

AGREEMENT FOR REFERRAL OF OVERSEAS STUDENTS

TAFE NSW and the NSW Department of Education and Communities appoint
(Agent's name)

to perform the obligations set out in the General Conditions.

..... warrants to TAFE NSW and the NSW Department of Education and Communities
(Agent's name)

that he/she:

- has suitable qualifications to interview and advise prospective students about enrolment in **TAFE NSW** and **NSW Government Schools**
- has read, understood and agrees to comply with the General Conditions attached.

..... accepts the appointment and agrees to be bound by the General Conditions as attached.
(Agent's name)

.....
 Signed for and on behalf of the Agent Representative

.....
 Director, DEC International for and on behalf of
 DEC/TAFE NSW

Schedule			
Representative's Name			
Representative's Address			
Representative's Phone and Email			
Commencement Date		Expiry Date	
Commission	NSW Government School	10% of first 12 months Tuition Fees, or, where the course is less than 12 (twelve) months, of the total Tuition Fees plus, where relevant, 20% of the Tuition Fees for any Intensive English Course (IEC) calculated on a pro rata basis having regard to actual duration of study in a Department conducted IEC.	
	TAFE NSW	1 - 20 students: 15% 21+ students: 20% of first 12 months Tuition Fees, or, where the vocational course is less than twelve months, of the total Tuition Fees plus, where relevant, 20% of the Tuition Fees for any English course calculated on a pro rata basis having regard to actual duration of study in a TAFE NSW English Language Centre (TELC)	
Country			
Minimum Referral Level	10 (ten) per year		

1. Meaning of Words

COMMENCEMENT DATE means the commencement date specified in the Schedule to this Agreement.

CODE means the National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2007.

COMMISSION means the commission specified in the Schedule to this Agreement.

COUNTRY means the country specified in the Schedule to this Agreement.

DEPARTMENT means the DEC International, DEC and TAFE NSW.

DEC means the NSW Department of Education & Communities for and on behalf of the Crown in Right of the State of New South Wales.

EXPIRY DATE means the expiry date specified in the Schedule to this Agreement

MINIMUM REFERRAL LEVEL means the minimum number of students which the Representative must recruit for enrolment in **TAFE NSW and NSW Government Schools** during a 12 month period, as specified in the Schedule to this Agreement.

NSW Government Schools means schools run by DEC.

REPRESENTATIVE means the person described as the Representative in the Schedule to this Agreement.

TAFE NSW means the Technical and Further Education Commission constituted under s4 Technical and Further Education Commission Act 1990 including its English language Centres.

Tuition Fees means fees payable for a student to undertake a **DEC/TAFE NSW** course.

2. Appointment of Representative and Term

2.1 The **TAFE NSW and NSW Department of Education and Communities** appoint the Representative and the Representative accepts the appointment on the terms set out in this Agreement.

2.2 This Agreement commences on the Commencement Date and will continue until the Expiry date unless this Agreement is extended by agreement in writing or terminated earlier.

2.3 This Agreement may be renewed for further 12 month periods to a maximum of 3 years from the commencement Date by agreement in writing signed by the parties if the set criteria have been met by the Representative.

3. Duties of Representative

The Representative must:

3.1 actively promote **TAFE NSW and NSW Department of Education and Communities** to prospective students in the Country;

3.2 ensure that the marketing and promotion of **TAFE NSW and NSW Department of Education and Communities** are carried out with integrity and accuracy;

3.3 follow all reasonable directions from the Department concerning the promotion of **TAFE NSW and NSW Department of Education and Communities** and the recruitment of students;

3.4 only use promotional material prepared by the Representative if approved by the Department before any publication;

3.5 meet the Minimum Referral Level by recruiting at least the specified number of quality students for enrolment in **TAFE NSW and NSW Department of Education and Communities**, in an ethical and responsible manner;

3.6 as and when required by **DEC** and or **TAFE NSW** ensure that a staff member completes relevant training in operations relevant to carrying out of the Representative's obligations under this agreement;

3.7 accurately answer all queries from prospective students about enrolment and study in **TAFE NSW and NSW Department of Education and Communities**;

3.8 assist prospective students with completing enrolment application forms, applying for all relevant visas and making all necessary travel arrangements;

3.9 act as the contact person for the Department, parents/guardians of prospective or enrolled students, and prospective or enrolled students;

3.10 familiarise themselves with the requirements of the Code and comply with requirements set out in the Code;

3.11 perform all duties in a professional manner, to the satisfaction of **DEC/TAFE NSW** and in compliance with the Code;

3.12 without limiting the above, the Representative must:

3.12.1 Ensure that marketing of all education and training services is carried out with integrity and accuracy and in accord with the requirements of the Code so as to uphold the reputation of Australian international education and training;

3.12.2 Not make any misleading comparisons with any other provider or make any misleading or inaccurate claims of association with any other provider or organisation or give inaccurate advice as to acceptance into another course;

3.12.3 Give the student all required information concerning a course, and in particular, any information required by the Code including the following information about a course:

- i. a general description of the content;
- ii. the qualification or accreditation gained on completion;
- iii. the duration;

- iv. the teaching methods used (including any field trip or work experience requirements);
- v. the assessment methods used;
- vi. if another provider is also involved in providing the course, the fact and the location of course delivery by that provider;
- vii. details of any arrangements with other providers for recognition of the course or completed components of the course;
- viii. a general description of the facilities (for example classrooms, furniture, fittings);
- ix. a general description of the equipment (for example audio-visual teaching aids);
- x. a general description of the learning resources available to students undertaking the course (for example reference texts and software);
- xi. an itemised list of all fees payable to the provider; and
- xii. information about the minimum level of English language proficiency, educational qualifications and work experience required for the student to be accepted for the course (if relevant).

3.12.4 comply with all applicable laws in Australia and in the Country;

3.12.5 not reveal any confidential information about the Department or students to any person;

3.12.6 be honest at all times while carrying out the Representative's duties under this Agreement and not engage in any activity which may detrimentally affect the Department, **DEC** and or **TAFE NSW**;

3.12.7 not appoint or allow anyone to act as its agent subcontractor or delegate in carrying out its obligations under this Agreement without prior written consent of **DEC/TAFE NSW**;

3.12.8 indemnify the **DEC** and or **TAFE NSW** on demand against all damage, loss, expenses, claims, demands and liabilities incurred by the **DEC** and or **TAFE NSW** which arise directly or indirectly out of any breach of this Agreement by the Representative;

3.12.9 not make any representations about **TAFE NSW** and **NSW Department of Education and Communities** which are incorrect or misleading;

3.12.10 not collect any fees or other charges for the Department and not send any letters of offer to any students unless authorised in writing to do so by the Department;

3.12.11 make available to the Department upon request office facilities such as facsimile, telephone and secretarial services for visiting staff of the Department at an agreed rate;

3.12.12 suggest to the Department upon request promotion and recruitment strategies that the Department may wish to be involved in order to increase the number of students enrolling in **TAFE NSW** and **NSW Department of Education and**

Communities and provide estimates of the cost associated with implementing those strategies;

3.12.13 disclose to each student the fact that the Representative receives payments from **DEC/TAFE NSW** by way of commission;

3.12.14 every 12 months, provide **DEC/TAFE NSW** with a report on the Representative's activities in respect of its business plan proposals for recruitment of students pursuant to this Agreement which report must be satisfactory to **DEC/TAFE NSW**;

3.12.15 undergo monitoring of its performance and professional competence, accuracy of information provided by the Representative to **DEC/TAFE NSW** by responding to queries, making books and records available for inspection.

4. Duties of the Department

The Department must:

4.1 provide the Representative with promotional and other necessary material to enable the Representative to perform the Representative's duties under this Agreement;

4.2 respond to all queries from the Representative and to process all enrolment application forms;

4.3 provide services to all students enrolled in **TAFE NSW** and **NSW Department of Education and Communities** in accordance with the terms and conditions set out in the enrolment application form;

4.4 monitor the activities of the Representative with respect to professional competence, accuracy of information supplied and ethical practice through feedback from students, parents and other parties (e.g. Australian Government bodies) and direct discussion with the Representative, as appropriate and, if as a result of the monitoring if the Department sees a need the Department will take action to recommend improvements, issue a warning or terminate this Agreement pursuant to clause 6;

4.5 reimburse the Representative for all expenses which the Department has authorised the Representative in writing to incur.

5. Payment of Commission

5.1 The Department will pay the Representative commission as a percentage of first twelve months Tuition Fees, or where the course (including a Department conducted IEC and TELC English course) is less than twelve months a percentage of the total Tuition Fees, for each student recruited by the Representative, who is successfully enrolled in TAFE NSW and NSW Government Schools (unless otherwise specified in writing by the Department). The Representative must advise the student / parent of commission being so paid.

5.2 The Department will pay the Commission to the Representative upon invoice after the student has been enrolled in and studying at a **TAFE NSW** and **NSW**

Department of Education and Communities. Where a student has commenced a Department conducted IEC or TELC English course followed by a primary/secondary course in a NSW Government School or a vocational course in TAFE NSW; commission will be paid separately after the student has enrolled and commenced in the respective course. If there is a change in the actual duration of study in IEC / TELC English course after payment of commission has been made, it will be adjusted against any future commission payable. Commission will be paid after commencement has been confirmed with **TAFE NSW** and **NSW Department of Education and Communities**.

5.3 The commission rate is exclusive of any goods and services tax (GST) payable.

5.4 DEC/TAFE NSW will not pay Commissions for any students who:

- 5.4.1** do not hold an overseas student visa except for students enrolled in a TELC English course; or
- 5.4.2** are enrolled in a NSW government school as a dependent of an overseas student (school agents only); or
- 5.4.3** are already studying in **DEC/TAFE NSW** except for students changing from a TELC English course to a TAFE NSW vocational course / NSW government school, or
- 5.4.4** if the Representative fails to perform obligations under this agreement.

6. Termination of Agreement

6.1 Either party may terminate this Agreement if the other party breaches any provision of this Agreement (particularly clause 3.4 and or any breach flowing from the Representative failing to comply at all times with the requirements of the Code) and the breach has not been remedied within 14 days after written notice of the breach has been served on the other party.

6.2 The Department may at its discretion and without cause and without thereby incurring any liability to the Representative terminate this Agreement on three months written notice.

6.3 The Department may immediately terminate this Agreement by notice in writing to the Representative if:

- 6.3.1** the Representative breaches this Agreement and the breach is not capable of being remedied;
- 6.3.2** the Department considers the Representative any employee or any authorised subcontractor to have breached any provision of the Code including being engaged in dishonest practices in respect of recruitment of students, facilitating enrolment of students where the agent believes the student will not comply with the conditions of the student's visa, provides immigration advice where not so authorised under the Migration Act 1958 (Commonwealth), or makes use of Provider Registration and International Student Management System to create Confirmation of Enrolment for other than bona fide students;

6.3.3 the Representative, any of its staff or agents are perceived by the Department to have been involved in conduct with any child or children which would, in NSW, constitute a breach of any law;

6.3.4 the Representative is unable to pay the Representative's debts as and when they fall due; or

6.3.5 the Representative fails to meet, or if the Department reasonably considers that the Representative will not be able to meet, the Minimum Referral Level of quality students;

6.3.6 there is a change of shareholding, directorship or management control of the representative which is unacceptable to the Department.

6.4 If this Agreement is terminated by either party for any reason:

6.4.1 each party is released from its obligations to perform the Agreement further;

6.4.2 each party retains the rights it had against the other party in respect of any past breach.

7. Notices

7.1 All notices under this Agreement may be delivered in person, sent by registered mail or facsimile to the current business address of the party.

7.2 Notices will be deemed to have been served seven days after the date of posting or if delivered personally on the date of receipt or if sent by facsimile in the normal course of transmission.

8. No Right to Bind the Department

The Representative acknowledges and agrees that:

8.1 the Representative does not have the power to bind the Department in any way; and

8.2 nothing in this Agreement will be construed or deemed to constitute a partnership, joint venture or employment between Department and the Representative.

9. General

This Agreement:

9.1 is governed by the laws of NSW, Australia;

9.2 may only be varied by written agreement between the parties;

9.3 supersedes any previous agreements between the Department and the Representative;

9.4 must not be assigned by the Representative without the prior written consent of the Department; and

9.5 binds the parties and any permitted successors and assigns of the parties.