

AGENT AGREEMENT

1. INTRODUCTION

Under the Education Services for Overseas Students Act 2000 (the ESOS Act), providers of education to overseas students are required to meet certain standards as are any education agents (“Agent” or “Agents”) with whom the provider has entered into an agency agreement. This Agreement is intended to ensure the Agent is aware of these requirements and complies with them and with the College’s reasonable instructions pertaining to them.

2. PURPOSE

The purpose of this agreement template is to state the responsibilities of the College and the Agent (including sub-contractors) and provide the means to formalise the relationship between Sydney Metropolitan Institute of Technology Pty Ltd (SMIT or Sydney Met, or "the College") and the agents marketing the College’s courses. The address of the college is 2–4 Marmaduke Street, Burwood, NSW 2134, Australia, Telephone +61 2 97441356; email – info@sydneymet.edu.au, ABN 606 079 43500.

3. SCOPE

- 3.1 This agreement shall apply to all agents representing the College, and upon signing, both the College and the Agents shall become parties to this Agreement. This agreement represents the entire agreement and supersedes any prior communications between the Agent and the College.
- 3.2 The countries/regions covered by this agreement (“Territory”) are those stated in contracts.
- 3.3 The College does not recruit students under 18 years of age.

4. AGENT ENGAGEMENT

- 4.1 The College engages the Agent to recruit suitable prospective students in the countries specified as the Territory for the term of the agreement (the “Services”).
- 4.2 This is a non-exclusive agreement. The College may appoint other agents in the Territory or outside of the Territory without notifying the Agent.

- 4.3 This Agreement is valid for the Territory. If the Agent wishes to expand its representation of this College to other countries, they must obtain the written agreement to do so.
- 4.4 The term of this agreement is two (2) years from the date of the agreement unless terminated sooner. This agreement may be renewed subject to satisfactory performance review.

5. AGENT RESPONSIBILITIES

Under this Agreement the Agent must:

- 5.1 Have appropriate knowledge and understanding of the international education system in Australia, including the Australian International Education and Training Agent Code of Ethics, the ESOS Act, and the National Standards 2018.
- 5.2 Use integrity, ethics and accuracy in the dissemination of information regarding the College, its courses and the costs, limitations, requirements and conditions of study, and accurately promote the courses offered by the College as specified in the appendix at the end of this Agreement or as advised to the Agent in writing if the course offerings change.
- 5.3 Not misrepresent the College, its courses, offering or any of its details at any time and in any fashion, directly or indirectly.
- 5.4 Work with the College to ensure that prospective students are fully aware of their obligations, the details of the course they wish to apply for and the study commitments expected of them.
- 5.5 Not make any promises or representations regarding work, migration, career or other potential outcomes whether directly or indirectly, to prospective students or students and ensure that communications make it clear that the purpose of applying to the College is to study.
- 5.6 Not encourage or propose directly or indirectly that a student studying at another College transfer to this College.
- 5.7 Provide prospective students with any necessary information required under the ESOS Act including information about the courses, facilities and services of the College and/or its partners as shown in the College handbook and prospectus
- 5.8 Highlight the roles, duties, responsibilities and rights of the student and the College.
- 5.9 Ensure, to the extent reasonably possible, that prospective students are genuine and wish to apply to the College for the sole purpose of studying its courses.
- 5.10 Acknowledge that the Agent remains liable for the implementation of this Agreement and that its outsourcing is not permitted.
- 5.11 Use only materials provided by the College or approved by the College in writing.
- 5.12 Submit correct, accurate documentation to the College pertaining to the student and their application.
- 5.13 Ensure that College fees and charges pertaining to the application, where applicable, accompany the student's application.
- 5.14 Provide the student with College-issued documents within forty eight (48) hours of receiving these documents from the College.
- 5.15 Not market or promote the College or its courses in any way that contravenes this agreement or constitutes inaccurate or misleading marketing.
- 5.17 Observe appropriate levels of confidentiality in their dealings with overseas students or intending overseas students.

- 5.18 Keep all information provided by Sydney Metropolitan Institute of Technology confidential other than that which is needed to perform the Services in accordance with this agreement.
- 5.19 Keep the terms of this Agreement confidential.
- 5.20 Not engage in dishonest or unethical conduct, pursuant to the ESOS Act, including:
- a. Recruiting or attempting to recruit a student currently studying with another Australian education provider
 - b. Suggesting that a student come to Australia on a student visa for any reason other than for full time study
 - c. Facilitate the enrolment of students who the Agent believes will not comply with the conditions of their student visa
 - d. Use PRISMS to create a Confirmation of Enrollment for other than bona fide students, where applicable, or
 - e. Provide prospective students with immigration advice unless the agent is a separately registered migration agent (Migration Act 1958).
- 5.19 Abide by the College policies and procedures and the College's reasonable directions.
- 5.20 Not undertake any of the following:
- a. Engage in false or misleading advertising or recruitment practices including misleading comparisons with any other education provider or their courses or inaccurate claims regarding any association between the College and any other education provider unless provided in writing by the College.
 - b. Assign part or all of this agreement to another party, outsource portions of or all of the Agents duties under this Agreement or otherwise allow a third party to become involved in the implementation of this agreement, unless agreed to, in writing, by the College.
 - c. Use or access PRISMS or any other IT system or College system without the prior written consent of the College.
 - d. Attempt to recruit a prospective student who has already been contacted, for purposes of marketing the College courses, by another agent of the College.
 - e. Attempt to convince a prospective student who has applied to another College to enroll with this College, whether the attempt is direct or implied.
 - f. Encourage a prospective student (who the agent knows has been refused admission by another College due to the low educational capacity of the student or a potential inability to comply with visa conditions) to join this College, whether through direct or implied means.
 - g. Encourage or allow any person other than the student to complete or sign documents on behalf of the student.
 - h. Facilitate applications by students who do not meet the visa criteria or make any guarantees about the likelihood of obtaining a student visa.
 - i. Give false or misleading information relating to course fees payable
 - J. Give false or misleading information relating to the admission criteria or ongoing study requirements of a course
 - k. Receive fees that are due to the College
 - l. Deduct fees or commissions from fees due to the College
 - m. Provide a guarantee (direct or implied) to a student that they will be accepted into a course or a Unit offered by the College.

- n. Assume that the College will be bound to accept a student. The College reserves the right to not accept any application pursuant to its internal policies and procedures and within the legal framework.

6 SYDNEYMET'S RESPONSIBILITIES AS PROVIDER

- 6.1 The College will regularly monitor the agent's compliance with the ESOS Act and the National Code 2018.
- 6.2 The College will monitor the conduct of its agents and, where an agent has not complied with their responsibilities under this agreement, to take immediate corrective action. These activities may include but are not limited to:
 - Requiring the agent to undertake training or development activities organised by the College, at the Agent's expense.
 - Requiring the agent to take an exam or test conducted by the College or a nominated training provider, either online or otherwise.
 - Any other actions that are deemed suitable by the College management to enforce compliance to the ESOS Act 2020 and the National Code 2018.
- 6.3 In the event that an agent engages in false or misleading recruitment practices, the College will terminate its relationship with the agent immediately.

7 AGENT AND SUB-CONTRACTORS

The Agent must ensure that all staff of the Agent and any sub-contractors of the Agent are aware of the requirements of the ESOS Act.

8 MARKETING COSTS BORNE BY THE AGENT AND COLLEGE COMMITMENTS

The Agent marketing costs are borne by the Agent directly and the College shall not compensate the agent for any such costs unless this has been provided in writing by the College. The College will:

- 8.1 Provide the Agent with relevant materials to allow them to market and promote the College's courses.
- 8.2 Respond to Agent queries within seventy-two (72) hours of receiving those queries except in the case of weekends or public holidays (the 72 hours is during a working week).
- 8.3 Pay the Agent any fees they are owed pursuant to this Agreement within thirty (30) days of the Agents correct invoice being issued by the College as long as:
 - a. The student for which the commission is paid was recruited by the Agent
 - b. The student has been admitted into the College course
 - c. The student has commenced the course
 - d. The student has paid their fees in full
 - e. The student has made satisfactory progress in the course for a period of three (3) weeks prior to the Agent's invoice being raised
 - f. The student is genuine (bona fide)

- 8.4 The College has the right to conduct:
- a. A regular review of the Agent's performance, to be undertaken at least every six (6) months at the discretion of the College including a record of inquiries and outcomes. The Annual Agent Performance Development Review (AAPDR) is also a requirement of this Agreement.
 - b. Spot checks to be undertaken by the College
 - c. An annual survey of students pertaining to the services of the Agent

9 FALSE OR MISLEADING INFORMATION BY THE AGENT

If at any point during the term of this Agreement, the College believes or reasonably suspects that the Agent is engaged in false or misleading or unethical conduct or advertising or recruitment practices, the College will terminate this Agreement immediately as stated above.

10 AGREEMENT TERMINATION

Either party may terminate this Agreement at any time by giving the other party thirty (30) days written notice.

The College may terminate this agreement at any time if it suspects the Agent is not performing to the spirit of this Agreement by way of omission or conduct.

On termination of this agreement, the Agent must:

- Submit all applications and fees from prospective students received up to the termination date; and
- Immediately cease using any advertising, promotional or other material provided by the College, including any digital marketing, within thirty (30) days of the termination letter being provided to the Agent by the College.

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

11 DISPUTE RESOLUTION

In the event of any grievance or disputed decision the Agent is able to access the College Grievances and Complaints Policy and Procedure. In all cases, the Agent shall be afforded natural justice. In the event that the Agent is dissatisfied with the outcome of the College Grievances and Complaints Policy and Procedure, the Agent may request the matter to be referred to mediation. The College and the Agent shall agree, within sixty (60) days of the agent's request, to appoint a mediator, mutually agreed by the parties, at a cost borne equally by each party. In the event that the mediator is unable to resolve the dispute, the matter shall be referred to an arbitrator at the equal cost of the parties. The arbitrator's decision is deemed as the final decision that both parties must abide by.

12 DISCLOSURE OF AGENT INFORMATION

Sydney Metropolitan Institute of Technology Pty Ltd may disclose information about the education Agent to Commonwealth or state or territory agencies as required in accordance with the National Code 2018 and other relevant legislation.

13 CONFLICTS OF INTEREST

Agents must declare actual or potential conflicts of interest and take reasonable steps to resolve or avoid them, both now and during the whole term of the agreement (see attached Agent's Conflict of Interest Declaration form).

14 RENEWAL of AGREEMENT

This agreement may be renewed at the end of the Agreement Period (2 years), at the sole discretion of the College, subject to a satisfactory performance review at that time.

15 AGENT ACCEPTANCE

I hereby accept this Agreement and its terms. I have also signed the Conflict of Interest Declaration attached.

Agent Company Name	
Agent Company Registration Number	
Agent Company Address	
Phone Number	
Email	
Agent's Contact Name	
Agent's Authorised Signature	
Date of Signing this Agreement	
Agreement Details (Commission %, Other)	

16 SYDNEY MET ACCEPTANCE

I hereby accept this Agreement and its terms. Declaration attached.

College's Authorised Staff Name	
College's Authorised Signature	
Date of Signing this Agreement	

CONFLICT OF INTEREST DECLARATION FORM BY AGENT

Agent's company name	
Agent Representative's name	
Position	
Address:	

Describe the private interests that have the potential to impact on your ability to carry out, or be seen to carry out, your duties impartially and in the interest of Sydney Metropolitan Institute of Technology Pty Ltd and its students. (Describe your private interests and/or associations)

Describe the expected roles/duties you are required to perform.
(Describe the duties you are required to perform)

The conflict of interest has been identified as: (Please select one of the following)

- ☐ Non-pecuniary interest
- ☐ A real conflict of interest
- ☐ An apparent conflict of interest
- ☐ A potential conflict of interest
- ☐ Pecuniary interest

Agent Declaration

I declare that the above details of my private interests are correct to the best of my knowledge and am aware of my responsibilities to take reasonable steps to avoid any real or apparent conflict of interest in connection with my duties and to advise Sydney Metropolitan Institute of Technology Pty Ltd of any relevant changes in my personal circumstances.

Name:

Signature:

Date: