



# **CERTIFICATE OF REPRESENTATION**

GLOBAL HIGHER EDUCATION (GHE)

*has appointed*

<<Agent Legal Name>>

to work as an authorised Educational Agent/Representative to promote and recruit students for GHE in the <<Region(s) of operations>> into the <<Course A and CRICOS Course Code>> and <<Course B and CRICOS Course code>> for the period from <<Start Date>> to <<End Date>>

*Signed for and on behalf of*

*Global Higher Education*

**Name: <<insert signature>>**

**Position: Chief Executive Officer**

**Date:<<insert date>>**



# Agent/Representative Agreement

Dated: <<insert date>>

BETWEEN

**GLOBAL HIGHER EDUCATION (GHE)**

Provider Number PRV14041 and CRICOS Code XXPendingXX.

Of

Level 2, 127 Rundle Mall, Adelaide-5000 South Australia, Australia.

AND

<<insert company name>>

Of

<<insert company address>>



**GLOBAL**  
HIGHER EDUCATION

## Recitals

- A. Global Higher Education (GHE) wishes to attract overseas students to undertake studies.
- B. Australian law requires providers of education and training courses to overseas students to be registered and sets out other requirements with which GHE and its Agent/Representatives have to comply.
- C. GHE is registered on the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) as required by Australian law in respect of education providers delivering Programs to international Students.
- D. GHE co-operates with the Department of Home Affairs (including immigration and border functions) in their quest to eliminate all visa noncompliance by its students by demanding relevant evidence and declarations from all applicants and this responsibility extends to the Agent/Representative who is required to obtain this information as part of this Agreement.
- E. GHE is committed to ensuring that it complies with its obligations under domestic and international sanctions regimes, and will not knowingly provide education services to students in contravention of these regimes.

## The parties agree

### 1. Agent/Representative Obligations

The Agent/Representatives are engaged to perform the Services in the Territory from the Commencement Date on the terms of this Agreement. GHE is not bound to use the Agent/Representatives exclusively and may engage other Agent/Representatives to provide part or all of the Services in the Territory during the Term. The Agent/Representatives must do the following:

- 1.1. Promote the courses with integrity and accuracy and recruit applicants in an honest, ethical and responsible manner and in accordance with the Code of Ethics.
- 1.2. Inform applicants accurately about the requirements of the courses and provide only up-to-date and accurate course information and marketing materials provided by GHE.
- 1.3. Assist to uphold the high reputation of GHE and of the Australian international education sector.
- 1.4. Screen applicants based on Department of Home Affairs requirements to establish if an applicant meets the criteria as a Genuine Student and Genuine Temporary Entrant. This is to include the following:
  - a) A written explanation by the Applicant of their personal circumstances in their home country including:
    - i) Family situation (size, business interests, economic circumstances, community involvement etc.);
    - ii) Personal ties to family and community;
    - iii) Military service commitments; and
  - b) A declaration from the Applicant outlining the following:
    - i) Potential circumstances in Australia including strong community or family links;
    - ii) Immigration history including previous visa applications, and compliance or non-compliance with immigration laws of Australia or other countries;
    - iii) Intended career path including why they would like to do the course with GHE, how it is relevant to their future and how and when they intend to use the qualifications;
    - iv) That they have access to sufficient funds for the full period of the course to cover course Fees, living costs, travel costs (including to and from the home country annually) and health insurance. Evidence of bank statements and a statutory declaration of a guarantor (e.g. parent) may be required.

- v) Documentary proof of English Language Proficiency. Currently accepted documents are detailed on the GHE website [www.globalhe.edu.au/admissions/xxx](http://www.globalhe.edu.au/admissions/xxx);
  - c) Academic records, qualifications and/or evidence of prior study and training;
  - d) Evidence of sound health (i.e. a medical check-up certificate from a qualified medical practitioner) as required;
  - e) Evidence of good character (i.e. reference and police check or equivalent) as required;
  - f) Any other documentation as requested by GHE from time to time.
- 1.5 The Agent/Representative/Representatives must discontinue any application where the evidence and declarations pursuant to clause 1.4 above demonstrate a strong likelihood that the Applicant will breach their visa conditions.
- 1.6 Handle payment for course fees only as specifically directed by GHE in clause 6 below.
- 1.7 Implement proper records and other systems of control of activities as an approved overseas Agent/Representative/Representative, and monitor and improve those systems to ensure that they meet the standards required by GHE.
- 1.8 At its own cost, obtain and maintain all registrations, permits and approvals required by law to be obtained from any governmental agency in the recruitment territories under this Agreement.
- 1.9 The Agent/Representative/Representatives must screen applicants for GHE courses based on the sanction checklist contained in Schedule 2 and the restrictions contained in sanctions regimes which Australia has instituted or ratified.
- 1.10 Comply at all times with the law and relevant GHE policies, codes and guidelines as outlined in clause 4 of this Agreement or as advised by GHE from time to time.

**Commented [JVDL1]:** Perhaps Ashok can add in a suitable web address? The document requirements are specified in the Admissions Procedure – Schedule One: Minimum Entry Requirements as per the version published on our website.

## 2. Agent/Representative Limitations

- 2.1 The Agent/Representatives must not engage in any dishonest or misleading practices, including:
- a) Suggesting to Applicants that they can come to Australia on a student visa with a primary purpose other than full-time study;
  - b) Knowingly submit an applicant wishing to transfer to another registered provider's course,
  - c) Accepting an inducement such as a gift or financial incentive for, or make promises about, attending GHE;
  - d) Facilitate applications for and /or enroll any applicant who;
    - i) will, or intends not comply with visa requirements; or
    - ii) who the Agent/Representative believes will not comply with the conditions of their visa;
    - iii) who may not be a genuine student or Genuine Temporary Entrant; or
    - iv) intends to attend multiple courses without completing any one course.
  - e) make any representations or offer any guarantees to applicants about whether they will be granted a student visa;
  - f) provide any immigration advice to applicants unless the Agent/Representative is authorised to do so under the *Migration Act 1958*;
  - g) engage in false or misleading advertising or recruitment practices; including giving false or misleading advice or information in relation to:
    - i) post study migration advice;
    - ii) the employment outcomes associated with a Course; or
    - iii) automatic acceptance into another course; or
    - iv) drawing comparisons between GHE and any other education provider or their courses; or
    - v) any other claims relating to courses or outcomes associated with a course.

- h) make any inaccurate claims of association with any higher education provider;
- i) publish information that is misleading, inaccurate or damaging about GHE or another Australian higher education institution;
- j) give inaccurate information to an applicant about acceptance into a course for which they submitted an application or into any other course;
- k) undertake any advertising or promotional activity about courses or GHE or use any brand materials of GHE's without prior written consent;
- l) direct the applicant to pay fees or charges other than as provided for in clause 6 of this Agreement;
- m) give inaccurate information to an applicant about the fees and charges payable to GHE;
- n) charge any Applicant any fees which are not disclosed in writing to GHE for advice or assistance for enrolling in any course;
- o) breach, or engage in any conduct which may result (directly or indirectly) in GHE breaching any Australian sanction law which implements United Nations Security Council sanctions regimes or Australian autonomous sanctions regimes;
- p) commit GHE to accepting any applicant into a course and must not make representations to the contrary;
- q) use or access GHE systems (including PRISMS) without the prior consent of GHE or for any purpose other than to perform its obligations under this Agreement; or
- r) include any United States nationals as suitable applicants under this Agreement.

2.2 Where an applicant's visa application has been rejected, the Agent/Representative must not use the previously issued GHE Confirmation of Enrolment to re-apply for the applicant's visa without GHE's prior written consent.

### 3. Performance Reviews

3.1 GHE will monitor the performance of the Agent/Representatives (and any approved subagent) of the Agent/Representative's obligations under this Agreement. This monitoring will take place annually and at such other times as GHE determines.

3.2 Cooperation of the Agent/Representatives:

- a) The Agent/Representative must cooperate and assist GHE with monitoring under clause 3.1 including by providing documentation used for marketing, sales and recruitment.
- b) If requested by GHE the Agent/Representative must, within 28 days, provide:
  - i) a report detailing the student recruitment activities it has undertaken on behalf of GHE since its last report or since another date specified by the GHE; and
  - ii) a signed declaration from the Agent/Representative stating whether the activities referred to in paragraph (i) comply with this Agreement.
- c) The Agent/Representative must respond promptly to negative feedback and if requested by GHE the Agent/Representative must take immediate corrective action.

3.3 GHE may determine the methods by which it monitors the Agent/Representatives which may include:

- a) reviewing reports provided by the Agent/Representative;
- b) conducting surveys or interviews of applicants;
- c) conducting interviews with the Agent/Representative, its employees and any approved subagent/Representative;
- d) inspecting the Agent/Representative's documents, records and systems; and
- e) attending the Agent/Representative's offices or education fairs and conferences.

3.4 In monitoring the Agent/Representatives GHE may determine the information and Agent/Representative activities it reviews which may include:

- a) recruitment practices and volume;
- b) application to offer conversion rates;
- c) acceptance to enrolment conversion rates;
- d) number of applicants withdrawing from courses;
- e) student completion rates;
- f) meeting of any agreed recruitment targets;
- g) visa success rates;
- h) quality of applicant documentation;
- i) Applicant compliance with visa conditions; and
- j) CoE cancellations.

#### **4. Compliance with law, codes and guidelines**

##### ***Education Standards for Overseas Students Framework***

- 4.1 The Agent/Representatives acknowledge that GHE is subject to the requirements of the ESOS Framework, including the National Code.
- 4.2 The Agent/Representatives must familiarise itself with the relevant requirements of the ESOS Framework at all times and:
  - a) comply with the requirements of the ESOS Framework that are applicable to the activities undertaken by the Agent/Representative under this Agreement, including those more particularly described in clauses 4.3
  - b) do all things necessary to ensure that it does not cause GHE to be in breach of the ESOS Framework;
  - c) comply with all requests or directions given by GHE in relation to compliance with the ESOS Framework;
  - d) immediately notify GHE of any actual or potential breach by the Agent/Representative, which may place GHE in breach of the ESOS Framework; and
- 4.3 immediately notify GHE if it receives any notice issued under the ESOS Act, including a production notice served under section 113 of the ESOS Act or an attendance notice given under section 116 of the ESOS Act.

##### ***National Code***

- a) The Agent/Representatives acknowledge that GHE is subject to the National Code, including Part D, Standard 4 – Education Agent/Representatives, which requires GHE to take all reasonable measures to use education Agent/Representatives that have an appropriate knowledge and understanding of the Australian international education industry and not use education Agent/Representatives who are dishonest or lack integrity. The Agent/Representatives will do all things reasonably necessary to assist GHE in complying with the National Code.

##### ***Australian International Education and Training Agent/Representative Code of Ethics***

- 4.4 The Agent/Representatives acknowledge that it is subject to the Code of Ethics under the National Code, which includes the obligation to undertake its business in accordance with the following principles:
  - a) the practice of responsible business ethics;
  - b) the provision of current, accurate and honest information in an ethical manner;
  - c) the development of transparent business relationships with students and providers through the use of written agreements;



- d) protection of the interests of minors;
- e) the provision of current and up-to-date information that enables international students to make informed choices when selecting which Agent/Representative or consultant to employ; acting professionally at all times; and
- f) working cooperatively with destination countries and providers to raise ethical standards and best practice.

4.5 The Agent/Representatives must familiarise themselves with the requirements of the Code of Ethics and comply with the Code of Ethics at all times.

### **Privacy**

4.6 In respect of any Personal Information, the Agent/Representatives must:

- a) comply with all Privacy Laws and only handle Personal Information for the purposes of and to the extent necessary to perform its obligations under this Agreement;
- b) adequately notify the individual or gain consent prior to the disclosure of Personal Information. The notification or consent must note that the Personal Information is to be used for "the purposes of and to the extent necessary to perform its obligations under this Agreement only";
- c) ensure its employees, subcontractors, sub-Agent/Representatives and others who handle Personal Information are aware of and comply with the Agent/Representative's obligations under this clause 4.6;
- d) implement and maintain effective systems, controls and other measures to ensure its security and compliance with Privacy Laws, including handling of complaints;
- e) comply with any reasonable direction of GHE with respect to the handling of any Personal Information, including security, deletion or de-identification; and
- f) notify GHE immediately if it becomes aware of any actual or potential breach of any Privacy Laws, including any complaint by a third person and provide details of remedial steps taken to deal with the breach or complaint.

4.7 The Agent/Representative's obligations under clause 4.6 also apply to any subcontractors engaged by the Agent/Representative under clause 5

4.8 The Agent/Representatives will be liable for any breach of Privacy Laws caused by their handling of Personal Information in contravention of clauses 4.6 or 4.7.

### **Exchange of information with Department of HomeAffairs**

4.9 The Agent/Representatives irrevocably consent to its Personal Information being:

- a) recorded in PRISMS, including the Agent/Representative's name, business email address, phone number and business address;
- b) accessed by the Australian Government and other government agencies that access PRISMS;
- c) used to administer or monitor compliance with relevant laws e.g. ESOS and Migration Acts; and
- d) disclosed by the Australian Government to other Commonwealth entities (including ASQA and TEQSA); and
- e) the Agent/Representatives agree to any of its Personal Information currently held in PRISMS, and any other Personal Information GHE may collect from the Agent/Representative in future, being disclosed as described in this clause 4.9 and 4.10.

4.10 The Agent/Representatives irrevocably authorises GHE and the **Department of Home Affairs** to exchange any information, documents, reports or data relating to the Agent/Representatives or its activities, including:

- a) the number of student visa applications made by the Agent/Representative over a specific period of time;
- b) of that total number, the numbers of successful and unsuccessful student visa applications;
- c) in relation to unsuccessful student visa applications, reasons for refusal of those applications; and
- d) any other information as required by **Department of Home Affairs** from time to time.

#### **Simplified Student Visa Framework (SSVF)**

4.11 The Agent/Representatives acknowledge that GHE:

- a) is an eligible education provider for the purpose of the SSVF;
- b) has received approval from **Department of Home Affairs** to participate in the SSVF; and
- c) as part of the SSVF is required to meet ongoing assessment criteria in accordance with **Department of Home Affairs** requirements.

4.12 The Agent/Representatives must do all things reasonably requested by GHE to ensure compliance with the obligations outlined in clause 4.10.

#### **Government Directives**

4.13 The Agent/Representatives must comply with any relevant directive, guideline or policy issued by the Australian Government or any other government entity at any time ("Government Directive").

4.14 The Agent/Representatives must also comply with any request or direction given by GHE in relation to a Government Directive.

### **5 Subcontractors and Subagent/Representatives**

- 5.1 The Agent/Representatives must not assign, subcontract, or agree to any other person or organisation undertaking any of its obligations under this Agreement, unless the Agent/Representatives have first obtained the prior written approval of GHE (which may be withheld at its discretion). GHE consents to corporate entities that are in a corporate group with the same parent company working together to perform the Services. The parent company of the Agent/Representative remains responsible for all the entities in the Agent/Representative group.
- 5.2 If the Agent/Representatives wishes to arrange for another person or organisation to fulfil any or all of its obligations under this Agreement, the Agent/Representative must provide GHE with all relevant information requested to enable GHE to reach a decision (in its reasonable discretion) whether to give its approval (including, the contact details of proposed persons or organisations and copies of the documentation by which they would be appointed). GHE's approval of a subcontract can be given on the basis of any conditions which GHE chooses to mandate.
- 5.3 Notwithstanding any subcontract, the Agent/Representative remains responsible for performing its obligations under the Agreement.

### **6 Advice on course fees to applicants**

- 6.1 The Agent/Representatives must not give inaccurate information to an applicant about the fees and charges payable to GHE.

### **7 Fee for service**

- 7.1 GHE shall pay into the respective Agent/Representative bank account after census date in each Semester, a placement fee in respect of each Student successfully referred to GHE by the respective Agent/Representative provided that:

- a) the Student has enrolled in and has commenced the course at GHE as outlined in this agreement under Schedule 1 in Australia as designated in writing by GHE;
- b) GHE has confirmed receipt of a signed acceptance agreement and payment of tuition fees from the referred student; and
- c) the Agent/Representative has submitted an Agent/Representative's invoice to GHE for Agent/Representative's fees, within 20 Business Days of the commencement of the student commencing the course.

7.2 No placement fee is payable by GHE to the Agent/Representative in relation to a student:

- a) where the student is recruited through GHE's own recruitment programs;
- b) until the Agent/Representative submits an Agent/Representative's invoice;
- c) if GHE has provided the student with a refund of the student's tuition fee in accordance with GHE's refund policy prior to paying the Agent/Representative a placement fee;
- d) on respect of any payment by the student to GHE that does not relate to a tuition fee;
- e) where the student is required to pay a re-assessment fee;
- f) in relation to a student enrolling in further courses on completion of their original study course with GHE.

7.3 **For Australian Taxable Supplies** In this clause, words and expressions which are not defined in this Agreement but which have a defined meaning in the A New Tax System (Goods and Services Tax) Act 1999 (Cth), as amended from time to time ("GST Act") have the same meaning as in the GST Act.

7.4 Unless otherwise expressly stated, all prices or other sums payable or consideration to be provided under this Agreement are exclusive of GST.

7.5 If GST is payable by a party who makes a supply ("Supplier") under this Agreement, the consideration provided or to be provided by the party to whom the supply is made ("Recipient"), will be increased by an amount equal to the GST payable on the supply.

7.6 If this Agreement requires a party to reimburse an expense or outgoing of another party, the amount to be paid or reimbursed by the first party will be the sum of:

- a) the amount of the expense or outgoing less any input tax credits in respect of the expense or outgoing to which the other party is entitled; and
- b) if the payment of reimbursement is subject to GST, an amount equal to that GST.

7.7 If an adjustment event occurs in relation to a taxable supply under this Agreement:

- a) the Supplier must provide an adjustment note to the Recipient within 7 days of becoming aware of the adjustment; and
- b) any payment necessary to give effect to the adjustment must be made within 7 days after the date of receipt of the adjustment note.

7.8 The Parties agree that, if GST is payable on any supply made (or is deemed to have been made) by a Supplier, the Supplier will issue the Recipient with a tax invoice in accordance with the GST Law.

7.9 **For Indian Taxable Supplies** In this clause, words and expressions which are not defined in this Agreement but which have a defined meaning in *The Central Goods and Services Tax Act 2017*, or, if that Act does not exist, means any Act imposing or relating to the imposition or administration of a goods and services tax in India and any regulation made under that Act (**GST Law**).

7.10 Unless otherwise expressly stated, all prices or other sums payable or consideration to be provided under this Agreement are exclusive of GST.

7.11 If the person making the supply is registered under GST law and GST is payable by a party who makes a supply ("Supplier") under this Agreement, the consideration provided or to be provided by the party to whom the supply is made ("Recipient"), will be increased by an amount equal to the GST payable on the supply.

7.12 If this Agreement requires a party to reimburse an expense or outgoing of another party, the amount to be paid or reimbursed by the first party will be the sum of:

- a) the amount of the expense or outgoing less any input tax credits in respect of the expense or outgoing to which the other party is entitled; and
- b) if the payment of reimbursement is subject to GST, an amount equal to that GST.

7.13 If an adjustment event occurs in relation to a taxable supply under this Agreement:

- a) the Supplier must provide an adjustment note to the Recipient within 7 days of becoming aware of the adjustment; and
- b) any payment necessary to give effect to the adjustment must be made within 7 days after the date of receipt of the adjustment note.

7.14 The Parties agree that, if GST is payable on any supply made (or is deemed to have been made) by a Supplier, the Supplier will issue the Recipient with a tax invoice in accordance with the GST Law.

**Note:** The Australian Goods and Services Tax (GST) and this clause 7.3 - 7.7 will only apply to Students referred by the Agent/Representatives located and registered for GST within Australia. Agent/Representatives not located within Australia and who are not registered or required to be registered for the Australian GST, may not have to remit GST or issue formal Tax Invoices and will not be entitled to payment of an additional amount by GHE in respect of GST.

## 8 Confidentiality

8.1 The Agent/Representative agrees:

- a) to protect and keep confidential any Confidential Information of GHE and / or Partner and not disclose such information without the prior written consent of GHE and / or Partner; and
- b) not to improperly acquire or misuse the Confidential Information of a third party.

## 9. Intellectual Property

9.1 All Intellectual Property disclosed by GHE and / or Partner to the Agent/Representative remains exclusively vested in GHE and / or Partner.

9.2 The Agent/Representative must only use GHE's or Partner's Intellectual Property for the performance of the Services in accordance with this Agreement.

9.3 The Agent/Representative must, if requested to do so by GHE or Partner:

- a) assign all Intellectual Property rights in the Agent/Representative's Promotional Materials to GHE and / or Partner; and
- b) execute all documents and do all other things necessary to ensure that the assignment under Clause 9.3 a) is valid and enforceable.

9.4 The Agent/Representative must ensure that its employees comply with Clause 9.1, 9.2 and 9.3.

## 10. Agent/Representative Warranty

10.1 The Agent/Representative warrants that:

- a) it has the necessary training, skills, expertise and experience to fulfil its obligations in relation to this Agreement and is capable of using that training, skills, expertise and experience to perform those obligations in a proper and professional manner;
- b) it has obtained all business registration in the Territory that it operates within;
- c) it has obtained all authorisations, licences, consents, approvals, and permits and done everything that is required by any entity to enable it to enter into and perform its obligations under this Agreement;

- d) it has not engaged in dishonest or prohibited practices in connection with its business activities in the past;
- e) the Agent/Representative will:
  - i) not misrepresent GHE in the course of performing this Agreement; or
  - ii) not mislead any person into believing that the Agent/Representative is an employee of GHE; and
- f) at the date of signing this Agreement, no conflict of interest, or potential conflict of interest, exists or is likely to arise in the performance of the Agent/Representative's obligations under this Agreement and if a conflict of interest, or potential conflict of interest does arise, the Agent/Representative will notify GHE immediately and the Agent/Representative will obey and cause its officers, employees and Agent/Representatives to obey the reasonable directions or instructions of GHE in respect to that conflict of interest or potential conflict of interest.

## 11. Indemnity

- 11.1 The Agent/Representatives indemnify GHE and its officers, employees and Agent/Representatives against all loss arising out of:
- a) any negligent, willful or unlawful act or omission by the Agent/Representative; or
  - b) breach or non-performance of obligations under this Agreement by the Agent/Representative.

## 12. Insurance

- 12.1 The Agent/Representatives must for the Term effect and maintain all insurance policies as may be required by law within the jurisdictions in which it conducts its business together with the following insurance policies:
- a) public liability insurance (or equivalent) for a sum of not less than \$10 million for each and every occurrence against any and all public liability; and
  - b) professional indemnity insurance (or equivalent) with a total aggregate cover of not less than \$5 million.
- 12.2 The Agent/Representative will provide GHE with copies of certificates of currency of the relevant policies prior to the execution of this Agreement and thereafter upon request from GHE.

## 13. Complaint handling

- 13.1 The procedures in this clause will apply if any person makes a complaint about the Agent/Representative in the course of acting as GHE's approved Agent/Representative.
- 13.2 If a person makes a complaint to the Agent/Representative in relation to its performance of this Agreement, the Agent/Representative must immediately notify GHE of the complaint and how the Agent/Representative intends to respond to it.
- 13.3 If the complaint is made about the Agent/Representative to GHE, GHE will contact the Agent/Representative with the details of the complaint and provide the Agent/Representative with a reasonable opportunity to respond.
- 13.4 If the complaint is of a minor nature (for example, because of an inadvertent communication failure), then GHE may direct the Agent/Representative to take corrective action or additional training to avoid or minimise any future occurrences.
- 13.5 If GHE considers that the complaint is more serious, or if the same or a very similar complaint has been made about the Agent/Representative before, GHE may:
- a) conduct a review under clause 3;
  - b) give notice of termination under clause 16.

#### **14. Dispute Resolution**

- 14.1 If any dispute arises under this Agreement ("Dispute"), and a party wishes to initiate a resolution of the Dispute under this Agreement that party must notify the other party by giving written details of the Dispute ("Notice"). The parties agree to negotiate in good faith on a commercially realistic basis to resolve the Dispute and will refer resolution of the Dispute to authorised officers within each party before commencing any formal proceedings.
- 14.2 Any Dispute which cannot be settled under clause 14.1 within 20 Business Days from receipt of Notice must be referred for mediation by an independent person appointed for that purpose by the Parties and failing Agreement between the Parties within 10 Business Days, to the Australian Centre for International Commercial Arbitration (ACICA).
- 14.3 Unless the ACICA Rules require otherwise:
  - a) the language of the arbitration will be English; and
  - b) the place of arbitration will be Sydney, New South Wales.
- 14.4 Nothing in this clause 14 prejudices the right of a party to seek urgent injunctive or declaratory relief in relation to any Dispute.

#### **15. Notices**

- 15.1 A notice or other communication (each a "Notice") under this agreement must be in writing, addressed to the person to whom it is to be given and:
  - a) delivered to that person's address;
  - b) sent by pre-paid mail to that person's postal address;
  - c) transmitted by facsimile to that person's facsimile number; or
  - d) sent by electronic mail to that person's email address.
- 15.2 A notice given to a party in accordance with the clause is treated as having been given and received:
  - a) if delivered to a person's address, on the day of delivery if a business day, otherwise on the next business day;
  - b) if sent by pre-paid mail, on the third business day after posting;
  - c) if transmitted by facsimile to a person's facsimile number and a correct and complete transmission report is received, on the day of transmission if a business day, otherwise on the next business day; or
  - d) if sent by electronic mail and the sender does not receive a message from its internet service provider or the Recipient's mail server indicating that it has not been successfully transmitted, on the day of sending if a business day, otherwise on the next business day.
- 15.3 For the purposes of this clause, the address of a person is the address set out in the Contact Details of Schedule or another address of which that person may from time to time give notice to each other person:

#### **16. Renewal and Termination**

- 16.1 At any time prior to expiry of the term or termination of this agreement GHE and the Agent/Representative may agree in writing to extend the Term for a specified period (Renewal Term). The terms of this Agreement as modified in writing by the parties apply to any Renewal Term.
- 16.2 Either party may terminate this Agreement at its discretion by giving the other party 10 days' written notice
- 16.3 GHE may terminate this Agreement immediately if the Agent/Representative (or where applicable a subagent/Representative of the Agent/Representative):
  - a) breaches a term of this Agreement;

- b) engages in conduct, or GHE has reasonable grounds to believe the Agent/Representative has engaged in conduct, set out in standard 4.3 of the National Code;
- c) is found to be performing unsatisfactorily by a review conducted under clause 3;
- d) receives a complaint under clause 13.5 considered serious enough by GHE to invoke clause b);
- e) engages in conduct that GHE reasonably regards as detrimental to the reputation of GHE or another Australian educational institution;
- f) becomes insolvent or goes into liquidation or provisional liquidation or enters into any arrangement or composition with its creditors;
- g) is subject to any action to have a controller, administrator, receiver, receiver and manager, liquidator or provisional liquidator appointed over its assets;
- h) dies, ceases to be of full legal capacity or becomes incapable of managing its own affairs for any reason; or
- i) is charged with a breach of any law or is the subject of proceedings or investigations commenced or threatened by a public body whether of a state, territory or the Commonwealth of Australia or of the Territory.

16.4 Termination of this Agreement does not affect any accrued rights or remedies of either party.

16.5 When this Agreement terminates or expires the Agent/Representative must:

- a) cease all Services;
- b) give to GHE all Applications received by the Agent/Representative up to the date of termination or expiry;
- c) provide to GHE copies of all information it has at the date of termination or expiry about applicants;
- d) advise all persons dealing with the Agent/Representative that the Agent/Representative has ceased to represent GHE at the effective date of the termination and that such persons should thereafter communicate directly with GHE;
- e) refer all enquiries received after that effective date of termination directly to GHE;
- f) immediately stop using any brand materials, advertising, promotional or other material supplied by GHE and return by registered mail or reputable international courier all such material and any confidential information of GHE in any form including electronic or on backup or hardcopy media; and
- g) if requested by GHE or partner, confirm by letter signed by the signatory to this Agreement and/or a director that it has complied with all of its obligations under this clause

16.6 When this Agreement terminates or expires GHE must:

- a) process any applications received from the Agent/Representative up to the date of termination or expiry and pay any fees due to the Agent/Representative under clause 7 up until the date of termination or expiry;
- b) process any applications received after the date of termination or expiry as direct applications and correspond directly with the applicants. No fee is payable to the Agent/Representative for those applications;
- c) for the avoidance of doubt, the Agent/Representative is not entitled to any compensation for early termination.

## 17. Corrective and Preventative Action

GHE will take immediate corrective and preventative action upon becoming aware of an agent being negligent, careless or incompetent or being engaged in false, misleading or unethical advertising and recruitment practices. Preventative action may include training sessions with the agent. Corrective action will be documented in Agent Management database and may include a warning, targeted training or termination.

Procedure for Preventative Action:

- Problem identified
- Problem reported to Director,

- Direct contact made with agent to advise of possible breach and seek their response to the allegation/s.
- Review of complaint by the Director, following input from agent and complainant.

Three possible scenarios from outcome of review:

1. Agent Cleared – Director, writes to agent advising of result and thanking them for their valuable input
2. Minor breach by Agent – Agent reprimanded, advised that any further breach will result in termination of their agreements, reminded of their obligations, breach placed on their file
3. Major breach by Agent – Agent advised in writing that their contract will be terminated, Australian post (either High Commission or Consulate) advised of the breach, outcome placed on file.

## 18. General

1. Subject to clause 17.2, this Agreement can only be altered in writing, signed by both parties.
2. GHE may add to, amend or revoke policies and procedures from time to time by publishing them on the GHE website. Any new or amended policy or procedure takes effect from the date specified in the policy or procedure or, if no date is specified, the day after it was first published on the website.
3. This Agreement, its Schedules and GHE's policies and procedures constitute the entire and full Agreement between the parties as to its subject matter.
4. To the extent of any inconsistency between the terms of this Agreement and GHE policies and procedures, the terms of this Agreement will prevail.
5. This Agreement terminates and supersedes any agreement or arrangement between the parties or their subsidiary entities in relation to its subject matter.
6. This Agreement does not create, nor is it intended to create, an employment relationship or a relationship of principal and Agent/Representative, nor shall it constitute a partnership.
7. The waiver by a Party in respect of any breach of a condition or clause of this Agreement by another Party shall not be deemed to be a waiver in respect of any other condition, clause or provision or any subsequent breach of that condition, clause or provision. The failure by a Party to enforce at any time any of the provisions of this Agreement shall in no way be interpreted as a waiver of such provision by that Party.
8. Each Party must pay its own legal costs associated with the preparation, negotiation and execution of this Agreement.
9. GHE may set off against any amount owing to the Agent/Representative any amount owing, or claimed by GHE to be owing, by the Agent/Representative to GHE, whether under this Agreement or otherwise, including any amount claimed pursuant to clause 11.
10. This Agreement is governed by and is to be construed in accordance with the law in force in the State of NSW/SA, Australia.
11. The parties agree to submit to the non-exclusive jurisdiction of the courts of the State of NSW/SA, Australia, including the Federal Court of Australia.

## 18. Definitions and Interpretation

13.6 In this Agreement, the following words have these meanings when they commence with capital letter, unless the context otherwise permits:

- a) **Agent/Representative** means the individual, company or other organisation or group of Agents/Representatives with a majority shareholding owned by the same parent company, specified in the Schedule as the approved Agent/Representative;
- b) **Agreement** means this Agreement;
- c) **Applicant** means any prospective overseas student who has either submitted an Application or is intending to submit an Application to become an overseas student as defined in section 5 of the ESOS Act;
- d) **Application** means an application for admission to GHE made by or on behalf of an Applicant;



- e) **Brand Materials** means any materials or other items that bear any one or more of the name, logo or other identifier of GHE or any Partners, including registered and unregistered trademarks;
- f) **Business Day** means Mondays to Fridays inclusive, excluding public holidays gazetted Victoria or the Territory or dates on which GHE is officially closed for business, as publicised on its website;
- g) **Census Date** means the day on which a student becomes liable for fees for a unit, corresponding to the date. The date is prescribed in accordance with the Higher Education Support Act 2003 and must be at least 20 per cent of the way between the unit commencement and completion dates and will be published on the website for each Teaching Period;
- h) **Code of Ethics** means the Australian International Education and Training Agent/Representative Code of Ethics.
- i) **Placement fee** means placement fee payable to the Agent/Representative under clause 7.
- j) **Confidential Information** means any means all information treated by GHE as confidential or disclosed by GHE to the Agent/Representative in circumstances in which the Agent/Representative ought to be aware that the information is confidential, but does not include information that:
  - i) is or later becomes public knowledge other than because of any breach by the Agent/Representative;
  - ii) the Agent/Representative creates (alone or with another person) independently of GHE; or
  - iii) the Agent/Representative is required to disclose to a third person in order to comply with any law or order of a court or a tribunal.
- k) **CoE or Confirmation of Enrolment** means an electronic confirmation of an overseas student's enrolment in a Course following acceptance and generated by PRISMS;
- l) **Consequential Loss** means each of the following:
  - i) loss of revenue, anticipated savings or profit;
  - ii) loss of opportunity or goodwill, or damage to reputation;
  - iii) loss of data;
  - iv) increased overheads; or
  - v) loss consequential upon other Loss;
- m) **Course** means a program of study (including individual components or units of study) leading to a degree or other recognised award issued by GHE and registered on CRICOS;
- n) **Course Fees** means all tuition and other fees payable in connection with a Course;
- o) **CRICOS** means the Commonwealth Register of Institutions and Courses for Overseas Students;
- p) **Department of Home Affairs** is the Australian Government entity which deals with immigration, visas and border protection;
- q) **ESOS Act** means the Education for Overseas Students Act 2000 (Cth) and includes any regulations made under that Act, or any other laws that are ancillary to that Act;
- r) **ESOS Framework** means the ESOS Act and National Code;
- s) **Genuine Student** means a student who genuinely intends to obtain a successful educational outcome and has the language, educational and material background to have a reasonable chance of achieving this educational outcome;
- t) **Genuine Temporary Entrant or GTE** means, in relation to an Applicant, that he or she:

- i) has a genuine intention to successfully complete a Course, and does not intend to seek permanent residency, or another visa, following arrival in Australia;
- ii) has the requisite English language proficiency skills to undertake the Course;
- iii) satisfies all other GHE criteria relating to qualifications and experience for entry into the Course; and
- iv) has the requisite resources to study and live in Australia for the duration of the Course;
- u) **GST** means an amount payable under the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) in respect of a taxable supply of goods or services or if an Indian taxable supply means as defined under The Central Goods and Services Tax Act 2017 (India);
- v) **Loss** means any loss, liability, damage, fine, penalty, proceedings, claims, demands, costs, expenses or amount (including reasonable legal fees and expenses on a solicitor and client basis) and includes Consequential Loss;
- w) **National Code** means the National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2018 issued under the ESOS Act;
- x) **Personal Information** means "personal information" or "health information" as defined in the relevant Privacy Laws;
- y) **PRISMS** means the Provider Registration and International Students Management System which is maintained by the Australian Government;
- z) **Privacy Laws** means any one or more of the following:
  - i) the *Privacy and Data Protection Act 2014* (Vic);
  - ii) the *Health Records Act 2001* (Vic); and
  - iii) any other laws (including the *Privacy Act 1988* (Cth) applicable to either GHE or the Agent/Representative that impose obligations in relation to the collection, use, disclosure, storage or transmission of Personal Information;
- aa) **Schedule** means this Schedule and any other schedules attached to this Agreement;
- bb) **Services** means the services described in Clause 1.
- cc) **Simplified Student Visa Framework** or **SSVF** means the simplified student visa framework introduced by the Department of Home Affairs on 1 July 2016;
- dd) **Student** means a person who holds a student visa and is an 'overseas student' as defined by the ESOS Act.
- ee) **TEQSA** means the Tertiary Education Quality and Standards Agency;
- ff) **Term** means the term of this Agreement, as outlined in Schedule;
- gg) **Territory** means the country or region specified in Schedule where the Agent/Representative is authorised to act as an approved overseas Agent/Representative; and

18.2 In this Agreement, unless the contrary intention appears:

- a) the singular includes the plural and vice versa;
- b) other grammatical forms of defined words and expressions have corresponding meanings;
- c) a reference to a clause, paragraph or schedule is a reference to a clause or paragraph of, or schedule to, this Agreement and a reference to this Agreement includes its schedules;

- d) a reference to a person includes a firm, body corporate, unincorporated association or authority;
- e) a reference to a person includes that person's executors, administrators, successors, substitutes and assigns;
- f) where relevant, a reference to a party includes that party's directors, officers, employees, Agent/Representatives and contractors;
- g) a reference to a law includes any amendment to, or replacement of, that law and includes any delegated legislation (such as regulations, by-laws or rules) or policies, codes, guidelines or standards made under any law;
- h) an agreement, representation, warranty, undertaking, covenant or indemnity given by or in favour of two or more persons binds them and is given or is for their benefit jointly and severally;
- i) headings are for ease of reference only and do not affect the interpretation of this Agreement;
- j) if any day appointed or specified by this Agreement for the payment of any money falls on a day which is not a Business Day the day appointed or specified is deemed to be the next Business Day;
- k) anything after the words, "includes", "including", "for example" or other similar expressions does not limit what else is included;
- l) a reference to any amount of money is in Australian dollars; and
- m) a reference to a time or date in connection with the performance of an obligation by a party is a reference to the time and date in Adelaide South Australia, Australia, even if the obligation is to be performed elsewhere.

**19. Interpretations of this Agreement (If required on commencement of operations)**

19.1 In this Agreement, unless the contrary intention appears:

- 19.1.1 headings are for ease of reference only and do not affect the meaning of this Agreement;
- 19.1.2 the singular includes the plural and vice versa and words importing a gender include the other gender; other grammatical forms or defined words or expressions have corresponding meanings;
- 19.1.3 'including' and other similar expressions are not words of limitation; money is in Australian dollars unless otherwise stated and reference to 'AUD' or A\$ is a reference to Australian currency;
- 19.1.4 and the Schedules to this Agreement form part of the Agreement, but in the event of any conflict between a clause of this Agreement and any Schedule, the clause of this Agreement will prevail.

**20. No General Agency**

- 19.1.5 The parties agree and acknowledge that under this Agreement the Agent/Representative is only an Agent/Representative within the meaning of and for the purposes of the ESOS Act, the ESOS Regulations, and the National Code.
- 19.1.6 The Agent/Representative must not directly, indirectly or ostensibly represent to any person that it has any authority to act as an Agent/Representative of GHE above or in addition to the authority granted to the Agent/Representative by this Agreement.

**EXECUTED** by the parties

**SIGNED** for and on behalf of

Global Higher Education ABN 13 636 305 881

by the

.....

**SIGNED** for and on behalf of <<insert company name>>

Signature: .....

Designation: .....

**Schedule 1**

<b>Commencement Date:</b>	xxx
<b>Item 1: Term:</b>	1 Year
<b>Item 2: Term:</b>	xxx
<b>Item 3: Territory:</b>	Global
<b>Item 3 – Agent/Representative</b>	xxx
<b>Item 4: Addresses for notices:</b>	xxxx