercompany transaction) or (B) deferred gain or loss arising out of any deferred intercompany transaction; and (vii) no Indebtedness attributable to the Company is characterized as equity for federal income Tax purposes.

(c) (i) Section 3.23(c) of the Disclosure Schedule lists all income, information, franchise and similar Tax Returns (federal, state, local and foreign) filed with respect to the Company for taxable periods ended on or after January 1, 2004, indicates the most recent income, information, franchise or similar Tax Return for each relevant jurisdiction for which an audit has been completed or the statute of limitations has lapsed, and indicates all Tax Returns that currently are the subject of audit; (ii) the Sellers have delivered or made available to the Purchaser correct and complete copies of all federal, state and foreign income, information, franchise and similar Tax Returns, examination reports, and statements of deficiencies assessed against or agreed to by the Company since January 1, 2005; and (iii) the Sellers have delivered or made available to the Purchaser a true and complete copy of any tax-sharing or allocation agreement or arrangement involving the Company and a true and complete description of any such unwritten or informal agreement or arrangement.

(d) On the Estimated Closing Balance Sheet, reserves and allowances have been provided, and on the Closing Balance Sheet, reserves and allowances will be provided, in each case adequate to satisfy all Liabilities for Taxes relating to the Company for all taxable periods through the Closing (without regard to the materiality thereof).

Section 3.24 Insurance. All material assets, properties and risks of the Company are, and for the past five years have been, covered by valid and, except for insurance policies that have expired under their terms in the ordinary course, currently effective insurance policies or binders of insurance (including general liability insurance, property insurance and workers' compensation insurance) issued in favor of the Company, as the case may be, in each case with responsible insurance companies, in such types and amounts and covering such risks as are consistent with customary practices and standards of companies engaged in businesses and operations similar to those of the Company.

Section 3.25 Educational Approvals. (a) Section 3.25(a) of the Disclosure Schedule lists, with respect to the Company and the Institution, each Educational Approval issued by any Educational Agency since the Compliance Date to the Company or the Institution (i) with respect to any educational program(s) offered by the Company or the Institution, (ii) with respect to the authority of the Company or the Institution to recruit students in any state where it engages employees or agents to recruit students, and (iii) with respect to all locations, branches, campuses, buildings, classrooms, learning sites, and facilities at which any portion of an educational program is offered or taught in whole or in part by or in association with the Institution. The Sellers have delivered or made available to Purchaser complete and correct copies of all Educational Approvals.

(b) The current Educational Approvals set forth on Section 3.25(a) of the Disclosure Schedule are in full force and effect, including provisional and non-provisional certifications, and no proceeding for the suspension, limitation, revocation, condition, restriction, withdrawal, termination or cancellation of any of them is pending or, to the Knowledge of the Sellers, has been threatened. There are no facts, circumstances or omissions concerning the Company or the Institution that could result in such a proceeding. Neither the Company nor the Institution have received any notice that any of the Educational Approvals set forth on Section 3.25(a) of the Disclosure Schedule will not be renewed (to the extent that renewal is required) and there is no basis for any such nonrenewal (if applicable).

Section 3.26 Compliance with Educational Laws. (a) Since the Compliance Date, and except as set forth on Section 3.26(a) of the Disclosure Schedule, the Company and the Institution has been and is in compliance in all material respects with any and all applicable Educational Laws.

(i) The Company and the Institution currently hold and, since the Compliance Date, have held all Educational Approvals required under all laws, rules, regulations, standards and requirements of any Educational Agency, including all Educational Approvals for each education program the Company or the Institution has offered and for each campus, location, or facility where such entity offered all or any portion of an educational program.

(ii) Since the Compliance Date, the Company and the Institution have complied in all material respects with the terms and conditions of all such Educational Approvals. Since the Compliance Date, the Company and the Institution have complied with all Educational Laws of all applicable Educational Agencies.

(iii) Since the Compliance Date, the Company and the Institution have timely notified, and obtained all required approvals from all applicable Educational Agencies for each substantive change in the Company or the Institution, including any addition of new education programs or changes in ownership, control or governance.

(iv) Since the Compliance Date, neither the Company nor the Institution has received notice that the Company or the Institution is in violation of any of the terms or conditions of any Educational Approval or alleging the failure to hold or obtain any Educational Approval. There are no facts or circumstances concerning the operations or management of the Institution that reasonably could result in the denial or delay in issuance of any Educational Approval to be issued in connection with the consummation of the transactions contemplated under this Agreement.

(v) Section 3.26(a)(v) of the Disclosure Schedule lists each program pursuant to which financial assistance is provided or, since the Compliance Date, has been provided, to or on behalf of the students of the Institution.

(vi) The facilities listed on Section 3.26(a)(vi) of the Disclosure Schedule are and, since the Compliance Date, have been the only addresses at which the Company, and the Institution have offered educational instruction or otherwise operated. With respect to any facility that has closed or at which the Institution ceased operating instruction, the Company and the Institution materially complied with all applicable laws and all Accrediting Body and Educational Agency standards related to the closure or cessation of instruction at a location or campus, including requirements for teaching out students from that location or campus.

(b) Without limiting the foregoing provisions in Section 3.26(a):

(i) The Company and the Institution possess, and since the Compliance Date, have possessed, all requisite Educational Approvals to operate the Institution in each jurisdiction in which the Institution is located or in which they conduct any operations or are otherwise required to obtain such Educational Approvals, including providing educational services in person or via distance learning, student marketing or recruiting.

(ii) The Institution is, and since the Compliance Date has been, fully or provisionally certified by the U.S. DOE to participate in the Title IV Programs and is party to, and in compliance with, a valid and effective Program Participation Agreement with the U.S. DOE that is in full force and effect. Neither the Company nor the Institution is subject to, or since the Compliance Date has been, threatened with, any fine, limitation, suspension or termination proceeding, or subject to any other action or proceeding by the U.S. DOE that could result in the suspension, limitation, conditioning, or termination of certification or eligibility, or a liability or fine. To the Knowledge of the Sellers, there are no facts, circumstances, or omissions concerning the Company or the Institution that reasonably could result in such an action by the U.S. DOE.

(iii) The Company and the Institution are, and since the Compliance Date have been, in material compliance with all applicable rules, regulations and requirements pertaining to the Institution's participation in the Title IV Programs. To the Knowledge of the Sellers, there are no facts, circumstances, or omissions concerning the Company or the Institution that reasonably could result in a finding of material non-compliance with regard to such rules, regulations and requirements. Without limiting the foregoing:

(A) Since the Compliance Date, each educational program offered by the Institution, including programs involving externships, internships or consortium agreements, was and is an eligible program in accordance with all applicable rules, regulations and requirements, including the requirements of 34 C.F.R. § 668.8, and the Company and the Institution have properly measured the length of such educational programs for the purpose of disbursing Title IV Program funding to students enrolled in each such program.

(B) Since the Compliance Date, the Institution has possessed the Educational Approvals necessary for each campus, branch, additional location and other facility or site at which the Institution offered or students received all or part of an educational program and at which students received funds under the Title IV Programs. Since the Compliance Date, the Institution has been duly qualified as a "proprietary institution of higher education" as defined at 34 C.F.R. § 600.5.

(C) Except as set forth in Section 3.26(b)(iii)(C) of the Disclosure Schedule, since the Compliance Date, neither the Company nor the Institution has received notice from the U.S. DOE or any Educational Agency that the Company or the Institution lacked financial responsibility or administrative capability for any period.

(D) The Institution is and has been financially responsible in accordance with the provisions of 34 C.F.R. §§ 668.171-175 and any predecessor regulations for each fiscal year ending on or after the Compliance Date.

(E) Since the Compliance Date, neither the Company nor the Institution has received notice of a request by any Educational Agency or governmental entity that the Company or the Institution post a Letter of Credit or other form of surety with respect to the Institution for any reason, including any request for a Letter of Credit based on late refunds pursuant to 34 C.F.R. § 668.173, 34 C.F.R. § 668.15 or any predecessor regulation.

(F) Except as set forth on Section 3.26(b)(iii)(F) of the Disclosure Schedule, since the Compliance Date, the U.S. DOE has not placed the Company or the Institution on either the cash monitoring or reimbursement methods of payment.

(G) Since the Compliance Date, the Company and the Institution has timely filed with the U.S. DOE all required compliance audits and audited financial statements, including those required by 34 C.F.R. § 668.23 or any predecessor regulation.

(H) Except as listed in Section 3.26(b)(iii)(H) of the Disclosure Schedule, no audits, program reviews, investigations or visits have been conducted by an Educational Agency or by a Governmental Authority in connection with an Educational Approval or the Institution since the Compliance Date, including but not limited to any U.S. DOE or guaranty agency program reviews, U.S. DOE Office of Inspector General audits, U.S. DOE Office of Inspector General investigations and Department of Justice investigations. Except as listed in Section 3.26(b)(iii)(H) of the Disclosure Schedule, there is no audit, program review, investigation, or visit that remains pending or is scheduled to occur. The Sellers have provided or made available to the Purchaser true and complete copies of all correspondence, reports, determinations, audits or other documents related to the items listed on Section 3.26(b)(iii)(H) of the Disclosure Schedule.

(I) Except as disclosed on Section 3.26(b)(iii)(I) of the Disclosure Schedule, since the Compliance Date, the Company and the Institution have calculated and paid refunds and calculated dates of withdrawal and leaves of absence in material accordance with all applicable rules, regulations and requirements, including the requirements of 34 C.F.R. § 668.22, 34 C.F.R. § 682.605 and any predecessor regulations.

(J) Except as listed in Section 3.26(b)(iii)(J) of the Disclosure Schedule, since the Compliance Date, the Company and the Institution have disbursed and processed Title IV Program funds in material accordance with all applicable rules, regulations and requirements, including the requirements of 34 C.F.R. § 668.164, 34 C.F.R. § 682.604 and any predecessor regulations.

(K) Except as listed in Section 3.26(b)(iii)(K) of the Disclosure Schedule, since the Compliance Date, the Company and the Institution have properly determined students' eligibility to obtain Title IV Program funds for which they are eligible prior to disbursing, and have disbursed, all Title IV Program funds in material accordance with all applicable rules, regulations and requirements, including the requirements of 34 C.F.R. § 682.201, 34 C.F.R. § 668, Subpart C, and any predecessor regulation.

(L) Since the Compliance Date, the Company and the Institution have at all times complied with the limitations in 34 C.F.R. § 600.7 on the number of courses that the Institution may offer by correspondence or telecommunications, the number of students who may enroll in such courses, the number of students that were incarcerated, and the number of students that had neither a high school diploma nor the recognized equivalent of a high school diploma.

(M) Section 3.26(b)(iii)(M) of the Disclosure Schedule lists the official published cohort default rates for the Institution calculated by the U.S. DOE and issued pursuant to 34 C.F.R. § 668.181-186 or predecessor regulations, for the federal fiscal years 2004, 2005 and 2006.

(N) Neither the Company nor the Institution receives funds as a result of Federal Perkins Loans.

(O) For each fiscal year ending on or after the Compliance Date, neither the Company nor the Institution has derived more than ninety percent (90%) of its revenues from Title IV Program funds, as determined in accordance with the applicable provisions of the HEA and 34 C.F.R. § 600.5(d) and § 600.5(e) and guidance issued thereunder. Section 3.26(b)(iii)(O) of the Disclosure Schedule lists a correct statement of the percentage of revenue from Title IV Program funds as determined in accordance with the applicable provisions of the HEA and 34 C.F.R. § 600.5(d) and § 600.5(e) for each of such fiscal years.

(iv) Except as set forth on Section 3.26(b)(iv) of the Disclosure Schedule, neither the Company nor the Institution is, nor since the Compliance Date, has been placed on probation, reporting, monitoring or warning status with any Educational Agency, nor has the Institution been subject to any adverse action by any Educational Agency (including being directed to show cause why accreditation or other Educational Approval should not be revoked, withdrawn, conditioned, suspended, or limited) to revoke, withdraw, deny, suspend, condition or limit its accreditation or other Educational Approval. To the Knowledge of the Sellers, there are no facts, circumstances or omissions concerning the Company or the Institution that reasonably could lead to any such actions by an Educational Agency.

(v) The Company and the Institution have materially complied with all written stipulations, conditions and other requirements imposed by any Educational Agency at the time of, or since, the last issuance of any Educational Approval, including but not limited to the timely filing of all required reports and responses.

(vi) Neither the nor the Institution provides, or since the Compliance Date, has provided or contracted with any entity that provides, any commission, bonus or other incentive payment based directly or indirectly on success in securing enrollments or awarding financial aid to any persons or entities engaged in any student recruiting or admissions activities or in making decisions regarding the awarding of student financial aid.

(vii) Since the Compliance Date, all student financial aid grants and loans, disbursements and record keeping relating thereto have been completed by the Institution in material compliance with all federal and state requirements, and there are no material deficiencies in respect thereto. Except as disclosed on Section 3.26(b)(vii) of the Disclosure Schedule, since the Compliance Date, the students at the Institution have been funded in material accordance with the rules regarding the proper time for disbursement and in the amount for which they were eligible, and such students' records conform in form and substance, in all material respects, to all relevant regulatory requirements. All appropriate reports and surveys have been accurately prepared, in all material respects, and filed timely.

(viii) Since the Compliance Date, no principal, affiliate (as those terms are defined in 34 C.F.R. Part 85), owner, shareholder, member, manager, trustee, or officer of the Company or the Institution or any other individual or entity holding an ownership interest in the Company or the Institution, whether legal or equitable, is or has been a principal, affiliate, owner, shareholder or trustee or held an ownership interest, whether legal or equitable, in any other post-secondary institution (whether or not participating in the Title IV Programs).

(ix) Except as set forth on Section 3.26(b)(ix) of the Disclosure Schedule, since the Compliance Date, neither the Company nor the Institution, nor any Person that exercises substantial control over the Institution (as the term "substantial control" is defined in 34 C.F.R. § 668.174(c)(3)) or member of such Person's family (as the term "family" is defined in 34 C.F.R. § 668.174(c)(4)), alone or together, (A) exercises or exercised substantial control over another school or third-party servicer (as that term is defined in 34 C.F.R. § 668.2) that owes a liability for a violation of a Title IV Program requirement or (B) owes a liability for a Title IV Program violation.

(x) Neither the Company nor the Institution, nor any Person or entity that exercises substantial control over the Company or the Institution, or member of such Person's family, has filed for relief in bankruptcy or had entered against it an order for relief in bankruptcy.

(xi) Neither the Company nor the Institution nor any of their employees has pled guilty to, pled nolo contendere to, or been found guilty of, a crime involving the acquisition, use or expenditure of funds under the Title IV Programs or been judicially determined to have committed fraud involving Title IV Program funds.

(xii) To the Knowledge of the Sellers, neither the Company nor the Institution employs nor, since the Compliance Date, has employed in a capacity that involves the administration of Title IV Program funds or the receipt of funds under the Title IV Programs, any individual that has been convicted of, or has pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of federal, state, or local government funds, or has been administratively or judicially determined to have committed fraud or any other material violation of Law involving federal, state or local government funds. To the Knowledge of the Sellers, neither the Company nor the Institution has contracted with any institution or third-party servicer that has been limited, suspended or terminated under the HEA, for a reason involving the acquisition, use, or expenditure of federal, state, or local government funds, or that has been administratively or judicially determined to have committed fraud or any other material violation of Law involving federal, state or local government funds. To the Knowledge of the Sellers, neither the Company nor the Institution has contracted with or employed any individual, agency or organization that has been, or whose officers or employees have been convicted of, or pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of federal, state, or local government funds, or have been administratively or judicially determined to have committed fraud or any other material violation of Law involving federal, state, or local government funds.

(xiii) Except as listed in Section 3.26(b)(xiii) of the Disclosure Schedule, neither the nor the Institution provides, or since the Compliance Date, has provided, any educational instruction on behalf of any other institution or organization of any sort other than the Institution. No other institution or organization of any sort provides, or since the Compliance Date, has provided, any educational instruction on behalf of the Institution.

(xiv) No principal or, to the Knowledge of the Sellers, affiliate of the Company or the Institution has been debarred or suspended, or engaged in any activity that is a cause for debarment or suspension, pursuant to the U.S. DOE regulations at 34 C.F.R. Part 85.

(c) Except as listed in Section 3.26(c) of the Disclosure Schedule, neither the Company nor the Institution has received notice of any written student complaints or employee grievances made to the Company or the Institution, or to any Accrediting Body or Educational Agency, whether received from any current or former student or any applicant, or received from any Educational Agency in relation to any such complaint or grievance, or sent by or on behalf of the Company or the Institution in regard to any such complaint, in each case (except as expressly otherwise indicated), on or after the Compliance Date. The Sellers have delivered or made available to the Purchaser correct and complete copies of any such written complaint or grievance and related correspondence.

(d) The Sellers have delivered or made available to the Purchaser true and materially complete copies of all correspondence (excluding general correspondence routinely sent to, or received from, any Educational Agency) received from or sent by or on behalf of the Company or the Institution to any Educational Agency to the extent such correspondence (i) was sent or received since the Compliance Date or relates to any issue that remains pending, and (ii) relates to (A) any notice that any Educational Approval is not in full force and effect or that an event has occurred which constitutes or, with the giving of notice or the passage of time or both, would constitute a breach or violation thereunder; (B) any notice that the Company, the Institution, or any Affiliate, employee, or agent of the Company or the Institution has violated or is violating any Educational Law, including any law related to the Title IV Programs, or any criterion, rule, standard, or other written guidance of any applicable accrediting body, or any law, regulation, or requirement related to maintaining and retaining in full force and effect any and all Educational Approvals necessary for the existing operations of, and receipt of financial assistance by, the Company or the Institution; (C) any audits, program reviews, inquiries, investigations, or site visits conducted by any Educational Agency, any guaranty agency, or any independent auditor reviewing compliance by the Company or the Institution with any Educational Law or Educational Approval; (D) the qualification of the Company, the Institution or any Affiliate thereof for the receipt of financial assistance; (E) any written notice of an intent to limit, suspend, terminate, revoke, cancel, not renew, or condition the Educational Approvals of, or the provision of financial assistance to, the Company, the Institution or to the Institution's students; (F) any written notice of an intent or threatened intent to condition the provision of financial assistance to the Company or the Institution on the posting of a Letter of Credit or other surety in favor of the U.S. DOE; (G) written notice of an intent to provisionally certify the eligibility of the Company or the Institution to participate in the Title IV Programs; or (H) the placement or removal of the Company or the Institution on or from the reimbursement method of payment or any method of payment other than the advance payment method under the Title IV Programs.

(e) Section 3.26(e) of the Disclosure Schedule sets forth a complete list of all policy manuals and other statements of procedures or instruction relating to (i) recruitment of students at the Institution, including procedures for assisting in the application by prospective students for direct or indirect funding under state or Title IV Programs; (ii) admissions procedures, including any descriptions of procedures for insuring compliance with federal, state and accrediting body requirements applicable to such procedures; (iii) procedures for encouraging and verifying attendance, minimum required attendance policies, and other relevant criteria relating to course performance requirements and completion; and (iv) procedures for processing, disbursing, and returning Title IV Program funds, except as contained in the catalogs of the Company or the Institution previously provided or made available to the Purchaser (collectively, the "Policy Guidelines"). The Sellers have delivered or made available to the Purchaser true, correct and materially complete copies of all Policy Guidelines.

(f) Since the Compliance Date, the operations of the Company and the Institution have been conducted in material accordance with the Policy Guidelines which comply in all material respects with all applicable rules, regulations and requirements. Complete and correct books and records for all present and past students attending the Institution have been maintained consistent with the operations of a school business in all material respects. All forms and records have been prepared, completed, maintained and filed in material accordance with all applicable laws, and are materially complete and correct.

(g) Since the Compliance Date, neither the Company nor the Institution has received any written or oral notice of, and there is not any currently unresolved investigation, review, audit, compliance review or site visit relating to the Institution's participation in and administration of the Title IV Programs or other financial assistance programs or its compliance with the requirements of any other Educational Agency. The Sellers have delivered or made available to the Purchaser correct and complete copies of all annual federal financial aid compliance audits and audited financial statements filed with the U.S. DOE pursuant to 34 C.F.R. § 668.23 for all fiscal years ending after the Compliance Date and have listed in Section 3.26(g) of the Disclosure Schedule and provided or made available correct and complete copies of all material correspondence related to any draft or final investigative reports, program reviews, audits or compliance reviews received from any other Educational Agency since the Compliance Date. Other than the matters listed in Section 3.26(g) of the Disclosure Schedule, to the Knowledge of the Sellers, there are no current investigations, reviews or audits of the operation of the financial assistance programs of the Institution or any current investigation, review or audit of any institution by any Educational Agency or other governmental authority.

(h) Except as set forth in Section 3.26(h) of the Disclosure Schedule, there are no surety bonds or other forms of security that the Company or the Institution have been required to file since the Compliance Date with any Educational Agency with respect to its state authorization, federal eligibility, recruiter permits or other matters.

(i) Neither the Company nor the Institution has paid or otherwise extended any points, premiums, payments or additional interest of any kind to any eligible lender or any other party to secure funds for making loans or induce a lender to make loans to either the students or parents of students at the Institution or to a particular category of students or their parents. Neither the Institution nor any officer, employee or agent of the Company or the Institution has solicited, accepted, or received, directly or indirectly, any benefit or item of more than nominal value from or on behalf of a lending institution in connection with educational loans for or on behalf of the Company's or the Institution's students. Neither the Company nor the Institution has received any written notice of any investigation by any Governmental Authority or Educational Agency that any lender or marketing agent has provided, directly or indirectly, points, premiums, payments, or other inducements to the Company, the Institution, or any employee or agent of the Company, to secure applicants for Federal Family Education Loan Program loans. No lender or marketing agent has provided, directly or indirectly, points, premiums, payments, or other inducements to the Company or the Institution, or any employee or agent of the Company or the Institution, to secure applicants for Federal Family Education Loan Program loans.

(j) Since the Compliance Date, all employees of the Company and the Institution have engaged in student recruiting activities have maintained the necessary state approvals to conduct such activities. The Company and the Institution have maintained material compliance with the rules and regulations applicable to the recruitment of students.

(k) Since the Compliance Date, the Company and the Institution have complied with federal and state laws regarding misrepresentation including but not limited to 34 C.F.R. § 668 subpart F, and (i) have not included in its catalogs or advertising literature reference to any Educational Approval which the Company or the Institution did not at the time possess, and (ii) have not misrepresented prospective or enrolled students that the academic programs provided by such Company or the Institution prepare students for any certification, licensure or employment test for which the Company or the Institution is or was not qualified or authorized to prepare students. Section 3.26(k) of the Disclosure Schedule lists all certification, licensure or employment tests for which the Company and the Institution represents its academic programs prepare students.

(l) To the Knowledge of the Sellers, there exists no fact or set of facts with respect to the operation of the Institution prior to the Closing Date which could have a negative effect on the ability of the Institution to obtain any Educational Approval under the ownership of the Purchaser without such burdensome or unusual conditions as, in the reasonable determination of the Purchaser, would materially reduce the economic benefits that the Purchaser expects to receive from the consummation of the transactions contemplated by this Agreement.

Section 3.27 Employees. Section 3.27 of the Disclosure Schedule lists the name, place of employment, the current annual salary rates, bonuses, deferred or contingent compensation, pension, accrued vacation, “golden parachute” and other like benefits paid or payable (in cash or otherwise) in 2007 and 2008, the date of employment and a description of the position and job function of each current salaried employee, officer, director, consultant or agent of the Company or the Institution.

Section 3.28 Certain Business Practices. None of the Sellers, the Company or the Institution or any of their respective directors, officers, agents, representatives or employees (in their capacity as directors, officers, agents, representatives or employees) has: (a) used any funds for unlawful contributions, gifts, entertainment or other unlawful expenses relating to political activity in respect of the Business; (b) directly or indirectly, paid or delivered any fee, commission or other sum of money or item of property, however characterized, to any finder, agent, or other party acting on behalf of or under the auspices of a governmental official or Governmental Authority, in the United States or any other country, which is in any manner illegal under any Law of the United States or any other country having jurisdiction; or (c) made any other unlawful payment or given any other unlawful consideration in respect of the Business.

Section 3.29 Brokers. No broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement or the Ancillary Agreements based upon arrangements made by or on behalf of any Seller.

Section 3.30 No Other Representations. None of the Sellers, or any of their respective affiliates, directors, officers, employees, agents or representatives has made, or shall be deemed to have made, and no Seller is liable for or bound in any manner by, any express or implied representations, warranties, guaranties, promises or statements pertaining to their business or any of their assets except as specifically set forth in this Agreement or the Ancillary Agreements.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES OF PARENT AND THE PURCHASER

As an inducement to the Sellers to enter into this Agreement, the Parent and the Purchaser hereby represents and warrants to the Sellers as follows:

Section 4.01 Organization, Authorization and Qualification of the Parent and the Purchaser. (a) The Purchaser is a limited liability company duly organized and validly existing and in good standing under the laws of the State of Delaware and has not conducted any business operations except operations incident to the transactions contemplated by this Agreement. As of the Closing, the Purchaser shall not have any assets or Liabilities. The Purchaser has all necessary power and authority to enter into this Agreement and the Ancillary Agreements to which the Purchaser is a party, to carry out its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery by the Purchaser of this Agreement and the Ancillary Agreements to which the Purchaser is a party, the performance by the Purchaser of its obligations hereunder and thereunder and the consummation by the Purchaser of the transactions contemplated hereby and thereby have been duly authorized by all requisite action on the part of the Purchaser. This Agreement has been, and upon their execution the Ancillary Agreements to which the Purchaser is a party shall have been, duly executed and delivered by the Purchaser, and (assuming due authorization, execution and delivery by the other parties hereto and thereto) this Agreement constitutes, and upon their execution such Ancillary Agreements shall constitute, legal, valid and binding obligations of the Purchaser, enforceable against the Purchaser in accordance with their respective terms, except as the same may be limited by applicable bankruptcy, insolvency (including all laws relating to fraudulent transfers), reorganization, moratorium or similar laws affecting creditors' rights generally, now or hereafter in effect, and subject to the effect of general principles of equity (regardless of whether considered in a proceeding at law or in equity).

(b) The Parent is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has all necessary power and authority to enter into this Agreement and the Ancillary Agreements to which the Parent is a party, to carry out its obligations hereunder and thereunder and to consummate the transactions contemplated by this Agreement and the Ancillary Agreements. The Parent is duly licensed or qualified to do business and is in good standing in each jurisdiction which the properties owned or leased by it or the operation of its business makes such licensing or qualification necessary, except to the extent that the failure to be so licensed or qualified and in good standing would not (i) adversely affect the ability of the Parent to carry out its obligations under, and to consummate the transactions contemplated by, this Agreement and the Ancillary Agreements to which the Parent is a party or (ii) otherwise have a material adverse effect on the business, results of operations or financial condition of the Parent. The execution and delivery by the Parent of this Agreement and the Ancillary Agreements to which the Parent is a party, the performance by the Parent of its obligations hereunder and thereunder and the consummation by the Parent of the transactions contemplated by this Agreement and the Ancillary Agreements have been duly authorized by all requisite action on the part of the Parent, and, if required by Law, its shareholders. This Agreement has been, and upon their execution the Ancillary Agreements to which the Parent is a party shall have been, duly executed and delivered by the Parent, and (assuming due authorization, execution and delivery by the other parties hereto and thereto) this Agreement constitutes, and upon their execution such Ancillary Agreements shall constitute, legal, valid and binding obligations of the Parent, enforceable against the Parent in accordance with their respective terms, except as the same may be limited by applicable bankruptcy, insolvency (including all laws relating to fraudulent transfers), reorganization, moratorium or similar laws affecting creditors' rights generally, now or hereafter in effect, and subject to the effect of general principles of equity (regardless of whether considered in a proceeding at law or in equity).

(c) To the knowledge of the Parent and the Purchaser, there exists no fact or set of facts with respect to the Purchaser that would reasonably be likely to have a negative effect on the ability of the Institution to obtain the approval of the change in ownership by any Educational Agency listed in Section 4.03 of the Disclosure Schedule.

Section 4.02 No Conflict. Assuming the making and obtaining of all filings, notifications, consents, approvals, authorizations and other actions referred to in Section 4.03 of the Disclosure Schedule, except as may result from any facts or circumstances relating solely to the Seller, the execution, delivery and performance by the Parent and the Purchaser of this Agreement and the Ancillary Agreements to which the Parent or the Purchaser is a party, as the case may be, do not and will not (a) violate, conflict with or result in the breach of any provision of the certificate of formation or limited liability agreement of the Parent or the Purchaser, (b) conflict with or violate any Law or Governmental Order applicable to the Parent or the Purchaser or (c) conflict with, or result in any breach of, constitute a default (or event that with the giving of notice or lapse of time, or both, would become a default) under, require any consent under, or give to others any rights of termination, amendment, acceleration, suspension, revocation or cancellation of, any note, bond, mortgage or indenture, contract, agreement, lease, license, permit, franchise or other instrument or arrangement to which the Parent or the Purchaser is a party or to which any of its assets or properties are bound or affected, which would materially and adversely affect the ability of the Parent or the Purchaser to carry out their obligations under, and to consummate the transactions contemplated by, this Agreement or the Ancillary Agreements to which the Parent or the Purchaser is a party, as the case may be.

Section 4.03 Governmental Consents and Approvals. Except for the Required Consents or as otherwise set forth on Section 4.03 of the Disclosure Schedule, the execution, delivery and performance by the Parent and the Purchaser of this Agreement and each Ancillary Agreement to which the Parent or the Purchaser is a party, as the case may be, do not and will not require any consent, approval, authorization or other order of, action by, filing with, or notification to any Governmental Authority or Educational Agency. To the knowledge of the Parent and the Purchaser there is no reason why all the Required Consents or the consents listed on Section 4.03 of the Disclosure Schedule will not be received.

Section 4.04 Litigation. No Action by or against the Parent or the Purchaser is pending or, to the knowledge of the Parent or the Purchaser, threatened, that could affect the legality, validity or enforceability of this Agreement, any Ancillary Agreement or the consummation of the transactions contemplated hereby or thereby.

Section 4.05 Financing. The Purchaser has or will have available, prior to the Closing, sufficient funds necessary to consummate the transactions contemplated by this Agreement and the Ancillary Agreements and acknowledges and affirms that it is not a condition to Closing or any of its other obligations under this Agreement that the Purchaser obtain financing for or relating to any of the transactions contemplated by this Agreement and the Ancillary Agreement.

Section 4.06 Brokers. No broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement or the Ancillary Agreements based upon arrangements made by or on behalf of the Parent or the Purchaser.

Section 4.07 No Other Representations. None of the Parent, the Purchaser, or any of their affiliates, directors, officers, employees, agents or representatives has made, or shall be deemed to have made, and neither the Parent nor the Purchaser is liable for or bound in any manner by, any express or implied representations, warranties, guaranties, promises or statements pertaining to their business or any of their assets except as specifically set forth in this Agreement or the Ancillary Agreements.

ARTICLE V

ADDITIONAL AGREEMENTS

Section 5.01 Conduct of Business Prior to the Closing. (a) The Sellers covenant and agree that, between the date hereof and the Closing Date, except as specifically permitted elsewhere in this Agreement, the Company shall not, and the Sellers shall cause the Institution not to, conduct the Business other than in the ordinary course and consistent with past practice. Without limiting the generality of the foregoing, the Sellers shall cause the Company and the Institution to (i) not take any action with respect to any Leased Real Property that would impair or affect in any material respect the Company's and the Institution's continued ability to use any Leased Real Property; (ii) exercise, but only after notice to the Purchaser and receipt of the Purchaser's prior written approval, any rights of renewal pursuant to the terms of any of the leases set forth on Section 3.15(b) of the Disclosure Schedule and any Ancillary Lease Documents that by their terms would otherwise expire; and (iii) not engage in any practice, take any action, fail to take any action or enter into any transaction that could cause any representation or warranty of the Sellers regarding the Company, the Business or the Institution to be untrue in any material respect or result in a breach of any covenant made by the Sellers in this Agreement.

(b) Except as described in Section 5.01(b) of the Disclosure Schedule, the Sellers covenant and agree that, between the date hereof and the Closing Date, without the prior written consent of the Purchaser, no Seller and neither the Company nor the Institution will do any of the things specified in the second sentence of Section 3.08 (including clauses (a) through (bb) thereof), subject to the exceptions set forth therein.

Section 5.02 Access to Information. (a) From the date hereof until the Closing Date, upon reasonable prior notice, the Sellers shall cause their and the Company's and the Institution's officers, directors, employees, agents, representatives, accountants and counsel to: (i) afford the officers, employees, agents, accountants, counsel, financing sources and representatives of the Purchaser and the Parent reasonable access, during normal business hours, to the offices, properties, plants, other facilities and books and records of the Company and the Institution, and to those officers, directors, employees, agents, accountants, managers, personnel and counsel of the Sellers, the Company and the Institution who have any knowledge relating to the Institution as they may reasonably request from time to time, provided that such access does not unreasonably interfere with the operations of the party providing such access; (ii) furnish to the officers, employees, agents, accountants, counsel, financing sources and representatives of the Purchaser and the Parent such additional financial and operating data and other information regarding the assets, properties and Liabilities of the Company and the Institution (or legible copies thereof) as they may from time to time reasonably request; and (iii) otherwise cooperate with the Purchaser, the Parent, and their representatives in connection with their due diligence investigation or negotiations in connection with the consummation of the transactions contemplated hereby. Notwithstanding the foregoing, the Sellers shall not be required to provide access to any information or take any other action that would constitute a waiver of the attorney-client privilege.

(b) Subject to Section 6.06 (relating to Tax matters), until the later of (i) seven years after the Closing and (ii) the expiration of the relevant record retention period under any Governmental Authority or Educational Agency requirements, none of the Sellers, the Company, the Purchaser or the Parent will destroy or otherwise dispose of any of the books, records, files or documents in its possession that relate to the Company or the Institution for the periods prior to the Closing without giving the other party hereto at least 90 days' prior written notice and an opportunity, at such other party's cost and expense, to take possession or make extracts or copies thereof. "Books, records, files or documents" shall include copies of any insurance policies, testing logs, applications for admission, all student records, including student accounts, accreditation reports, personnel files, financial statements, operational reports, policies and procedures, correspondence, all reports prepared for or provided to any Governmental Authority or Educational Agency, all records retained pursuant to relevant Governmental Authority or Educational Agency requirements and any other books, records, files or documents. After the Closing Date, each party hereto shall permit the other party, its officers, counsel, accountants and other authorized representatives during normal business hours and on reasonable prior written notice, to have access to and examine and make copies of any books, records, files or documents in its possession that relate to or concern the Institution or their operations for the periods prior to the Closing; provided that such access does not unreasonably interfere with the operations of the party providing such access; provided, further, that the party requesting access to such books, records, files or documents will bear any costs, other than wages and salaries and employee benefits of relevant personnel, of obtaining such access. All information obtained shall be kept confidential in accordance with the Non-Disclosure Agreement, dated June 6, 2008, by and between Lincoln Educational Services Corporation and BIT, as amended on July 23, 2008 and the Non-Disclosure Agreement, dated July 10, 2008, by and among Lincoln Educational Services Corporation, BIT and UGP (the "Non-Disclosure Agreement").

(c) Each Seller agrees to, and shall cause its agents, representatives, employees, officers and directors to, keep confidential all nonpublic information in their possession regarding the Assets, the Company, the Institution or Business (including any information made available to the Sellers pursuant to this Section 5.02) unless the Parent and the Purchaser consent to such disclosure; provided, however, that no Seller will be required to maintain as confidential any information that (i) becomes generally available to the public other than as a result of disclosure by any Seller or any of their respective agents, representatives, employees, officers and directors in breach of this Agreement; (ii) is subsequently received by the Company or the Institution or any of their Affiliates or representatives from a third party that is not under any obligation of confidentiality to the Parent or the Purchaser with respect to such information or (iii) is required to be disclosed pursuant to the terms of a valid subpoena or order by any Governmental Authority or Educational Agency or under any Law or other legal requirement; provided further that, in the event that any Seller or any such agent, representative, employee, officer or director becomes legally compelled to disclose any such information, (A) such Seller shall provide the Purchaser with prompt written notice of such requirement so that the Purchaser may seek a protective order or other remedy or waive compliance with this Section 5.02 and (B) in the event that such protective order or other remedy is not obtained or the Purchaser waives compliance with this Section 5.02, furnish only that portion of such confidential information which is legally required to be provided and exercise its best efforts to obtain assurances that confidential treatment will be accorded such information.

Section 5.03 Regulatory and Other Authorizations; Notices and Consents. (a) The Sellers shall cooperate fully with the Purchaser and use all commercially reasonable efforts in good faith to assist the Purchaser in obtaining all Required Consents and any other authorizations, consents, orders and approvals (including any authorizations, consents, orders and approvals listed in Section 4.03 of the Disclosure Schedule) that may be or become necessary for its execution and delivery of, and the performance of its obligations pursuant to, this Agreement and the Ancillary Agreements; provided, however, that no Seller shall have any obligation to give any guaranty or other consideration of any nature in connection with any authorizations, consents, orders and approvals. The Sellers agree to provide to the Purchaser such information as any Educational Agencies or other parties may require, in connection with their review of any related application. The Sellers agree to cooperate before and after the Closing at the Purchaser's expense to assist the Purchaser to obtain or renew any Educational Approvals or any other necessary authorizations and approvals from Governmental Authorities or Educational Agencies with respect to the Institution, including obtaining U.S. DOE Approvals on a provisional basis after the Closing Date.

(b) The Sellers shall give promptly such notices to third parties and use all commercially reasonable efforts, in good faith, to obtain such third party consents and estoppel certificates as the Purchaser may deem reasonably necessary in connection with the transactions contemplated by this Agreement and the Ancillary Agreements; provided, however, that no Seller shall have any obligation to give any guaranty or other consideration of any nature in connection with any such consents or estoppel certificates.

(c) The Purchaser shall cooperate and use all commercially reasonable efforts, in good faith, to assist the Sellers in giving such notices to third parties and obtaining such third-party consents and estoppel certificates; provided, however, that the Purchaser shall have no obligation to give any guarantee or other consideration of any nature in connection with any such notice, consent or estoppel certificate or to consent to any change in the terms of any agreement or arrangement that the Purchaser in its reasonable discretion may deem adverse to the interests of the Purchaser or the Institution.

(d) The Sellers shall cooperate and use all commercially reasonable efforts, in good faith, to assist the Purchaser in prosecuting and expediting any necessary applications in respect of the Institution's continued participation in the Title IV Programs.

(e) The Sellers and the Purchaser agree that, in the event that any consent, approval or authorization necessary or desirable to preserve for the Business or the Company any right or benefit under any lease, license, contract, commitment or other agreement or arrangement to which the Sellers or the Company is a party is not obtained prior to the date hereof, the Sellers will, subsequent to the date hereof, cooperate with the Purchaser or the Company in attempting to obtain such consent, approval or authorization as promptly thereafter as practicable.

Section 5.04 Notice of Developments. Prior to the Closing, (a) the Sellers shall promptly notify the Parent in writing within three Business Days of all events, circumstances, facts and occurrences arising subsequent to the date of this Agreement that will result in any breach of a representation, warranty or covenant of the Sellers in this Agreement relating to the Company, the Business or the Institution or that will have the effect of making any representation or warranty of the Sellers in this Agreement relating to the Company, the Business or the Institution untrue or incorrect in any material respect and (b) the Parent shall promptly notify the Sellers in writing within three Business Days of all events, circumstances, facts and occurrences arising subsequent to the date of this Agreement that could result in any breach of a representation, warranty or covenant of any party to this Agreement or that could have the effect of making any representation or warranty of any party to this Agreement untrue or incorrect in any respect.

Section 5.05 No Solicitation or Negotiation. Each Seller agrees that, between the date of this Agreement and the earlier of (a) the Closing and (b) the termination of this Agreement in accordance with its terms, such Seller (or any of its respective Affiliates, officers, members, managers, representatives or agents) will not (i) solicit, initiate, consider, encourage or accept any other proposals or offers from any Person (A) relating to any acquisition or purchase of all or any portion of the capital stock of the Company or the assets and properties of the Company, (B) to enter into any merger, consolidation or other business combination with the Company or the Business or (C) to enter into a recapitalization, reorganization or any other extraordinary business transaction involving or otherwise relating to the Company or the Business or (ii) participate in any discussions, conversations, negotiations or other communications regarding, or furnish to any other Person any information with respect to, or otherwise cooperate in any way, assist or participate in, facilitate or encourage, any effort or attempt by any Person to seek to do any of the foregoing. Each Seller immediately shall cease and cause to be terminated, and shall not resume, all existing discussions, conversations, negotiations and other communications with any Person conducted heretofore with respect to any of the foregoing. Each Seller agrees not to, and to cause the Company not to, without the prior written consent of the Purchaser, release, without the prior written consent of the Purchaser, any Person from, or waive any provision of, any confidentiality or standstill agreement to which any Seller or the Company is a party.

Section 5.06 Use of Intellectual Property. The Sellers acknowledge that, from and after the Closing Date, (a) the applicable Owned Intellectual Property shall be owned by the Purchaser or the Company, that no Seller nor any of their Affiliates shall have any rights in such Owned Intellectual Property and that no Seller nor any of their Affiliates will contest the ownership or validity of any rights of the Purchaser or the Company in or to such Owned Intellectual Property, and (b) no Seller nor any of their Affiliates shall use any of the applicable Owned Intellectual Property or Licensed Intellectual Property.

Section 5.07 Intercompany Arrangements. (a) Prior to the Closing Date, the Sellers shall cause any contract or arrangement that is disclosed (or should have been disclosed) in response to Section 3.13(a)(vii) on Section 3.13 of the Disclosure Schedule to be terminated or otherwise amended to exclude the Company as a party thereto.

(b) Immediately prior to the Closing Date, the Sellers shall contribute, or caused to be contributed, to the capital of the Company, the difference between (i) the intercompany Indebtedness owed by the Company to any Seller or its Affiliates as of the Closing Date and (ii) the intercompany Indebtedness owed by any Seller or its Affiliates to the Company as of the Closing Date, and all such intercompany Indebtedness shall cease to exist and be of no further force or effect.

Section 5.08 Payments on Behalf of Affiliates. Payments made or received by the Purchaser pursuant to Article II or Article VIII hereof shall, in appropriate circumstances, be made on behalf of, or received in trust for the benefit of, the relevant Affiliate of the Purchaser. The Purchaser may direct in writing any such payment to be made by or to the appropriate Affiliate, and the Sellers shall comply with any such direction received at least two Business Days prior to the date such payment is due.

Section 5.09 Employees. As of the Closing Date, all existing employment agreements to which the Company is a party shall be terminated.

Section 5.10 Non-Competition. (a) Baran hereby agrees that, for a period of three years after the Closing Date (the "Restricted Period"), he shall not engage, directly or indirectly, in any business anywhere in the United States that provides products or services of the kind provided by the Business and the Institution as of the Closing Date (a "Restricted Business") or, without the prior written consent of the Purchaser and the Parent (such consent not to be unreasonably withheld), directly or indirectly, own an interest in, manage, operate, join, control, lend money or render financial or other assistance to or participate in or be connected with, as an officer, employee, partner, shareholder, consultant or otherwise, any Restricted Business; provided, however, that Baran may own, directly or indirectly, solely as an investment, up to 2% of any class of any securities traded on a national securities exchange of any business that engages in the Restricted Business.

(b) As a separate and independent covenant, Baran agrees that, for the Restricted Period, he will in no way, directly or indirectly, interfere with or attempt to interfere with any officers, employees, representatives or agents of the Business and the Institution in a manner relating to the Business that adversely affects such person's performance of duties with respect to the Business, or induce or attempt to induce any of them to leave the employ of the Purchaser or the Institution or violate the terms of their contracts, or any employment arrangements, with the Purchaser; provided, however, that the foregoing will not prohibit a general solicitation to the public of general advertising.

(c) The Restricted Period with respect to Baran shall be extended by the length of any period during which he is in breach of the terms of this Section 5.10.

(d) Baran acknowledges that the covenants set forth in this Section 5.10 are an essential element of this Agreement and that, but for his agreement to comply with these covenants, the Parent and the Purchaser would not have entered into this Agreement. Baran acknowledges that this Section 5.10 constitutes an independent covenant that shall not be affected by performance or nonperformance of any other provision of this Agreement by the Parent or the Purchaser. Baran has independently consulted with his counsel and after such consultation agrees that the covenants set forth in this Section 5.10 are reasonable and proper.

Section 5.11 Payment Obligations. On or before the Closing Date, the Sellers shall pay all outstanding amounts with respect to and satisfy in full, and shall deliver to the Purchaser "payoff" letters or similar releases or confirmations from third parties in forms reasonably satisfactory to the Purchaser with respect to, the obligations set forth in Section 5.11 of the Disclosure Schedule.

Section 5.12 Reimbursement of Restricted Cash. If prior to December 31, 2009 the Purchaser, or any of its Affiliates, is no longer required to maintain any Letter of Credit issued on behalf of Clemens in favor of the U.S. DOE, then at the time such Letter of Credit is released, the Purchaser shall deliver to the Sellers that amount of cash (not to exceed $74,425) equal to the face value of such Letter of Credit in the manner set forth in Section 2.05(a)(i) of the Disclosure Schedule, within three Business Days of such release. The amount so delivered shall be delivered out of the proceeds of the withdrawal of the Certificate of Deposit currently in place securing such Letter of Credit, and in no event shall any Seller take any action to cause the withdrawal of such Certificate of Deposit.

Section 5.13 Preferred Stock. Simultaneously with the Closing, the Sellers shall cause all Preferred Stock of the Company to be converted or redeemed, so that no such Preferred Stock shall remain outstanding.

Section 5.14 UGPE Guarantee. UGPE hereby (a) absolutely, unconditionally and irrevocably guarantees all of the payment obligations of UGP under this Agreement and the Ancillary Agreements to which UGP is a party, and (b) unconditionally and irrevocably waives any right to revoke this guarantee and acknowledges that this guarantee is continuing in nature and applies to all obligations of UGP under this Agreement and the Ancillary Agreements. The obligations of UGPE under or in respect of this guarantee are independent of the guaranteed obligations, and a separate action or actions may be brought and prosecuted against UGPE to enforce this guarantee, irrespective of whether any action is brought against UGP or whether UGP is joined in any such action or actions.

Section 5.15 December 31, 2008 Financials. On or prior to January 30, 2009, provided that the Purchaser provides the assistance necessary for Sellers to complete such documents, the Sellers shall deliver to the Purchaser, the unaudited balance sheet of the Company for the three-month period ending December 31, 2008 and the related financial statements of the Company, together with all related notes and schedules thereto.

Section 5.16 Further Action. Each of the parties hereto shall use all reasonable efforts to take, or cause to be taken, all appropriate action, do or cause to be done all things necessary, proper or advisable under applicable Law, and to execute and deliver such documents and other papers, as may be required to carry out the provisions of this Agreement and consummate and make effective the transactions contemplated by this Agreement.

ARTICLE VI

TAX MATTERS

Section 6.01 Indemnity. (a) The Sellers agree to indemnify and hold harmless, on a joint and several basis, the Purchaser, the Company against Excluded Taxes and, except as otherwise provided in Section 6.04, against any loss, damage, liability or expense, including reasonable fees for attorneys and other outside consultants incurred in contesting or otherwise in connection with any such Taxes; provided, however, that the Sellers shall only be liable for a particular Tax to the extent in excess of the amount specifically identified and reserved for such Tax for purposes of, and taken into account in computing, Net Working Capital; provided, further, that any indemnity obligations in respect of Income Taxes of the Sellers shall be several but not joint. All Taxes payable under this Section 6.01 shall first be satisfied from the Escrow Amount.

(b) In the case of Taxes that are payable with respect to a Straddle Period, the portion of any such Tax that is allocable to the portion of the Straddle Period ending on the date of the Closing shall be:

(i) in the case of Taxes that are either (x) based upon or related to income or receipts, or (y) imposed in connection with any sale or other transfer or assignment of property (real or personal, tangible or intangible) (other than conveyances pursuant to this Agreement, as provided under Section 6.07), deemed equal to the amount which would be payable if the taxable year ended on the date of the Closing; and

(ii) in the case of Taxes imposed on a periodic basis with respect to the assets of the Company or otherwise measured by the level of any item, deemed to be the amount of such Taxes for the entire period (or, in the case of such Taxes determined on an arrears basis, the amount of such Taxes for the immediately preceding period), multiplied by a fraction, the numerator of which is the number of calendar days in the period ending on the date of the Closing and the denominator of which is the number of calendar days in the entire Straddle Period. Any credit or refund resulting from an overpayment of Taxes for a Straddle Period shall be prorated based upon the method employed in this Section 6.01(b) taking into account the type of the Tax to which the refund relates. In the case of any Tax based upon or measured by capital (including net worth or long-term debt) or intangibles, any amount thereof required to be allocated under this Section 6.01(b) shall be computed by reference to the level of such items on the date of the Closing. All determinations necessary to effect the foregoing allocations shall be made in a manner consistent with prior practice of the Company.

Section 6.02 Returns and Payments. (a) From the date of this Agreement through and after the Closing, the Sellers shall prepare and file or otherwise furnish in proper form to the appropriate Governmental Authority (or cause to be prepared and filed or so furnished) in a timely manner all Tax Returns relating to the Company, as applicable, that are due on or before or relate to any taxable period ending on or before the Closing Date (and the Purchaser shall do the same with respect to any Straddle Period). Tax Returns of the Company not yet filed for any taxable period that begins before the Closing Date shall be prepared in a manner consistent with past practices employed with respect to the Company (except to the extent that counsel for the Sellers or the Company renders a legal opinion that there is no reasonable basis in law therefor or determines that a Tax Return cannot be so prepared and filed without being subject to penalties). With respect to any such Tax Return required to be filed by the Purchaser or the Sellers, for a taxable period that ends on or before, or includes, the Closing Date, the filing party shall provide the other party with a copy of such completed Tax Return and, if applicable, a statement certifying the amount of Tax shown on such Tax Return that is allocable to such other party pursuant to Section 6.01(b), together with appropriate supporting information and schedules at least 20 Business Days prior to the due date (including any extension hereof) for the filing of such Tax Return, and such other party shall have the right to review and comment on such Tax Return and statement prior to the filing of such Tax Return (which comments the filing party shall consider in good faith).

(b) The Sellers shall pay, or cause to be paid, when due and payable all Taxes with respect to the Company, as applicable, for any taxable period ending on or before the Closing Date, and the Purchaser shall so pay or cause to be paid Taxes for any Straddle Period (subject to its right of indemnification from the Sellers by the date set forth in Section 6.05 for Taxes attributable to the portion of any Straddle Period that ends on the Closing Date pursuant to Sections 6.01(a) and 6.01(b)). Notwithstanding the foregoing, the Sellers shall only be liable for a particular Tax of the Company for any Pre-Closing Period or portion of a Straddle Period that ends on the Closing Date to the extent that the amount of such Tax exceeds the amount specifically identified and reserved for purposes of, and taken into account in computing, Net Working Capital.

Section 6.03 Refunds. Any Tax refund (including any interest with respect thereto) relating to the Company for any Pre-Closing Period, other than Tax refunds to the extent of the amount included in Net Working Capital, shall be the property of the Sellers, and if received by the Purchaser or the Company shall be paid over promptly to the Sellers (in the manner set forth in Section 2.05(a)(i) of the Disclosure Schedule). Notwithstanding the foregoing, (a) any Tax refund (or equivalent benefit to the Sellers through a reduction in Tax liability) for any Pre-Closing Period arising out of the carryback of a loss or credit incurred by the Company in any Post-Closing Period shall be the property of the Purchaser and, if received by the Sellers, shall be paid over promptly to the Purchaser; and (b) if a taxing authority subsequently disallows any refund with respect to which the Sellers have received a payment pursuant to this Section 6.03, the Sellers shall promptly pay (or cause to be paid) to the Purchaser the full amount of such refund (including any interest with respect thereto).

Section 6.04 Contests.

(a) After the Closing, the Purchaser shall promptly notify the Sellers' Representative in writing of any written notice of a proposed assessment or claim in an audit or administrative or judicial proceeding of the Purchaser or the Company which, if determined adversely to the taxpayer, would be grounds for indemnification under this Article VI; provided, however, that the failure to give such notice will not affect the Purchaser's right to indemnification under this Article VI except to the extent, if any, that, but for such failure, the Sellers could have avoided all or a portion of the Tax liability in question.

(b) In the case of an audit or administrative or judicial proceeding that relates to taxable periods ending on or before the Closing Date, provided that, and only to the extent that, the Sellers acknowledge in writing their liability under this Agreement to hold the Purchaser and the Company harmless against the full amount of any adjustment which may be made as a result of such audit or proceeding, the Sellers' Representative shall have the right at his expense to participate in and control the conduct of such audit or proceeding; the Purchaser also may participate in any such audit or proceeding at its own expense and, if the Sellers' Representative does not assume the defense of any such audit or proceeding, the Purchaser may defend the same in such manner as it may deem appropriate, including settling such audit or proceeding after fifteen days prior written notice to the Sellers' Representative setting forth the terms and conditions of settlement. Notwithstanding anything to the contrary contained in Section 8.05, in the event that issues relating to a potential adjustment for which the Sellers have acknowledged liability are required to be contested in the same audit or proceeding as separate issues relating to a potential adjustment for which the Purchaser would be liable, the Purchaser shall have the right, at its expense, to control the audit or proceeding with respect to the latter issues; provided, however, that the Purchaser shall not have the right to settle any such matter without the consent of the Sellers' Representative, which consent shall not be unreasonably withheld.

(c) Notwithstanding anything to the contrary contained in Section 6.04, with respect to issues relating to a potential adjustment for which both the Sellers (as evidenced by their written acknowledgement under this Section 6.04) and the Purchaser or the Company could be liable, (i) both the Sellers' Representative and the Purchaser may participate in the audit or proceeding; (ii) the audit or proceeding shall be controlled by that party which would bear the burden of the greater portion of the sum of the adjustment and any corresponding adjustments that may reasonably be anticipated for future taxable periods; and (iii) the controlling party shall not settle any such matter without the consent of the non-controlling party (which consent shall not be unreasonably withheld). The principle set forth in this Section 6.04(c) also shall govern for purposes of deciding any issue that must be decided jointly (including choice of judicial forum) in situations in which separate issues are otherwise controlled under this Article VI by the Purchaser and the Sellers' Representative.

(d) With respect to any Tax audit or proceeding for a taxable period that begins before the Closing Date, neither the Purchaser nor the Sellers' Representative shall enter into any compromise or agree to settle any claim pursuant to such audit or proceeding which would adversely affect the other party for such taxable period or a subsequent taxable period without the written consent of the other party, which consent may not be unreasonably withheld. The Purchaser and the Sellers' Representative agree to cooperate, and the Purchaser agrees to cause the Company to cooperate, in the defense against or compromise of any claim in any such audit or proceeding.

Section 6.05 Time of Payment. Payment by the Sellers of any amounts due under this Article VI in respect of Taxes shall be made (a) at least three Business Days before the due date of the applicable estimated or final Tax Return required to be filed by the Purchaser on which is required to be reported income for a taxable period ending after the Closing Date for which the Sellers are responsible under Sections 6.01(a) and 6.01(b) without regard to whether the Tax Return shows overall net income or loss for such period or (b) within three Business Days following an agreement between the Sellers' Representative and the Purchaser that an indemnity amount is payable, an assessment of a Tax by a taxing authority, or a "determination" as defined in Section 1313(a) of the Code. If liability under this Article VI is in respect of costs or expenses other than Taxes, payment by the Sellers of any amounts due under this Article VI shall be made within five Business Days after the date when the Sellers' Representative has been notified by the Purchaser that the Sellers have a liability for a determinable amount under this Article VI and is provided with calculations or other materials supporting such liability.

Section 6.06 Tax Cooperation and Exchange of Information. The Sellers and the Purchaser shall provide each other with such cooperation and information as either of them reasonably may request of the other (and the Purchaser shall cause the Company to provide such cooperation and information) in (a) filing any Tax Return, amended Tax Return or claim for refund, (b) determining a liability for Taxes or a right to a refund of Taxes, (c) participating in or conducting any audit or other proceeding in respect of Taxes, or (d) making representations to or furnishing information to parties subsequently desiring to purchase any part of the Assets, the Business or the Company from the Purchaser. Such cooperation and information shall include providing copies of relevant Tax Returns or portions thereof, together with related work papers and documents relating to rulings or other determinations by taxing authorities. The Sellers and the Purchaser shall make themselves (and their respective employees) reasonably available on a mutually convenient basis to provide explanations of any documents or information provided under this Section 6.06. Notwithstanding anything to the contrary in Section 5.02, each Seller and the Purchaser shall retain all Tax Returns, work papers and all material records or other documents in its possession (or in the possession of its Affiliates) relating to Tax matters of the Company for any taxable period that includes the date of the Closing and for all prior taxable periods until the later of (i) the expiration of the statute of limitations of the taxable periods to which such Tax Returns and other documents relate, without regard to extensions, and (ii) six years following the due date (without extension) for such Tax Returns. After such time, before any Seller or the Purchaser shall dispose of any such documents in his, her or its possession (or in the possession of Affiliates), the other parties shall be given an opportunity, after 90 days prior written notice, to remove and retain all or any part of such documents as such other party may select (at such other party's expense). Any information obtained under this Section 6.06 shall be kept confidential, except as may be otherwise necessary in connection with the filing of Tax Returns or claims for refund or in conducting an audit or other proceeding.

Section 6.07 Conveyance Taxes. The Sellers, on the one hand, and the Purchaser, on the other hand, shall each be liable for and shall hold the other harmless against, on a joint and several basis in the case of the Sellers, 50% of any Conveyance Taxes which become payable in connection with the transactions contemplated by this Agreement. The Sellers, after the review and consent by the Purchaser, shall file such applications and documents as shall permit any such Conveyance Taxes to be assessed and paid on or prior to the Closing in accordance with any available pre-sale filing procedure. The Purchaser shall execute and deliver all instruments and certificates necessary to enable the Sellers to comply with the foregoing. The Purchaser shall complete and execute a resale or other exemption certificate with respect to the inventory items sold hereunder, and shall provide the Sellers with an executed copy thereof.

Section 6.08 Amended Tax Returns. (a) Any amended Tax Return of the Company or claim for Tax refund on behalf of either Company for any period ending on or prior to the Closing Date may be filed, or caused to be filed, by the Sellers' Representative; provided that the Sellers' Representative shall not, without the prior written consent of the Purchaser (which consent shall not be unreasonably withheld), make or cause to be made, any such filing, to the extent such filing, if accepted, reasonably might change the Tax Liability of the Purchaser for any period ending after the Closing Date. Notwithstanding the foregoing, the Purchaser may amend any Tax Return to the extent such amendment would not adversely affect or increase the Sellers' liability for any Tax or adversely affect the Sellers' claim for any Tax refund.

(b) Any amended Tax Return of the Company or claim for Tax refund on behalf of the Company for any period ending after the Closing Date shall be filed, or caused to be filed, only by the Purchaser; provided that the Purchaser shall not, without the prior written consent of the Sellers' Representative (which consent shall not be unreasonably withheld), make or cause to be made, any such filing, to the extent such filing, if accepted, reasonably might change the Tax Liability of the Sellers for (i) any period ending on or prior to the Closing Date or (ii) any portion of a Straddle Period ending on the Closing Date.

Section 6.09 Tax Covenants.

(a) The Purchaser covenants that without obtaining the prior written consent of the Sellers' Representative it will not, and will not cause or permit either Company or any Affiliate of Purchaser, to (i) take any action on the Closing Date other than in the ordinary course of business that could give rise to any Tax liability of Sellers or any indemnification obligation of Sellers under Section 8.02, or (ii) make a material Tax election under Section 338(g) of the Code with respect to the transactions contemplated hereby.

(b) After the Closing Date, the Purchaser, the Company will not, without obtaining the written consent of the Sellers' Representative (which consent shall not be unreasonably withheld), agree to the waiver or any extension of the statute of limitations relating to any Taxes of the Company for any Pre-Closing Period (other than Taxes with respect to any Straddle Period) other than extensions of time to file Tax Returns obtained in the ordinary course. Notwithstanding the foregoing, if the Sellers do not respond to a request for written consent from the Purchaser within five days, the Sellers will be irrevocably deemed to consent to such waiver or extension.

Section 6.10 Miscellaneous. (a) The Sellers and the Purchaser agree to treat all payments made by either of them to or for the benefit of the other (including any payments to the Company) under this Article VI, under other indemnity provisions of this Agreement and for any misrepresentations or breaches of warranties or covenants as adjustments to the Purchase Price and that such treatment shall govern for purposes hereof except to the extent that the Laws of a particular jurisdiction provide otherwise.

(b) All payments payable under any tax sharing agreement or arrangement (other than this Agreement) between any Seller, on the one hand, and the Company, on the other hand, for any taxable period ending on or prior to the Closing Date shall be calculated on a basis consistent with past practice and shall be payable in full prior to the Closing. Any such tax sharing agreement or arrangement (other than this Agreement) between any Seller and the Company shall be terminated prior to the Closing.

(c) Notwithstanding any provisions in this Agreement to the contrary, the obligations of the Sellers to indemnify and hold harmless the Purchaser and the Company pursuant to this Article VI, and the representations and warranties contained in Section 3.23, shall terminate at the close of business on the 60th day following the expiration of the applicable statute of limitations with respect to the Tax liabilities in question (giving effect to any waiver, mitigation or extension thereof).

(d) From and after the date of this Agreement, no Seller shall, without the prior written consent of the Purchaser (which may, in its sole and absolute discretion, withhold such consent), make, or cause or permit to be made, any Tax election that would materially affect the Company.

(e) For purposes of this Article VI, "the Purchaser" and "a Seller," respectively, shall include each member of the affiliated group of corporations of which it is or becomes a member (other than the Company except to the extent expressly referenced).

(f) The Purchaser shall be entitled to recover professional fees and related costs that it may reasonably incur to enforce the provisions of this Article VI.

(g) Notwithstanding anything to the contrary in this Agreement, the rights and obligations of the parties with respect to indemnification for any and all Tax matters shall be governed solely by this Article VI.

ARTICLE VII

CONDITIONS TO CLOSING

Section 7.01 Conditions to Obligations of the Sellers. The obligations of the Sellers to consummate the Acquisition shall be subject to the fulfillment or waiver, at or prior to the Closing, of each of the following conditions:

(a) Representations, Warranties and Covenants. The representations and warranties of the Parent and the Purchaser contained in this Agreement shall have been true and correct when made and shall be true and correct in all material respects as of the Closing, in each case with the same force and effect as if made as of the Closing Date, other than such representations and warranties as are made as of another date which shall be true and correct in all material respects as of such date; the covenants and agreements contained in this Agreement to be complied with by the Parent and the Purchaser on or before the Closing Date shall have been complied with in all material respects, and the Sellers shall have received a certificate from the Parent and the Purchaser to such effect signed, respectively, by a duly authorized officer thereof;

(b) No Order. No Governmental Authority shall have enacted, issued, promulgated, enforced or entered any Law or Governmental Order which is in effect and has the effect of making the Acquisition illegal or otherwise restraining or prohibiting consummation of the Acquisition; and

(c) Ancillary Agreements. The Parent and the Purchaser, as applicable, shall have executed and delivered to the Sellers counterparts to the Ancillary Agreements.

Section 7.02 Conditions to Obligations of the Parent and the Purchaser. The obligations of the Parent and the Purchaser to consummate the Acquisition shall be subject to the fulfillment or waiver, at or prior to the Closing, of each of the following conditions:

(a) Representations, Warranties and Covenants. The representations and warranties of the Sellers contained in this Agreement shall have been true and correct when made and shall be true and correct as of the Closing Date, with the same force and effect as if made as of the Closing Date (other than such representations and warranties as are made as of another date, which shall be true and correct as of such date) except where the failure of such representations and warranties to be true and correct (without giving effect to any "materiality" or "Material Adverse Effect" qualification) would not individually or in the aggregate have a Material Adverse Effect; the covenants and agreements contained in this Agreement to be complied with by the Sellers on or before the Closing Date shall have been complied with in all material respects; and the Purchaser shall have received a certificate of each Seller to such effect signed by a duly authorized officer thereof;

(b) No Order. No Governmental Authority shall have enacted, issued, promulgated, enforced or entered any Law or Governmental Order which is in effect and has the effect of making the Acquisition illegal or otherwise prohibiting consummation of the Acquisition;

(c) Resolutions of UGP and Merion. The Purchaser shall have received a true and complete copy, certified by the Secretary or an Assistant Secretary of each of UGP and Merion, of the resolutions duly and validly adopted by the board of directors/managers of such Seller, as applicable, evidencing its authorization of the execution and delivery of this Agreement and the Ancillary Agreements to which such Seller is a party and the consummation of the transactions contemplated hereby and thereby;

(d) Consents and Approvals. The CIHE shall have approved the substantive change application, in form and substance satisfactory to the Purchaser;

(e) No Material Adverse Effect. No event or events shall have occurred, which, individually or in the aggregate, have, or would reasonably be expected to have a Material Adverse Effect with respect to the Company;

(f) Ancillary Agreements. The Sellers shall have executed and delivered to the Purchaser counterparts to the Ancillary Agreements; and

(g) Preferred Stock. No Preferred Stock with respect to the Company shall be outstanding.

ARTICLE VIII

INDEMNIFICATION

Section 8.01 Survival of Representations and Warranties. (a) The representations and warranties of the Sellers contained in this Agreement and the Ancillary Agreements to which any Seller is a party shall survive the Closing for 15 months from the Closing Date; provided, however, that (i) the representations and warranties made pursuant to Section 3.01 (Organization), Section 3.03 (Capitalization) and Section 3.29 (Brokers) shall survive indefinitely, (ii) the representations and warranties dealing with Tax matters shall survive as provided in Section 6.10(c) hereof, (iii) the representations and warranties made pursuant to Section 3.11 (Environmental), Section 3.26 (Compliance With Educational Laws) and Section 3.25 (Education Approvals) shall survive the Closing for 36 months from the Closing Date. Neither the period of survival nor the liability of the Sellers with respect to the Sellers' representations and warranties shall be reduced by any investigation made at any time by or on behalf of the Purchaser. If written notice of a claim has been given prior to the expiration of the applicable representations and warranties by the Purchaser to the Sellers, then the relevant representations and warranties shall survive as to such claim until such claim has been finally resolved.

(b) The representations and warranties of the Parent and the Purchaser contained in this Agreement and the Ancillary Agreements to which the Parent or the Purchaser is a party shall survive the Closing for 15 months from the Closing Date. Neither the period of survival nor the liability of the Parent or the Purchaser with respect to such party's representations and warranties shall be reduced by any investigation made at any time by or on behalf of the Sellers. If written notice of a claim has been given prior to the expiration of the applicable representations and warranties by the Sellers to the Parent or the Purchaser, then the relevant representations and warranties shall survive as to such claim until such claim has been finally resolved.

Section 8.02 Indemnification by the Sellers. (a) The Parent, the Purchaser and their respective Affiliates, and the officers, directors, employees and agents of the foregoing (each a "Purchaser Indemnified Party") shall be indemnified and held harmless, on a joint and several basis, by the Sellers for and against any and all Liabilities, Taxes, losses, damages, claims, costs and expenses, interest, awards, judgments and penalties (including reasonable attorneys' fees and expenses) actually suffered or incurred by them (including any Action brought or otherwise initiated by any of them) (hereinafter a "Loss") arising out of or resulting from:

(i) the breach of any representation or warranty made by any Seller contained in any Acquisition Document (it being understood that such representations and warranties shall be interpreted without giving effect to any limitations or qualifications as to "materiality" (including the word "material") or "Material Adverse Effect" set forth therein);

(ii) the breach of any covenant or agreement by any Seller contained in any Acquisition Document;

(iii) any and all Losses suffered or incurred by the Purchaser, or the Company by reason of, or in connection with, any claim or cause of action of any third party to the extent arising out of any action, inaction, event, condition, liability or obligation of any Seller or the Business occurring or existing prior to the Closing Date; or

(iv) any and all Losses arising out of or resulting from the termination of employment, for any reason at any time prior to the date six months following the Closing Date, of any of the employees of the Company listed on Section 8.02(a)(iv) of the Disclosure Schedule, which Losses arise pursuant to any arrangements made with such employees prior to Closing.

(b) Subject to Section 8.04, to the extent that the undertakings of the Sellers set forth in this Section 8.02 may be unenforceable, the Sellers shall contribute the maximum amount that it is permitted to contribute under applicable Law to the payment and satisfaction of all Losses incurred by the Purchaser Indemnified Parties.

(c) The joint and several liability of all of the Sellers set forth in Sections 6.01(a) or 8.02(a) shall only apply to Losses to the extent that such Losses may be satisfied from the funds remaining in the Escrow Account. For all Losses (i) in excess of the funds remaining in the Escrow Account or (ii) which arise under Sections 6.01(a) or 8.02(a) after disbursement of the funds remaining in the Escrow Account, subject to any limitations set forth in Section 8.04, only Baran and UGP (and no other Seller) shall be jointly and severally liable for such Losses. Notwithstanding anything to the contrary set forth hereinabove, with respect to any Losses suffered pursuant to a breach described in Section 8.02(a)(ii), each Seller shall be liable severally, and not jointly, based upon which Seller is responsible for such Losses, and the Purchaser shall only be entitled to pursue indemnification for such Losses from such breaching Seller (and no other Seller).

Section 8.03 Indemnification by the Parent and the Purchaser. (a) The Sellers and their officers, directors, employees and agents (each a "Seller Indemnified Party") shall be indemnified and held harmless by each of the Parent and the Purchaser, jointly and severally, for and against any and all Losses arising out of or resulting from:

(i) the breach of any representation or warranty made by the Parent or the Purchaser contained in this Agreement or any of the Ancillary Agreements to which the Parent or the Purchaser is a party; or

(ii) the breach of any covenant or agreement by the Parent or the Purchaser contained in this Agreement or any of the Ancillary Agreements to which the Parent or the Purchaser is a party.

(b) To the extent that the undertakings of the Parent or the Purchaser set forth in this Section 8.03 may be unenforceable, the Parent or the Purchaser shall contribute the maximum amount that it is permitted to contribute under applicable Law to the payment and satisfaction of all Losses incurred by the Seller Indemnified Parties.

Section 8.04 Limits on Indemnification. (a) Notwithstanding anything to the contrary contained in this Agreement, (a) the Sellers shall not be liable to any Purchaser Indemnified Party for any claim for indemnification pursuant to Section 8.02(a)(i) and Section 8.02(a)(iii), unless and until the aggregate amount of indemnifiable Losses which may be recovered by the Purchaser Indemnified Party under this Agreement (together with the amount of indemnifiable Losses which may be recovered by the Purchaser Indemnified Party under the BIT Agreement) equals or exceeds $300,000 (the "Basket"), after which the Sellers shall be liable only for those Losses under Section 8.02(a)(i) and Section 8.02(a)(iii) of this Agreement and Section 7.02(a)(i) and Section 7.02(a)(iii) of the BIT Agreement in excess of the Basket, and (b) the maximum amount of indemnifiable Losses which may be recovered by the Purchaser Indemnified Parties pursuant to Section 8.02(a)(i) and Section 8.02(a)(iii) of this Agreement and Section 7.02(a)(i) and Section 7.02(a)(iii) of the BIT Agreement, as applicable, shall be $5,000,0000 (the "Cap"). Notwithstanding the foregoing, the Basket and the Cap limitations set forth in this Section 8.04 shall not apply with respect to Tax matters.

(b) Notwithstanding anything to the contrary contained in this Agreement, (a) the Parent and the Purchaser shall not be liable to any Seller Indemnified Party for any claim for indemnification pursuant to Section 8.03(a)(i), unless and until the aggregate amount of indemnifiable Losses which may be recovered by the Seller Indemnified Party under this Agreement (together with the amount of indemnifiable Losses which may be recovered by the Seller Indemnified Party under the BIT Agreement) equals or exceeds the Basket, after which the Parent and the Purchaser shall be liable only for those Losses under Section 8.03(a)(i) of this Agreement and Section 7.03(a)(i) of the BIT Agreement in excess of the Basket, and (b) the maximum amount of indemnifiable Losses which may be recovered by the Seller Indemnified Parties pursuant to Section 8.03(a)(i) of this Agreement and Section 7.03(a)(i) of the BIT Agreement shall be the Cap.

(c) Notwithstanding Section 8.02 or Section 8.03, no Indemnified Party shall be entitled to indemnification under this Article VIII with respect to any amounts taken into consideration in computing any adjustment to the Purchase Price pursuant to Section 2.06.

(d) The remedies provided in Section 6.01 and this Article VIII shall constitute the exclusive remedies of the parties hereto at law following the Closing for any breach of a representation, warranty or covenant contained in this Agreement or any other Acquisition Document and the parties hereto waive any other remedy which they or any other person entitled to be indemnified pursuant to Section 6.01 or this Article VIII may have at law with respect to any breach of any such representation, warranty or covenant.

Section 8.05 Indemnification Procedures. (a) An Indemnified Party shall give the Indemnifying Party notice of any matter that an Indemnified Party has determined has given or could give rise to a right of indemnification under this Agreement, within 30 days of such determination, stating the amount of the Loss, if known, and method of computation thereof, and containing a reference to the provisions of this Agreement in respect of which such right of indemnification is claimed or arises.

(b) If an Indemnified Party shall receive notice of any Action, audit, demand or assessment (each, a "Third Party Claim") against it or which may give rise to a claim for a Loss under this Article VIII, within 30 days of the receipt of such notice, the Indemnified Party shall give the Indemnifying Party notice of such Third Party Claim; provided, however, that the failure to provide such notice shall not release the Indemnifying Party from any of its obligations under this Article VIII except to the extent that the Indemnifying Party is materially prejudiced by such failure and shall not relieve the Indemnifying Party from any other obligation or Liability that it may have to any Indemnified Party otherwise than under this Article VIII. If the Indemnifying Party acknowledges in writing its obligation to indemnify the Indemnified Party hereunder against any Losses that may result from such Third Party Claim, then the Indemnifying Party shall be entitled to assume and control the defense of such Third Party Claim at its expense and through counsel of its choice if it gives written notice of its intention to do so to the Indemnified Party within ten days of the receipt of notice from the Indemnified Party of such Third Party Claim; provided, however, that if there exists or is reasonably likely to exist a conflict of interest based upon the opinion of counsel of such Indemnified Party that would make it inappropriate in the judgment of the Indemnified Party in its reasonable discretion for the same counsel to represent both the Indemnified Party and the Indemnifying Party, then the Indemnified Party shall be entitled to retain its own counsel, at the expense of the Indemnifying Party; provided, however, that the Indemnified Party shall only be entitled to retain one separate counsel for which the Indemnified Party reasonably determined counsel is required. In the event that the Indemnifying Party exercises the right to undertake any such defense against any such Third Party Claim as provided above, the Indemnified Party shall cooperate with the Indemnifying Party in such defense and make available to the Indemnifying Party, at the Indemnifying Party's expense, all witnesses, pertinent records, materials and information in the Indemnified Party's possession or under the Indemnified Party's control relating thereto as is reasonably required by the Indemnifying Party. Similarly, in the event the Indemnified Party is, directly or indirectly, conducting the defense against any such Third Party Claim, the Indemnifying Party shall cooperate with the Indemnified Party in such defense and make available to the Indemnified Party, at the Indemnifying Party's expense, all such witnesses, records, materials and information in the Indemnifying Party's possession or under the Indemnifying Party's control relating thereto as is reasonably required by the Indemnified Party. No such Third Party Claim may be settled by the Indemnifying Party without the prior written consent of the Indemnified Party, which consent shall be given or withheld by the Imdemnified Party in its sole discretion, provided that if such settlement is a purely economic settlement that involves the full release of the Indemnified Party and the Indemnifying Party agrees to pay all amounts payable pursuant to such settlement, the Indemnified Party's consent will not be unreasonably withheld. Notwithstanding the foregoing, if an Indemnified Party reasonably believes an adverse determination with respect to any Educational Claim could adversely affect any Educational Approval of the Institution or an Institution's ability to participate fully in the Title IV Programs, the Indemnified Party may, by notice to the Indemnifying Party, assume the exclusive right to defend, compromise, or settle such matter, provided that the Indemnifying Party shall not be bound by a settlement effected without its consent (which may not be unreasonably withheld).

Section 8.06 Distributions from Escrow Account. Subject to Section 8.07 below, all Losses payable under this Article VIII and Section 6.01(a) shall first be satisfied by the Escrow Amount. In the event that (a) the Sellers shall not have objected to the amount claimed by the Purchaser for indemnifications with respect to any Loss in accordance with the procedures set forth in the Escrow Agreement or (b) the Sellers have delivered notice of its disagreement as to the amount of any indemnification requested by the Purchaser and either (i) the Sellers, on the one hand, and the Purchaser, on the other hand, shall have subsequent to the giving of such notice, mutually agreed that the Sellers are obligated to indemnify the Purchaser for a specified amount and the Purchaser and the Sellers' Representative shall have so jointly notified the Escrow Agent or (ii) a final nonappealable judgment shall have been rendered by the court having jurisdiction over the matters relating to such claim by the Purchaser for indemnification from the Sellers and the Escrow Agent shall have received in the case of clause (i) above, written instructions from the Sellers' Representative and the Purchaser or, in the case of clause (ii) above, a copy of the final nonappealable judgment of the court, the Escrow Agent shall deliver to the Purchaser from the Escrow Account any amount determined to be owed to the Purchaser under this Article VIII in accordance with the Escrow Agreement. If and to the extent the Escrow Amount is insufficient to cover any amount determined to be owed to the Purchaser under Section 6.01(a) or this Article VIII, then Baran and UGP (and no other Seller) shall pay the amount of such deficiency to the Purchaser by wire transfer in immediately available funds to a bank account designated by the Purchaser, subject to the provisions of Section 8.06.

Section 8.07 Sellers' Representative. (a) By the execution and delivery of this Agreement, each of the Sellers and UGPE hereby irrevocably constitutes and appoints Baran, as the true and lawful agent and attorney in fact (in such capacity, the "Sellers' Representative") of the Sellers and UGPE with full power of substitution to act in the name, place and stead of the Sellers and UGPE with respect to this Agreement, the Escrow Agreement and the transactions contemplated hereby and thereby as the Sellers' Representative may deem appropriate, and to act on behalf of the Sellers and UGPE in any litigation or arbitration involving this Agreement or the Escrow Agreement, do or refrain from doing all such further acts and things, and execute all such documents as the Sellers' Representative shall deem necessary or appropriate in connection with the transactions contemplated by this Agreement and the Escrow Agreement, including the power:

(i) to act for the Sellers and UGPE with regard to matters pertaining to the determination of the Purchase Price, the adjustment to the Purchase Price and pertaining to the indemnification referred to in this Agreement, including the power to settle any indemnity claim on behalf of the Sellers and UGPE and to transact matters of litigation;

(ii) to execute and deliver all ancillary agreements, certificates and documents that the Sellers' Representative deems necessary or appropriate in connection with the consummation of the transactions contemplated by this Agreement and the Escrow Agreement;

(iii) to receive funds and give receipts for funds, including in respect of any adjustments to the Purchase Price or any amounts distributed under the Escrow Agreement;

(iv) to do or refrain from doing any further act or deed on behalf of the Sellers and UGPE that the Sellers' Representative deems necessary or appropriate in its sole discretion relating to the subject matter of this Agreement or the Escrow Agreement as fully and completely as the Sellers and UGPE could do if personally present;

(v) to receive service of process in connection with any claims under this Agreement or the Escrow Agreement; and

(vi) to accept notices in accordance with Section 10.02.

(b) Baran hereby agrees and consents to his appointment as the Sellers' Representative pursuant to this Section 8.07, effective as of the date of this Agreement. The appointment of the Sellers' Representative shall be deemed coupled with an interest and shall be irrevocable, and the Purchaser and any other Person may conclusively and absolutely rely, without inquiry, upon any action or decision of the Sellers' Representative in all matters referred to herein. All actions and decisions of Sellers' Representative shall be binding and conclusive on each Seller and UGPE. All notices required to be made or delivered by the Purchaser to the Sellers or UGPE and shall be made to the Sellers' Representative for the benefit of the Sellers and UGPE and shall discharge in full all notice requirements of the Purchaser to the Sellers and UGPE with respect thereto. The Sellers and UGPE hereby confirm all that the Sellers' Representative shall do or cause to be done by virtue of its appointment as the Sellers' Representative of the Sellers and UGPE. The Sellers' Representative shall act for the Sellers and UGPE on all of the matters set forth in this Agreement and the Escrow Agreement in the manner the Sellers' Representative believes to be in the best interest of the Sellers and UGPE and consistent with the obligations under this Agreement and the Escrow Agreement, but the Sellers' Representative shall not be responsible to the Sellers or UGPE for any loss or damages the Sellers or UGPE may suffer by the performance by the Sellers' Representative of its duties under this Agreement or the Escrow Agreement, other than loss or damage arising from intentional violation of the law by the Sellers' Representative of his duties under this Agreement or the Escrow Agreement.

(c) If any individual Seller should die or become incapacitated, if any trust or estate should terminate or if any other similar event should occur, any action taken by the Sellers' Representative pursuant to this Section 8.07 shall be valid as if such death or incapacity, termination or other event had not occurred, regardless of whether or not the Sellers' Representative or the Purchaser shall have received notice of such death, incapacity, termination or similar event. The Person appointed as Sellers' Representative may resign as such at any time on not less than five Business Days' notice to the Sellers, UGPE and the Parent. A vacancy in the position of Sellers' Representative shall be filled by a Person determined by the holders of a majority in interest of the amount then held in the Escrow Account.

ARTICLE IX

TERMINATION, AMENDMENT AND WAIVER

Section 9.01 Termination. With respect to the Acquisition, this Agreement may be terminated at any time prior to the Closing:

(a) by either the Sellers or the Purchaser if the Closing shall not have occurred on or before May 15, 2009; provided, however, that the right to terminate this Agreement under this Section 9.01(a) shall not be available to a party whose failure to fulfill any obligation under this Agreement shall have been the cause of, or shall have resulted in, the failure of the Closing to occur on or prior to such date;

(b) by the Purchaser, upon a material breach of any representation, warranty, covenant or agreement of the Sellers regarding the Company, the Business or the Institution set forth in this Agreement, or if any representation or warranty of the Sellers regarding the Company, the Business or the Institution shall have become untrue, in either case such that the conditions set forth in Section 7.02 would not be satisfied; provided, however, that if such breach is curable by the Sellers through the exercise of their reasonable best efforts within 30 days of its receipt of the Purchaser's written notice of such breach, then the Purchaser may not terminate this Agreement pursuant to this Section 9.01(b) prior to the expiration of such 30-day period;

(c) by the Sellers, upon a material breach of any representation, warranty, covenant or agreement of the Purchaser set forth in this Agreement, or if any representation or warranty of the Purchaser shall have become untrue, in either case such that the conditions set forth in Section 7.01 would not be satisfied; provided, however, that if such breach is curable by the Purchaser through the exercise of its reasonable best efforts within 30 days of its receipt of the Sellers' written notice of such breach, then the Sellers may not terminate this Agreement pursuant to this Section 9.01(c) prior to the expiration of such 30-day period;

(d) by either the Sellers or the Purchaser in the event that any Governmental Authority shall have issued a Governmental Order or taken any other action restraining, enjoining or otherwise prohibiting the Acquisition and such Governmental Order or other action shall have become final and nonappealable; or

(e) by the mutual written consent of the Sellers and the Purchaser.

Section 9.02 Effect of Termination. In the event of termination of this Agreement as provided in Section 9.01, with respect to the Acquisition only, this Agreement shall forthwith become void and there shall be no liability on the part of any party hereto relating to or arising out of the Acquisition except (i) as set forth in Article X and (ii) that nothing herein shall relieve any party from liability for any breach of this Agreement.

Section 9.03 Amendment. This Agreement may not be amended or modified except (a) by an instrument in writing signed by or on behalf of the parties hereto or (b) by a waiver in accordance with Section 9.04.

Section 9.04 Waiver. Any party hereto may (a) extend the time for the performance of any of the obligations or other acts of another party, (b) waive any inaccuracies in the representations and warranties of another party contained herein or in any document delivered by another party pursuant hereto or (c) waive compliance with any of the agreements of another party or conditions to such party's obligations contained herein. Any such extension or waiver shall be valid only if set forth in an instrument in writing signed by the party or parties to be bound thereby. Any waiver of any term or condition shall not be construed as a waiver of any subsequent breach or a subsequent waiver of the same term or condition, or a waiver of any other term or condition of this Agreement. The failure of any party to assert any of its rights hereunder shall not constitute a waiver of any of such rights. All rights and remedies existing under this Agreement are cumulative to, and not exclusive of, any rights or remedies otherwise available.

ARTICLE X

GENERAL PROVISIONS

Section 10.01 Expenses. Except as otherwise specified in this Agreement, all costs and expenses, including fees and disbursements of counsel, financial advisors and accountants, incurred in connection with this Agreement and the transactions contemplated by this Agreement shall be paid by the party incurring such costs and expenses, whether or not the Closing shall have occurred.

Section 10.02 Notices. All notices, requests, claims, demands and other communications hereunder shall be in writing and shall be given or made (and shall be deemed to have been duly given or made upon receipt) by delivery in person, by nationally recognized overnight courier service, by telecopy, by facsimile, by email or by registered or certified mail (postage prepaid, return receipt requested) to the respective parties at the following addresses (or at such other address for a party as shall be specified in a notice given in accordance with this Section 10.02):

(a) if to the Sellers Representative:

Brad Baran
25 Cobtail Way
Simsbury, CT 06070
Telephone: (203) 494-6134
Facsimile: (860) 627-4308

(b) if to the Sellers

Brad Baran
25 Cobtail Way
Simsbury, CT 06070
Telephone: (203) 494-6134
Facsimile: (860) 627-4308

UGP Education Partners, LLC
Two Greenwich Office Park
Greenwich, CT 06831
Telephone: (203) 422-0650
Facsimile: (203) 422-0659
Attention: Stan Lau

Merion Investment Partners, L.P.
Merion Building, Suite 210
700 S. Henderson Rd.
King of Prussia, PA 19406
Facsimile: (610) 965-1654
Attention: William M. Means

with a copy to:

Blank Rome LLP
405 Lexington Avenue
New York, NY 10174
Telephone: (212) 885-5435
Facsimile: (212) 885-2001
Attention: Peter Schnur, Esq.

and

Updike, Kelly & Spellacy, P.C.
One State Street
Hartford, CT 06103
Telephone: (860) 548-2651
Attention: David E. Sturgess, Esq.

(c) if to the Parent or the Purchaser:

NN Acquisition, LLC
c/o Lincoln Educational Services Corporation
200 Executive Drive
West Orange, NJ 07052
Telephone: (973) 736-9340
Facsimile: (973) 243-0841
Attention: David F. Carney, Chairman and Chief Executive Officer

with a copy to:

Shearman & Sterling LLP
599 Lexington Avenue
New York, NY 10022-6069
Telephone: (212) 848-4000
Facsimile: (646) 848-8966
Attention: Eliza W. Swann, Esq.

Section 10.03 Public Announcements. No party hereto shall make, or cause to be made, any press release or public announcement in respect of this Agreement or the transactions contemplated by this Agreement or otherwise communicate with any news media without the prior written consent of the other parties, and the parties shall cooperate as to the timing and contents of any such press release or public announcement.

Section 10.04 Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any Law or public policy, all other terms and provisions of this Agreement shall nevertheless remain in full force and effect for so long as the economic or legal substance of the transactions contemplated by this Agreement is not affected in any manner materially adverse to any party. In addition, if any one or more of the provisions contained in this Agreement is for any reason held to be excessively broad as to duration, geographical scope, activity or subject, it is to be construed by limiting and reducing it, so as to be enforceable to the extent compatible with the applicable Law as it then appears. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner in order that the transactions contemplated by this Agreement are consummated as originally contemplated to the greatest extent possible.

Section 10.05 Entire Agreement. This Agreement, the Ancillary Agreements and the Non-Disclosure Agreement constitute the entire agreement of the parties hereto with respect to the subject matter hereof and thereof and supersede all prior agreements and undertakings, both written and oral, between the Sellers on the one hand, and the Parent and the Purchaser, on the other hand, with respect to the subject matter hereof and thereof.

Section 10.06 Assignment. This Agreement may not be assigned by any party hereto by operation of law or otherwise without the express written consent of the other parties hereto (which consent may be granted or withheld in the sole discretion of such parties); provided, that the Purchaser may assign this Agreement or any of its rights and obligations hereunder to one or more Affiliates of the Purchaser without the consent of the Sellers.

Section 10.07 No Third Party Beneficiaries. This Agreement shall be binding upon and inure solely to the benefit of the parties hereto and their permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other Person, including any union or any employee or former or retired employee of any Seller or spouse or dependents of such Persons, any legal or equitable right, benefit or remedy of any nature whatsoever, including any rights of employment for any specified period, under or by reason of this Agreement.

Section 10.08 Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York applicable to contracts executed in and to be performed entirely within that State. All Actions arising out of or relating to this Agreement shall be heard and determined exclusively in any New York state or federal court. The parties hereto hereby (a) submit to the exclusive jurisdiction of any state or federal court sitting in the State of New York for the purpose of any Action arising out of or relating to this Agreement brought by any party hereto, and (b) irrevocably waive, and agree not to assert by way of motion, defense, or otherwise, in any such Action, any claim that it is not subject personally to the jurisdiction of the above-named courts, that its property is exempt or immune from attachment or execution, that the Action is brought in an inconvenient forum, that the venue of the Action is improper, or that this Agreement or the transactions contemplated by this Agreement may not be enforced in or by any of the above-named courts.

Section 10.09 Waiver of Jury Trial. Each of the parties hereto hereby waives to the fullest extent permitted by applicable Law any right it may have to a trial by jury with respect to any litigation directly or indirectly arising out of, under or in connection with this Agreement or the transactions contemplated by this Agreement. Each of the parties hereto (a) certifies that no representative, agent or attorney of any other party has represented, expressly or otherwise, that such other party would not, in the event of litigation, seek to enforce that foregoing waiver and (b) acknowledges that neither it nor the other parties hereto has been induced to enter into this Agreement and the transactions contemplated by this Agreement, as applicable, by, among other things, the mutual waivers and certifications in this Section 10.09.

Section 10.10 Specific Performance. Each party hereto agrees and acknowledges that remedies at law for any breach of its or his obligations under this Agreement are inadequate and will cause irreparable harm and that in addition thereto, the non-breaching parties shall be entitled to seek equitable relief, including injunction and specific performance, to prevent or cure the violation of any party's obligations hereunder.

Section 10.11 Headings. The descriptive headings contained in this Agreement are included for convenience of reference only and shall not affect in any way the meaning or interpretation of this Agreement.

Section 10.12 Counterparts. This Agreement may be executed and delivered (including by facsimile transmission) in two or more counterparts, and by the different parties hereto in separate counterparts, each of which when executed shall be deemed to be an original, but all of which taken together shall constitute one and the same agreement.

Section 10.13 Exhibits and Disclosure Schedule. The Exhibits to this Agreement and the Disclosure Schedule are a part of this Agreement as if set forth in full herein.

IN WITNESS WHEREOF, the Parent, the Purchaser and the Sellers and the have caused this Agreement to be executed by their respective officers thereunto duly authorized, as of the date first written above.

LINCOLN TECHNICAL INSTITUTE, INC.

By: /s/ David F. Carney
Name: David F. Carney
Title: CEO

NN ACQUISITION, LLC

By: /s/ David F. Carney
Name: David F. Carney
Title: CEO

BRAD BARAN

/s/ Brad Baran

UGP EDUCATION PARTNERS, LLC

By: /s/ George V. Cinquegrana
Name: George V. Cinquegrana
Title: Partner

MERION INVESTMENT PARTNERS, L.P.
By: MERION FINANCIAL PARTNERS, L.P.,
Its General Partner
By: MERION FUND MANAGEMENT, LLC
Its General Partner

By: /s/ William M. Means
Name: William M. Means
Title: Managing Partner

IN WITNESS WHEREOF, for purposes of Sections 3.01(e), 5.14 and 8.07 only, UGPE has caused this Agreement to be executed by its respective officer thereunto duly authorized, as of the date first written above.

UGPE PARTNERS, INC.

By: /s/ George V. Cinquegrana
Name: George V. Cinquegrana
Title: Partner

EXHIBIT 21.1

Subsidiaries of the Company

The following is a list of Lincoln Educational Services Corporation's subsidiaries as of December 31, 2008:

Name	**Jurisdiction**
Lincoln Technical Institute, Inc. (wholly owned)	New Jersey
New England Acquisition LLC (wholly owned)	Delaware
Southwestern Acquisition LLC (wholly owned)	Delaware
Nashville Acquisition, LLC (wholly owned through Lincoln Technical Institute, Inc.)	Delaware
Euphoria Acquisition, LLC (wholly owned through Lincoln Technical Institute, Inc.)	Delaware
New England Institute of Technology at Palm Beach, Inc. (wholly owned through Lincoln Technical Institute, Inc.)	Florida
LCT Acquisition, LLC (wholly owned through Lincoln Technical Institute, Inc.)	Delaware
Florida Acquisition, LLC (wholly owned)	Delaware
ComTech Services Group Inc. (wholly owned through Lincoln Technical Institute, Inc.)	New Jersey

EXHIBIT 23

Consent of Independent Registered Public Accounting Firm

We consent to the incorporation by reference in Registration Statement No. 333-126066, 333-132749 and 333-138715 on Form S-8 and in Registration Statement No. 333-148406 and 333-152854 on Form S-3 of our reports dated March 12, 2009 relating to the consolidated financial statements and financial statement schedule of Lincoln Educational Services Corporation and subsidiaries (the "Company") (which report expressed an unqualified opinion and includes an explanatory paragraph relating to the adoption of the provisions of FASB Interpretation No. 48, "*Accounting for Uncertainty in Income Taxes*"), and the effectiveness of internal control over financial reporting appearing in the Annual Report on Form 10-K of Lincoln Educational Services Corporation for the year ended December 31, 2008.

DELOITTE & TOUCHE LLP

Parsippany, New Jersey
March 12, 2009

EXHIBIT 31.1

CERTIFICATION

I, David F. Carney, certify that:

1. I have reviewed this annual report on Form 10-K of Lincoln Educational Services Corporation;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: March 13, 2009

/s/ David F. Carney

David F. Carney
Chairman & Chief Executive Officer

EXHIBIT 31.2

CERTIFICATION

I, Cesar Ribeiro, certify that:

1. I have reviewed this annual report on Form 10-K of Lincoln Educational Services Corporation;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: March 13, 2009

/s/ Cesar Ribeiro

Cesar Ribeiro
Chief Financial Officer

EXHIBIT 32

CERTIFICATION

Pursuant to 18 U.S.C. 1350 as adopted by
Section 906 of the Sarbanes-Oxley Act of 2002

Each of the undersigned, David F. Carney, Chairman and Chief Executive Officer of Lincoln Educational Services Corporation (the "Company"), and Cesar Ribeiro, Chief Financial Officer of the Company, has executed this certification in connection with the filing with the Securities and Exchange Commission of the Company's Annual Report on Form 10-K for the fiscal year ended December 31 2008 (the "Report").

Each of the undersigned hereby certifies that, to his respective knowledge:

1. The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: March 13, 2009

/s/ David F. Carney
David F. Carney
Chairman & Chief Executive Officer

/s/ Cesar Ribeiro
Cesar Ribeiro
Chief Financial Officer