

AFFILIATION AGREEMENT dated as of and with effect from May 1, 2012 (“**Agreement**”)

BETWEEN:

CARLETON UNIVERSITY (“CU”)

AND

DOMINICAN COLLEGE / COLLÈGE DOMINICAIN (“DC”)

WHEREAS:

1. The respective Academic Senates and Governing Boards of CU and DC have agreed to an administrative affiliation (the “**Affiliation**”), the terms of which are set out herein and in the schedules attached hereto.
2. CU was established by act of the Legislature of the Province of Ontario pursuant to the *Carleton University Act, 1952*, S.O. c.117, under which it has authority to grant university degrees.
3. DC was established by act of the Legislature of the Province of Ontario pursuant to the *Dominican or Friar Preachers of Ottawa College Act, 1967*, under which it has the authority to grant university degrees in philosophy and theology.
4. Each of CU and DC (the “**Parties**”) agrees that the proposed Affiliation of the two institutions is in its respective interests and mutually beneficial to the Parties in advancing post-secondary education in the Province of Ontario, and will permit each Party to access additional and necessary funding and continue to offer academic programs of the highest quality in their permitted areas.
5. It is a condition precedent of the Affiliation that (i) each Party remains a separate and distinct institution with its own separate and independent governing body and academic senate (or equivalent body); (ii) DC’s heritage and identity as a francophone denominational institution be maintained; and (iii) CU’s identity as a unilingual English-speaking institution be maintained.
6. The Ontario Ministry of Training, Colleges and Universities (“**MTCU**”) has enunciated certain rules and guidelines for the proposed Affiliation.
7. In order to support the Agreement, MTCU requires, that (i) any DC students applying for provincial operating grant funding must be registered at CU in an eligible program; (ii) DC

academic, non-vocational degrees in philosophy and theology be issued from the Senate of CU; the DC degree will be recognized as a conjoint degree from both CU and DC; and (iii) standards of admission, curriculum and graduation be established by the Senate of CU and the Academic Council of DC pursuant to the Institutional Quality Assurance Process (IQAP) approved for Carleton University by the Ontario Universities' Council on Quality Assurance ("the Quality Council") on May 31, 2012, as amended from time to time.

8. Each Party intends to comply with and abide by the MTCU rules, guidelines and requirements.

NOW THEREFORE, IN CONSIDERATION OF THE PREMISES AND OTHER GOOD AND VALUABLE CONSIDERATION, THE PARTIES AGREE AS FOLLOWS:

1.0 Independence; Heritage and Identity of Each Institution

- 1.1 Each Party shall (i) respect the other's distinct identity and character; and (ii) maintain its own independent administration, structures and regulations as existed prior to the date of this Agreement.
- 1.2 DC, although officially a bilingual institution, shall maintain its distinct heritage and identity in the Dominican tradition, and the Affiliation shall not derogate from DC's fundamental characteristics or duties. Schedule "A" attached hereto sets out matters relating to DC and its offering of French language services.
- 1.3 CU is a unilingual, English-speaking institution, with no requirement or commitment to be able to provide any services to faculty, staff, students or others, in a language other than English.
- 1.4 The Affiliation will not include any of DC's ecclesiastical, vocational programs of study.
- 1.5 Each Party shall comply with and abide by this Agreement, the MTCU rules, regulations and guidelines, including without limitation those pertaining to funding, programs, quality assurance, naming of universities and conferring of degrees, and all applicable laws, including without limitation privacy law.

2.0 Liability of the Parties; Insurance

- 2.1 Each Party is responsible for its own costs, expenses, losses, claims, damages and liabilities, past, present and future, howsoever arising, whether in connection with

employees, students or otherwise, including without limitation those in connection with or resulting from any act, regulation, judgment, order, requirement, rule or directive made by any governmental authority, court or tribunal of competent jurisdiction (collectively “**Claims**”), and neither the Affiliation nor this Agreement makes a Party liable to the other Party for the other’s Claims. Each Party shall, and does hereby, indemnify and hold the other Party harmless for all of the first Party’s Claims and for its breach or non-performance, or negligent act or omission, of or under this Agreement or in connection with the Affiliation.

2.2 Each Party shall, at its cost, acquire and maintain throughout the Term its own insurance coverage in the necessary amounts and with suitable coverage for an educational institution of its size and nature.

3.0 **Finance and Funding; Reporting and Filings**

3.1 Each Party shall maintain separate, autonomous, and independent financial administration, governance, budgeting, planning, accounting, fundraising, endowment funds, and fiscal accountability, responsibility and liability. No Party shall commit any financial, physical, human or other resources of the other Party or create any liability for the other Party.

3.2 All funding approved for students attending DC shall be paid to CU. CU shall thereafter pay to DC appropriate amounts from received funds pursuant to the terms and conditions of the Administrative Services Agreement to be entered into between the Parties and attached hereto as Schedule “B”, in exchange for payment by DC to CU of an annual administration fee as set out in the Administrative Services Agreement.

3.3 Funding from any source (other than the MTCU) earmarked exclusively for DC in its capacity as a French language post-secondary educational institution shall be paid to DC for its exclusive use without the payment by DC of an administration fee to CU in connection therewith.

3.4 The Parties shall prepare in a timely fashion, as and when required, all reports required by law or by any governmental, public or funding authority relating to bilingualism

funding. The Parties shall comply, on a timely basis, with any other reporting requirements set out in Schedule “C”.

3.5 DC shall cause to be prepared, submitted and filed, on a timely basis, its own audited and other financial statements, tax returns and other required reports and documents, for each fiscal year and other appropriate interim periods, as required by law, or by a governmental, public or funding authority.

4.0 **Tuition Fees; Granting of Degrees; Programs; Quality Assurance; Services & Accommodations**

4.1 Each Party shall independently determine appropriate tuition fees and ancillary student fees to be charged to its new and existing students for programs and services offered at its own institution, subject to provincial guidelines and requirements.

4.2 Each Party shall determine its own policies, procedures and actions regarding student recruitment and acceptance and regarding financial aid, bursary, grant, scholarship and work-study program eligibility, and shall make its own decisions regarding the awarding of financial aid, bursaries, grants, scholarships and work-study programs.

4.3 DC shall retain its own policies, procedures and timelines regarding payment of tuition fees and collection of outstanding fees, unless otherwise agreed to by the Parties.

4.4 Students graduating from any academic, non-vocational programs of studies in philosophy and theology at DC shall receive a conjoint degree or diploma from both DC and CU, provided the student qualifies for the degree and is approved for graduation by the Academic Council of DC and the Senate of CU. The degree or diploma shall state that both DC and CU are degree and diploma granting institutions.

4.5 The Parties shall promptly conduct all required quality assurance reviews, by no later than March 31, 2013 and as necessary from time to time in order to satisfy the requirements of the MTCU and of the Quality Council of the Council of Ontario Universities or any successor organization and any subsequent amendments approved by the Senate of CU and the Academic Council of DC and confirmed by the Quality Council.

- 4.6 Students registered at DC shall (i) be eligible for access to all general and basic accommodations offered to students registered at CU; and (ii) have access to the services offered to students registered at DC as well as the administration, academic and community services offered to students registered at CU. Student services available at each of DC and CU are more particularly described in Schedule “D”. Ancillary services available or potentially available at DC and/or at CU, including but not limited to athletics, residences, computing facilities, counseling and advising, student associations and transportation, are subject to the completion and results of periodic referenda conducted by the DC student association. DC shall promptly make known to CU the results of any such referenda.
- 4.7 Notwithstanding Section 4.2, DC shall promptly amend its application and admissions process, and all other ancillary processes, in order to comply with the institutional and student records requirements of CU, as set forth in Schedule “E” – CU Registration and Student Records. In addition, CU will represent each Party in the OUAC system for all prospective students applying to DC or CU.
- 4.8 Unless otherwise specified in writing, students registered within an approved program of study at either CU or DC shall be entitled to take courses for credit at the other institution, subject to first obtaining the prior written permission of the relevant academic authorities at DC and CU. The terms and conditions of the periodic reconciliation of income for the cross-registration of students at CU and DC, and any other restrictions agreed to the Parties, are set forth in the Administrative Services Agreement attached as Schedule “B”, as amended from time to time. Transfer credits shall be on the same terms and conditions as all other universities and colleges in Ontario and subject to the rules and procedures of MTCU.
- 4.9 Each Party shall grant to the faculty, students and staff of the other Party equal and reciprocal privileges at and to its respective libraries, subject only to the terms and conditions set forth in Schedule “F” - Libraries Services at DC and at CU.
- 4.10 DC shall not seek changes in its current authority to offer approved programs in philosophy and theology without CU’s prior written consent.
- 5.0 **Personnel Matters; Pensions & Benefits; Advancement; Compensation**

- 5.1 All employees of CU and DC shall remain separate and apart and there shall be no transfer or intermingling of positions, programs, or work of employees between the Parties, or any exchange agreements, placements, appointments or secondments made between the Parties, unless otherwise agreed to by the Parties. Each Party is responsible, at its cost, for its staffing and all academic appointments at or within its institution.
- 5.2 Each Party shall retain the independent authority to administer its own operations including but not limited to its human resources and staffing.
- 5.3 Each Party shall maintain its respective pension and benefit plans and its promotion, seniority, compensation, and other personnel policies separate and apart from those of the other Party, and there is and shall be no merging, consolidation or joint administration of any such plans unless otherwise agreed to by the Parties.

6.0 **Term; Termination**

- 6.1 This Agreement shall commence as of and with effect from May 1, 2012 and shall continue for a period of seven (7) years whereupon it may be renewed in writing by the Parties, unless it is earlier terminated pursuant to Section 6.2 (the “**Term**”).
- 6.2 Notwithstanding Section 6.1, either Party may terminate this Agreement on the 30th day of April of any year during the Term by providing at least one (1) year’s written notice to the other Party. No student will be prejudiced by any termination or expiry of this Agreement.

7.0 **General Provisions**

- 7.1 **Sections and Heading; Interpretation.** The division of this Agreement into Articles and Sections and the insertion of headings are for the convenience of reference only and shall not affect the construction or interpretation of this Agreement. The terms “this Agreement”, “hereof”, “hereunder” and similar expressions refer to this Agreement and not to any particular Article, Section or other portion hereof and include any agreement or instrument supplemental or ancillary hereto. Unless something in the subject matter or context is inconsistent therewith, references herein to Articles and Sections are to Articles and Sections of this Agreement. In addition:
- a. Unless otherwise specifically provided for herein, all calculations to be made

hereunder are to be made in accordance with GAAP (“Generally Accepted Accounting Principles”).

- b. Any reference to currency is to Canadian currency.
- c. Any reference to a statute includes, and is a reference to such statute and to the regulations made pursuant thereto, with all amendments made thereto which are in force from time to time and to any statute or regulations that may be passed which supplement or supersede such statute or such regulations.
- d. The signatories for each Party set out below hereby warrant and represent that they are authorized to bind the Party for which they are signing.

7.2 **Number.** Words importing the singular number only shall include the plural and vice versa, words importing the masculine gender shall include the feminine and neuter genders and vice versa and words importing persons shall include individuals, partnerships, associations, trusts, unincorporated organizations and corporations and vice versa.

7.3 **Schedules.** The following are Schedules annexed hereto and incorporated by reference and deemed to be part hereof. The Schedules may be amended upon mutual written agreement of the Parties:

- Schedule “A” - DC’s French Language Services
- Schedule “B” - Administrative Services Agreement
- Schedule “C” – List of Exclusive Funding Sources to DC; Financial Reporting Requirements of DC
- Schedule “D” - Student Services at DC and at CU
- Schedule “E” – CU Registration and Student Records
- Schedule “F” – Library Services at DC and at CU
- Schedule “G” - Confidentiality Agreement and Banner System

7.4 **Disclaimer of Partnership.** The Parties disclaim any intention to create a partnership between them or to constitute any of them the agent for the other or to create any fiduciary, joint venture, contractor, employment or agency relationship between them. Nothing in this Agreement shall constitute the Parties partners or, except as may be expressly provided in this Agreement, constitute either of them the agent of the other

Party. The provisions of the *Partnerships Act, Ontario*, as amended, shall not apply to relationship between the Parties or to this Agreement.

7.5 **Dispute Resolution.** In the event of a dispute arising from this Agreement which cannot be resolved between the Parties through negotiation in good faith, the Parties shall resolve such matters as follows:

(i) Mandatory Mediation

Any dispute or part of dispute which remain unresolved shall be submitted solely to mandatory mediation before a single mediator and the Party who requires the matter to be mediated (the “**Originating Party**”) shall within thirty (30) days give the other Party notice of such matter and request mediation thereof (the “**Mediation Notice**”). If the Parties cannot agree on the identity of the single mediator within five (5) business days of the delivery by any Party to the other of a request in writing for mediation, then the Originating Party shall within five (5) business days select and appoint the single mediator. If such selection and appointment is made by the Originating Party, the other Party shall select and appoint the mediator for the next subsequent dispute for which the Parties cannot agree on the identity of the single mediator, and the Parties shall thereafter continue to alternate the right of selection and appointment of the mediator if they cannot agree on the identity of the single mediator.

(ii) Arbitration

Any dispute or part of dispute which remain unresolved after Mandatory Mediation is completed may be referred or submitted to Arbitration and the Party who requires the matter to be arbitrated (the “**Originating Party**”) shall within thirty (30) days give the other party notice of such matter to be arbitrated and request Arbitration thereof (the “**Arbitration Notice**”) and the Arbitration shall be conducted in the manner hereinafter set forth. Where an Arbitration Notice is given, the matter shall proceed to Arbitration by a single arbitrator pursuant to the provisions of the *Arbitration Act, 1991*, as amended from time to time. If the Parties cannot agree on the identity of the single arbitrator within five (5) business days of the delivery by any Party to the other of a request in writing for Arbitration, then the Originating Party shall by written notice to the other Party be entitled to make application to a Judge of the Superior Court of Justice, or its

successor court, pursuant to Section 10 of the *Arbitration Act, 1991*, as amended from time to time, for selection of such arbitrator. The sole arbitrator appointed hereunder shall govern his or her own proceedings. The arbitrator shall proceed to hear the submission of the Parties forthwith after his or her appointment and shall render a decision within thirty (30) days after such hearing. The decision of the sole arbitrator shall be conclusive and binding on the Parties, and the arbitrator shall have the authority to assess the costs of the arbitrator and the cost of the Arbitration against any Party.

The arbitrator's decision shall consider the following criteria which are set out in order of importance: (i) the provisions of this Agreement; (ii) the intention of the Parties in agreeing to co-operate; and (iii) the common practice in the Province of Ontario for similar affiliations.

- 7.6 **Good Faith.** The Parties shall proceed promptly and in good faith, and shall reasonably cooperate with each other, to satisfy and fulfill all of their obligations under this Agreement, as and when due, and to conclude, satisfy and fulfill all necessary acts and conditions of this Agreement.
- 7.7 **Communication.** The Parties shall jointly coordinate and agree upon all press releases and other public disclosures concerning the Affiliation and this Agreement before any such press releases or public statements or disclosures are made.
- 7.8 **Privacy.** The Parties shall comply with all relevant privacy legislation, as amended from time to time.
- 7.9 **Inconsistencies.** To the extent of any inconsistencies or conflicts between the terms of this Agreement and any schedules, appendices or other documents attached to and forming part of this Agreement, the terms of this Agreement shall prevail, unless otherwise expressly stated in this Agreement.
- 7.10 **Entire Agreement.** There is no other convention, representation, guarantee, oral agreement, contract or condition, expressed or implied, collateral or otherwise forming a part of, affecting or related to this Agreement, unless otherwise provided for within this Agreement or attached as a schedule hereto.

- 7.11 **Severability.** The invalidity of any provision of this Agreement or any covenant herein shall not affect the validity of any other provision or covenant hereof or herein contained.
- 7.12 **Recitals.** The recitals set out above in this Agreement form an integral part of this Agreement.
- 7.13 **Waiver of Agreement.** Failure by a Party to insist upon the strict performance of any of the covenants, agreements, terms, provisions or conditions contained in this Agreement or to exercise any election shall not be construed as a waiver or relinquishment of such covenant, agreement, term, provision or condition but the same shall continue and remain in full force. No waiver shall be deemed to have been made unless expressed in writing.
- 7.14 **Amendment or Modification.** This Agreement may not be amended except by written instrument signed by the Parties. Fundamental amendments to this Agreement shall be approved by the governing bodies of DC and CU. Amendments to the Schedules may be made by the Executives Councils of DC and CU. Approval of the MTCU shall be sought and obtained wherever necessary.
- 7.15 **Notice.** Any notice, designation, communication, request, demand or other document, required or permitted to be given or sent or delivered hereunder to any Party hereto shall be in writing and shall be sufficiently given or sent or delivered if it is: (i) delivered personally to the President of such Party; (ii) sent to the Party entitled to receive it by registered mail, postage prepaid, mailed in the Province of Ontario; or (iii) sent by facsimile. Notices shall be sent to the following addresses or facsimile numbers:

(i) in the case of the CU:

Office of the President
Carleton University
503 Tory Building
1125 Colonel by Drive
Ottawa, ON K1S 5B6 Canada

(ii) in the case of the DC:

Office of the President
Dominican College
96 Empress Avenue

Ottawa, ON K1R 7G3 Canada

or to such other address or facsimile number as the Party entitled to or receiving such notice, designation, communication, request, demand or other document shall, by a notice given in accordance with this Section, have communicated to the Party giving or sending or delivering such notice, designation, communication, request, demand or other document. Any notice, designation, communication, request, demand or other document given or sent or delivered as aforesaid shall: (i) if delivered personally as aforesaid, be deemed to have been given, sent, delivered and received on the date of delivery; (ii) if sent by mail as aforesaid, be deemed to have been given, sent, delivered and received (but not actually received) on the fourth business day following the date of mailing, unless at any time between the date of mailing and the fourth business day thereafter there is a discontinuance or interruption of regular postal service, whether due to strike or lockout or work slowdown, affecting postal service at the point of dispatch or delivery or any intermediate point, in which case the same shall be deemed to have been given, sent, delivered and received in the ordinary course of the mails, allowing for such discontinuance or interruption of regular postal service; and (iii) if sent by facsimile, be deemed to have been given, sent, delivered and received on the date the sender receives the telecopy answer back confirming receipt by the recipient.

- 7.16 **Binding; Assignment.** Upon execution and delivery by each Party, this Agreement shall be binding upon each Party and have full legal effect in accordance with its terms as of the date of execution, but subject to the conditions set out herein. This Agreement shall enure to the benefit of and be binding upon the Parties hereto and their respective successors and permitted assigns. This Agreement shall not be assigned in whole or in part by either Party without the other Party's prior written consent, which consent shall not be unreasonably withheld or delayed. Any attempt to assign this Agreement in whole or in part without such prior written consent is void.
- 7.17 **Future assurances.** Each Party shall, at the cost of the requesting Party, execute and deliver such further agreements, assurances, papers and documents, attend such meetings and generally do and perform or cause to be done and perform such further and other acts and things that may be necessary or desirable from time to time in order to give full effect to this Agreement and every part hereof.

7.18 **Governing Law.** In all respects this Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws applicable therein, and the Courts of such province have jurisdiction to entertain any action arising in connection therewith.

7.19 **Time.** Time shall be of the essence of this Agreement.

Dated at Ottawa, Ontario as of and with effect from the 1st day of May, 2012.

CARLETON UNIVERSITY

Per: _____

Dr. Roseann O'Reilly Runte
President and Vice Chancellor
Carleton University

DOMINICAN COLLEGE

Per: _____

Dr. Maxime Allard
President and Regent of Studies
Dominican College