

DATED 14 September 2015

PARTNERSHIP AGREEMENT

between

MULPHA HOTEL PTY LIMITED

and

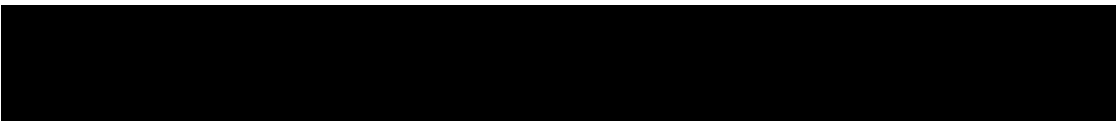
MULPHA EDUCATION GROUP PTY LIMITED

and

SOUTHERN CROSS UNIVERSITY

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AGREEMENT made *14 September*

2015

PARTIES **Mulpha Hotel Pty Limited** (ACN 070 662 627) of Level 5, 99 Macquarie Street, Sydney NSW 2000 ("**MHPL**")

AND **Mulpha Education Group Pty Limited** (ACN 168 032 746) of Level 5, 99 Macquarie Street, Sydney NSW 2000 ("**MEG**")

AND **Southern Cross University** of Military Road, East Lismore, New South Wales ("**University**")

RECITALS

- A. The University provides higher education courses to students in Australia and overseas.
- B. MHPL and MEG are part of a group of companies that acquire, develop and manage premium property and lifestyle investments including resorts, hotels, residential and commercial developments.
- C. MHPL wishes to assign all of its right, title and interest in the Partnership to MEG. The University consents to the assignment.
- D. MHPL, MEG and the University wish to replace the previous 2007 Agreement with this Agreement to reflect the changes that have occurred in the educational environment and the operations of the Partnership since its commencement.

OPERATIVE PROVISIONS

1. Definitions and Interpretation

- 1.1 In this Agreement, unless the context otherwise indicates:

"**2007 Agreement**" means the Partnership Agreement dated 12 March 2007 between MHPL and the University.

"**Academic Staff**" means any lecturer, tutor or other person employed by the University or Mulpha whether as an employee, consultant or otherwise, to teach an SCU Unit and/or Course;

"**Academic Manager**" means the person employed by the University or Mulpha to lead and manage the day to day academic operations of the Campus or Campuses. The Academic Manager may or may not be the course coordinator;

"**ADR**" means:

- (a) Australian Commercial Disputes Centre Limited ("**ACDC**"); or

- (b) in the event ACDC shall cease to exist, be replaced or cease to carry on its functions in alternative dispute resolution, the body established in lieu thereof to carry on alternative dispute resolution or which exercises substantially the same powers or functions in alternative dispute resolution as ACDC (the “**the replacement body**”); or
- (c) in the event there is no replacement body, such other body performing alternative dispute resolution functions, nominated by the President (or other senior officer) from time to time of the New South Wales Law Society.

“**Agreement**” means this partnership agreement.

“**Annual Program**” means in respect of a Campus, a program for the management and operation of the Campus during a Calendar Year and will consist of:

- (a) a business plan setting out in detail the Campus’ proposed marketing plans, finance arrangements, capital expenditures and activities during that Calendar Year; and
- (b) a budget setting out in detail an estimate of the income to be received and the expenses to be incurred in carrying out that business plan.

“**Applicable Legislation**” means any statute, legislation, decree, regulation or decision applicable in respect of the responsibilities and obligations of the University or Mulpha under this Agreement.

“**Assessment Material**” means any written or oral work or material, including material in an electronic format, required to be completed by a Student in an Course including, without limitation, examination scripts, field work, laboratory work, practical work, assignments, projects and any other assessment tasks.

“**Auditor**” means the external independent auditor appointed by the Committee for auditing the accounts of the Partnership.

“**Business Day**” means any day other than Saturday, Sunday or a public holiday in New South Wales.

“**Campus**” means the facilities for the delivery of Courses at the location identified in the relevant Annexure attached to this Agreement relating to that Campus.

“**Committee**” means the management committee established under clause 11.

“**Confidential Information**” means the information, forms, specifications, processes, statements, formulae, trade secrets, drawings and data (and copies and extracts made of or from that information and data) concerning:

- (a) the operations and dealings of the the Partnership, a Campus or a Partner;(b) the organisation, finance, customers, markets, suppliers, intellectual property and know-how of the Campus, the Partnership, a Partner or a Related Body Corporate of a Partner; and

- (c) those operations and transactions of a Partner concerning the Campus and the Partnership;

which is not in the public domain, except by the failure of a Partner to perform and observe its obligations under this Agreement or which has been obtained through or by being a Partner of the Partnership from the operations or activities of the Campus.

"Course" means the University course to be offered at a Campus as specified in the Annexures attached to this Agreement; and **Courses** means more than one Course.

"Course Material" means any material, including assessment material, and/or material in an electronic format prepared by the University for use in the teaching of a Course.

"BBHM" means Bachelor of Business in Hotel Management (as varied, amended, modified, reconstituted, substituted or replaced, notwithstanding any change in name).

"Encumber" means to mortgage, pledge, charge, assign as security or otherwise encumber.

"ESOS Act" means the *Education Services for Overseas Students Act 2000* (Cth).

"Existing Partnership" means the partnership between MHPL and the University pursuant to the 2007 Agreement.

"Financial Year" means a period of 12 consecutive calendar months ending on 31 December or on another day decided by the Committee PROVIDED THAT the last Financial Year shall commence from 1 January immediately before the date this Agreement is terminated up to the date this Agreement is terminated.

"General Manager" means the person responsible for the management of all Campuses operated by the Partnership.

"Director of Sales and Marketing" means the person responsible for the sales and marketing for all Campuses operated by the Partnership.

"Health Information" has the meaning set out in HRIPA.

"HRIPA" means the *Health Records and Information Privacy Act 2002* (NSW).

"Intellectual Property Rights" means all rights (including any moral rights) in any patent, copyright, confidential information, privileged information, secret information, database rights, registered design or other design right or design application, utility model, trade mark (whether registered or not and including any rights in get up or trade dress), brand name, business name, domain name, trade name, service mark, new plant varieties, inventions, know-how, product formulations, processes, methods, eligible layout right, circuit layouts, chip topography right, the Trading Names, the Confidential Information, and any other rights of a proprietary nature in or the results of intellectual activity in the industrial, scientific, literary or artistic fields, whether registrable or not and wherever existing in the world, including the benefit of all applications and rights to use such assets,

and including all renewals, extensions and revivals of, and all rights to apply for, any of the foregoing rights owned, used, or intended to be used by a person, whether or not registered, registrable or patentable.

“Interest Rate” means the rate normally charged by the bank in which the Partnership's bank account is kept on unsecured overdrafts of \$10,000 to prime customers.

“Invoicing and Fee Collection Process Agreement” means the agreement between the University and MHPL in 2013 for the collection and processing of tuition fees set out in Schedule 1.

“Irremediable Breach” means a breach of an obligation under this Agreement that cannot be remedied but does not include a breach in the performance of an obligation within a time specified in this Agreement unless the obligation is incapable of being performed after the end of the time specified.

“Key Personnel” means the General Manager, Director of Sales and Marketing and the Academic Manager.

“Lease” or “Leases” means the lease or leases entered into, or intended to be entered into, by MHPL or MEG and the University as lessees for premises identified in the Annexures attached to this Agreement.

“Learning Management Systems” means the online collaborative learning platform hosted by the University at the date this agreement is executed by both parties and altered or changed by the University from time to time.

“MITHM” means Master of International Tourism and Hotel Management.

“Mulpha” means

- (a) MHPL up to the date of assignment of its right, title and interest in the Partnership to MEG as envisaged by clause 2.1 of this Agreement; and
- (b) MEG as and from the date of assignment of MHPL's right, title and interest in the Partnership to MEG as envisaged by clause 2.1 of this Agreement.

“Mulpha Financial Delegation Policy” means the policy from time to time specified by Mulpha in relation to the approval or authorisation of expenditure.

“Notice” has the meaning given to “Notice” in clause 30 of this Agreement.

“Partner” means the University or Mulpha as the case may be and **“Partners”** means the University and Mulpha.

“Partnership” means the partnership established by the Partners pursuant to the 2007 Agreement as replaced by this Agreement.

“Personal Information” has the meaning set out in the Privacy Act.

“Policy Library” means the online collection of the University’s official governance documents.

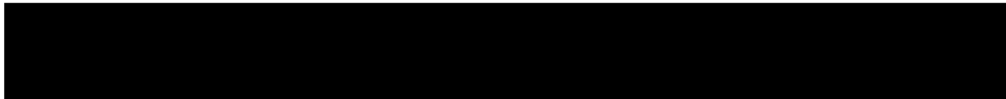
“Privacy Act” means the *Privacy and Personal Information Protection Act 1998* (NSW).

“Prospective Student” means a person who applies to be admitted into a Course.

“Related Body Corporate” means any related body corporate of a Partner as that term is defined in the *Corporations Act 2001* (Cth).

“Relevant Staff” means the staff identified by the General Manager from time to time as requiring access to University systems.

“Respective Proportions” means, in respect of a Campus, each Partner’s interest in the assets and liabilities of the Partnership and the profits and losses of the Partnership, so far as they relate to or are connected with the Campus, as detailed in the relevant Annexure attached to this Agreement.



Clause 4(a)
Clause 4(d)

“Student” means a person who enrolls in a Course being delivered on the Campus. That person is deemed to remain a Student until he or she discontinues or satisfactorily completes the Course.

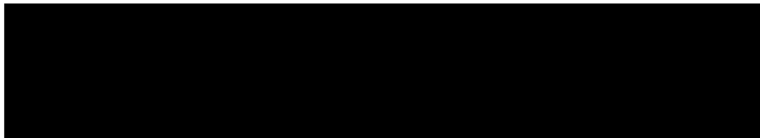
“Termination Date” means:

- (a) the date being the second anniversary of 31 December immediately following the Termination Notice (as defined in clause 23.1); or
- (b) such other date as the Partners may agree in writing.

“TEQSA Act” means the *Tertiary Education Quality and Standards Act 2011* (Cth).

“Trading Names” means:

- (a) ‘The Hotel School’;
- (b) ‘The Hotel School Sydney’;
- (c) ‘The Hotel School Melbourne’;



Clause 4(a)
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- (f) any other names agreed by the Partners.

1.2

- (a) Reference to:
 - (i) one gender includes each other gender;

- (ii) the singular includes the plural and the plural includes the singular;
- (iii) a person includes a body corporate;
- (iv) a Partner includes the Partner's executors, administrators, successors and permitted assigns; and
- (v) a statute, regulation or provision of a statute or regulation ("**Statutory Provision**") includes:
 - (A) that Statutory Provision as amended or re-enacted from time to time; and
 - (B) a statute, regulation or provision enacted in replacement of that Statutory Provision.
- (b) All monetary amounts are in Australian dollars, unless otherwise stated.
- (c) If a Partner consists of more than one person, this Agreement binds them jointly and each of them severally.
- (d) Headings are for convenience only and do not form part of this Agreement or affect its interpretation.
- (e) A Partner which is a trustee is bound both personally and in its capacity as a trustee.
- (f) "Including" and similar expressions are not words of limitation.
- (g) Where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning.
- (h) If an act must be done on a specified day which is not a Business Day, the act must be done instead on the next Business Day.

2. Objectives of the Partnership

2.1 Assignment

- (a) The parties acknowledge MHPL wishes to transfer its right, title and interest in the Partnership (including the assets of the Existing Partnership and the 2007 Agreement) to MEG ("**the Assignment**").
- (b) Prior to the Assignment, MHPL must obtain the consent of the landlord of the Campus operated at 60 Phillip Street, Sydney to the Assignment.

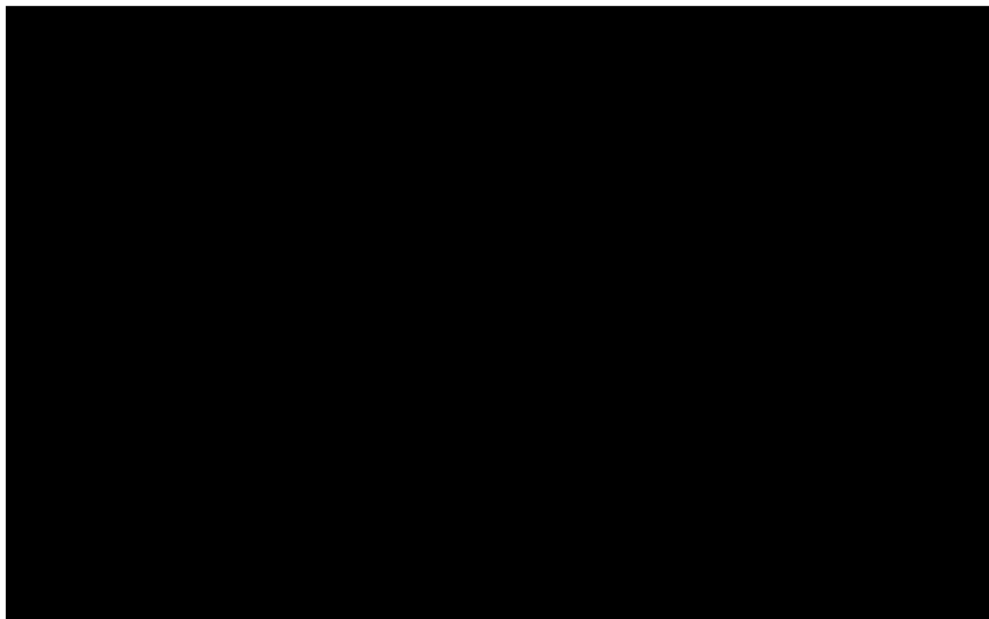
- (c) MEG and MHPL will be responsible for any costs (including the costs of obtaining the landlord's consent) arising from the Assignment referred to in clause 2.1(a).
- (d) As and from the date of the Assignment, MHPL guarantees to the University the due and punctual performance of MEG's obligations under this Agreement.
- (e) The University consents to the Assignment.
- (f) Mulpha will give notice to the University of the Assignment as soon as practicable after the Assignment occurs.

2.2 Commencement

This Agreement shall be effective from the date of the Agreement.

2.3 Purpose

The Partnership is created for the broad purpose of operating Campuses to act as a "Centres of Excellence" for the education and development of persons employed in, or wishing to be employed in, the hotel and tourism industries delivering study programs which:



Clause 4(a)
Clause 4(c)
Clause 4(d)

2.4 Specific Objectives of the Campus

The Partners' objectives in relation to each Campus are:



Clause 4(a)
Clause 4(c)
Clause 4(d)

3. The Campus

- 3.1 The Partners will, in accordance with the provisions of this Agreement, operate an educational facility or facilities for the professional development of participants in the hotel and tourism industry under the names specified in the Annexures attached to this Agreement.
- 3.2 The Partners may add a Campus to this Agreement by mutual agreement the details of which will be included in an Annexure to be attached to this Agreement.

4. Contribution by Partners

- 4.1 The Respective Proportions held by each partner in the assets and liabilities of the Partnership and the profits and losses of the Partnership, so far as they relate to or are connected with a Campus are specified in the relevant Annexure attached to this Agreement.
- 4.2 If further capital is required by the Partnership in relation to a Campus during the term of this Agreement, then the Partners will use reasonable endeavours to provide such capital in proportion to their Respective Proportions for that Campus. However, if one Partner is required to contribute capital in circumstances where the other Partner does not make their proportional contribution, then this will be reflected by adjusting each Partner's Respective Proportion for that Campus.
- 4.3 It is the intention of the Partners that, generally, all future funding for capital purchases and expansion of activities be provided from the retained earnings of the Partnership.

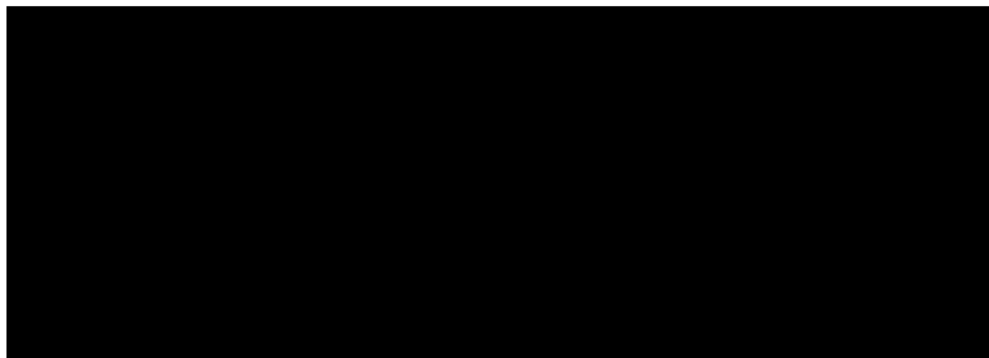
5. General Responsibilities of Partners

5.1 The Partners must ensure that the Partnership:

- (a) promotes the business operations, name and reputation of each Campus;
- (b) regularly reviews the needs and operations of the hotel and tourism industries to ensure the educational courses offered are relevant to and respected by the industry participants;
- (c) keeps its assets in good repair, working order and condition (reasonable fair wear and tear excepted) and makes, from time to time as is necessary, proper repairs, renewals and replacements;
- (d) complies with the contracts, arrangements and property and equipment leases to which it is a party;
- (e) keeps its tangible assets which are able to be insured, insured by a financially sound and reputable insurer against loss or damage by fire, explosion and other risks customarily insured against by companies conducting businesses similar to the business of the Partnership in amounts not less than the full insurable value of those assets;
- (f) maintains insurance with a financially sound and reputable insurer against other hazards and risks and liability to persons and property to an amount and in the way customarily insured against by companies conducting businesses similar to the business of the Partnership;
- (g) observes and conforms with all valid requirements of government authorities relating to the business of the Partnership and its assets.

5.2 The Partners will be jointly responsible for course development and maintenance of quality control in respect of the academic and professional standards of and within each Campus.

5.3 Each Partner will contribute to the management and conduct of each Campus by either providing or advising and assisting as follows:



Clause 4(a)
Clause 4(c)
Clause 4(d)

Clause 4(a)
Clause 4(c)
Clause 4(d)

(b) Mulpha:

Clause 4(a)
Clause 4(c)
Clause 4(d)

6. Staff

- 6.1 Mulpha will employ, be responsible for and make available to the Partnership:
- (a) all administrative staff necessary for the day to day management and operation of the Campuses; and
 - (b) Academic Staff as agreed between the Partners.
- 6.2 The University will employ, be responsible for and make available to the Partnership:
- (a) Academic Staff as agreed between the Partners; and

- (b) the Academic Manager where that appointment has been agreed between the Partners and approved by the Committee.
- 6.3 The selection of the Key Personnel will be the joint responsibility of both Partners and will be subject to approval by the Committee.
- 6.4 Mulpha must not employ a person as a member of the Academic Staff unless that person's appointment has been approved in writing by the University. The University is entitled to reject any appointment proposed for Academic Staff in its absolute discretion.
- 6.5 Without limiting Mulpha's obligations in clause 6.1, from time to time the Partners may agree to permit the University to appoint a member of the Academic Staff or another of Mulpha's employees as an adjunct staff member of the University or to carry out certain administrative or management functions at the University relating to a Course.

7. Legal compliance

- 7.1 Each Partner agrees that to the extent that it (including its agents) promotes a Course outside of Australia or conducts a Course inside Australia, it will comply with any registration, licensing or other obligations under the equivalent and/or applicable legislation (if any) in the relevant jurisdiction.
- 7.2 Each Partner represents and warrants for the benefit of the other Partner that:
 - (a) it will notify the other Partner immediately upon becoming aware of any breach by it or the other Partners of the TEQSA Act or ESOS Act or any other equivalent and/or applicable legislation in another jurisdiction; and
 - (b) if the notifying Partner is the party in breach, it shall advise the other Partner at that time of its proposed course of action to remedy such breach.
- 7.3 Mulpha agrees that to the extent that the University is required to comply with the requirements of the TEQSA Act, Higher Education Standards Framework and ESOS Act in relation to the activities the subject of this Agreement, it will take all reasonable steps to assist the University in complying with those requirements.
- 7.4 Each Partner shall in the course of fulfilling its obligations under this Agreement:
 - (a) comply with the Privacy Act and HRIPA and any other applicable laws in any other relevant jurisdiction relating to the handling of Personal Information and Health Information;
 - (b) comply with the University Privacy Policy to the extent that it collects, processes and discloses Personal Information and Health Information on behalf of the University;

- (c) in relation to Personal Information and Health Information collected in the course of fulfilling such obligations, provide to individuals in a mutually agreed form, at the time when individuals provide such Personal Information and Health Information, a statement that:
 - (i) meets the obligations of the Privacy Act and HRIPA in relation to the collection of Personal Information and Health Information;
 - (ii) clearly states that such Personal Information and Health Information will be disclosed to the University; and
 - (iii) where necessary, seeks to obtain consent from individuals for any uses of Personal Information and Health Information in the course of the operation of the Courses for which consent must separately be obtained.
- 7.5 Except as required by law or in order to fulfil obligations under this Agreement, each Partner shall not disclose without the written permission of the other Partner any Personal Information and Health Information obtained in connection with this Agreement.
- 7.6 Each Partner shall take all reasonable steps to prevent the misuse or loss of and unauthorised use, modification, access and disclosure of Personal Information and Health Information by it.
- 7.7 Each Partner shall ensure that only employees or agents who are authorised to fulfil the obligations of the Agreement and who need to have access to any particular Personal Information and Health Information have access to the particular Personal Information and Health Information.
- 7.8 In the event of an investigation of a complaint occurring as a result of a breach or alleged breach of this Agreement, each Partner shall cooperate with any investigation by the Privacy Commissioner or any complaints handling body established under the Privacy Act and HRIPA.
- 7.9 In addition to the obligations in clauses 7.1 to 7.8, each Partner must ensure that it complies with all relevant law in relation to, or which affects or potentially affects the efficient operation of this Agreement including without limitation any Applicable Legislation and compliance with any relevant requirement of any relevant government agency.
- 7.10 Each Partner acknowledges and agrees that it will comply with the requirements of the *Higher Education Support Act 2003* (Cth) if applicable to its activities under this Agreement.
- 7.11 Mulpha acknowledges that where applicable, details of this Agreement (excluding any commercial in confidence provisions) may be published on the University's intranet site pursuant to the requirements of the *Government Information (Public Access) Act 2009* (NSW). Should details of this Agreement need to be published, the University will notify Mulpha as to the extent of the disclosure/publication at least

two (2) weeks prior to any publication. During the two (2) week period, the Partners may discuss the extent of the disclosure/publication.

8. Reimbursement and Indemnities

8.1 Each Partner shall reimburse to and indemnify the other Partner that Partner's Respective Proportion of costs and losses incurred by or claims made against the other Partner in respect of:

- (a) services of staff employed by the other Partner and provided to a Campus (including without limitation any termination payments required to be paid to those staff for the time spent at the Campus);
- (b) the provision of premises for a Campus (including without limitation any lease entered into by either Partner in respect of those premises);
- (c) any accounting, legal, marketing or other services provided by the other Partner for a Campus; and
- (d) any educational and information material in the form of books, lecture notes, software, hardware and information on-line services provided for a Campus.

8.2 In addition to the cost reimbursement and indemnity referred to in clause 8.1, the Partners will determine what fee, if any, each Partner is entitled to receive in consideration of the advice and assistance referred to in clause 5.3.

8.4 Each Partner ("**the Indemnitor**") indemnifies and agrees to keep indemnified the other Partner, its employees, agents and contractors ("**the Indemnitee**") from and against any and all liability, loss, harm, damage, cost or expense that the Indemnitee may suffer, incur or sustain as a result of:

Clause 4(a)
Clause 4(c)
Clause 4(d)

- (a) any act or omission of the Indemnitor its employees, agents and contractors not authorised by or pursuant to this Partnership or Agreement; or
- (b) any failure by the Indemnitor to perform any of its obligations under this Agreement.

8.5 The indemnities in this clause 8 shall survive the termination of this Agreement.

9. Management of the Campus

9.1 General Operation:

- (a) It is the intention of the Partners that, to the maximum extent possible, each Campus functions as a stand-alone education and business “Centre of Excellence” in the hotel and tourism industry that can draw on the resources and abilities of each of the Partners to provide services or functions that the Campus cannot perform on its own because of either legal or economic constraints.
- (b) The operations and strategic direction of the Partnership and each Campus shall be overseen and administered by the General Manager and a Committee pursuant to clauses 10 and 11 of this Agreement.

9.2 Operation

The Partnership shall enter into contracts and other arrangements for the provision of materials and services required for the operation of the Partnership and each Campus. Other than as set out in this Agreement, no contract or other arrangement can be entered into by or on behalf of the Partnership without the prior approval of the Committee.

9.3 Academic Matters

- (a) All academic and curriculum matters for the Courses shall be the University's exclusive responsibility and the University will make all decisions concerning Course curriculum and content.
- (b) The University shall exercise control over, and be exclusively responsible for, the content and quality of the curriculum of the Course.
- (c) The University will advise, consult and allow input from the General Manager and or Mulpha regarding any material changes to Courses.
- (d) Timetabling and scheduling of the Course and units will follow the standard University model except where the Partners agree on adjustments to suit the purpose of the Partnership as detailed in clause 2.3. Any adjustment made under this Clause must be done in consultation between the Partners and not be inconsistent with University Rules and Policies.
- (e) The University agrees that it shall undertake an annual review of the units that make up each Course and that it shall provide all reasonably required improvements, revisions, additions, deletions and curriculum refreshment that may be required (whether due to information currency, discipline development, or any other reason related to Course quality and completeness).

- (f) The University agrees to undertake regular reviews of the Courses in accordance with University Policy and clause 9.3(e).

9.4 Assessment Material, conduct of examinations and completion of a SCU unit or Course

The Partners agree that the University is solely responsible for:

- (a) preparing and amending all Assessment Material related to a unit in a Course;
- (b) assessing a Student's performance in relation to the Assessment Material;
- (c) determining the final grade for each Student in respect of a unit or Course and
- (d) determining if a Student has satisfactorily completed a Course.

9.5 Moderation Procedures

In the event that a unit in a Course is being taught by a member of the Academic Staff who is not an employee of the University, the Partners agree that the University's Educational Collaborations Moderation Procedures, which can be found in the University's Policy Library, will apply and that the Academic Manager will be responsible for ensuring that this occurs.

9.6 Student Enrolment, Administration and Accreditation

- (a) Prospective Students shall apply to the University for admission into a Course and to attend a Campus.
- (b) Prospective Student's applications for admission will be assessed in accordance with University Rules.
- (c) Prospective Students that are accepted will receive an offer of admission from the University.
- (d) Campus staff will administer Student enrolments and monitor academic progress in accordance with University policies and procedures.
- (e) On successful completion of a Course, a Student will be awarded with the relevant qualification by the University in accordance with the University's Rules.

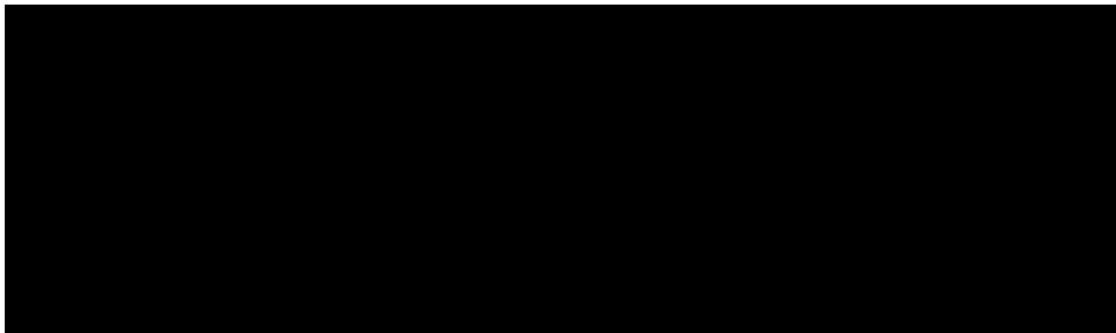
9.7 Tuition Fees

The University will invoice and collect all tuition fees payable by Students for enrolment in a Course at a Campus. Upon receipt of a tax invoice from the Partnership, the University will make payments to the Partnership of all tuition fees as outlined in the Invoicing and Fee Collection Process Agreement. Any amendments to the Agreement must be agreed to by Mulpha and the University and recorded in writing.

9.8 Partnership Expenses

The Partnership shall pay all of its operating and capital costs including:

- (a) salaries for all staff employed for the operation of the Campus;
- (b) all salary on costs including superannuation;
- (c) all operating costs including printing, stationary, advertising, repairs, maintenance, utilities, travel, accommodation, licence fees etc;
- (d) property rentals and equipment leases;
- (e) development and upgrading of courses and course curriculum, study guides, brochures and notes;
- (f) reimbursement of costs incurred by the Partners in supplying services;
- (g) all other costs incidental to the management of the Campus/es and its operations.



Clause 4(a)
Clause 4(c)
Clause 4(d)

10. The General Manager

10.1 The Partners agree the General Manager is responsible for:

- (a) the day to day management of all activities of the Campuses;
 - (b) the general administration of the Campuses;
 - (c) compliance with the TEQSA Act and ESOS Act and any other Applicable Legislation; and
 - (d) implementation of the strategic direction and plan agreed by the Committee,
- subject to compliance with directions from the Committee from time to time.

10.2 The General Manager will report to the Committee.

- 10.3 All persons providing services in relation to the Campuses will be under the control and direction of the General Manager except in respect of the matters set out in clauses 9.3 and 9.4.
- 10.4 Notwithstanding any provision in this Agreement, the General Manager shall only be authorised to approve and effect expenditure for the purpose of operating the Campuses in accordance with:
- (a) the Mulpha Financial Delegation Policy; and
 - (b) the authorisation of a University Committee Member made in the exercise of their delegated powers pursuant to the University Delegations Rule; and
 - (c) the Annual Budget.

11. Committee of Management

- 11.1 The Partners will establish a Committee of management which shall have the following functions:
- (a) determining, in relation to each Campus::
 - (i) the operational policy,
 - (ii) the strategy formulation, priorities and targets for the Campus,
 - (iii) the teaching arrangements,
 - (iv) the financial operations of the Campus,
 - (v) the governance and compliance with relevant regulatory bodies; and
 - (vi) any similar functions or operations;
 - (b) carrying out of such other functions required to be carried out by the Partners pursuant to this Agreement.
- 11.2 The Partners acknowledge that all matters pertaining to the requirements for the issue of academic awards will be determined by the University.
- 11.3 Membership of the Committee will comprise:
- (a) 2 persons appointed by Mulpha;
 - (b) 2 persons appointed by the University; and
 - (c) the General Manager (who does not represent either Partner and cannot vote at Committee meetings).

- 11.4 Committee decisions must be unanimous.
- 11.5 A quorum of the Committee consists of two members (at least one member representing each Partner).
- 11.6 The Committee will regulate its own proceedings including the operation and frequency of meetings PROVIDED THAT the Committee will meet at least twice each year whether in person, by telephone, video conferencing or other electronic means.
- 11.7 The Committee shall keep and maintain a minute of each meeting and other relevant books and records as are appropriate and adequate for the proper operation of the Committee.
- 11.8 The Committee shall in the event that a member of the Committee is unable to attend a meeting, permit that member by Notice to appoint an alternate to attend in his or her place.
- 11.9 The Committee shall report to the Partners at least twice a year and in any event within 45 days of the end of each Financial Year.
- 11.10 The Partners agree that a decision of the Committee made in accordance with this Agreement will be valid and binding upon each of them.
- 11.11 The Partners agree that members of the Committee, acting within their authority, will not be held individually or severally liable for any debts or liabilities of or in connection with the Partnership.
- 11.12 The Committee must consider and adopt an Annual Program for each Financial Year, using the following procedure:
- (a) at the first meeting of each year, the Committee will determine the timing and strategy for the Annual Program;
 - (b) the draft Annual Program is submitted to Mulpha and the University for review and approval as per the budget setting process;
 - (c) the Annual Program is approved by the Committee by November of each year; and
 - (d) the Annual Program approved by the Committee may from time to time before or during the period to which it relates, be changed by the Committee.

12. Bank Account

- 12.1 All funds received by the Partnership in the operation of the Campuses including funds provided by the Partners are to be deposited into an account in the name of the Partners trading under the relevant Trading Name.

- 12.2 The Committee will determine the bank and branch in which the account or accounts are to be established and nominate the signatories to such account or accounts.

13. Accounting Records

- 13.1 The Partnership will keep or cause to be kept proper accounting records for the Partnership and the Campuses which clearly identify all receipts and payments with respect to the Partnership and the Campuses using generally accepted accounting principles consistently applied and the Partners shall be entitled to rely on the accounts of the Partnership. Such accounting records shall be kept at the premises of the relevant Campus.

[REDACTED] oversee the preparation of the Partnership's accounts.

Clause 4(a)
Clause 4(d)

- 13.3 A Balance Sheet and Profit and Loss and Cash Flow Statement for the quarter ending immediately before each Committee meeting must be presented to each Committee meeting.
- 13.4 The Partnership must ensure that the University and Mulpha, their employees, agents or consultants are permitted to:
- (a) inspect and take copies of documents relating to the Partnership and the Campuses including books of account; and
 - (b) discuss the relevant Campus's affairs, finances and accounts with the Partnership's officers, employees and auditors,
- at reasonable times and as often as is reasonable.

14. Annual Accounts

- 14.1 The annual accounts of the Partnership shall be prepared as at the financial year ending on the 31st day of December in each Financial Year ("the Annual Accounts"). The Annual Accounts shall comprise a set of Special Purpose Financial Statements prepared in accordance with Australian Accounting Standards.
- 14.2 The Committee will instruct management at the appropriate time to appoint external auditors to audit the Annual Accounts. The Annual Accounts shall be audited and provided to the Partners no later than 8 weeks after the end of the Financial Year.
- 14.3 The Annual Accounts shall be kept at the offices of the General Manager or at such other place as is agreed between the Partners and notified to the General Manager and shall be available on any Business Day for inspection by each of the Partners and their auditors and any duly authorised employee of either of the Partners.

15. Profit and Loss and Assets

- 15.1 The Partners shall in each Financial Year share the profits and losses of the Partnership in their Respective Proportions. For the avoidance of doubt, capital profits and losses shall be included in this clause.
- 15.2 After allowing for the projected operating and capital requirements of the partnership, the Committee shall declare a profit distribution to the Partners in proportion to their Respective Proportions every 6 months or more regularly as agreed between the Partners from time to time. The Partners shall be entitled to the assets and profits for the time being of the Partnership as tenants in common in their Respective Proportions.
- 15.3 All Intellectual Property Rights in each Course and the Course Materials remain at all times with the University or its suppliers. Nothing in this Agreement is intended to assign or transfer to Mulpha any interest in any Intellectual Property Rights of the University or its suppliers (other than a license to use Intellectual Property Rights as contemplated hereby).
- 15.4 The Partners acknowledge and agree the Trading Names are owned by the Partnership.

16. Additional Capital

- 16.1 All the operating and capital costs, disbursements, rates, taxes, charges and outgoings incurred in the operation of the Partnership shall be paid out of the funds of the Partnership in the Partnership's bank account and if there is any deficiency in funds to meet such payments and in respect of which the Partners are liable to make payment then such deficiency shall be paid by the Partners in their Respective Proportions.

17. Mutual Restrictions

- 17.1 Neither of the Partners shall without the prior written consent of the other:
- (a) employ any of the assets of the Partnership or pledge the credit of the other Partner or the Partnership or give any credit on behalf of the other Partner or the Partnership or enter into any transaction or incur any liability which may be binding on the Partnership or the other Partner; or
 - (b) compromise or compound or (except upon payment thereof in full) release or discharge any debt or obligation due to the Partners under this Agreement or any other agreement entered into by the Partnership.

18. Commitment and Confidentiality

- 18.1 Each Partner must:

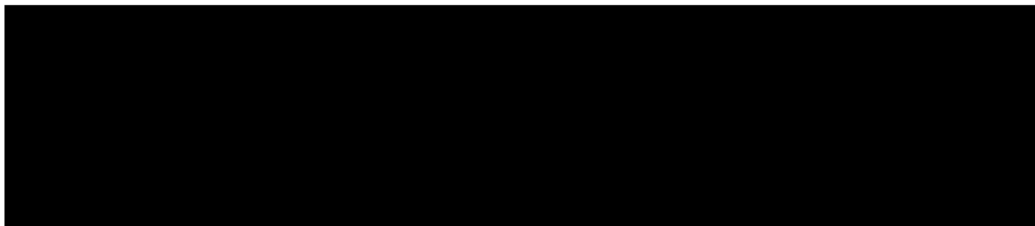
- (a) co-operate and use its best endeavours to ensure that each Campus is successful;
- (b) not use the Confidential Information in a way which does or is reasonably likely to damage a Campus or any of the Partners;
- (c) not unreasonably delay any action, approval, direction, determination or decision which is required of it;
- (d) make approvals or decisions that are required of the Partner in good faith and in the best interests and the conduct of each Campus as a commercial venture; and
- (e) be just and faithful in its activities and dealings with the other Partner.

18.2 A Partner must not disclose or allow to be disclosed Confidential Information to any third party except:

- (a) with the consent of the Partner beneficially owning the Confidential Information; or
- (b) in accordance with law or government or other public regulatory requirements (including the reporting requirements of the Australian Stock Exchange or the reporting or prospectus requirements of the *Corporations Act 2001* (Cth)),

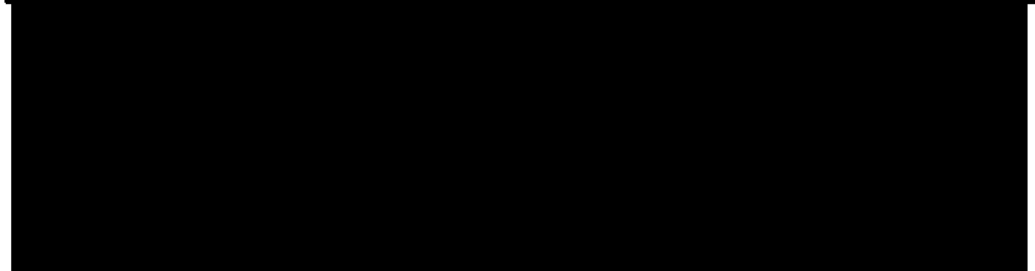
and the Partners must take, or cause to be taken, reasonable precautions necessary to maintain the secrecy and confidentiality and to prevent the disclosure of the Confidential Information.

18.3



Clause 4(a)
Clause 4(d)

18.4



Clause 4(a)
Clause 4(d)

18.5 A Partner may disclose or allow to be disclosed Confidential Information relating to the Campus to a potential transferee of its interest in the Partnership provided that the potential transferee first enters into a deed with the Partners and in a form and substance reasonably satisfactory to the Partners, whereby the potential transferee

undertakes to keep the Confidential Information confidential and to only use the Confidential Information for the purpose of assessing whether or not it wishes to acquire an interest in the Partnership.

Clause 4(a)
Clause 4(c)
Clause 4(d)

20. Resolution of Disputes

- 20.1 Subject to clause 20.5, if a dispute or disagreement arises out of or under this Agreement (“**dispute**”), the parties shall endeavour to settle the dispute by mediation in accordance with clause 20.2 and in the event that the mediation does not settle the dispute, the parties shall submit the dispute to expert determination in accordance with clause 20.3.

- 20.2 The mediation shall be conducted in accordance with the ADR rules or guidelines (if any) for commercial mediation operating at the time the dispute is referred to ADR (“**ADR Guidelines**”). The ADR Guidelines are deemed to be incorporated into this Agreement. The mediator shall be appointed by ADR in accordance with the ADR Guidelines.
- 20.3 **ADR Rules**
- (a) In the event the dispute has not been settled within twenty eight (28) days after the appointment of the mediator, or such other period as agreed to in writing between the parties, the dispute shall be submitted to an expert for expert determination (administered by ADR) in accordance with the ADR rules (if any) for expert determination operating at the time the dispute is referred to ADR (“**ADR Rules**”). The ADR Rules are deemed to be incorporated into this Agreement.
 - (b) The expert shall be appointed by ADR in accordance with the ADR Rules. The expert shall not be the same person as the mediator.
 - (c) The parties shall accept the determination of the expert as final and binding. The expert shall act as an expert and not as an arbitrator. The Partners shall do all things necessary to implement and comply with the expert’s determination.
 - (d) Unless contrary to the ADR Rules, the expert shall:
 - (i) proceed in a manner which the expert thinks fit without being bound to follow the rules of natural justice or the rules of evidence;
 - (ii) take into account all documents, information and other written and oral material that the parties may place before the expert, including documents, information and material relating to the matters in dispute and arguments and submissions upon such matters;
 - (iii) promptly determine the dispute in a manner which has regard to and is consistent with the terms of this Agreement;
 - (iv) promptly provide the parties with written notification of his or her determination and a summary of the reasons for such determination.
 - (e) Each party shall render all reasonable assistance to the expert and in particular, provide the expert with access to any records of the party. The parties shall do all things reasonably necessary to ensure that the dispute is determined by the expert as soon as possible.
- 20.4 Unless otherwise provided in ADR Guidelines or the ADR Rules (as the case may be), the costs incurred by the mediator or expert shall be borne by the parties equally.

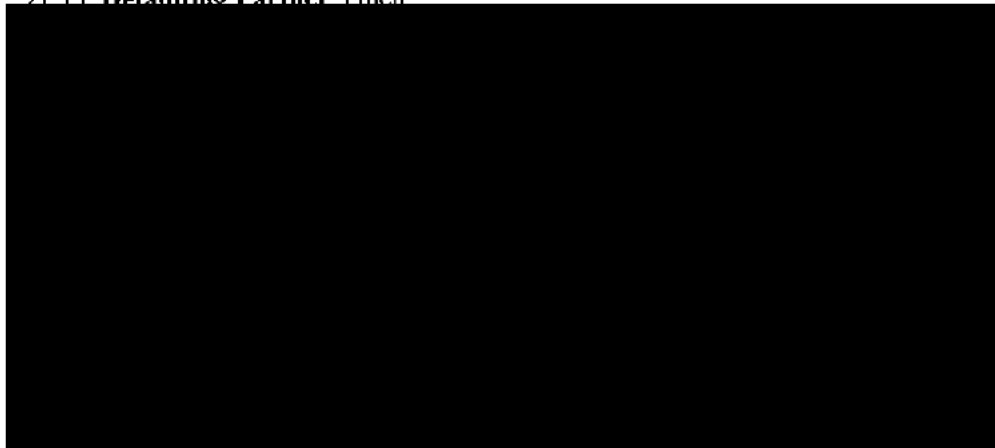
- 20.5 Clause 20.1 shall not restrain a party from at any time commencing urgent interlocutory proceedings for injunctive relief in connection with an alleged breach of this Agreement.
- 20.6 For the avoidance of doubt, this clause 20 shall survive termination of this Agreement.

21. Default

21.1 A Partner is in default under this Agreement if:

- (a) that Partner continues to breach any obligation under this Agreement (other than an Irremediable Breach) [REDACTED] after receiving notice from another Partner of that breach; Clause 4(a)
Clause 4(d)
- (b) that Partner repeats a breach after having received notice from another Partner warning that repetition of the breach will or is likely to result in the other Partner regarding that Partner as being in default under clause 21.1 of its obligations under this Agreement;
- (c) an order is made for its winding up or dissolution;
- (d) a receiver or receiver and manager, official manager, administrator, trustee, provisional liquidator or similar officer is appointed for all or any part of the assets or undertaking of that Partner;
- (e) that Partner enters into or resolves to enter into an arrangement, composition or compromise with or assignment for the benefit of its creditors generally or any class of creditors or proceedings are commenced to sanction such an arrangement, composition or compromise; or
- (f) that Partner stops payment of, or is unable to pay, its debts as and when they fall due.

21.2 If a Partner is in default of its obligations under this Agreement as described in clause 21.1 ("Defaulting Partner") then:



Clause 4(a)
Clause 4(d)

[Redacted]

Clause 4(a)
Clause 4(d)

[Redacted]

Clause 4(a)
Clause 4(d)

21.4

[Redacted]

Clause 4(a)
Clause 4(d)

[Redacted]

Clause 4(a)
Clause 4(d)

21

21

[Redacted]

[Redacted]

Clause 4(a)
Clause 4(d)

[REDACTED]

Clause 4(a)
Clause 4(d)

[REDACTED]

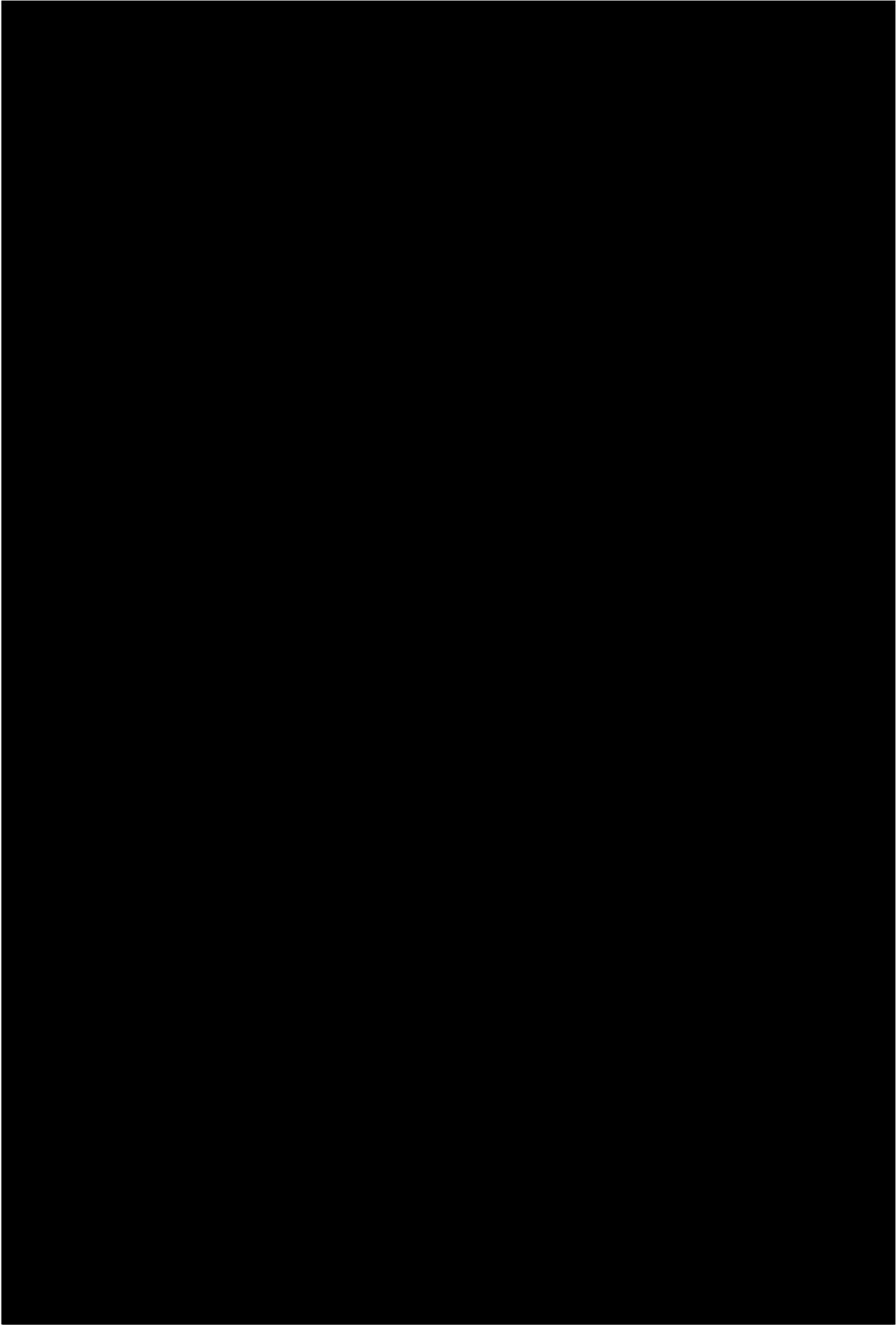
[REDACTED]

Clause 4(a)
Clause 4(d)

Clause 4(a)
Clause 4(d)

Clause 4(a)
Clause 4(d)

Clause 4(a)
Clause 4(d)



24. Default - Interest

- 24.1 If any moneys payable by a Partner under this Agreement remains unpaid for a period of 30 days then such Partner shall be deemed to be in default of its obligations and the other Partner may (without prejudice to any of its rights under this Agreement) pay the sum which the default partner has failed to pay.
- 24.2 Any sum paid on behalf of the default partner shall constitute a debt due and payable by the defaulting Partner to the other Partner and shall bear interest from the date the moneys are due until paid at the Interest Rate.
- 24.3 In addition to clause 24.1, the Respective Proportion of the defaulting partner in respect of its entitlement to income of the Partnership shall be reduced accordingly by reference to the sum paid by the other Partner under clause 24.1 together with accruing interest under clause 24.1 on a monthly basis being treated as capital contribution to the Partnership and such Respective Proportion shall apply until the outstanding moneys including interest under clause 24.2 are repaid by the defaulting partner to the other Partner.

25. Term

- 25.1 This Agreement ceases to apply to a Partner on the first to occur of:
- (a) the Partner transferring its interest in the Partnership to the other Partner or its assignee under [REDACTED] or

- (b) the Termination Date.

25.2 The termination of this Agreement with respect to a Partner does not affect:

- (a) any obligation of that Partner which accrued prior to that termination and which remains unsatisfied; and
- (b) clauses 18.2, 19.3 or 23.8 and any other provision of this Agreement which is expressed to come into effect on, or to continue in effect after, that termination.

26. Assignment

- 26.1 A Partner must not sell, encumber or otherwise dispose of or deal with any of its rights under this Agreement, its interest in the Partnership or any of the assets of the Partnership, except as provided in [REDACTED]

Clause 4(d)

27. Warranty

Each party warrants that as at the date of execution of this Agreement:

- (a) the constituting documents, including the *Southern Cross University Act 1993* and any other relevant legislation, of the party empower the party to enter into this Agreement and to do all things which it can reasonably contemplate will be required by this Agreement; and
- (b) all action has been taken by the party requisite to the proper authorisation and execution of this Agreement to render this Agreement binding upon and legally enforceable against the party in accordance with its terms.

28. Effect of Agreement

This Agreement:

- (a) contains the entire agreement between the Partners and no earlier representation or agreement, whether oral or in writing in relation to any matter dealt with in this Agreement will have any effect from the date of this Agreement; and

- (b) may not be changed in any way except with the written agreement of the Partners.

29. Waiver

- 29.1 A Partner's failure or delay to exercise a power or right does not operate as a waiver of that power or right.
- 29.2 The exercise of a power or right does not preclude either its exercise in the future or the exercise of any other power or right.
- 29.3 No waiver is effective unless it is in writing.
- 29.4 The waiver of a power or right is effective only in respect of the specific instance to which it relates and for the specific purpose of which it is given.

30. Notices

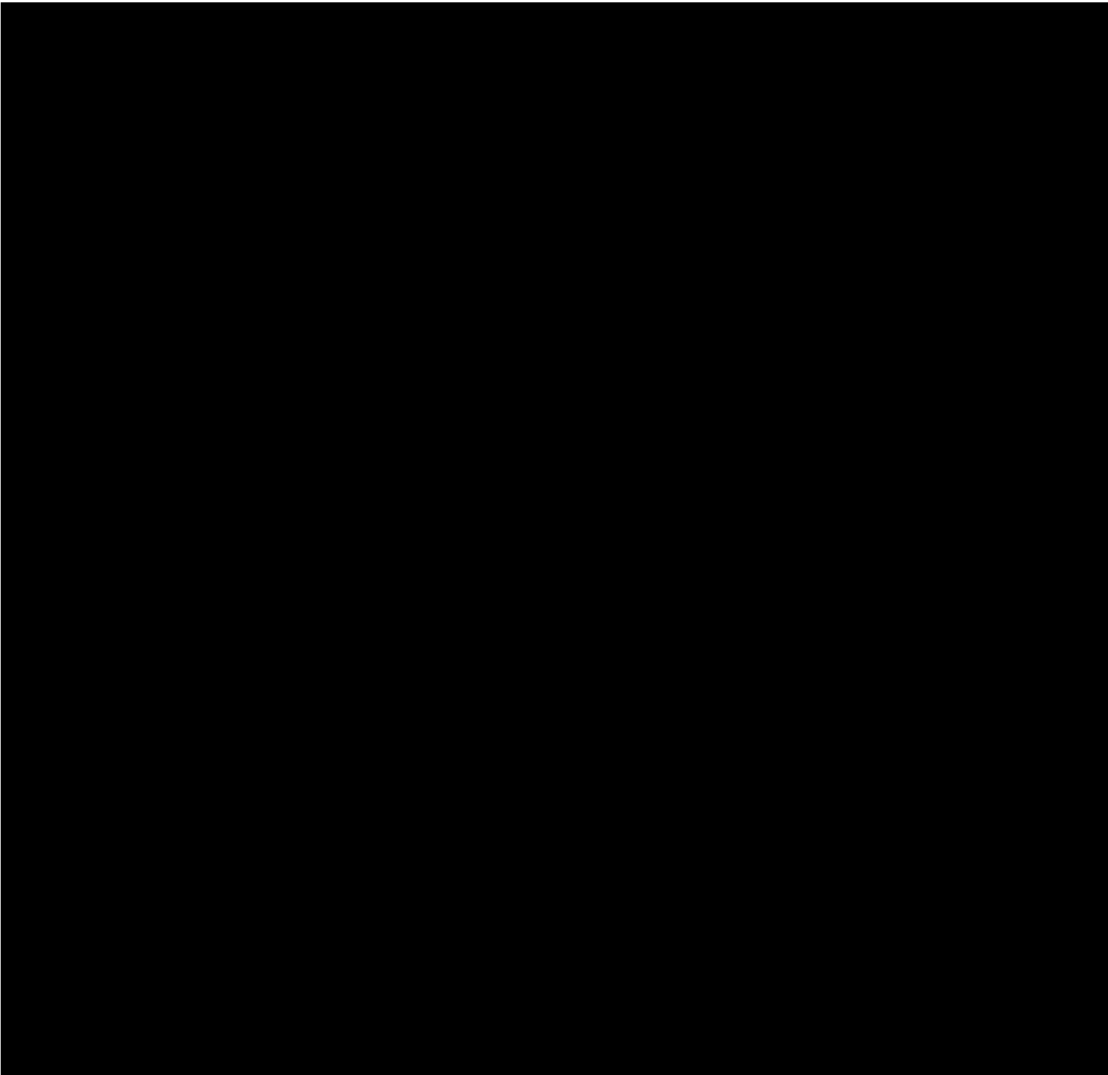
A notice or other communication under this Agreement ("Notice") must be in writing and:

- (a) delivered by hand at the address for service of the addressee;
- (b) sent by security post or certified mail, postage prepaid, to the address for service of the addressee, if the address is in Australia;
- (c) sent by prepaid airmail to the address for service of the addressee, if the address is outside Australia; or
- (d) sent by email of the addressee.

31. General

- 31.1 A Partner must not make any public disclosure or announcement about this Agreement except:
- (a) with the prior written consent of the other Partners; or
 - (b) to comply with accounting, legal, stock exchange or other regulatory requirements.
- 31.2 A Partner must act in good faith and do everything necessary or desirable to enable the other Partner to observe and perform its covenants and obligations under this Agreement.

- 31.3 If the whole or any part of a provision of this Agreement is invalid or unenforceable in a jurisdiction it must, if possible, be read down for the purposes of that jurisdiction so as to be valid and enforceable. If however, the whole or any part of a provision of this Agreement is not capable of being read down, it is severed to the extent of the invalidity or unenforceability without affecting the remaining provisions of this Agreement or affecting the validity of enforceability of that provision in any other jurisdiction.
- 31.4 This Agreement may be executed in any number of counterparts. Each counterpart is an original but the counterparts together are one and the same agreement.
- 31.5 Except where the provisions of this Agreement have validly modified the rights and liabilities of the parties, nothing in this Agreement is intended to or shall affect, prejudice or restrict the rights, remedies and liabilities of the parties under law or in equity.



Clause 4(a)
Clause 4(c)
Clause 4(d)

33. Governing Law and Interpretation

This Agreement shall be governed by and interpreted according to the law of New South Wales and the Partners submit to the jurisdiction of the Courts of New South Wales.

EXECUTED on the date set out at the commencement of this Agreement.

MULPHA HOTEL PTY LIMITED)
by its authorised officers pursuant to s.)
127 of the *Corporations Act 2001* (Cth):)

[Redacted signature block]

Clause 3(a)

)
MULPHA EDUCATION GROUP PTY)
LIMITED)
by its authorised officers pursuant to s.)
127 of the *Corporations Act 2001* (Cth):)

[Redacted signature block]

Clause 3(a)

Signed for and on behalf of)
SOUTHERN CROSS UNIVERSITY)
by **Professor Peter Lee,**)
Vice Chancellor)
in the presence of:)

[Redacted signature block]

lause 3(a)

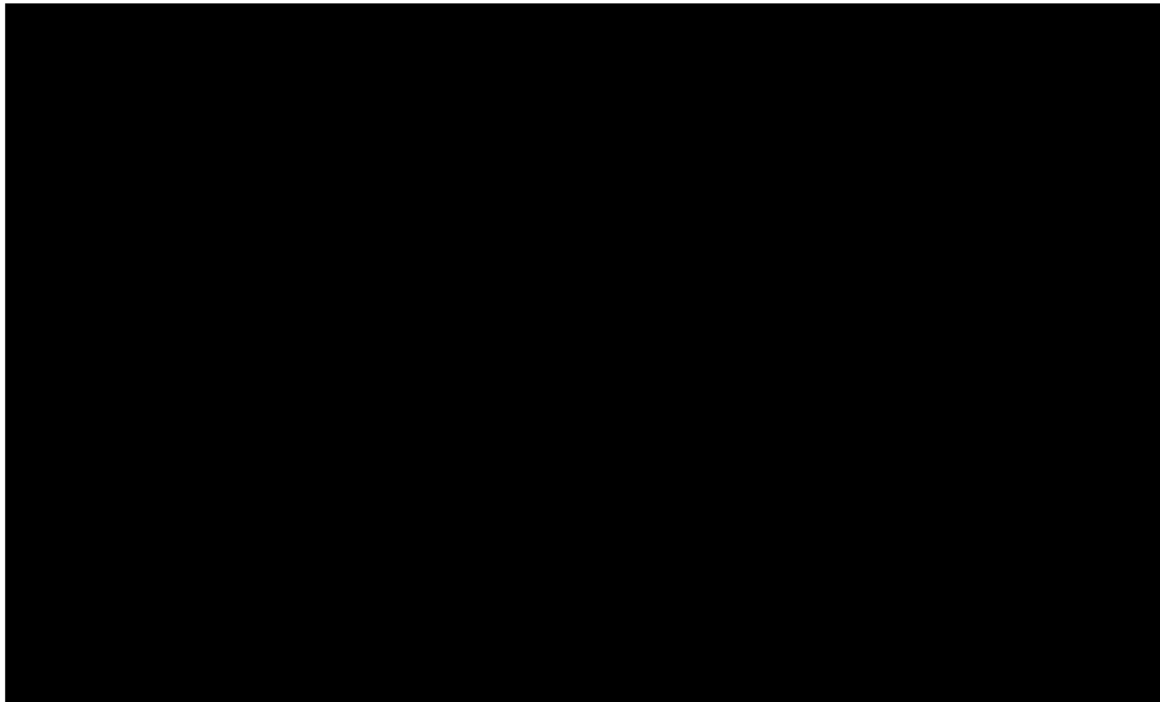
Schedule 1

Invoicing and Fee Collection Processing Agreement:

Issuing Invoices and Collection of Tuition Fees

1. From Session 1, 2014 the University will be responsible for the invoicing and collection of all tuition fees payable by Students for enrolment in a course at a Campus. This includes the following:
 - i) Issuing of a tuition fee invoice from the University Student System (SMS) for tuition fees payable each session;
 - ii) Management of FEE-HELP processes;
 - iii) Adjustments to student's SMS accounts for refunds, withdrawals and dishonoured payments; and
 - iv) Issuing of receipts for payments received.

Management of Overdue Fees and Bad Debts



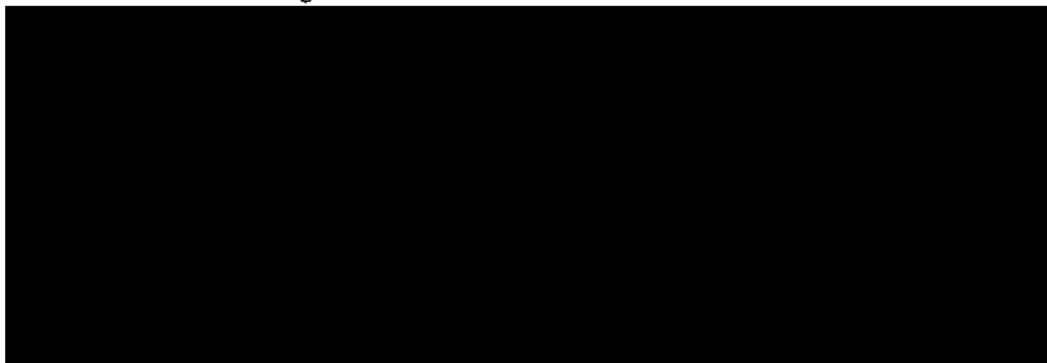
Clause 4(a)
Clause 4(c)
Clause 4(d)



Clause 4(a)
Clause 4(c)
Clause 4(d)

Payment of Tuition Fees Received by the University to the Partnership

3. From Session 1, 2014 upon receipt of a tax invoice from the Partnership, the University will make payments to the Partnership of all tuition fees (including Fee Help and Fee Paying) received in the following manner:



Clause 4(a)
Clause 4(c)
Clause 4(d)

Mulpha Access to the University Systems and Reports

4. As soon as practicable the University will provide Mulpha with SMS access to enable Mulpha to track Students and tuition fee payments.
5. The University will develop a SMS Campus Reconciliation Report by December 2013 to facilitate the University's reconciliation of the Campus tuition fees received. The University will ensure Mulpha has access to this report.

Review of the Fee Collection Process and Associated Costs

6. The parties agree to review the Invoicing and Fee Collection Process, the associated costs of both parties and the reflection of this in the Campus's accounts following the conclusion of the payment cycle outlined in 3 above for Session 1, 2014. A report on this review is to be provided to the Committee.

Annexure 1
Campus and Course Details


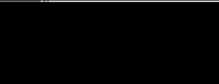

Item 1	Campus Name	The Hotel School Sydney
Item 2	Campus Location	60 Phillip Street, Sydney NSW 2000 (or such other location in Sydney as the Partners may agree)
Item 3	Date Added to Agreement	Continuing
Item 4	Lease Details for Current Location	
Item 5	Respective Proportion held by each Partner	
Item 6	Courses	
Item 7	Special Arrangements	Nil

Clause 4(a)
Clause 4(c)
Clause 4(d)

Clause 4(a)
Clause 4(b)
Clause 4(d)

Clause 4(a)
Clause 4(c)
Clause 4(d)

Annexure 2
Campus and Course Details

Item 1	Campus Name	The Hotel School Melbourne
Item 2	Campus Location	Level 3, 399 Lonsdale Street, Melbourne 3000 (or such other location in Melbourne as the Partners may agree)
Item 3	Date Added to Agreement	1 January 2015
Item 4	Lease Details	
Item 5	Respective Proportion held by each Partner	
Item 6	Courses	
Item 7	Special Arrangements	Nil

Clause 4(a)
Clause 4(c)
Clause 4(d)
Clause 4(a)
Clause 4(b)
Clause 4(d)
Clause 4(a)
Clause 4(c)
Clause 4(d)