

AFFILIATE PROMOTION AGREEMENT

This Affiliate Agreement ("Agreement") is by and between ALLEGRA Learning Solutions, LLC ("ALLEGRA"), located at 2604-B El Camino Real #232, Carlsbad, CA 92008 and **NAME AND ADDRESS OF AFFILIATE** ("Affiliate").

WHEREAS, Affiliate wishes to promote ALLEGRA's courses and content through its web site and other media in a form as provided herein and as approved from time to time by ALLEGRA in writing;

WHEREAS, ALLEGRA and Affiliate wish to work together to generate as many licensed sales of ALLEGRA licensed courses and other content ("Courses") as possible so that they may share in the proceeds of such licensed sales and agree to work together under the terms of this Agreement;

NOW THEREFORE, for and in consideration of the mutual covenants set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, it is agreed as follows:

1. COMMENCEMENT AND DURATION OF AGREEMENT

- 1.1 This Agreement shall become effective on _____. It shall remain in effect otherwise terminated in accordance with paragraph 6 of this Agreement ("Effective Period").
- 1.2 This Agreement may be renewed, or the Effective Period extended, by the mutual written agreement of the Parties no later than thirty (30) days prior to the expiration of the Effective Period.

2. PAYMENT AND ACCOUNTS

- 2.1 Affiliate's sole remuneration hereunder shall be a commission percentage of twenty percent ("20%") of gross revenues of all Courses sold via Affiliate's web site and verified as a "click through" from such Affiliate's web site. For the purposes of this Agreement, the definition of "gross revenues" shall be those revenues received by ALLEGRA less returns, for all Courses sold through a verified "click through" from such web site.
- 2.2 ALLEGRA will provide Affiliate with a monthly report of Course sales.
- 2.3 All commission checks for Gross Revenues will be paid within net 45 days for all sales attributed to Affiliate during the preceding month in which any Courses are sold.
- 2.4 If Affiliate requests the assistance of ALLEGRA to undertake services related to the Courses then ALLEGRA shall, in response to the reasonable request of Affiliate, use reasonable efforts to accommodate the provision of the services, subject to Affiliate agreeing to payment terms which take into account changes in the nature of the work, timing, or cost.
- 2.5 At all times the staff of ALLEGRA shall be the employees, or independent contractors of ALLEGRA, and not of Affiliate. All benefits and liabilities associated with that employment, or of contracting, shall accrue to and be the sole responsibility of ALLEGRA, including, without limitation, all employee benefits, insurance, and taxation responsibilities.

- 2.6 At all times the staff of Affiliate shall be the employees, or independent contractors of Affiliate, and not of ALLEGRA. All benefits and liabilities associated with that employment, or of contracting, shall accrue to and be the sole responsibility of Affiliate, including, without limitation, all employee benefits, insurance, and taxation responsibilities.
- 2.7 **Applicable Codes and Code Maintenance.** In order to record the tracking of Visitors' Transactions resulting from clicks on Links to Advertisers promoted by Affiliate, Affiliate must include and maintain a "Referring Code" within the Affiliate's Links. All Affiliate's Links and all advertisements must be in a Network Service compatible format.
- 2.8 **Usage and Security of Account.** Affiliate shall be responsible for all usage and activity on Affiliate account and for loss, theft or unauthorized disclosure of Affiliate password. Affiliate shall provide ALLEGRA with prompt written notification of any known or suspected unauthorized use of Affiliate Account or breach of the security of Affiliate Account.
- 2.9 **Tracking Transactions, Payouts, and Charge Backs.** ALLEGRA shall determine actual Payouts that should be credited to Affiliate Account. ALLEGRA may apply a debit to Affiliate Account in an amount equal to a Payout previously credited to Affiliate Account in circumstances of: (i) product returns; (ii) duplicate entry or other clear error; (iii) non-bona fide Transactions; (iv) non-receipt of payment from, or refund of payment to, the Visitor; or (v) Affiliate's failure to comply with ALLEGRA's Program terms or other agreement with ALLEGRA ("Charge-back"). Charge-backs may be applied to Affiliate Account at any time, including previous payment cycles. The number or amount of Transactions, credits for Payouts, and debits for Charge-backs, as calculated by ALLEGRA, shall be final and binding on Affiliate.
- 2.10 **Negative Accounts.** Affiliate may have a negative balance if Affiliate Account is debited amounts equivalent to previous Payouts for Charge-backs and Affiliate does not have an adequate Account balance to cover the Charge-back amounts. When Affiliate has a negative balance, Affiliate must remit payment to ALLEGRA in an amount sufficient to bring Affiliate Account to a zero balance within 60 days, or Affiliate Account is subject to 1.5% interest per month, compounded monthly.

3. TERMINATION AND DURATION

- 3.1 This agreement is for one year and may be renewed, or the Effective Period extended, by the mutual written agreement of the Parties no later than thirty (30) days prior to the expiration of the Effective Period.
- 3.2 Affiliate and ALLEGRA may terminate this Agreement at any time for any reason with a 30-day written notice.
- 3.3 Within 24 hours from receiving a written notice from ALLEGRA, Affiliate will (1) ensure that all advertising and promotional spots are stopped, (2) return, delete or destroy any ALLEGRA creative stored pursuant to Section 7.5 or otherwise in its possession, custody, or control. ALLEGRA will pay any revenues due to Affiliate within 30 days of termination.
- 3.4 Termination of this Agreement for any reason, or expiration of this Agreement, will not effect (i) obligations that have accrued as of the date of termination or expiration; and (ii) obligations that from the context of this Agreement are intended to survive termination or expiration of this Agreement.
- 3.5 If either Party makes an assignment for the benefit of creditors, whether

voluntary or involuntary, or if a petition is filed by or against that party under any bankruptcy or similar act, or if that Party materially breaches any of its representations or warranties, or otherwise materially fails to fulfill its obligations under this Agreement, then the other Party shall have the right to terminate this Agreement upon thirty (30) days' written notice, unless during such 30-day period the breaching Party initiates action to correct its breach hereunder to the non-breaching Party's reasonable satisfaction. The non-breaching Party's obligation to pay any and all charges, which shall have accrued, shall survive termination of this Agreement. In addition, the non-breaching Party's termination of this Agreement shall be without prejudice to any other remedies the non-breaching Party may have including, without limitation, all remedies with respect to the unperformed balance of this Agreement.

4. CONFIDENTIALITY

- 4.1 Affiliate acknowledges that materials and information (other than the Course content itself) that may come into its possession or knowledge in connection with coprovided activities under this Agreement, are confidential and proprietary to ALLEGRA, the disclosure of which to, or use by third parties without prior approval of ALLEGRA in writing will cause damage to ALLEGRA ("Confidential Information").
- 4.2 Affiliate agrees to hold such Confidential Information in strictest confidence, not to make any use thereof other than for the performance of this Agreement, to release it only to its employees requiring such information, and not to release or disclose it to any other party without the prior written consent of ALLEGRA.
- 4.3 Affiliate agrees to procure that any employee, independent contractor or third party to whom Confidential Information is released shall sign a written agreement in advance to maintain that confidentiality and consenting to liability for any breach of that confidentiality.

5. INDEMNIFICATION

- 5.1 Affiliate will release, defend, indemnify and hold ALLEGRA harmless from and against any and all liabilities, damages, awards, settlements, losses, claims, costs and expenses, including reasonable attorneys fees and costs of investigation ("Damages"), due to any claim by a third party relating to or arising out of Affiliate's Services or any other activities of Affiliate, including, without limitation, infringement of any third person's intellectual property rights, except for such Damages arising solely and exclusively out of Affiliate's use of the ALLEGRA content, unmodified, in express accordance with the terms of this Agreement.
- 5.2 ALLEGRA will indemnify and hold Affiliate harmless from and against any and all Damages due to any claims by a third party that the ALLEGRA content infringes any third party's intellectual property rights, provided that (i) the relevant claim does not arise from any modification to the ALLEGRA content made by Affiliate or any person receiving the content through Affiliate; (ii) the relevant claim does not concern ALLEGRA content that ALLEGRA notified Affiliate should not be used; (iii) the relevant claim is not based upon content obtained by ALLEGRA from a third party; and (iv.) Affiliate is not in breach of this Agreement.
- 5.3 A party seeking indemnification pursuant to this section (an "Indemnified Party")

from or against the assertion of any claim by a third party will give prompt notice to the party from whom indemnification is sought (the “Indemnifying Party”); provided, however, that failure to give prompt notice will not relieve the Indemnifying Party of any liability hereunder (except to the extent the Indemnifying Party has suffered actual material prejudice by such failure). The Indemnifying Party and the Indemnified Party will cooperate in the defense or prosecution of any third party claims.

6. MISCELLANEOUS

- 6.1 NOTICE. Adequate and proper notice shall be given by one Party to the other under this Agreement by means of registered or certified mail, as evidenced by post office receipt, or by facsimile, the evidence of which shall be the facsimile confirmation slip, when directed to the person and addresses of the Parties as stated below or as subsequently amended by the parties in writing: if to Affiliate, to: Affiliate **NAME AND ADDRESS and CONTACT OF AFFILIATE**; and if to ALLEGRA Learning Solutions to: ALLEGRA Learning Solutions, 2604-B El Camino Real #232, Carlsbad, CA 92008, Attn: Ms. Koopsen, Ms. Young.
- 6.2 SECTION HEADINGS. Section headings and captions in this Agreement are for convenience of reference only and shall not be deemed in any manner to limit or restrict the content of the provision to which they relate.
- 6.3 WAIVER OF TERMS. Any waiver by either Party of the breach of any term or condition of this Agreement will not be considered as a waiver of any subsequent breach of the same or any other term or condition hereof.
- 6.4 FORCE MAJEURE. Neither Party will be in breach hereof by reason of its delay in the performance of or failure to perform any of its obligations hereunder, if that delay or failure is caused by strikes, acts of God or the public enemy, riots, or any fault beyond its foreseeable control, without its fault or negligence ("Force Majeure"). In the event of Force Majeure, the affected party agrees to notify the other Party in writing of its inability to perform within five (5) days after the occurrence of Force Majeure. The occurrence of a Force Majeure shall suspend, not terminate, the obligations of the Party to perform, which is affected by the Force Majeure.
- 6.5 OWNERSHIP AND USE OF INTELLECTUAL PROPERTY.
- 6.5.1 This is not a Work for Hire Agreement and all intellectual property created under, or relating to, this Agreement, shall not be considered a “work made for hire” as provided in the Copyright Act of 1978, 17 U.S.C. §101 and ALLEGRA retains of shall be assigned all right, title and interest in such intellectual property and all Course Content created by ALLEGRA.
- 6.5.2 Affiliate agrees that the Course Content, ALLEGRA Learning Solutions intellectual property, accreditation status, and any trademarks provided by or used with ALLEGRA course content are the sole property of ALLEGRA in which ALLEGRA has all right, title and interest including, without limitation, all copyright and trademark rights. Affiliate shall not use, distribute, copy or publish the course of other such intellectual property detailed above other than as provided expressly in this Agreement. Any goodwill generated through Affiliate’s use of the ALLEGRA Learning Solutions name and any trademarks shall inure solely to the benefit of ALLEGRA. Affiliate shall not create any derivative works, or compilations using, or referencing the Courses or other intellectual property of

ALLEGRA without the advance written consent of ALLEGRA and payment in advance as required by ALLEGRA.

6.5.3 ALLEGRA will provide Affiliate with approved advertising creative for the appropriate mediums as needed. The text, data, graphics, moving and still images, and sound recordings contained in the ALLEGRA creative, and any portion thereof, shall hereinafter be referred to, individually and collectively, as the “ALLEGRA creative.”

6.5.4 ALLEGRA will provide Affiliate with accreditation language for any advertising or marketing materials (see Exhibit A, “Procedures for Communications”).

6.5.5 ALLEGRA hereby grants to Affiliate during the Term, the non-exclusive, non-transferable, non-sub licensable, revocable, non-assignable right, subject to the terms and conditions of the Agreement, to advertise the ALLEGRA creative solely by displaying it on Affiliate’s advertising medium as approved by ALLEGRA, and to make such internal copies as are necessary to create that display and or airing in the case of a radio or TV ad. Except as set forth herein, no other use, copying, display, or distribution, in any form of the ALLEGRA creative, in whole or in part, by Affiliate is permitted without the prior written consent of ALLEGRA. Any advertising claim made by Affiliate shall comply with all laws and regulations and shall be the sole responsibility of Affiliate.

6.5.6 In the event that ALLEGRA’s adds or changes Course Content those changes will be owned by ALLEGRA as per 8.5(a).

6.6 SEVERABILITY. In the event that one or more provisions of this Agreement shall, for any reason, be held to be invalid, illegal, or unenforceable, the remaining provisions shall be unimpaired.

6.7 COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, all of which constitute one and the same Agreement.

6.8 AUTHORIZATION. The Parties signing this Agreement warrant that they have full right and authority to sign on behalf of their respective Parties and the execution, delivery, and performance of this Agreement will not violate rights granted by such party to any third party or violate the provisions of any agreement to which it is a party.

6.9 INTEGRATION. This Agreement contains the entire understanding of the Parties relating to the subject matter referred to herein and may only be amended by a written document, duly executed on behalf of the respective Parties. This Agreement supersedes all prior understandings, representations, negotiations, agreements, contracts, claims and correspondence between the Parties, including all courses of performance, course of dealing, and usage of trade.

6.10 SUBCONTRACTING. ALLEGRA Learning Solutions may assign, transfer or sub-contract any right or obligation under this Agreement. The rights and obligations contained in this Agreement shall be binding upon all successors and assigns of all Parties to this Agreement.

6.11 WARRANTY. ALLEGRA represents and warrants that all right, title, and interest in and to any materials provided to Affiliate by ALLEGRA to create a Work, or to be used in the creation of a Work, are owned or lawfully licensed for such purpose by ALLEGRA.

6.12 EXCLUSION OF WARRANTY. ALLEGRA shall not be liable for any damages suffered or incurred by Affiliate or any third person arising out of any faults,

interruptions or delays in the ALLEGRA services and any inaccuracies, errors, or omission in the ALLEGRA content. Except as expressly stated in the Agreement, there are no warranties, conditions, guaranties or representations (as used in this section "Exclusion of Warranty") as to merchantability, fitness or a particular purpose or other warranties, whether express or implied, in law or in fact, oral or in writing. Each party hereby acknowledges that it has not relied upon any warranty made by the other except as specifically set forth in this Agreement.

- 6.13 **SPECIAL DAMAGES.** Under no circumstances will either party be liable for any indirect, incidental, special or consequential damages with respect to the subject matter hereof, including lost profits, regardless of whether such damages could have been foreseen or prevented by either party.
- 6.14 **USE OF LINKS.** Affiliate represents and warrants that all promotional means used by Affiliate will not contain objectionable content (including but not limited to content that is misleading, libelous, defamatory, obscene, violent, bigoted, hate oriented, illegal, and/or promoting illegal goods, services or activities), and that Affiliate will not mislead others. Affiliate agrees to: (i) use ethical and legal business practices, (ii) comply with the ALLEGRA's Program terms and this Agreement, (iii) maintain a privacy policy on Affiliate Web site and for any non-Web site based promotional method made available to Visitors, and (iv) designate Affiliate Account as "special" if Affiliate promotes an Advertiser(s) by any means other than displaying a Link to the Advertiser on Affiliate Web site. ALLEGRA may review Affiliate conduct and any suspected fraudulent, abusive or otherwise illegal content or activity by Affiliate through Affiliate's promotional methods, or that is perpetrated through use of the Network Service, is grounds for immediate termination of this Agreement or deactivation of Affiliate Account.
- 6.15 **CONTACTS.** CO-PROVIDER consents to being added to ALLEGRA mailing list for notifications related to new course offerings, newsletters, and other health-related information. CO-PROVIDER may opt out of mailing list at any time.
- 6.16 **PROHIBITED USES OF LINKS.**
- 6.16.1 **Locations.** Affiliate may not place Links to ALLEGRA's Web site or Web site content in third party newsgroups, message boards, blogs, unsolicited email and other types of spam, link farms, counters, chatrooms, or guestbooks. Affiliates using IRC channels, instant messages or similar Internet resources must designate their program as special requiring manual review and acceptance by ALLEGRA.
- 6.16.2 **Non-Bona Fide Transactions.** Affiliate must promote ALLEGRA such that Affiliate does not mislead the Visitor, and such that the Links deliver bona fide Transactions by the Visitor to ALLEGRA from the Link. Affiliate shall not cause any Transactions to be made that are not in good faith, including, but not limited to, using any device, program, robot, Iframes, or hidden frames. Affiliate may or may not be compensated for Transactions where Affiliate or Affiliate agent are the Visitor. Multiple Leads from the same individual, entity or IP address may be considered non-bona fide Transactions. Affiliate shall not earn Payouts for non-bona fide Transactions.
- 6.16.3 **Infringement.** None of Affiliate promotional activities may infringe an ALLEGRA's proprietary rights (including but not limited to trademark rights), ALLEGRA proprietary rights, or a third party's proprietary rights.
- 6.16.4 **Prohibited Promotional Methods.** Affiliate represents and warrants that Affiliate will not engage in and/or facilitate spamming, indiscriminate advertising or unsolicited commercial email or otherwise fail to

comply with the CAN SPAM Act of 2003 (Public Law 108-187 or any successor legislation), and/or any other laws and/ or regulations that govern email marketing and/or communications. Affiliate represents and warrants that Affiliate will not engage in pop-up or pop-under advertising using any means involving third party properties and/or services (software).

- 6.17 **APPLICABLE LAW AND DISPUTES.** In the event of any dispute concerning or arising out of this Agreement, other than relating to ALLEGRA intellectual property, such dispute shall be submitted by the Parties to arbitration. Arbitration proceedings may be commenced by either Party giving the other Party written notice thereof in accordance with Section 8.1 of this Agreement and proceeding thereafter in accordance with the rules and procedures of the American Arbitration Association (AAA). Any controversy or claim arising out of or relating to this Agreement brought by ALLEGRA or Affiliate shall be submitted to final and binding arbitration in San Diego, California in accordance with the commercial rules of the AAA. The arbitration shall be before a single arbitrator. If not mutually agreed upon, the arbitration shall be selected according to AAA rules from a list, prepared by the AAA, or persons having expertise in the subject matter. Judgment upon the award may be entered in any court having jurisdiction thereof. In the event of any arbitration hereunder, the arbitrator shall award costs and reasonable attorney's fees to the prevailing party. The arbitrator's award in any such arbitration shall be final and binding, and a judgment upon such award may be enforced by any court of competent jurisdiction.

AGREED TO AND ACCEPTED:

FOR: Affiliate

Dated: _____

By: _____
Print Name: _____
Title: _____

FOR: ALLEGRA Learning Solutions, LLC

Dated: _____

By: _____
Print Name: _____
Title: _____

EXHIBIT A

PROCEDURES FOR COMMUNICATIONS

New accreditations will be communicated to the Affiliate. Deviation from the accreditation language may result in ALLEGRA rescinding the Affiliate's right to deliver courses.

Affiliate needs to directly link to ALLEGRA Learning Solutions accreditation page when providing information about accreditation.

Required language on affiliate web page is:

ALLEGRA Learning Solutions has multiple continuing education accreditations for many types of health care professionals, including nurses, massage therapists, addiction professionals, diabetes educators, marriage and family therapists, respiratory therapists, as well as numerous other providers. For a complete, current list of accreditations and approvals, click here (use this link <http://allegralearning.com/accreditation.html>).

PLEASE NOTE: Affiliate is not permitted to place specific accreditation language on the web site.

EXHIBIT B

AFFILIATE INFORMATION

SECTION 1: HOW TO USE YOUR CUSTOM AFFILIATE LINK

A. What is it a Custom Affiliate Link?

Your Referring Code (“Custom Affiliate Link”) is a URL that tells ALLEGRA Learning Solutions where a visitor to our website originates. Your Custom Affiliate Link tells us when someone clicks it and transfers from you to us. The exciting part is when that happens and someone purchases an online course from us, you earn a commission.

B. What Do I Do With It?

The most common way the affiliate link is used is on a Web site that directs visitors to register for ALLEGRA Learning Solutions online courses by clicking the embedded link. We have provided you with our ALLEGRA Learning Solutions Online logo that identifies you as an Authorized ALLEGRA Affiliate. This is the most common way to use the affiliate link and will require some technical information to setup so we’ve offered some suggestions below.

- Please consult your organization’s IT specialist or Webmaster regarding how he/she prefers information to be submitted.
- We suggest you provide a link from your Web site, using the specialized logo provided. Connect this link to a designated page on your Web site that describes ALLEGRA Learning Solutions courses and programs. This designated page is where you will place your Custom Affiliate Link.
- Sample marketing and promotional suggestions are provided in Section 3.
- You can place/embed your Custom Affiliate Link as many times as you wish. So feel free to embed that link to any and all references to registering for a class! The more opportunities you provide to your Web site visitors to register for classes, the more opportunities you have to increase your commissions.
- If you experience technical difficulties placing the Custom Affiliate Link, please contact us at 760-231-9678 or support@allegralearning.com for assistance.

SECTION 2: TRACKING YOUR SALES

As an ALLEGRA Learning Solutions Authorized Affiliate, you have the ability to keep track and review affiliate sales generated from your Custom Affiliate Link via the monthly sales reports which are sent to you.

SECTION 3: MARKETING AND PROMOTING ALLEGRA LEARNING SOLUTIONS

COURSES AND PROGRAMS

When designing a marketing document promoting ALLEGRA Learning Solutions courses and programs, either on the Web or in print, you may use any or all of the copy provided below by simply copying and pasting it into your promotional item.

Only one section is mandatory on all of your marketing and promotional materials. See Exhibit A about specific requirements regarding accreditation language.

The ALLEGRA Web site provides you with an updated list of courses. Please visit www.allegralearning.com for more information. We are continually adding new courses, so we recommend that you visit our website before publishing to verify that your information is complete and accurate.

A. What are ALLEGRA Learning Solutions Courses and Programs?

ALLEGRA's courses and programs are Web-based continuing education courses that the student can take whenever and wherever they want, because they are asynchronous and non-instructor-led. These programs are efficient, effective, and meet the needs of today's adult learner. Moreover, the student takes the course at his/her convenience and pace, not the organization's convenience and pace. The student can purchase a single course/program or multiple courses/programs to suit their needs and professional requirements.

B. With ALLEGRA Learning Solutions Courses and Programs, You:

- can enhance your professional marketability;
- build your skills and competencies;
- fulfill your continuing education requirements
- decide at what pace you will take the course
- start the course at any hour and on any day
- are not dependent on the availability of a teacher or classroom

Upon completion of each course, you will be able to print your own personalized Certificate of Completion.

SECTION 4: SAMPLE WEBPAGE DESIGN FOR INSTITUTIONS (New Classes Added Regularly)

Place your **organization's banner and menu structure** here...

Place your **organization's name** here...

is an



The following is an example of the information you may want to place on your website:

You can earn a Certificate in a number of practice areas including Gerontology, Pain Assessment and Management, Integrative Health, and more. Over 80 individual courses are also available on a variety of health and allied health topics, providing opportunities for a range of contact hours.

To view the course descriptions and enroll, click here [insert this link <http://education.allegralearning.com/searchResults.php?state=67>].

To view the certificate descriptions and enroll, click here [insert this link <http://education.allegralearning.com/bundleList.php?&state=67&keyword=&specialty=&practice=>]...