

## Term and Conditions for Under 18 Care Program

### 1. Background

- 1.1 RMIT is a Registered Provider under the ESOS Act and is required by Law to take responsibility for the welfare of Overseas Under 18 Students.
- 1.2 Standard 5 (*Younger overseas students*) of the ESOS National Code requires RMIT to:
- ensure that Overseas Under 18 Students are living in accommodation which is safe and adequately meet their needs;
  - take all practical steps to ensure that the welfare of Overseas Under 18 Students is maintained at all times, regardless of the Overseas Under 18 Students' study circumstances; and
  - comply with its obligations set out in clause 3.
- 1.3 The Student is an Overseas Under 18 Student.
- 1.4 The Student's parent or legal guardian has made arrangements for the Student to enter Australia to undertake courses of study at RMIT and has requested that RMIT provide the Care Program Services to the Student while the Student is studying at RMIT in Australia.
- 1.5 The Student's parent or legal guardian has agreed to provide adequate financial support for the Student whilst studying in Australia including for the cost of the Student's living, accommodation, health insurance and other financial needs.
- 1.6 RMIT has agreed to provide the Services to the Student during the Term of this Agreement subject to these Under 18 Care Program Terms and conditions.

### 2. Acknowledgements of Student and Parent/Guardian

- 2.1 The Student and the Student's parent or legal guardian acknowledge that:
- the provision of the Services to the Student by RMIT does not constitute legal guardianship. At all times, the Student's parent or legal guardian remains legally responsible for the Student;
  - when RMIT issues a CAAW letter to the Student, RMIT remains responsible for monitoring and approving all accommodation and welfare arrangements for the Student at all times. This responsibility cannot be delegated to a third party; and
  - RMIT is required to comply with various Laws regarding the wellbeing and safety of Overseas Under 18 Students and for those purposes has published various Policies and Procedures relating to these matters which are publicly available on the RMIT website.

### 3. Care Program Services

- 3.1 RMIT agrees to provide the following Services to the Student:
- orientation on arrival in Australia;
  - age and culturally appropriate safety information;
  - twenty four (24) hour, seven (7) days per week telephone advice and support, including emergency support for critical incidents. This includes providing information about what the Student should do and who to contact in an emergency, and how to report any incident or allegation of sexual, physical or other abuse.

- regularly monitoring (no less than every six (6) months) and verifying that the Student's Approved Accommodation is appropriate to the Student's age and physical needs;
- assisting the Student on a confidential basis with any concerns, complaints or disputes regarding the Student's Approved Accommodation;
- referring the Student to appropriate confidential support, welfare, wellbeing, medical and other related Student Services provided by RMIT, RUSU or other third parties;
- assisting and/or representing the Student in liaising with RMIT regarding course and welfare concerns or disputes, including assisting the student to lodge any complaints, if applicable;
- maintaining regular contact with the Student, including a regular phone call or a meeting at least once per fortnight;
- liaising with the Student's parent or legal guardian on matters relating to student welfare, welfare waivers, wellbeing, and attendance.

**3.2** RMIT may subcontract parts of the Services. Acts or omissions of RMIT's subcontractor are deemed to be our acts or omissions.

#### **3.3 RMIT's responsibilities regarding to child safety and gender based violence**

- RMIT is required under the *Child Wellbeing and Safety Act 2005* (Vic) (as amended) to strictly comply with the *Child Safe Standards 2022 (Child Safe Standards)* and the *Reportable Conduct Scheme* with respect to Students who are under the age of 18 years. The objective of the Child Safe Standards is to:
  - prevent child abuse (sexual, physical violence, psychological and emotional abuse and neglect)
  - report any child abuse that occurs
  - improve response to allegations of child abuse
- RMIT must ensure that any adults involved in providing Approved Accommodation to the Student has Working with Children Checks (**WWCC**).
- RMIT must comply with its obligations under the *National Higher Education Code to Prevent and Respond to Gender-based Violence (GBV Code)*.
- RMIT will notify the police and any other relevant agencies as soon as practicable if it is unable to contact the Student and there are concerns for the Student's welfare;
- RMIT will make all efforts to contact the Student's parent or legal guardian immediately if it can no longer approve the Student's welfare. However, where RMIT is unable to locate or contact a Student who has gone missing from their Approved Accommodation even after the RMIT has implemented its critical incident policy, RMIT will be obliged to terminate this Agreement in accordance with clause 8.2.

#### 4. Privacy Laws

4.1 RMIT will comply at all times comply with the *Privacy Laws*.

- (a) The Student and the Student's parent or legal guardian acknowledges RMIT is required to will collect personal information of the Student to meet its obligations under Law regarding care arrangements for Overseas Under 18 Students

4.2 The Student acknowledges and agrees RMIT may disclose their Personal Information and Health Information with other areas within RMIT, and to third parties such as the Australian Government, the DHA, another Authority, the Student's nominated welfare provider, or medical practitioner or the Student's parent or legal guardian for the purposes of managing the Student's curriculum or otherwise dealing with administrative matters relating to their course, attendance or welfare as a Student.

#### 5. Medical treatment

5.1 The Student and the parent or legal guardian of the Student authorise RMIT to sign medical consent documents for the Student if the Student is unable to do so.

5.2 The Student and the parent or legal guardian of the Student acknowledge and agrees that any costs associated with any physical examinations, procedures or other medical requirements which are not covered by the Student's mandatory Overseas Student Health Cover (**OSHC**) or for emergency Approved Accommodation must be paid for by the Parent or Guardian within thirty(30) days of a request for payment from RMIT.

#### 6. Responsibilities of the Student's responsibilities

6.1 The Student agrees to:

- (a) comply with the arrangements set out in the CAAW;  
(b) reside in their Approved Accommodation;  
(c) comply with Laws relating to their study in Australia;  
(d) comply with RMIT's Policies and Procedures relating to their welfare and care arrangements including but not limited to RMIT's:
- i. Child Safe Policy;
  - ii. Under 18 International Student Welfare Procedure;
  - iii. Under 18 International Student Curfew Procedure;
  - iv. Health Safety and Wellbeing Policy;
  - v. Student Safety Measures Procedure;
  - vi. Child Safe Code of Conduct
  - vii. Student Conduct Policy;

#### 7. Fees and refunds

7.1 The Student or Parent or Guardian must pay the Fees in full from the Start Date.

7.2 Subject to clause 7.3 (e), RMIT will refund the Fees where:

- (a) The Student's the application for the Under 18 Care Program Services is withdrawn and/or the CoE is deferred or cancelled;
- (b) The Student's course is deferred or the Student's arrival is delayed such that the Student is 18 years of age at the time of arrival;
- (c) A person residing in Australia is approved by the DHA to be the Student's nominated guardian and RMIT has approved the change of CAAW; or
- (d) The Student arrives in Australia and subsequently withdraws or cancels their enrolment with RMIT or returns to their home country.

7.3 In all cases where RMIT refunds the Fees, RMIT will deduct an Administration Fee of \$300 and banking fees before refunding the Fees on a pro-rated basis.

#### 8. Termination

8.1 This Agreement may only be terminated where:

- (a) An alternative welfare arrangement has been put in place. RMIT must not terminate this Agreement until the new welfare arrangements are formally in place such that there is no gap in the welfare arrangements; or
- (b) RMIT can no longer take responsibility for the Student due to any of the following events:
- i. the Student refuses their Approved Accommodation or leaves their Approved Accommodation without notice, even after the RMIT has exhausted all possible avenues of assisting the Student to maintain appropriate arrangements;
  - ii. the Approved Accommodation provider becomes unable to maintain arrangements;
  - iii. the Student's enrolment has been suspended or cancelled;
  - iv. the Student goes missing from their Approved Accommodation and cannot be found or contacted, even after the RMIT has implemented its Critical Incident Policy; or
  - v. RMIT considers, having regard to all of the Student's circumstances including but not limited to the Student's welfare and wellbeing, that it is no longer able to provide the Services to the Student.

8.2 In all cases, but subject to Standard 10 (*Complaints and appeals*) of the ESOS National Code RMIT's decision to terminate this Agreement or the CAAW (or both) is in RMIT's sole discretion.

8.3 The Student and Parent or Guardian acknowledge that if RMIT terminates this Agreement for a reason set out in clause 8.1 (b), RMIT is required by Law to report the Student within 24 hours. This may result in the Student's visa being cancelled and the Fees may not be refunded.

#### 9. Definitions

Words capitalised in these Terms and Conditions have the following meaning:

**Affiliate** in relation to a person means: a related body corporate as defined in s 50 of the *Corporations Act 2001* (Cth); and any joint venture or other business entity or arrangement that directly or indirectly Controls, is Controlled by, or is under common Control with, that person. In relation to RMIT, an Affiliate includes, but is not limited to, RMIT Training Pty Ltd (**RMIT UP**) (ABN 61 006 067 349) and RMIT Online Pty Ltd (ABN 38 614 454 170).

**Agreement** means an application for RMIT Welfare and a CAAW on the Under-18 Welfare Approval Form section of RMIT's website and these Terms and Conditions.

**Approved Accommodation** means the accommodation in which the Student resides in Australia which must be approved by RMIT as a condition of issuing the CAAW.

**Authority** means any government, semi-governmental, statutory, administrative, fiscal or judicial body, department, commission, authority, tribunal, public or other person and includes the DHA.

**Business Day** means any day in Victoria which is not a public holiday, Saturday or Sunday

**CAAW** means a Confirmation of Appropriate Accommodation and Welfare which will be created at the same time as the CoE.

**CoE** means a Confirmation of Enrolment at RMIT.

**Control** means, with regard to any person, either: the legal, financial and equitable ownership, directly or indirectly (including through any holding company), or fifty percent (50%) or more of the share capital (or other ownership interest, if not corporation) of such person ordinarily having voting rights; or effective control of such

**DHA** means the Australia Department of Home Affairs

**End date** means the date when the Student turns 18 years of age, or completes their course, or transfers to another Registered Provider, or ceases to study in Australia, whichever is earlier.

**ESOS Legislative Framework** means the *Education Services for Overseas Students Act 2000* (Cth) (**ESOS Act**) and its associated legislative instruments including but not limited to the *National Code of Practice for Providers of Education and Training to Overseas Students (2018)* (Cth) (**ESOS National Code**).

**Force Majeure Event** means: acts of God, perils of the sea or air, fire, flood, explosion, sabotage or terrorism; war or its after-effects, insurrection, civil commotion, riot, or government embargo; strike, lockout, or other industrial dispute, protest or unrest; the making of any law, or regulation by any government, or by any other civil or military authority; or any event or circumstance or combination of events and circumstances which is reasonably beyond the control of the party affected and which causes or results in default or delay in performance of any obligations under this Agreement.

**Fee** means the fees for the provisions of the Services as set out on the RMIT website as amended from time to time, if applicable.

**Health Information** has the meaning in the *Health Records Act 2001* (Vic),

**Law** means any statute, regulation, by-law, ordinance or subordinate legislation in force from time to time in any relevant jurisdiction, and includes any applicable common law and equity and industry codes of conduct.

**Overseas Student** has the meaning in the ESOS Act.

**Overseas Under 18 Student** means an Overseas Student (being an International student visa holder (subclass 500)) who is under 18 years of age and who is enrolled at RMIT University or one of its Affiliates and is subject to CAAW.

**Personal Information** has the meaning in the *Privacy and Data Protection Act 2014* (Vic),

**Privacy Law** means any Laws or other regulatory instrument, whether Australian or otherwise, on privacy, data protection or Personal Information and Health Information (including its collection, storage, use, disclosure or possession), and includes the *Privacy and Data Protection Act 2014* (Vic), *Privacy Act 1988* (Cth), *Health Records Act 2001* (Vic), and General Data Protection Regulation (GDPR) (EU) 2016/679; and any codes of conduct, directives, principles, policies or orders issued thereunder.

**Registered Provider** has the same meaning as section 5 of the ESOS Act.

**RMIT** means the Royal Melbourne Institute of Technology (ABN 49 781 030 034) of 124 La Trobe St, Melbourne VIC 3000.

**RUSU** means the RMIT University Student Union Incorporated (ABN 90 575 269 384) (IRN – A0114140A) of Level 4, RMIT Building 57, 53 Lygon Street, Carlton, VIC 3053.

**Services** means the Under 18 Care Program Services set out in clause 3.

**Standard** means a Standard under the ESOS National Code.

**Start Date** means the date which is two (2) weeks prior to date of that the course of study of the Overseas Under 18 Student commences.

**Term** means the period of time beginning with the Start Date

and ending on the End Date.

## 10. General

10.1 **Entire Agreement:** This Agreement contains the entire agreement between the parties and supersedes all prior arrangements on its subject matter. No oral or external information affects its meaning or interpretation; or is a collateral agreement, understanding or warranty.

10.2 **Variation:** This Agreement may only be varied in writing and signed by all parties.

10.3 **Assignment:** Neither party may assign or novate any right or obligation under this document without the prior written consent of the other. RMIT may assign all or part of the rights and obligations under this document to its Affiliate or any third party.

10.4 **Force Majeure & delay:** Neither party is liable for any failure or delay if it is caused or contributed to by a Force Majeure Event. Each party must notify the other if they anticipate any delay or failure to perform its obligations under this Agreement, and take all reasonable measures to mitigate or avoid the delay or failure.

10.5 **Benefit:** RMIT receives and hold the benefit of this Agreement for itself and on behalf of its Affiliates. The terms of this Agreement apply to any and all claims made by RMIT as a trustee for, or on behalf of, our Affiliates.

10.6 **Further steps:** Each party will do all things and execute all documents to give full effect to this document and the obligations it contains.

10.7 **Survival:** The termination or expiry of the Agreement is without prejudice to any accrued rights or remedies. The obligations, warranties and undertakings which by their nature continue will survive the end of this Agreement.

10.8 **Waivers:** No waiver of a right or remedy under this Agreement is effective unless it is in writing and signed by the party granting it.

10.9 **Effect of Laws:** Notwithstanding any other provisions, nothing in this Agreement limits or excludes liability that cannot be excluded or limited by Law.

10.10 **Severability:** If any term of this Agreement is or becomes wholly or partly invalid or unenforceable, the term will, to that extent, be treated as deleted. The remaining terms are valid and enforceable.

10.11 **Remedies:** The remedies in this Agreement are cumulative and additional to any at Law or in equity.

10.12 **Governing law:** This Agreement is governed by the laws of the State of Victoria, Australia and each party submits to the non-exclusive jurisdiction of the courts of the State of Victoria, Australia.

10.13 **Further assurances:** Each party will do all things and execute all documents to give full effect to this Agreement.

10.14 **Interpretation:** In this Agreement: singular includes plural and vice versa; "includes" or "for example" do not limit what else is included; headings are only for convenience and do not affect interpretation; where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings. A reference to: (i) Laws include replacement or amending Laws; (ii) documents, or this Agreement, includes their amendments, replacements or novation; (iii) a person includes a natural person, partnership, joint venture, government agency, association, corporation or other body corporate or incorporated entity; (iv) a party includes its successors and permitted assigns; (v) a clause, term, party, schedule, annexure, or attachment is a reference to a clause or term of, or party, schedule, annexure or attachment to, this Agreement; (vi) this Agreement includes all schedules,

annexures and attachments to it. When the day on which something must be done is not a Business Day, that thing must be done on the following Business Day. If a party prepared part of this Agreement, it will not be construed against them because they prepared it.