

INSTITUTIONAL PATHWAY AGREEMENT

THIS AGREEMENT is made on 22 SEPTEMBER 20 11

BETWEEN **VICTORIA UNIVERSITY** a body politic and corporate pursuant to the *Victoria University Act (Vic) 2010* of Ballarat Road, Footscray, Victoria
ABN 83 776 954 731
(University)

AND **GCTA PTY LTD** of 19B Park Avenue, Burleigh Heads, Queensland 4220, Australia
ABN 19 141 781 446
(Institute)

BACKGROUND:

- A. The purpose of this Agreement is to describe a mutually beneficial relationship between Victoria University and another Institute, whose primary function is teaching and learning, and who wish to create a formal pathway/s between cognate Courses – Departure and Destination.
- B. The objective of establishing the formal Pathway/s is to enable students from a variety of academic and vocational backgrounds to participate in higher level learning, and to have increased mobility between qualifications in the tertiary education sector.
- C. The Parties wish to enter into an agreement to establish a Pathway/s that is underpinned by recognition of equivalence of learning and specific admission requirements. The Schedule/s to this Agreement will provide the approved admission requirements and credit levels.
- D. The negotiation of a formal Pathway/s between Courses creates a predictable and consistent outcome for prospective Pathway Students.
- E. This Agreement is to be interpreted in a manner consistent with the University's *Courses and Pathways Policy*.

AGREED:

1. DEFINITIONS

- 1.1 **Admission requirements** are the criteria that a prospective Student must meet before being made an offer in their chosen Course;
- 1.2 **Agreement** means this agreement and all Schedules and attachments to the Agreement, as amended by the Parties;
- 1.3 **Cognate Course** means Courses that relate to the same or similar discipline or vocational area;
- 1.4 **Credit** means the value assigned for the recognition of equivalence in content and learning outcomes between different types of learning and/or qualifications that results in a reduction in the amount of learning required to achieve a qualification;
- 1.5 **Departure Course** means a course of study delivered by the Institute and detailed in item 1 of the applicable Pathway Schedule;
- 1.6 **Destination Course** means a course of study delivered by the University and detailed in item 2 of the applicable Pathway Schedule.
- 1.7 **Pathway** means a formally approved link or clear articulation between two cognate courses – Departure Course and Destination Course;

- 1.8 **Pathway Lifecycle** means that each Pathway is aligned to the University's commitment to continuous improvement. The key steps in the Pathway Lifecycle are development, approval, monitoring, review and deletion;
- 1.9 **Pathway Approval Form** means a detailed listing of Destination Course admission requirements; agreed credit levels for specific units in the Departure Course vis a vis the Destination Course; and other requirements which are to apply to the operation of a specific Pathway;
- 1.10 **Pathway Schedule** means a Pathway described in the form set out in Schedule 2.
- 1.11 **Parties** mean the parties to this Agreement and their respective successors and permitted assigns; and
- 1.12 **Student** means a person who is eligible to apply for the Destination Course by virtue of a Pathway.

2. TERM

- 2.1 This Agreement commences on the date it is signed by the last Party and will remain in force until terminated in accordance with Clause 11.
- 2.2 No Pathway exists and the Institute must not market a Pathway or make any representations about whether a Pathway might exist before a Pathway Schedule applicable to that Pathway has been executed by both Parties.

3. IDENTIFICATION AND FORMALISATION OF PATHWAYS

- 3.1 The Parties must:
- (a) identify courses which are suitable for approval as a Pathway;
 - (b) prepare a Pathway Approval Form for each Pathway; and
 - (c) negotiate, prepare and execute Pathway Schedule/s where Pathway/s are identified and required;
- 3.2 A Pathway Schedule must contain all of the information required and must be signed by both Parties.
- 3.3 Every Pathway continues until it ends in accordance with the term specified in item 5 of the applicable Pathway Schedule or is otherwise terminated in accordance with Clause 11.
- 3.4 At all times during the term of this Agreement the Parties must perform their obligations promptly, carefully and exercise all due care skill and judgment in an efficient, professional and cost effective manner and in accordance with accepted professional and business practices.

4. AGREEMENT OBLIGATIONS

- 4.1 The Parties acknowledge that each must comply with the applicable Pathway Schedule in relation to each Pathway and must:
- (a) market the Pathway with integrity and accuracy and comply with all applicable laws, including guidelines and codes of practice;
 - (b) maintain the academic approval, accreditation, quality and standards of the Departure Course and Destination Course respectively; and
 - (c) not be a Party to any act or thing prejudicial to the goodwill, reputation or overall public image of the University, Institute and the Australian education sector.
- 4.2 The Parties agree to review and re-negotiate, as required, the provision of Pathways and the execution of Pathway Schedule/s on an annual basis.

4.3 The University agrees to:

- (a) nominate a contact person for each Pathway who can provide discipline expertise on the Destination Course/s;
- (b) notify the Institute in writing of the details of the approved Pathway admission requirements and credit levels as per the applicable Pathway Schedule;
- (c) inform the Institute of any alterations or amendments to the Destination Course when it impacts on the terms and conditions of the Pathway;
- (d) provide the Institute with information relating to the Pathway for inclusion in the Institute's marketing materials;
- (e) promptly review and approve any Pathway marketing materials provided by the Institute;
- (f) accept Students from the Institute who have successfully completed the Departure Course and meet any other admission criteria, into the Destination Course consistent with agreed admittance quotas documented in part 4 of the applicable Pathway Schedule. The Institute must provide evidence of completion of the Departure Course and specified units as detailed in item 3 of the applicable Pathway Schedule;

4.4 The Institute agrees to participate in all aspects of the Pathway Lifecycle by:

- (a) nominating a contact person for each formal Pathway Schedule who can provide discipline expertise on the Departure Course;
- (b) negotiating Student numbers (including minimum and maximum numbers if applicable) on an annual basis, who can access the Pathway;
- (c) obtaining approval from the University of all marketing materials relating to this Agreement prior to their release;
- (d) marketing the Pathway to the Institute's students who are enrolled in or have successfully completed the Departure Course, by the methods detailed at item 6 of the applicable Pathway Schedule;
- (e) informing the University of any alteration or amendment to the Departure Course when it will impact on the Pathway;
- (f) supporting an annual monitoring of the performance of the Pathway
- (g) assisting the University to undertake all reasonable monitoring activities within 7 days of any request;
- (h) providing the University with all of the information that it reasonably requires to review the Pathway's performance; and
- (i) taking immediate corrective action if the University is not satisfied with the Institute's compliance with this Agreement.

5. MARKETING

5.1 The Institute will market the Destination Course and Credit to its students who are enrolled in or have successfully completed the Departure Course by the methods detailed at item 6 of the applicable Pathway Schedule on condition that the Institute complies with:

- (a) the obligations outlined at item 6 of the applicable Pathway Schedule; and
- (b) if the students are international students:

- (i) the National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students (**National Code**); and
- (ii) all requirements of the *Education Services for Overseas Students Act 2000* (Cth);

- 5.2 Pathway approval must be obtained in writing from the University before the Institute can engage in any marketing activities.
- 5.3 All marketing materials relating to this Agreement must be approved by the University prior to release. The University agrees to promptly review any marketing materials provided to it.
- 5.4 The University will provide the Institute with information relating to the University and the Destination Course for inclusion in the Institute's marketing materials.

6. EXCLUSIONS TO THIS AGREEMENT

This Agreement does not apply to:

- 6.1 The actual recruitment or enrollment of students in either the Departure Course or the Destination Course/s identified in the applicable Pathway Schedule.
- 6.2 Students who seek Recognition of Prior Learning in accordance with the University's then current Student Assessment and Progress Policy. This is an individual assessment process which is conducted by the University and outcomes cannot be predicted without assessing the circumstances particular to each application.
- 6.3 Students who have not completed the Departure Course or specified units in the Departure Course in accordance with the Pathway criteria specified in the applicable Pathway Schedule.

7. FEES

- 7.1 No fees are payable by either Party by virtue of this Agreement.
- 7.2 Normal University fees and charges will apply to successful applicants who enrol in the destination course at the University.

8. TRADE MARKS

- 8.1 Without limiting Clause 10.3, the University authorises the Institute to use the University's trade marks for marketing purposes relating to this Agreement only. The trade mark must only be used by the Institute in the format provided by the University.
- 8.2 In the event of termination of this Agreement, the Institute must immediately remove (or, if the University directs, destroy) the trade mark from any materials related to this Agreement (including any Pathway Schedules).

9. WARRANTIES

- 9.1 Each Party warrants that:
 - (a) it has obtained all authorisations, consents or approvals or other actions by, and all notices to or filings with, any government authority required to deliver the Departure Course or Destination Course respectively, or any other obligation under this Agreement;
 - (b) the person signing this Agreement on behalf of each Party is authorised to do so; and
 - (c) it has full legal capacity and power to enter into and perform its obligations under this Agreement.

10. RELATIONSHIP

- 10.1 The Institute and the University are independent contractors and neither is to be considered an agent, employee, representative or partner of the other by virtue of this Agreement.
- 10.2 The Institute will not represent or hold itself out to any third party that it acts as agent, employee, representative or partner of the University or has power or authority to directly or indirectly bind the University.
- 10.3 All references to the University by the Institute in connection with this Agreement must use the phrase 'in collaboration with VU'.

11. TERMINATION

- 11.1 Either Party may terminate this Agreement or a specific Pathway Schedule:
 - (a) without cause on the provision of 30 days' written notice to the other Party; or
 - (b) immediately by written notice if the other Party breaches any term of this Agreement and, if such breach is capable of remedy, fails to remedy such breach within 7 days of notice from the first-mentioned Party requiring such breach to be remedied.
- 11.2 If this Agreement or a specific Pathway Schedule is terminated, the Parties agree to uphold their existing obligations to students who have undertaken (or are in the process of undertaking) the Departure Course with a realistic expectation of being able to access the Pathway.
- 11.3 On termination of this Agreement or a Pathway Schedule, the Institute will comply with all reasonable requests made by the University and will cease using the University trade mark and marketing materials specific to the Agreement or the Pathway Schedule respectively.
- 11.4 This clause 11 survives the expiry of this Agreement.

12. DISPUTES

- 12.1 If a dispute arises out of or in relation to this Agreement neither Party may start legal proceedings (except proceedings seeking interlocutory relief) unless it has complied with this Clause.
- 12.2 A Party claiming that a dispute has arisen must notify the other Party in writing giving details of the dispute and its proposal for a resolution.
- 12.3 For a 14 day period after a notice is given (**Initial Period**) each Party must use all reasonable endeavours to resolve the dispute, including, meeting within the first 7 days of that period.
- 12.4 If the dispute remains unresolved at the end of the Initial Period, either Party may terminate the dispute resolution process by giving notice to the other Party.

13. NOTICES

All notices required to be given under this Agreement shall be in writing sent to the address of the Party as set out in item 1 of Schedule 1. Any notice may be delivered by email, post or facsimile.

14. CONTACT OFFICERS

- 14.1 Unless otherwise advised, the Parties will report on matters related to the operation of the Agreement as whole to the officers described in item 1 of Schedule 1.

14.2 Unless otherwise advised in writing, the Parties will report matters related to the activities undertaken pursuant to a Pathway Schedule to the officers described in item 7 of the applicable Pathway Schedule.

15. GENERAL

15.1 The Schedule forms part of this Agreement.

15.2 Any reference to legislation includes any statutory modification, reenactment or subordinate legislation issued under that legislation.

15.3 This Agreement is non-exclusive.

15.4 This Agreement may only be varied by written Agreement signed by the Parties.

15.5 This Agreement is governed by the laws of the State of Victoria and each Party submits to the non-exclusive jurisdiction of the courts of that State.


15.6 The Institute must not sub-contract or assign the performance of any part of the Agreement, including the delivery of the Institute Course without the prior written consent of the University.

15.7 Waiver of any right or power arising on a breach of or default under this Agreement must be in writing and signed by the Party granting the waiver. A Party does not waive a right simply because it fails to exercise the right, delays exercising the right or only exercises part of the right. A waiver of one breach of a term of this Agreement does not operate as a waiver of another breach of the same term or any other term.

15.8 This Agreement constitutes the entire agreement between the Parties concerning its subject matter. All prior discussions, undertakings, agreements, representations, warranties and indemnities in relation to that subject matter are replaced by this agreement and have no further effect.

EXECUTED AS AN AGREEMENT

SIGNED for and on behalf of
VICTORIA UNIVERSITY
in the presence of:)
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)



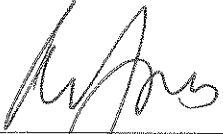
Witness signature

M. WA HILSON

Print name

22/9/11

Date




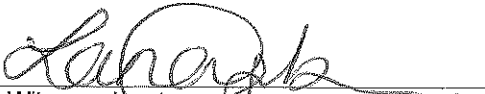
Signature
Professor Anne Jones
Deputy Vice Chancellor (Academic & Students)

Print Name

SIGNED for and on behalf of
GCTA PTY LTD
in the presence of:

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)
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Signature


Witness signature

Sherelle French.
Print Name

Lana Gibson
Print name

9/9/11
Date

SCHEDULE 1

1. NOTICES

**(Institutional
Pathway
Agreement)**

The Institute's Address for Notices

Attention: Mr Alan French
Address: 19B, Park Avenue, Burleigh Heads, Queensland 4220,
Australia
Telephone: 07 5535 2827
Facsimile: 07 5576 7062
Email: afrench@gcta.com.au

University's Address for Notices

Attention: Ms Jane McLennan
Address: PO Box 14428, Melbourne, 8001

Telephone: 03 9919 4480
Facsimile: 03 9919 4063
Email: jane.mclennan@vu.edu.au