



TUTOR/SUBCONTRACTOR AGREEMENT

Aussin Education Services Pty Ltd

V1.2

Legal agreement

This agreement is established on the date of registration between:

Aussin Education Services Pty Ltd t/as Aussin Tutoring (the "Company")

AND

_____ (the business name of the "Subcontractor")

BACKGROUND:

1. The Company has been retained by its "Client" (or "Customer" which refers to a student, a parent, a guardian or a nominee of students acting on behalf of the student to request tuition services by a tutor) to provide tuition services.
2. The Subcontractor is an independent contractor willing and able to provide such Services for the period contemplated in this Agreement.
3. The Company now wishes to sub-contract the provision of such services to the Subcontractor.
4. The Tutor refers to a person from The Subcontractor who is suitably qualified and experienced to provide tuition services in specific areas of expertise.

THE PARTIES AGREE in consideration of, among other things, the mutual promises and undertakings contained in this Agreement.

Please read these terms and conditions carefully, sign the bottom and email or post back to the Company. Please read the following before registering with the Company. By registering, you accept that you are entering into a contract with us based on these Terms and Conditions. We reserve the right to make any necessary changes to these Terms and Conditions. These Terms supersede all previous Terms of Business issued by the Company.

1. TERM OF AGREEMENT:

- 1.1 This agreement takes effect from the Commencement Date and subject to Schedule 1 (Further Terms) and Clause 11 (Termination), continues until the Expiry Date as specified in Schedule 1.
- 1.2 Unless otherwise specified, the Parties mutually agree to extend this agreement for the further term (if any) specified in Schedule 1 (Further Term), commencing on the Expiry Date or the expiry date of a previous Further Term (as applicable).

2. SERVICES:

- 2.1 The Company will take all reasonable precautions to keep the details of Subcontractors and Clients secure, but will not be liable for unauthorised access to the information provided by Subcontractor and Clients.

Aussin Education Services Pty Ltd

3 Owl Way, Beeliar, WA 6164 | <https://www.aussintutoring.com.au> | aussinservices@gmail.com

Tel: (08) 63971516 | ABN 46 160 827 529

- 2.2 The Company will liaise with Subcontractors and Clients to help provide a service to both parties.
- 2.3 The Company will be responsible for the collection of fees from the Client and payment to the Subcontractor for all services received/provided.
- 2.4 The Subcontractor affirms to have the necessary qualifications and/or experience to provide tuition in the subjects highlighted to the Company at the time of registration.
- 2.5 The Subcontractor is expected to be punctual and maintain professional conduct at all times.
- 2.6 The Subcontractor is expected to communicate effectively with Clients, addressing any questions appropriately and professionally.
- 2.7 The Subcontractor agrees with the fees of the contracted service and, if applicable, any associated charges set by the Company for the tuition provided. Payments will not be made in the event of Subcontractor's absence for whatever reason.
- 2.8 The Subcontractor must not discuss any fees (charged or outstanding) with any Client or another Subcontractor.
- 2.9 The Subcontractor must not demand or accept any form of payment from a Client. All payments are agreed and handled only by authorised personnel on behalf of the Company.
- 2.10 The Subcontractor must abide by the contract at all times and either arrange via the Company or inform the Company of further tuition for a current or new Client. Tuition outside of a contract is not permitted.
- 2.11 The Subcontractor must inform the Company of any new leads (tuition or other educational services work) resulting from a contract related directly or indirectly to the Company. Any additional educational services to members must be arranged via the Company.
- 2.12 The Subcontractor understands that there are no minimum or maximum hours offered to the Subcontractor. The Subcontractor is free to accept or reject tutoring jobs as they see fit, based on their availabilities and personal workload.
- 2.13 The Subcontractor will faithfully and diligently provide the Services to the Company in accordance with the terms and conditions of this Agreement.
- 2.14 The Subcontractor throughout the term of this Agreement will provide the service for each of the Clients of the Company during each service period as specified to the best of their abilities.

3. FEES:

- 3.1 In consideration of the Services provided by the Subcontractor, the Company shall pay the Subcontractor fees for such Services provided.
- 3.2 Currently the Company charge commission through the sales of tutoring hours on the platform so that the Company will be able to continuously invest and reinvest into marketing, programming, and platform development.

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3.3 The Company work hard to bring the Client to the platform and connect with the Subcontractor and the Subcontractor acknowledges and accepts that the Company take a 100% commission fee of the Subcontractor's first class fee with every new Client.

3.4 For all subsequent classes after the first class, a flat commission rate 40% is charged by the platform for classes which are not booked through a package while the commission rate is 25% for classes which are booked through a package.

3.5 Cash payments are not permitted to be accepted from the Client in any circumstances. All questions from the Client regarding payments should be referred to the Company.

3.6 In the event that at any time the Subcontractor is not able or willing for whatever reason to continue to provide the Services, the Company will not be required to pay to the Subcontractor any further fees or other sums (whether by way of compensation or otherwise) beyond works already carried out.

4. PAYMENT TERMS:

4.1 An ABN is required for the Subcontractor to submit to the Company before the Subcontractor can receive any payment from the Company. If the Subcontractor does not have an ABN at the time of a class, fees for that class will be held to allow the Subcontractor to apply for and receive ABN. Failure to submit ABN by the Subcontractor to the Company may result in forfeiting the fees for that class.

5. STATUS AND INDEMNIFICATION:

5.1 The Subcontractor warrants and represents to the Company that it is an independent contractor and, as such, bears sole responsibility for the payment of any tax and insurance contributions which may be found due from it in relation to any payments or arrangements made under this Agreement in connection with the Services and further, the Subcontractor agrees to indemnify the Company (and to keep the Company indemnified) in respect of all and any tax and national insurance contributions which may be found due from the Company on any payments or arrangements made under this Agreement together with any interest, penalties or gross-up.

6. NON SOLICITATION:

6.1 The Subcontractor is not bound by any exclusivity agreements - they are free to obtain their own private clients or work for other tutoring companies, however it must be understood that Clients provided by the Company remain clients of the Company at all times .

6.2 The Subcontractor agrees that following the termination of this Agreement it will not accept any appointment or engagement with, or otherwise render any services to the Client for a period of twelve months.

6.3 Any attempt to breach clause 6.1 or 6.2 will result in immediate dismissal and a recoverable charge that will be enforceable by law.

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7. OBLIGATIONS OF SUBCONTRACTOR:

7.1 The Subcontractor undertakes to use its best abilities during the term of this agreement to provide the Services to the Clients.

7.2 The Subcontractor warrants that it is able to perform its obligations under this Agreement and each Services contemplated by the client.

7.3 The Subcontractor agrees:

(a) not to engage in any conduct detrimental to the interests of the Company or the Client, including any conduct tending to bring the Company or the Client into disrepute or which results in loss of favour or business for the Company or the Client;

(b) to furnish the Company with any progress reports as may be requested, as well as to log all sessions in the Subcontractor's dashboard; and

(c) to comply with all requirements of the GST Legislation and the Corporations Act 2001.

8. REPORTING:

8.1 The Subcontractor will provide to the Company on a regular basis, information relating to the Services that is reasonably required by the Company:

(a) to enable The Company to monitor progress of the Service;

(b) to assist in complying with its regulatory obligations and its obligations to report on compliance with those obligations; and

(c) to provide updates to the Client.

8.2 These reports include but not limited to:

(a) Reports after every class.

(b) A progress report for every school term in which the student is tutored.

9. PERFORMANCE:

9.1 If the Subcontractor reasonably believes that the Service under this agreement will not be performed at an acceptable level, the Subcontractor must give the Company prompt Notice of that fact.

9.2 If the Client does not believe the Service under this agreement will be performed at an acceptable level, the company will notify the Subcontractor immediately.

9.3 The Subcontractor should take every effort to perform their duties at the best of their abilities, including:

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(a) being prompt and present at every scheduled class; The Subcontractor is expected to be punctual and maintain professional conduct at all times during time in class.

(b) preparing for the session as required; The Subcontractor is responsible for planning each class beforehand.

(c) familiarising with concepts and ideas relevant to the tutoring subjects; and

(d) being equipped with tools of the trade – i.e. workbooks, worksheets, materials, pens, paper etc. All tools of the trade are property of the Subcontractor and will not be paid for or reimbursed by the Company.

9.4 The Subcontractor must ensure students are comfortable with their work.

9.5 The Subcontractor must provide equal time to each individual student.

9.6 The Subcontractor must ensure that, wherever possible, each student's work is marked.

9.7 Any materials provided by the Company remain the property of the Company and must be surrendered to the Company upon request or prior to the termination of the contract.

9.8 The Subcontractor must not distribute, copy or sell any of the materials used or provided by the Company without Company's permission.

9.9 The Subcontractor may use appropriate external/third party resources or materials to supplement The Subcontractor's tuition in class; however, The Subcontractor is solely responsible for the appropriateness, accuracy and validity of such materials. The Company cannot be held responsible for any copyright or licensed material that Subcontractor selects to use.

9.10 The Subcontractor is expected to communicate effectively with the Client, addressing any questions appropriately and professionally.

9.11 The Subcontractor must not approach, offer or encourage any Client to arrange additional tuition outside of the Company. The Subcontractor should direct any student/parent who approaches them for further tuition to contact the Company. Tuition outside of this contract is not permitted. Any additional educational services to students must be arranged via the Company.

10. INTELLECTUAL PROPERTY:

10.1 The parties agree that other than as provided in this Agreement, nothing in this Agreement transfers ownership in, or otherwise grants any rights in, any Intellectual Property Rights of the company.

10.2 For the avoidance of doubt, the ownership of all materials developed in providing the Services vests with the Company.

10.3 The Subcontractor accepts that any attempt to copy or reverse-engineer the Company's Intellectual Property by its personnel, and/or substitutes and/or subcontractors will entitle the Company to apply for an injunction and seek damages at the Subcontractor's expense, including damages for consequential loss.

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11. TERMINATION:

11.1 Either Party may terminate this Agreement on giving 14 days written notice to the other Party, unless the other party:

(a) has failed to comply with any of its obligations under this Agreement.

(b) becomes unable and or unwilling to perform any or all of its obligations this Agreement.

11.2 Either Party may terminate this Agreement by written notice to the other Party with immediate effect, if the other party is insolvent.

11.3 Invoices for Services rendered prior to effective date of termination will be honoured, but the Company will have no further liability to the Subcontractor.

12. LIMITED WARRANTIES AND DISCLAIMERS:

12.1 The Subcontractor warrants that its Services will be performed in a professional and workmanlike manner consistent with generally accepted industry standards. This warranty shall be valid for ninety (90) days from performance of the relevant Service. Specific results from the provision of such Services will need to be assured or guaranteed by the Subcontractor.

12.2 To the maximum extent permitted by law, the warranty above is exclusive and in lieu of any conditions or warranties of any kind, whether express or implied, statutory or otherwise, with respect to this Agreement, or any Services provided by the Subcontractor to the Company, including, without limitation, any implied warranties of satisfactory quality and fitness for a particular purpose. IN PARTICULAR, THE SUBCONTRACTOR WARRANTS THAT THE SERVICES WILL MEET THE COMPANY'S AND THE CLIENT'S REQUIREMENTS, THAT THE OPERATION OF THE SERVICE WILL BE UNINTERRUPTED OR ERROR-FREE OR THAT ALL SERVICE DEFECTS OR ERRORS WILL BE CORRECTED.

13. LIABILITY & INSURANCE:

13.1 The Subcontractor must have a valid Working With Children Check valid for paid work prior to commencing with first Client.

13.2 The Subcontractor shall be liable for any loss, damage or injury to any party or parties (including the Company, the Client, or their officers, servants or agents) resulting from its negligent acts during the provision of the Services and shall indemnify and keep indemnified the Company against any claim or claims made by the Client and/or by any party or parties to such negligent acts or omissions.

13.3 It is expected that the Subcontractor has obtained their own professional indemnity and public liability insurance.

13.4 The Subcontractor is responsible to have public liability insurance to cover the cost of claims that may be made against the Subcontractor should any member of the public suffer injury, damage to property or any other damages as a direct or indirect result of Subcontractor's teaching work.

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13.5 The Subcontractor agrees to indemnify the Company, its directors, managers and employees of all claim liabilities, costs and expenses (actual or consequential) of every kind and nature known and unknown, suspected and unsuspected, disclosed and undisclosed, directly and indirectly arising as a result of Subcontractor's work or liaison with the Company, its affiliates, employees/representatives or students/parents.

13.6 The Subcontractor agrees to indemnify the Company, its directors, managers and employees of all loss, damage, costs, professional fees and expenses (including legal fees), actions, claims and liability arising directly or indirectly from or in relation to Subcontractor's use or misuse including but not limited to any and all liability whatsoever for any claims, suits, injuries and/or damages arising from, or in any way related to: any inaccuracy, or incompleteness regarding a Tutor's profile, any misstatements or misrepresentations made by Subcontractor or any inappropriate behavior by Subcontractor.

14. RELATIONSHIP OF PARTIES:

14.1 The parties acknowledge that the Subcontractor is not an employee, franchisee of the Company. The Parties acknowledge that the Company has not screened the Subcontractor in any way. The Company does not verify the accuracy of Subcontractor's tutor profiles including any qualifications listed and does not conduct police checks or Working with Children's Checks. The company excludes its liability to the fullest extent permitted by law, and is not responsible for the conduct of any Subcontractors and Clients.

14.2 Neither Party shall incur any liability on behalf of the other or in any way represent or bind the other Party in any manner whatsoever.

15. DISPUTE RESOLUTION:

15.1 The parties undertake to use all reasonable efforts in good faith to attempt to resolve any Dispute which arises between them in connection with this Agreement.

Notice of Dispute

15.2 Either the Company or Subcontractor may give the other party a Notice of Dispute in connection with this Agreement in accordance with clause 16.8 below.

Limited Rights to Commence Proceedings

15.3 A party may not commence legal proceedings (except proceedings seeking injunctive relief or provisory/conservatory measures) in respect of any dispute, claim or controversy arising out of or relating to this Agreement (hereinafter the "Dispute") until after the completion of the initial mediation session as described in clause below, or sixty (60) days after the date of filing the written request for mediation, whichever occurs first. Mediation may continue after the commencement of a civil action, if the parties so desire.

Dispute not Resolved – Mediation

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15.4 If after a period of thirty (30) business days or such other reasonable period as is agreed to by the parties after delivery of a Dispute Notice under this clause, the parties have not been able to resolve a Dispute or agree on a process to resolve a Dispute, the parties expressly agree to try to settle the dispute by mediation administered by the Australian Commercial Disputes Centre (ACDC) before having recourse to litigation. The mediation must be conducted in accordance with the ACDC Guidelines for Commercial Mediation which are operating at the time the matter is referred to ACDC (Guidelines). The Guidelines set out the procedures to be adopted, the process of selection of the mediator and the costs involved. The terms of the Guidelines are deemed to be incorporated into this agreement.

15.5 This clause survives termination of this Agreement.

16. GENERAL:

Acknowledgements / Entire Agreement

16.1 This Agreement, together with any Schedules issued hereunder, constitutes the entire understanding between the Parties and supersedes any and all prior and contemporaneous agreements, understandings or representations, written or oral, with respect to the subject matter hereof. In case of inconsistency between the terms of this Agreement and any of the Schedules, the latter shall prevail unless expressly otherwise provided.

16.2 Each Party acknowledges that it has read this Agreement, understands it and agrees to be bound by its terms and conditions, and that it has not entered into this Agreement in reliance upon any representation made by the other Party but not embodied herein.

Mutual Warranties

16.3 Each of the parties represents and warrants to the other that:

- (a) it has full power and authority and the legal right to sign and deliver this agreement, and to perform its obligations;
- (b) this agreement and the transactions contemplated by it do not contravene its constituent documents or any law, regulation or official directive or any of its obligations or undertakings;
- (c) this agreement has been duly signed and delivered on its behalf;
- (d) the obligations undertaken by it in this agreement are enforceable against it in accordance with the terms; and
- (e) its officers and representatives described in this agreement or nominated under this agreement have the authority to act for and on behalf of it in relation to the matters within their authority under this agreement, unless the party notifies the other party to the contrary.

Privacy

16.4 Each party must comply with all Privacy Laws in relation to the Personal Information, whether or not the party is an organisation bound by the Privacy Act.

Confidentiality

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16.5 Each Party to this Agreement must keep all Confidential Information it obtains concerning each other's affairs and must not use such information for any purpose other than as provided for under the terms and conditions of this Agreement unless otherwise agreed in writing. Information regarded as confidential includes but is not limited to: the terms of this Agreement, information relating to the other Party's business plans, finances, mode of operation, technology, know-how, customers, business partners, products and services.

Set-off

16.6 The Company may set off any amounts it owes to the Subcontractor against any amounts payable by the Subcontractor to the Company.

Goods and Services Tax

16.7 All amounts referred to in this Agreement are inclusive of GST. We expect the Subcontractor to be registered for GST.

Notices

16.8 An official notice or other communication required to be given by a Party to another must be in writing, and

(a) sent by email, or

(b) sent by letter

(c) to that Party's address for service that is set out in the Schedule.

16.9 A notice or other communication will be taken, for the purposes of this Agreement, to have been given:

(a) if personally delivered, upon delivery;

(b) if mailed, on the expiration of 2 business days after the day of posting; or

(c) if sent by email before 5.00 pm, on the day it is sent (or, if not sent before 5.00 pm or that is not a business day, on the next business day).

No Waiver

16.10 No failure, delay, relaxation or indulgence by a Party in exercising any power or right conferred upon it under this Agreement will operate as a waiver of that power or right. No single or partial exercise of any power or right precludes any other or future exercise of it, or the exercise of any other power or right under this Agreement.

No Variation

16.11 This Agreement may not be varied, modified or amended except in a written document signed by a duly authorised representative of each Party and no other act, document, usage or custom shall be deemed to vary, modify or amend this Agreement.

Assignment

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16.12 The rights granted herein are restricted for use solely by Subcontractor, subject to the limitations set forth herein. The Subcontractor may not assign this Agreement to a third party without the Company's prior written consent and approval.

Severability

16.14 If any provision of this Agreement is invalid, void or unenforceable, all other provisions which are capable of separate enforcement without regard to an invalid, void or unenforceable provision are and will continue to be of full force and effect in accordance with their terms.

Further Assurances

16.15 Without limiting the obligations imposed on a Party under this Agreement, each Party agrees to execute all instruments and do all other acts and deliver such further instruments and do any other acts or things necessary or desirable to give effect to the provisions of this Agreement.

Survival of clauses

16.16 The rights and obligations under clauses (Intellectual Property), (Warranties), (Indemnities), (Confidentiality), (Privacy), (Notices), (Dispute Resolution) and this clause and any other clause which by its nature is intended to survive, continues in full force and effect after the agreement ends.

Governing Law

16.17 The validity, interpretation and performance of this Agreement will be governed by and construed in accordance with the law of the State of New South Wales and of the Commonwealth of Australia which the Parties acknowledge is the proper law of this Agreement.

Your details

16.18 The Company stores all personal data on a secure server and will not pass or sell personal details to any other party, with the following exceptions;

(a) Upon being assigned a student, the Subcontractor's name, phone number and public profile will be shared with the Client.

(b) The 'tutor profile' contains information designed to be publicly viewable and this data may be used in a public way, such as promoted on our website or used in marketing material. This includes the profile picture chosen by the Subcontractor for their profile, reviews created by Clients for the Subcontractor and information about their experience, education and goals.

(c) If required by the ATO or other government bodies.

16.19 Upon termination of this agreement, The Company may continue to use the Subcontractor's image and information featured in 16.18b and 16.18c, unless explicitly requested by the Subcontractor in writing per clause 16.8.

16.20 It is the responsibility of the Subcontractor to ensure personal data is accurate and up to date. Personal data is retained by the Company for three years from the end of agreement.

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Schedule 1

1. Date of this agreement

2. The Company details

3. Expiry date

4. Further term

5. Fees

6. Penalties

7. Contact

1.

This agreement commences on the date the Subcontractor registers as a tutor with Aussin Tutoring Services

2.

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3.

This agreement is valid for 12 months.

4.

The renewal term of this agreement is 12 months.

5.

The Company offers fixed subject-based hourly rates to its Clients and Subcontractors do not set their own tutoring prices. The Company do not pay travel allowances to the Subcontractor.

6.

A reminder that per section 6.3 of the tutor agreement, heavy penalties apply for attempting to take students away from the oversight of the Company and making them your own.

7.

If you have questions about this tutor agreement, please email them to aussinservices@gmail.com.

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Subcontractor's Business Name

Subcontractor's ABN

Subcontractor's Representative Name

Signed Here

Date

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