

# Education Agent Agreement



THIS AGREEMENT IS MADE ON \_\_\_\_\_ (Insert Date)

## BETWEEN

### ULTIMATE INSTITUTE AUSTRALIA

Level 6, 271 William Street  
Melbourne VIC 3000 Australia

ABN 79 132 349 681

## AND

### EDUCATION AGENT

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### **BACKGROUND TO AGREEMENT**

- A. Ultimate Institute Australia seeks to recruit full-time overseas students who want to study at Ultimate Institute Australia.
- B. The *Education Services for Overseas Students Act 2000* (“the ESOS Act”) imposes certain obligations and requirements on the providers of education and training courses to overseas students and those providers’ Education Agents, including the obligations set out in the national code established under the ESOS Act (“National Code”).
- C. Ultimate Institute Australia is registered on the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) as part of the ESOS Act requirements under CRICOS Code: 03511G.
- D. The Education Agent provides services of recruiting suitable prospective students for enrolment and study in Australia.
- E. Ultimate Institute Australia wants to engage the Education Agent as its representative in the Territory.
- F. The Education Agent is aware of the requirements of the ESOS Act (National Code) and has agreed to comply with those requirements.

## AGREEMENT

### DEFINITIONS

In this Agreement the following definitions are applied:

**'Education Agent's Fee'** means the fee calculated under Item 3 of Schedule 1;

**'Marks'** means logos, trademarks, designs, and crests that belong to or carry the name of Ultimate Institute Australia;

**'PRISMS'** means the Provider Registration and International Students Management System (the electronic system that holds CRICOS and the electronic confirmation of enrolment);

**'Course Fee'** means the tuition and other fees set by Ultimate Institute Australia for the Courses;

**'Courses'** means the full time registered courses offered by Ultimate Institute Australia and registered on CRICOS 03511G

**'Prospective student'** means a person (whether within or outside Australia) who intends to become, or who has taken any steps towards becoming a Student at Ultimate Institute Australia.

**'Services'** means the services described in clauses 3 and 4;

**'Student'** means an 'overseas student' as defined in the ESOS Act;

**'Term'** means the agreement period set out in Item 1 of Schedule 1

**'Territory'** means the countries or regions set out in Item 2 of Schedule 1.

In this Agreement, unless the contrary intention appears:

- Headings are for ease of reference only and do not affect the meaning of this agreement;
- the singular includes the plural and vice versa and words importing a gender include other genders;
- other grammatical forms of defined words or expressions have corresponding meanings;
- money is in Australian dollars unless otherwise stated and a reference to 'A\$', 'AUD', '\$A', 'dollar' or '\$' is a reference to Australian currency; and
- Schedule 1 to this Agreement forms part of the Agreement, but if there is any conflict between a clause of this Agreement and the Schedule, the clause of this Agreement will prevail.

## 1. ENGAGEMENT OF THE EDUCATION AGENT

Ultimate Institute Australia engages the Education Agent to be its representative to perform the Services in the Territory for the Term.

This is a non-exclusive agreement. Ultimate Institute Australia may appoint other Education Agents in the Territory.

## 2. MAIN RESPONSIBILITIES OF THE EDUCATION AGENT

Under this Agreement, the Education Agent must:

- 1.1 Promote Ultimate Institute Australia in accordance with Ultimate Institute Australia policy and procedures to recruit and assist in the recruitment of prospective students to undertake the courses;
- 1.2 Provide prospective students with all necessary information about the courses, Ultimate Institute Australia facilities and services and assistance in completing and submitting application forms to Ultimate Institute Australia;
- 1.3 Inform about English language testing of prospective students under the relevant Australian migration regulations; and
- 1.4 Perform any other services and provide any reports or information requested by Ultimate Institute Australia or required by this Agreement.

## 3. DETAILED OBLIGATIONS OF THE EDUCATION AGENT

1.1 In performing the Services, the Education Agent must:

- 1.1.1 Promote the courses with integrity and accuracy and recruit prospective students in an honest, ethical and responsible manner;
- 1.1.2 Inform prospective students accurately about the requirements of courses using only material provided by Ultimate Institute Australia;
- 1.1.3 Assist to uphold the high reputation of Ultimate Institute Australia and of the Australian international education sector;
- 1.1.4 Take reasonable steps in confirming the accuracy of the information provided by prospective students in the application;
- 1.1.5 Ensure that only signed and completed enrolment applications/ agreements are submitted to Ultimate Institute Australia ;
- 1.1.6 Assist prospective students to complete visa applications;
- 1.1.7 Ensure that relevant fees and charges and supporting documentation accompany each application and acceptance of offer documents;
- 1.1.8 Provide any offer documents received from Ultimate Institute Australia to the prospective student within 24 hours of receiving the offer documents;
- 1.1.9 Provide Ultimate Institute Australia with market intelligence about the recruitment of prospective students in the Territory; and
- 1.1.10 Only undertake promotional and marketing activities involving Ultimate Institute Australia that have been approved by Ultimate Institute Australia.

- 1.1.11 Act in accordance with Ultimate Institute Australia policies and procedures and directions given by Ultimate Institute Australia.
- 3.2 Before prospective students complete an enrolment application the Education Agent must give them information provided to the Education Agent by Ultimate Institute Australia about:
- the requirements for acceptance into a course, including the minimum level of English language proficiency, educational qualifications or work experience required and whether course credit may be applicable
  - the course content and duration, qualification offered if applicable, modes of study and assessment methods
  - campus locations and a general description of facilities, equipment, and learning and library resources available to students
  - details of any arrangements with another registered provider, person or business to provide the course or part of the course
  - indicative course-related fees including advice on the potential for fees to change during the student's course and applicable refund policies
  - information about the grounds on which the student's enrolment may be deferred, suspended or cancelled
  - a description of the ESOS framework made available electronically by DEEWR, and
  - relevant information on living in Australia, including:
    - indicative costs of living
    - accommodation options; and
    - where relevant, schooling obligations and options for school-aged dependants of intending students, including that school fees may be incurred.
- 3.3 The Education Agent must advise prospective students that:
- Students who come to Australia on a student visa must have a primary purpose of studying and are expected to complete the course within the expected duration; and
  - Any accompanying school age dependants must pay any relevant fees if enrolling in either government or non-government schools.
- 3.4 The Education Agent must **not**:
- 3.4.1 Engage in any dishonest practices, including suggesting to prospective students that they may come to Australia on a student visa with a primary purpose other than full-time study;
- 3.4.2 Facilitate applications for prospective students who do not comply with visa requirements;
- 3.4.3 Provide prospective students with 'immigration advice' as defined in the *Migration Act 1958* unless the Education Agent is separately registered under that Act;
- 3.4.4 Give a prospective student inaccurate information about: the course fee payable to Ultimate Institute Australia or his or her acceptance into a course;
- 3.4.5 Receive or bank the course fee payable to Ultimate Institute Australia by a prospective student or deduct any amount from the course fee payable by the prospective student;

- 3.4.6 Make any representations or offer any guarantees to prospective students about the likelihood of obtaining a student visa;
  - 3.4.7 Engage in false or misleading advertising or recruitment practices;
  - 3.4.8 make any false or misleading comparisons with any other education provider or their programs or make any inaccurate claims regarding any association between Ultimate Institute Australia and other education providers;
  - 3.4.9 Undertake any advertising or promotional activity about the courses or Ultimate Institute Australia without the prior written consent of Ultimate Institute Australia.
  - 3.4.10 commit Ultimate Institute Australia to accept any prospective student into a course;
  - 3.4.11 use or access PRISMS without the prior written consent of Ultimate Institute Australia;
  - 3.4.12 use or access PRISMS to create a confirmation of enrolment for other than a bona fide student;
  - 3.4.13 Use any registered or unregistered mark without the prior written consent of Ultimate Institute Australia.
  - 3.4.14 actively recruit, or attempt to recruit, prospective students that the representative knows to have engaged the services of another official representative of Ultimate Institute Australia or
  - 3.4.15 Sign or encourage or allow others to sign, official documents such as the application form, on behalf of a prospective student or student. The student's signature that appears on all official documents must be the same signature as that which the prospective student used when signing the Ultimate Institute Australia application form.
- 3.5 The Education Agent must terminate any agreement with an employee if the Education Agent becomes aware of, or reasonably suspect, dishonest practices, including the deliberate attempt to recruit a student where this clearly conflicts with the obligations of registered providers under National Code Standard 7 (Transfer between registered providers, whereby a receiving registered provider must not knowingly enrol the student wishing to transfer from another registered provider's course prior to the student completing six months of his or her principal course of study) or any of the other dishonest practices outlined above.

## 4. DETAILED OBLIGATIONS OF Ultimate Institute Australia

- 4.1 Ultimate Institute Australia must:
  - 4.1.1 Give the Education Agent sufficient information to enable the Education Agent to undertake the Services;
  - 4.1.2 Assess completed applications from prospective students within a reasonable time of receipt.
  - 4.1.3 Ultimate Institute Australia is not required to accept any prospective student referred by the Education Agent.
- 4.2 Ultimate Institute Australia Agent Information Update Procedure

- 4.2.1 Ultimate Institute Australia will ensure that all agents are updated with current version information regarding the provider, courses offered, promotional prices, new procedures and enquiry/enrolment information by sending them Ultimate Institute Australia Update Form mentioning updated information along with recommended implementation suggestions. New course documents and detailed information will be provided along with the Ultimate Institute Australia Agent Update form to agents whenever such documents are amended.
- 4.2.3 Once Ultimate Institute Australia Agent Update Form is circulated, the agents must agree that all old promotional material with older version must be destroyed by the agent before the agent is allowed to distribute Ultimate Institute Australia's new advertising material. Agents are required to notify Ultimate Institute Australia if any details related to the agent or its operations are altered.
- 4.3 Ultimate Institute Australia will immediately take corrective action or terminate the agreement with the Education Agent if it becomes aware of the Education Agent being negligent, careless or incompetent or being engaged in false, misleading or unethical advertising and recruitment practices, including practices that could harm the integrity of Australian education and training.
- 4.4 Ultimate Institute Australia will terminate the agreement with the Education Agent if it becomes aware of, or reasonably suspects dishonest practices, including the deliberate attempt to recruit a student where this clearly conflicts with the obligations of registered providers under National Code Standard 7 (Transfer between registered providers, whereby a receiving registered provider must not knowingly enrol the student wishing to transfer from another registered provider's course prior to the student completing six months of his or her principal course of study) or any of the other dishonest practices outlined above.

## 5. CONFIDENTIALITY

The Education Agent must keep confidential all information provided by Ultimate Institute Australia, other than to the extent where disclosure is required to perform the Services, in accordance with the terms of this Agreement.

## 6. EDUCATION AGENT'S FEES

- 6.1 Subject to the other provisions of this clause, Ultimate Institute Australia must pay the Education Agent's Fee for each student who:
- is recruited by the Education Agent;
  - is enrolled in a Course; and
  - has paid the Course Fee to Ultimate Institute Australia; and
  - has commenced the Course; and
  - who has not, subsequent to commencing the program, been fully refunded the program fees.

6.3 An Education Agent is regarded as having recruited a student under this Agreement if the Education Agent submits the student's application for enrolment and that application also bears the Education Agent's name.

6.4 An Education Agent's Fee is not paid where the student applies to enrol directly to Ultimate Institute Australia

6.5 No Education Agent's Fee is payable unless the Education Agent has submitted an invoice in a form approved by Ultimate Institute Australia.

6.6 Ultimate Institute Australia must pay the fees payable under this clause within 30 days of receipt of a valid invoice from the Education Agent.

6.7 Education Agent Sponsorship Incentive is provided by Ultimate Institute Australia for the marketing and promotional activities conducted by the agent in relation to promoting Ultimate Institute Australia.

- This sponsorship incentive is reviewed and subject to change each year.
- This sponsorship incentive is clearly based on performance outlined in Item 3 of Schedule 1

## 7. TERMINATING THIS AGREEMENT

7.1 Either party may terminate this Agreement at any time by giving the other party 30 days prior written notice.

7.2 If the Education Agent breaches any provision of this Agreement, Ultimate Institute Australia may terminate this Agreement at any time and with immediate effect by giving written notice to the Education Agent.

7.3 On termination of this Agreement, the Education Agent must:

- 7.3.1 Submit all applications and fees from prospective students received up to the termination date; and
- 7.3.2 Immediately cease using any advertising, promotional or other material supplied by Ultimate Institute Australia and return all material to Ultimate Institute Australia by registered mail or a reputable international courier.

The termination of this Agreement by either party does not affect any accrued rights or remedies of either party.

## 8. MONITORING OF AGREEMENT

Ultimate Institute Australia shall monitor the Education Agent activities to ensure the Education Agent is acting in its best interests, the student, and the Australian education system. This monitoring process is outlined as follows:

8.1 All Education Agents will be required to undertake an annual review. Where practical a face to face meeting will be organised to review the agent's activities but will normally only occur with onshore agents based in Melbourne. Where a face to face meeting is not appropriate Ultimate Institute will conduct an internal review of the agent's activities. The reviews will include:

- Overview of current practices and relationship with Ultimate Institute Australia
- Ensuring current marketing materials are being used
- Ensuring representation of Ultimate Institute Australia is appropriate
- Discussion of any issues or concerns with the agent or appropriate staff

The review will be undertaken by the Marketing Manager. Minutes of any meetings or notes of internal reviews will be taken and kept on the agents file.

8.2 Further monitoring of Education Agents activities and conduct with prospective students will be gained through Orientation Evaluation Form at the time of student orientation.

This process ensures that any issues relating to Education Agents providing misleading or dishonest information to prospective students is identified and can be addressed.

Any issues that are identified will be discussed in the Management Meetings and if required, discussed with the particular Education Agent. This meeting / discussion will be documented and kept on the Education Agents file.

## 9. ASSIGNMENT AND SUBCONTRACTING

9.1 The Education Agent must not assign this Agreement or any right under this Agreement without the prior written consent of Ultimate Institute Australia (which may be withheld at its discretion).

9.2 The Education Agent must not subcontract to any person the performance of any of its obligations under this Agreement without the prior written consent of Ultimate Institute Australia (which may be withheld at its discretion). Despite any subcontract, the Education Agent remains liable for performing its obligations under this Agreement.

9.3 The Education Agent must terminate any agreement with a sub-contractor if they become aware of, or reasonably suspect, dishonest practices, including the deliberate attempt to recruit a student where this clearly conflicts with the obligations of registered providers under National Code Standard 7 (Transfer between registered providers, whereby a receiving registered provider must not knowingly enroll the student wishing to transfer from another registered provider's course prior to the student completing six months of his or her principal course of study) or any of the other dishonest practices outlined above.



## 10. NOTICES

10.1 A notice under this Agreement must be in writing and sent by prepaid airmail, facsimile, or electronic mail to the party at the address set out in Item 4 of Schedule 1, or other address notified under this clause.

10.2 A party changing its address, facsimile number or electronic mail address must give notice of that change to the other party by the use of Ultimate Institute Australia update form, please refer to clause 4 of this agreement.

## 11. ENTIRE AGREEMENT

11.1 This Agreement and its schedules constitutes the complete and full agreement between the parties as to subject matter; and

11.2 In relation to that subject matter, replaces and supersedes any prior arrangement or agreement between the parties.

## 12. VARIATION

This Agreement may only be altered in writing, signed by both parties.

## 13. GOVERNING LAW

13.1 This Agreement is governed by and construed in accordance with the law in force in the State of Victoria, Australia.

13.2 The parties submit to the non-exclusive jurisdiction of the courts of the State of Victoria, Australia and the Federal Court of Australia.

# Education Agent Agreement



**SIGNED** for )  
[ )  
] )  
by an authorised officer

\_\_\_\_\_  
Signature of officer

\_\_\_\_\_

\_\_\_\_\_  
Name of officer (print)

\_\_\_\_\_

\_\_\_\_\_  
Office held

**SIGNED** for Ultimate Institute Australia by )  
an authorised officer )

\_\_\_\_\_  
Signature of officer

\_\_\_\_\_

\_\_\_\_\_  
Name of officer (print)

\_\_\_\_\_

\_\_\_\_\_  
Office held

## SCHEDULE 1 – International Agents

### Item 1: Term (e.g. 12 months)

from the day of the contract

### Item 2: Territory (e.g. China, Malaysia, Australia)

### Item 3: Education Agent's Fee

Subject to Clause 6 of this agreement, a commission of XX% (inc GST) is payable for each student recruited into any of the Training Courses provided by Ultimate Institute Australia.

### Item 4: Addresses for notices

#### Ultimate Institute Australia

Level 6, 271 William Street  
Melbourne VIC 3000 Australia  
ABN 79 132 349 681

#### Education Agent

Attention:  
Address:  
Phone:  
Facsimile:  
Email: