



## Elite Education Institute

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# AGENCY AGREEMENT

This Agreement is made

**BETWEEN** Elite Education Institute (ABN 65 162298580) ("the Institute")

**AND** The Organisation – please update ("the Agent")

## BACKGROUND:

- A. The Institute wants to attract full time students from outside Australia to study at the Institute.
- B. Australian law under the ESOS Act and the National Code requires providers of education and training Programs to overseas students to be registered and sets out other requirements with which the Institute and its Agents have to comply.
- C. The Institute is registered on the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) as part of the ESOS requirements.
- D. The Agent provides services of finding suitable Prospective Students from within the Territory for enrolment and study at the Institute.
- E. The Institute wants to engage the Agent as its representative in the Territory to find such students for study at the Institute.
- F. The Agent has been made aware of the requirements of the ESOS Act and the National Code by the Institute and has agreed to comply with those requirements.

## AGREEMENT

### 1. DEFINITIONS

#### 1.1 In this Agreement:

- "Commencement Date" means the date the last of the parties signs this Agreement which date appears on the front page of this Agreement;
- "Commission" means payment made by the Institute to the Agent for successful recruitment of students who enroll in Institute programs calculated in accordance with Item 3 of Schedule 1;
- "Course" means a unit of study in a Program;
- "Course Fee" means the tuition and other fees for Courses set by the Institute as published in the International Schedule of Programs and Fees;



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- "CRICOS" means the Commonwealth Registers of Institutions and Courses for Overseas Students;
- "ESOS Act" means the Education Services for Overseas Students Act 2000 including its regulations;
- "Full time study" means the amount of study for a particular Program which is approved by the accrediting body for the Program, or in cases where the accrediting body gives no such approval, means the 20 contact hours per week, as defined in paragraphs 13.1 and 13.2 of the National Code;
- "Marketing Material" is defined as any material, both print and electronic, that a Prospective Student may have access to prior to enrolment. This includes print and electronic advertising, print and electronic brochures, web pages and links, business cards, merchandising material, and signage;
- "Mark" means logos, trademarks, designs, and crests that belong to or carry the name of the Institute;
- "National Code" means that Code which forms part of the ESOS Act pertinent details of which are set out in Schedule 2;
- "PRISMS" means the Providers Registrations and International Students Management System (the electronic system that holds CRICOS and the electronic confirmation of enrolment);
- "Programs" means the full time registered programs offered by the Institute and registered on the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS);
- "Prospective Student" means a person (whether within or outside Australia) who intends to become, or who has taken any steps towards becoming a student or an 'overseas student' as defined by the ESOS Act;
- "Services" means the services described in clause 3 and clause 4;
- "Student" means a person (whether within or outside Australia) who holds a student visa and is an 'overseas student' as defined by the ESOS Act;
- "Territory" means the countries or regions specified in Item 3 of Schedule 1;
- "Institute" means Elite Education Institute;

1.2 In this Agreement, unless the contrary intention appears;

- (a). headings are for ease of reference only and do not affect the meaning of this Agreement;
- (b). the singular includes the plural and vice versa and words importing a gender includes other genders;
- (c). other grammatical forms of defined words or expressions have corresponding meanings;
- (d). 'including' and similar expressions are not words of limitation;
- (e). money is in Australian dollars unless otherwise stated and a reference to 'A\$', '\$A', 'dollar' 'AUD' or '\$' is a reference to Australian currency; and
- (f). Schedules 1, 2 and 3 to this Agreement form part of the Agreement, but if there is any conflict between a clause of this Agreement and the Schedules, the clause of this Agreement will prevail.

## 2. ENGAGEMENT OF THE AGENT

- 2.1 The Institute engages the Agent from the Commencement Date to be its representative to perform the Services in the Territory for that period of time set out in Item 5 of Schedule 1.
- 2.2 This is a non-exclusive agreement and the Institute may appoint other Agents in the Territory if it so chooses.



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### 3. MAIN RESPONSIBILITIES OF THE AGENT

3.1 Under this Agreement the Agent must:

- (a). promote the Programs in the Territory;
- (b). find suitable Prospective Students to undertake Programs;
- (c). in accordance with Institute procedures and requirements, recruit and assist in the recruitment of students;
- (d). assist people to become enrolled students and for that purpose provide all necessary information about Programs and assistance in completing forms or applications and submitting these to the Institute;
- (e). perform other services and provide reports or information requested by the Institute or required by this Agreement.

### 4. DETAILED OBLIGATIONS OF THE AGENT

4.1 In performing the Services, the Agent must:

- (a). promote the Programs with integrity and accuracy and recruit students in an honest, ethical and responsible manner;
- (b). inform Prospective Students accurately about the requirements of Programs. This must be done by reference to the material provided by the Institute;
- (c). assist to uphold the high reputation of the Institute and of the Australian international education sector;
- (d). inform Prospective Students that they are required to pay Course Fees directly to the Institute;
- (e). advise each Prospective Student that an international home address must be provided to the Institute;
- (f). check each Prospective Student application is complete in line with guidelines provided and make sure that all necessary evidence and documents accompany a Prospective Student's application or acceptance of offer;
- (g). provide any documents including offer documents received from the Institute to the Prospective Student within two (2) days of receiving the documents;
- (h). advise the Institute immediately if they detect any fraudulent documentation submitted with any Prospective Student application;
- (i). provide the Institute with market intelligence about the recruitment of students in the Territory;
- (j). only undertake promotional and marketing activities that are connected to or make reference to the Institute that are expressly authorised by the Institute;
- (k). at all times comply with the requirements of the National Code as set out in Schedule 2; obtain the Institute's written permission before engaging in any specific marketing activity such as exhibitions and interview programs.



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- 4.2 The Agent must give to Prospective Students, before they complete an application, information provided to the Agent by the Institute about:
- the Institute and its facilities, equipment and learning resources;
  - the Programs and in particular to each Prospective Student, details of the Program that Prospective Student is applying for;
  - the Course Fee and refund conditions;
  - living in Australia and the local environment of the relevant campus, information about campus locations and costs of living including information on the likely amount of funds required to meet the cost of living;
  - the minimum level of English language ability, educational qualifications and work experience required for acceptance into a Program;
- 4.3 The Agent must tell Prospective Students that:
- students who come to Australia on a student visa must have a primary purpose of studying and must study on a Full time study basis;
  - any school age dependents who accompany them to Australia are required to pay full fees if they enroll in either government or non-government schools.
- 4.4 The Agent must not:
- engage in any dishonest practices, including suggesting to Prospective Students that they can come to Australia on a student visa with a primary purpose other than Full time study;
  - facilitate applications for students who do not comply with visa requirements or who the Agent reasonably believes will not comply with visa requirements;
  - make any representations or offer any guarantees to students about whether they will be granted a student visa;
  - engage in false or misleading advertising or recruitment practices;
  - make any false or misleading comparisons with any other education provider or their programs;
  - make any inaccurate claims of association of the Institute with any other education provider;
  - give inaccurate information to a Prospective Student about acceptance into the Program for which they applied or into any other Program;
  - undertake any advertising or promotional activity about the Programs or the Institute without the prior written consent of the Institute. Advertising or promotional activities will be at the Agent's expense unless otherwise agreed in writing by the Institute in advance;
  - receive or bank any fees and charges payable to the Institute by a Prospective Student or deduct any amount from such fees and charges;
  - give inaccurate information to a Prospective Student about the fees and charges payable to the Institute; and
  - charge any fee to a Prospective Student for their application or acceptance of an offer.
- 4.5 The Agent is not permitted to:



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- (a). commit the Institute to accept any Prospective Student into a Program and must not make representations to the contrary and the Agent acknowledges that the Institute has the sole discretion in the admitting of Prospective Students into its Programs;
- (b). use or access PRISMS, the Australian Government electronic enrolment system without the approval of the Institute;
- (c). use any registered or unregistered Mark or trademark of the Institute without the prior written consent of the Institute.

## 5. WHAT THE INSTITUTE MUST DO

5.1 The Institute must:

- (a) provide Marketing Material (updated regularly) which explains application procedures, admission requirements, program details and other non-academic information about the Institute;
- (b) give the Agent sufficient information to enable the Agent to conduct the Services;
- (c) duly process all completed applications received provided that it is under no obligation to accept any Prospective Students referred by the Agent;
- (d) respond quickly to all applications submitted to the Institute;

## 6. CONFIDENTIALITY

6.1 The Agent must keep confidential:

- (a) all information provided by the Institute, other than to the extent disclosure is required to perform the Services in accordance with this Agreement; and
- (b) the terms of this Agreement.

## 7. AGENT'S COMMISSION

7.1 Subject to the other provisions of this clause 7, the Institute must pay the Agent the Commission for each Student who:

- (a) is recruited by the Agent; and
- (b) is enrolled in a Course/Program; and
- (c) has paid the respective Course Fee to the Institute.

7.2 An Agent will not be regarded as having recruited a Student under this Agreement unless:

- (a) the Agent submits the Student's full application for enrolment and that application also bears the Agent's name. Where a Student's application has previously been submitted through another Agent the new application will only be accepted when accompanied by a signed letter from the Student indicating a change of agent.



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- (b) the Agent submits an acceptance by the Student of any letter of offer from the Institute of a place in a Program.
- 7.3 No Commission will be payable by the Institute to the Agent where the Student is recruited through the Institute's own programs.
- 7.4 If a Student elects to change Programs before eight Courses are completed, then Commission will continue to be payable up to a combined maximum of eight (8) Courses for all Programs undertaken by the Student. Commission will not however continue to be payable to the agent where the change of program is academic progression by a student to a higher level program e.g. completion of diploma program and enrolment in a bachelor program.
- 7.5 No Commission is payable by the Institute in relation to a recruited Student unless the Agent has submitted an invoice in relation to the Student:
- (a) containing the Student Number, family name and given names of the Student;
  - (b) presented on the Agent's letterhead, which shows current address, telephone, fax and email details of the Agent;
  - (c) with an invoice number or reference;
  - (d) containing such other information as the Institute may require; and submitted prior to the last day to drop courses without academic or financial penalty for each semester. After this date the invoice will be reviewed and the Agent notified if any variation to the invoice is required. The Agent must forward the amended invoice no later than 4 weeks after the last day to drop courses without academic or financial penalty for that semester.
- 7.6 The Institute must pay the Commission payable under this clause 7 to the address set out in Item 1 of Schedule 1.
- 7.7 The Institute reserves the right to obtain additional information and evidence in relation to the entitlement to the Commission payment. The Institute's decision on the entitlement to Commission will be final.
- 8. TERMINATING THIS AGREEMENT**
- 8.1 Either party can terminate this Agreement at any time by giving the other party six (6) months prior written notice.
- 8.2 The Institute can terminate the Agreement at any time and with immediate effect by giving notice to the Agent if the Agent breaches any provision of this Agreement. In particular, but without limiting this provision, the Institute can terminate this Agreement under this clause 8.2 if the Institute becomes aware of or reasonably believes that the Agent has breached any provision of the National Code requirements set out in Schedule 2.
- 8.3 The Institute can terminate this Agreement by giving the Agent 60 days written notice if the Agent fails to refer any students to the Institute during any calendar year.



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- 8.4 When this Agreement terminates, the Agent must:
- (a) submit all applications from Prospective Students received up to the date of termination; and
  - (b) immediately cease to use any advertising, promotional or other Marketing Material supplied by the Institute and return all such material to the Institute by registered mail or a reputable international courier.

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

## 9. ASSIGNMENT AND SUBCONTRACTING

- 9.1 The Agent must not assign this Agreement or any right under this Agreement without the prior written consent of the Institute (which may be withheld at its discretion).
- 9.2 The Agent must not subcontract to any person the performance of any of its obligations under this Agreement without the prior written consent of the Institute (which may be withheld at its discretion).
- 9.3 Notwithstanding any subcontract, the Agent remains fully responsible for performing its obligations under this Agreement.

## 10. NOTICES

- 10.1 A notice under this Agreement must be in writing and sent by prepaid air mail, facsimile, or electronic mail to the party at the address specified at Item 1 of Schedule 1, or such revised address notified in accordance with clause 10.2.
- 10.2 A party which changes its address, facsimile number or electronic mail address must give notice of that change to the other party.
- 10.3 The Institute must be immediately notified of any change to any business trading name of the Agent.

## 11. THIS DOCUMENT IS THE ENTIRE AGREEMENT

- 11.1 This Agreement, its schedules and annexures:
- (a) constitute the complete and full agreement between the parties as to its subject matter; and
  - (b) replaces and supersedes any prior arrangement or agreement between the parties and for the avoidance of doubt commission rates applicable under any prior agreement shall no longer be applied.

## 12. VARIATION



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12.1 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 this law in force in the State of New South Wales, Australia.

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

SIGNED on behalf of the  
Elite Education Institute

by \_\_\_\_\_

\_\_\_\_\_

this \_\_\_\_\_ day of \_\_\_\_\_

in the presence of \_\_\_\_\_

\_\_\_\_\_  
(Signature of Witness)

SIGNED on behalf of the Organisation

by \_\_\_\_\_

\_\_\_\_\_

this \_\_\_\_\_ day of \_\_\_\_\_

in the presence of \_\_\_\_\_

\_\_\_\_\_  
(Signature of Witness)





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## SCHEDULE 1

### Item 1: Agent name and Address

Name:

Contact:

Address:

### Item 2: Commission Payment

Commission will be calculated on the following basis:

- 2.1 The Institute will pay the following Commission to the Agent for Students recruited into the Institute's Programs:
- Diploma Program: %
  - Bachelor Programs: %
- 2.2 In order to be eligible for the Commission:
- The Student's application must have the Agent's "stamp" placed on it prior to submission to the Institute for assessment.
  - The Agent must supply a tax compliant invoice to the Institute in accordance with any applicable requirements of Australian law.
- 2.3 The following will apply where more than one recruitment Agent seeks Commission for an individual Student enrolment;
- If more than one recruitment Agent submits an official invoice to the Institute in respect to any one Student enrolling in an individual Program, the Institute will only be required to pay one Agent the Commission.
  - If the Student's Program on the application form both Agents is the same, the Agent entitled to the Commission will be the Agent about whom the Institute receives confirmation from the Student which Agent they wish to represent them.
  - If the Student's Program on the applications is different for each Agent, the Agent entitled to the Commission will be the Agent who recruited the successfully enrolled student. The completed application must have the Agent's stamp.



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## SCHEDULE 2

Standard 4.3 of the National Code

The Representative must not:

- (a) engage in, or to have previously engaged in, dishonest practices, including the deliberate attempt to recruit a student where this clearly conflicts with the obligations of registered providers under Standard 7 (Transfer between registered providers).
- (b) facilitate the enrolment of a student who the education agent believes will not comply with the conditions of his or her student visa.
- (b) use Provider Registration and International Students Management System (PRISMS) to create Confirmations of Enrolment for other than bona fide a student; or
- (c) provide immigration advice where not authorised under the Migration Act 1958 to do so.