

Tutor Agreement

Tutor Agreement, Regulations & Privacy Statement

This document constitutes a binding Agreement made as of the date of submission of the Careers form by and between Top Achievers Education Pty. Ltd (ACN 638 516 239) (hereinafter 'The Company'), and the Tutor whose name is the name under which your ABN is registered, who is located at the residential address listed in the careers form (Hereinafter 'The Contractor'). WHEREAS The Company desires the services of The Contractor and The Contractor desires and agrees to perform such services for The Company.

WHEREAS, The Company wishes to employ the Tutor as an independent contractor to provide said services to and for the benefit of the Company's customers or clients as needed;

WHEREAS, The Tutor represents that he or she is free to enter into this Agreement, and that this engagement does not violate the terms of any agreement between the Tutor and any third party,

NOW, THEREFORE, in consideration of the mutual promises and undertakings set forth herein, the parties agree as follows:

- **DEFINITIONS**

- The Contractor: A person whose is sub-contracted to provide tutoring services to The Customer(s) of The Company, on behalf of the Company, subject to this Agreement.
- The Customer(s): Any person who has requested tutoring services from the Company.
- The Services: All tutoring services that The Contractor performs for The Customers of The Company.
- Tutor Guidelines: Provided by The Company to The Contractor- Includes all regulations.

- **SCOPE OF SERVICES AND TERM**

- The Contractor shall provide services to The Company as described in Appendix A attached hereto (the "Services"), and the Company hereby retains The Contractor to perform the Services during the term of this Agreement, commencing on the date of submission of the Careers Form, continuing for 12 months after this date and automatically renew for an additional 12 months. The Services shall be performed in accordance with such requirements or restrictions as may be lawfully imposed by governmental authorities.

- **PAYMENT**

- The Company shall pay The Contractor, as compensation for the Services, in accordance with the payment schedule set forth in Appendix A.

- **TAXES AND REGISTRATIONS**

- The Contractor shall have sole responsibility for payment of all federal, provincial and local taxes or contributions imposed or required under unemployment insurance, social assistance and income tax laws and for filing all required tax forms or other registrations arising out of The Contractor's performance of the Services and with respect to any amounts paid by The Company.

- **CONFIDENTIAL INFORMATION**

- All information provided by The Company to The Contractor or resulting from the performance of this Agreement is deemed to be confidential. The Contractor shall hold such Information in confidence, use only for the purpose of providing the Services, and shall not disclose such Information to any third party. All Information shall remain the property of The Company. Section 6.0 shall survive and continue after any termination of this Agreement.

- **CUSTOMERS**

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- The Contractor acknowledges that all Customers are customers only of The Company and that he/she shall not, for a period of three (3) years after the termination of this agreement, directly or indirectly, in any manner whatsoever contact any Customers, for the purpose of selling to such Customers any services which are in any way competitive with, Services sold at that time by The Company, its Affiliates, marketing partners or agents. Any new customers contacting the Contractor for similar services via referral of customers of The Company must be directed to The Company. If The Contractor is found to be in breach of this term, he/she will be immediately liable to make payment to The Company for all revenues collected by The Contractor from these Customers.
- **TERMINATION**
 - The Company may, upon 14 days prior written notice to The Contractor, terminate this Agreement and, in such case, The Company's obligations shall be limited to payment to The Contractor in accordance with Appendix A through the notice period. The obligations of The Contractor pursuant to Sections 4.0, 5.0, 6.0,7.0, 9.0 and 11.0 shall survive any termination of this Agreement. The Contractor will, within five days after termination, return all materials which are the rightful property of The Company, to The Company. The Contractor will provide 30 days' notice to The Company should they wish to terminate this contract.
- **RELATIONSHIP OF PARTIES**
 - Tutor hereby agrees that he/she is an independent contractor and not an employee of The Company. Tutor understands and agrees that he/she is not entitled to any benefits provided to any employee of The Company. Nothing herein will constitute Tutor as an agent for The Company or grant Tutor the authority to make representations or agreements on behalf of The Company. Tutor further agrees that in the event that The Company suffers any loss or damage as a result of a violation of this provision, Tutor shall indemnify and hold harmless The Company from any such loss or damage.
- **THE CONTRACTOR ON THE PREMISES OF The Company's CUSTOMERS; INDEMNIFICATION**
 - While on the premises of The Company or The Company's customers, The Contractor shall comply with all reasonable rules and regulations established at such premises. The Contractor hereby agrees to indemnify and hold harmless The Company, and its officers, agents and employees, from and against any and all liability, loss, damage, cost and expense (including lawyers' fees) on account of any claim, suit or action made or brought against The Company, or its officers, agents or employees, arising from the services performed by The Contractor hereunder, including any act or negligence of The Contractor in connection with such services, or arising from any accident, injury or damage caused to any person or to the property of any person during the performance of such services, or arising from damage to or loss of The Contractor's property while on the premises of The Company or The Company's customers in connection with this Agreement. The Contractor shall not be liable to The Company for any damages resulting from any act of negligence on the part of The Company or its employees, or resulting from any representations previously approved by or materials or information supplied by The Company.
- **INFRINGEMENT**
 - The Contractor warrants that, in rendering services hereunder, he/she shall not knowingly infringe any copyright, trade secret or other intellectual property right of any third party, and that it shall use best efforts to avoid any such infringement. The Contractor hereby agrees to defend The Company against any claim of copyright, trade secret or other intellectual property infringement made against The Company on account of the Services rendered by The Contractor. The Contractor further agrees to indemnify and hold The Company harmless against any loss, damage, award or expense (including reasonable lawyers' fees) resulting from such a claim.

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- **ARBITRATION**
 - The arbitrator shall not have authority to award punitive or other non-compensatory damages to either party. Each party shall bear its own costs of the arbitration; other costs or expenses of the arbitration will be split and paid equally by The Contractor and The Company.
 - The arbitration provisions of Section 13.0 shall not apply to any dispute regarding a breach by The Contractor of Sections 6, 11 or 12 of this Agreement. The Company shall be entitled to commence court proceedings or apply for injunctive or other interim or interlocutory relief in connection with any such dispute.
- **GENERAL**
 - This Agreement shall be governed by and interpreted in accordance with the laws in effect in the Country of Australia.
 - **FORCE MAJEURE**
 - Neither party shall be liable to the other for any loss, damage, delay or failure of performance, that is caused by an act or event beyond its reasonable control, including but not limited to, acts of God, civil disturbances, war, strikes, emergency laws, regulations or governmental proclamations, or acts or failure to act of any governmental entity. Failure by either party to perform under this Agreement, because of the endurance of an event of force majeure for more than three months, will represent a ground for its termination on ten (10) days written notice.
 - **LIMITATION OF LIABILITY**
 - The Company's sole liability under this agreement shall be for payments due the contractor under appendix A. The Company shall have no other liability to the contractor whatsoever. No action or proceeding against The Company may be commenced more than two (2) years after the claim has arisen. This Agreement sets out the entire agreement and understanding between the parties regarding the Services and supersedes any prior agreement and also includes the "Tutor Guidelines" and "Ethics Code".
 - **REQUIREMENTS OF LAW**
 - The Contractor shall comply, at his or her own expense, with the provisions of all applicable municipal, provincial and federal laws and regulations applicable to the Services.
 - This Agreement is governed by and shall be construed in accordance with the laws of the State of New South Wales,
 - Australia and the parties irrevocably submit to the non-exclusive jurisdiction of the courts of the State of New South Wales, Australia
 - This Agreement may not be amended except by written instrument signed by each of The Contractor and The Company.

IN WITNESS WHEREOF, the parties have executed this Agreement in duplicate as of the day and year of the submission of the careers form, with submission of the careers form on the domain TopAchievers-Edu.com.au

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APPENDIX A

SERVICES: The Contractor will provide tutoring and related services for The Customer(s) of The Company at The Customer's premises, or any other location agreed to by The Contractor and The Customers(s). These services may include the following:

1. Private tutoring
2. Session preparation
3. Session follow-up and reporting
4. Planning sessions with students & parents
5. Other duties related to tutoring services as may reasonably be requested of The Contractor
6. Studying, reviewing and becoming familiar with all required tutor training material.

FEES: The Contractor will be paid an agreed amount (which may differ per student requirements) for tutoring services on behalf of The Company. Billable hours will include only the time spent tutoring students, which is approved in writing by The Company prior to lessons. Note that you mustn't increase prices for your current students without permission from the customer, per our tutor agreement.

The following regulations also apply:

- The Company does not guarantee any minimum amount of work for the Contractor. This Agreement simply ensures that The Contractor will be considered for work if and when it is requested by The Customers
- The Company can only make payment to the Contractor once The Company has received payment from the Student.
- The Company may, at its discretion, withhold final payment to The Contractor until such time as all materials in the possession of The Contractor which are the rightful property of The Company, are returned to The Company.
- The Contractor will submit invoices to The Company every day (or after each lesson), for all billable services provided during the previous fortnight. The Company will provide payment to The Contractor within 7 days of receipt of these invoices, after payment is received by the Student/Parent.
- After accepting any student assignment, the tutor must give at least 4 (four) weeks' notice prior to quitting that student assignment.

Regulations

In order to hold our reputation and to provide the best services we can, we ask all our Tutor/Contractors to be as professional as possible when dealing with Students, Parents or other Tutors. Below are some guidelines and Regulations we kindly request you follow.

- Tutor will perform the services and abide by the guidelines set forth in the Agreement
- Tutor may accept or decline a student assignment. Upon acceptance of a student assignment, Tutor will contact the Company's client within 48 hours to arrange and schedule the initial session
- Tutor will arrive promptly for all tutoring sessions and perform minimum assigned hours
- Tutor will confirm tutoring sessions in advance with clients in an effort to not miss or arrive late
- Tutor will offer meaningful tutoring services for the pre-determined scheduled time and will not stay for an unreasonable amount of additional time without pre-approval of the parent and The Company
- Tutor will give The Company's client 48 hours' notice if Tutor cannot attend the scheduled session unless Tutor is ill and then Tutor should notify client at earliest possible time. Tutor will schedule make-up sessions.
- Tutor is responsible for the safe delivery of any monies collected by them

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- All Invoices for a fortnight must be submitted no later than 3 business days of the last day of the fortnight.
- Tutor will not discuss The Company's financial information, including, without limitation, rates and fees paid to Tutor, with clients, students, or other The Company tutors.
- I further understand that under no circumstances will I continue or start a tutoring session if the parent is absent or must leave the home or property (for Students under 18 years of age).

Recruitment Process

We may ask Tutor to interview (in person, via Skype, or phone) with our staff to complete our screening process. During the interview, a prospective tutor should expect to discuss his/her teaching/tutoring experiences, educational goals and teaching style. Our staff will clarify any procedures and policies; answer any questions about The Company's Agreement, and explain benefits.

Tutor represents and warrants that all information Tutor has supplied to The Company about Tutor's current and past employment, education, teacher certifications, if any, and other personal history is true and complete in all respects. In addition, Tutor agrees not to accept any tutoring referral from The Company that would violate any conflict of interest rule or other policy of any school or other institution where Tutor teaches or works.

During the term of this agreement, the Tutor shall devote as much of his or her productive time, energy and abilities to the performance of his or her duties hereunder as is necessary to perform the required duties in a timely and productive manner. It is the duty of the Tutor to prepare adequately for all tutoring sessions and acquire any necessary materials / tools.

Tutorials & Responsibilities

Conduct: As a professional educator, Tutor conducts himself/herself in accordance with the highest professional standards with students, their parents and other interested parties. See Tutor Code of Ethics.

Duties: The Tutor agrees he/she is responsible for planning and implementing an appropriate program of instruction for the student in the subject(s) assigned. The Tutor will be responsible for providing one-on-one or small-class tutoring instruction, being available on the dates and times scheduled or agreed upon by the Tutor. All In-Home Tutors will be responsible for providing their own transportation and arriving punctually to all scheduled appointments.

Communication: Because communication is essential between all parties (parents/students, tutors and The Company), The Company and tutors operate with the following assumptions, guidelines and stipulations:

- After Tutor receives a tutorial request, Tutor needs to respond ASAP with an ACCEPT or a DECLINE.
- If Tutor doesn't respond in a timely fashion to The Company's emails, texts or phone calls, The Company reserves the right to replace Tutor with another Tutor to accommodate for Students' needs.
- Progress Reports: Parents occasionally request a monthly or weekly progress report for a student. The Company will supply Tutor with forms for this purpose. The Company asks that these checklist reports be submitted (emailed or faxed) to The Company at the end of each month.

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Cancellation of a session by Tutor: If Tutor needs to cancel a session, unless there is an emergency, The Company suggests to give 48 hours prior notice. If Tutor or a student cancels a session, a make-up session should be rescheduled, if possible.

Substitution or Replacement: If Tutor needs to cancel a session, and cannot make it up, he or she should notify The Company in a timely manner so a suitable substitute Tutor can be found. If Tutor needs to miss a number of tutorials, he or she should contact The Company in a timely fashion to request either a temporary or permanent replacement.

24-Hour Cancellation Policy Option: The Company has notified parents that they need to notify Tutor at least 24 hours in advance; otherwise, they will be charged the tutoring fee for that session. Of course, if a tutee gets sick or some emergency arises to pre-empt the tutorial, then The Company recommends no charge for the tutorial as long as the parents have made a reasonable attempt to contact the tutor in a timely fashion.

Assignment: The Tutor shall not assign any of his or her rights under this Agreement, or delegate the performance of any of his or her duties hereunder to another party or Tutor, without the prior written consent of The Company.

Termination of a Tutorial: Tutor must give The Company two weeks' notice when terminating a client. The Company will then work to find a replacement, if needed.

Liability and Obligations for in-home tutoring: The Tutor will have no claim against The Company for damages incurred during the execution of Tutor's duties. Such damages include, but are not limited to injuries, **emotional damages**, physical harm and traffic accidents. The Tutor acknowledges that he or she bears all risks of performing contracted duties. These risks include those resulting from the interaction between the Tutor and the students and families to whom the Tutor provides tutoring services. The Tutor acknowledges that the students referred to the Tutor by The Company are strangers whose backgrounds have not been checked by The Company. Thus, the Tutor should exercise his or her own judgment and protocol for deciding whether to engage in tutoring services with each student or client referred to the Tutor by The Company. The Tutor is never obligated to pursue any tutoring opportunity that The Company offers a Tutor, but Tutor is required to respond to all requests.

Rates & Referrals – Practices, Policies and Payments:

- Rates: The Rates are predetermined and discussed between The Tutor and the Company prior to the signing of this agreement based on the value The Tutor can provide to The Students.
- Payment Options: All payments from clients are done through automatic credit card processing. **Tutors must not collect cash or bank transfer, or any other payment method, from their clients.** Please inform your clients that their credit card on file will be debited after the lesson occurs. Tutors are paid every Tuesday for lessons from the previous week.
- Compensation: When a Tutor receives a tutorial request, the fee is predetermined by the Company. The Tutor shall not discuss the fees and rates with his or her Students or The Students' Parents.
- "No-Risk" First Session: If the student, parent or tutor decides after the first hour that the tutorial is not a satisfactory match, Top Achievers Education does not charge for that first session; otherwise, a charge applies. Thus, Top Achievers Education is not entitled to make payment for that hour to Tutor.
- Additional Tutorial Billings: In this regard, tutors are not permitted to bill for additional tutoring fees resulting from the extension of time of a scheduled tutoring session or the purchase of supplies without the prior agreement of a parent and The Company or other responsible party.

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Fee Changes: After a Tutor begins to work with a student referred to him/her through The Company, the Tutor agrees not to raise his or her hourly fee for that student during the first academic school year of tutoring. In subsequent years, Tutor agrees to raise his or her fee for any student no more than \$10/hour in any year, unless there are significant changes in the request and the circumstances of the tutorial. The Company may change its fee percentage or its fee structure at any time upon prior notice to Tutor.

Taxes: Tutor shall be responsible for managing and filing all necessary taxes and paperwork. As such, The Company will not withhold any taxes from the Tutor's pay. The Tutor is personally liable for appropriate withholding and payment of all federal, state, and local taxes, unemployment compensation, disability payments and any other amounts due or assessed on the basis of Tutor 's tutoring income.

The Company's Services & Roles:

Negotiation: The Company represents Tutor in all fee negotiations and hence all communication concerning fees with clients is conducted by The Company. Also, The Company will, on Tutor's behalf, resolve all disputes as to fees, hours tutored or cancellation charges between Tutor and student / parent. Any such resolution will be binding on Tutor.

Arbitration: Any controversies arising out of the terms of this Agreement or its interpretation shall be settled in accordance with the rules of the Australian Government, and the judgment upon award may be entered in any court having jurisdiction thereof.

The Company Rights to Clients: For a period of three years from the initial date Client was referred to a Tutor, The Company maintains exclusive rights with only those Clients. **At no time shall a Tutor receive payment from the Client for any tutoring services rendered.** Tutor is not permitted to make private arrangements with clients introduced by The Company, or with new clients introduced by The Company clients.

Confidentiality Statement:

The Tutor shall hold in confidence and keep confidential any and all confidential information that he or she receives from The Company's customers, and prospective customers (including students, learners, institutions, companies, and other entities).

The Tutor agrees that he or she will not disclose any of this information, directly or indirectly, or use any of them in any manner, either during the term of this Agreement or at any time thereafter, except as required in the course of this engagement with The Company. The Tutor shall not retain any copies of the aforementioned without The Company's prior written permission. Upon the expiration or earlier termination of this Agreement, or whenever requested by The Company, the Tutor shall immediately deliver to The Company all such files, records, documents, specifications, information, and other items in his or her possession or under his or her control.

The Tutor shall not disclose any such information to any third party (including other independent contractors) and agree not to use such information for any purpose except to assist the tutoring session.

The Tutor shall compensate The Company for losses it incurs as a result of his / her negligent, reckless, or intentional disclosure of confidential information. Confidential information in this context includes, but is not limited to, any information, idea or concept, in any form (tangible or intangible), whether disclosed to me or learned by me. For the purpose of this Agreement, confidential information specifically includes all information:

concerning students, patrons, learners, employees, and other independent contractors, including but not limited to information concerning their age, sex, sexual orientation, religious affiliation, ethnicity, national origin, ancestry, disability, or other personally identifiable information;

of a competitively sensitive nature, including trade secrets or confidential or proprietary information of any sort, including, without limitation, information relating to products, processes,

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know-how, designs, formulas, developmental or experimental work, computer programs, databases, or other original works of authorship, customer lists, business plans, financial information or other subject matter pertaining to any business of the Company or any persons or entities with which it does business; and

concerning The Company's policies, strategies, finances, pricing, pay rates, use of independent contractors, and the nature of relationships between corporate management and its service providers, customers, and end users – including the specific questions such users ask while using the The Company's services.

The Tutor further agrees that he or she will not disclose the terms of this Agreement to any person without the prior written consent of The Company and shall at all times preserve the confidential nature of his or her relationship to The Company and of the services hereunder. See Privacy Policy.

IN WITNESS WHEREOF: The parties hereto agree that if the Tutor chooses to proceed with this subsequent online/in-person application and registration, agreement to all terms will be as effective as if original containing original signatures. The link to this agreement is given in the Careers Form, by submitting this form, you agree to all conditions, regulations and terms in this agreement.

Submission of the Careers Form indicates Tutor has read and agreed all terms of this The Company Agreement.

Ethics Code

The Company will conduct their business honestly and ethically wherever we operate. We will constantly improve the quality of our services and operations and will create a reputation for honesty, fairness, respect, responsibility, integrity, and trust.

We ask Tutors to:

- Avoid representing The Company in any transaction with others with whom there is any outside business relationship
- Avoid using their company contacts to advance their private business or personal interests at the expense of the company, its clients or affiliates
- Give no bribes or other similar remuneration or consideration to any person to attract or influence business activity
- Avoid gifts, gratuities, fees, bonuses or excessive entertainment, in order to attract or influence business activity
- Report all information accurately and honestly, and as otherwise required by applicable reporting requirements
- Seek to avoid exaggerating or disparaging comparisons of the services and competence of their competitors.
- Obey all Equal Employment Opportunity laws and act with respect and responsibility towards others in all of their dealings.
- Agree to disclose unethical, dishonest, fraudulent and illegal behaviour, or the violation of company policies and procedures, directly to management.

Violation of this Code of Ethics can result in discipline, including possible termination or suspension of contractor agreements.

The Company absolutely prohibits the use of alcohol or non-prescribed drugs while on any The Company or Company premises, or while in the home of a client. It also discourages non-work place drug and alcohol abuse. The use, sale or possession of alcohol or non-prescription drugs while on the job, on any The Company or Company premises, or in the home of a client will result in immediate termination of the Tutor Agreement. If any clause of these terms and conditions is held to be legally invalid or unenforceable, the invalid or unenforceable wording shall be deemed to be omitted.

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The Company absolutely prohibits any acts of sexual harassment towards a The Company Customer, including grooming and sexual relations, whether outside or on the tutoring premises.

Child protection is a matter that should be central to the training, awareness and understanding of all tutors. Amongst other things, tutors should apply the following standards:

- Tutoring should be conducted in rooms where there are windows, so that a person outside the room can see into the room, or the door should be open so that the tutoring can be viewed and heard. Furthermore, no child should be disciplined by a tutor in a room with a closed door.
- Tutoring should only take place in a public part of the home with a parent or responsible adult present. Tutoring should never take place in a child's bedroom. At the end of each session that takes place within a child's home a responsible adult, who was present in the home throughout the duration of the tutoring, should sign off the session as having been conducted appropriately and in a public space.

You can see more info here on child protection policies on the ATA site: <https://ata.edu.au/resources/child-protection/>

In the event of a suspected incident of abuse, you can read more here on how to report the abuse: <http://www.ata.edu.au/wp-content/uploads/2017/01/Allegations-of-Abuse-What-to-do-DHHS-Resource-6.pdf> and <http://www.ata.edu.au/wp-content/uploads/2017/01/Incident-Report-Template.doc>

Privacy Statement

The Company will always adhere to current laws regarding Privacy. We aim to always hold secure the Privacy of all individuals we deal with. Your details will be stored in our management system and may be used for advertising, promotional or alike services.

By Submitting this document you therefore agree to all terms, agreements and regulations outlined in it. The information requested on this application for employment is necessary to ensure a fair and thorough evaluation of all applicants with The Company. Personal information contained within this form shall be available only to employees and managers of the company with direct involvement in the recruitment process. You may update or access your application information at any time by contacting the Human Resources Manager.

For any privacy concerns, please contact us at info@top-achievers.com.au

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