



Australian Government

Funding Agreement

between the

COMMONWEALTH OF AUSTRALIA

as represented by the

Minister for Education and Youth

and

TOP Education Group Ltd

regarding funding

**under the *Commonwealth Grant Scheme* in respect of the
2021 and 2022 grant years**

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Parties and Recitals

THIS AGREEMENT is made on the date on which it is executed by the Commonwealth of Australia

BETWEEN

THE COMMONWEALTH OF AUSTRALIA represented by the Minister for Education and Youth ('the Commonwealth') [ABN 12 862 898 150]

AND

TOP Education Group Ltd, Suite 1, Biomedical Building, 1 Central Ave EVELEIGH, NSW 2015 ('Provider') [ABN 36 098 139 176]

WHEREAS:

- A. The Provider meets the requirements of paragraph 30-1(1)(b) of HESA.
- B. This funding agreement is made under subsection 30-25(1) of HESA in respect of the 2021 and 2022 grant years.
- C. Entering into this agreement is a requirement under subparagraph 30-1(1)(b)(iii) of HESA for a Commonwealth Grant to be payable to the Provider under Part 2-2 of HESA.
- D. Subject to subsections 30-25(2A) and 30-25(2B) of HESA, this funding agreement specifies conditions to which the Commonwealth Grant is subject that are additional to the conditions that apply to the Commonwealth Grant under Division 36 of HESA.
- E. Under section 36-65 of HESA, the Provider must comply with this funding agreement.

NOW IT IS AGREED as follows:

PART A: Introduction

Commonwealth Grant Scheme funding amount and payment arrangements

1. The Commonwealth will pay to the Provider the Commonwealth Grant Scheme (CGS) funding amount for the 2021 and 2022 grant years, calculated in accordance with Division 33 of HESA.
2. The Commonwealth will notify the Provider about the CGS advances that will be paid to the Provider in respect of amounts expected to become payable for 2021 and 2022 under subsection 164-10(1) of HESA.
3. Amounts payable as CGS advances may be adjusted throughout the grant years based on information provided to the Commonwealth by the Provider.
4. CGS advances made in respect of the 2021 and 2022 grant years will be reconciled with CGS funding payable to the Provider for those years. This reconciliation will occur each year following the grant year when actual student enrolment data for the grant year is finalised and provided to the Commonwealth. If the amount of an advance paid to the Provider exceeds the amount that becomes payable to the Provider, the Commonwealth will seek recovery of the overpaid amount from the Provider under subsection 164-10(1A) of HESA.
5. This agreement ends on 31 December 2022.

Estimates of Commonwealth supported places

6. The Provider must provide accurate and timely estimates of Commonwealth supported places for the 2021 and 2022 grant years, as required by the Commonwealth.

Provision of other data

7. The Provider must provide data relating to revised transparency arrangements as requested, including in relation to admissions processes and the cost of teaching and scholarship. This includes providing the data in the form and at the times required by the Commonwealth to support the national admissions platform.

PART B: Allocation of places

Maximum basic grant amount

8. The maximum basic grant amount specified for the purposes of subsection 30-27(6) of HESA for 2021 and 2022, is \$495,000.

Allocation of Commonwealth supported places

9. The total number of Commonwealth supported places allocated to the Provider under paragraph 30-10(1)(b) for the 2021 and 2022 grant years is set out in Table 1 of Appendix 1.
10. The Provider must use the funding in Table 2 of Appendix 1 to deliver the Commonwealth supported places allocated in Table 1 of Appendix 1 for the short courses shown in Table 2, consistent with the requirements in clauses 13 to 18 of this agreement.
11. The amount of funding advanced to the Provider as an amount expected to become payable under HESA for 2021 and 2022 will initially be calculated on the basis that the Provider uses the funding in Table 2 of Appendix 1 to deliver the short courses shown in that table. If the Provider is unable to deliver sufficient short course places in 2021 and 2022 to fully utilise the funding in Table 2 of Appendix 1, the Provider must notify the Commonwealth as soon as practicable.
12. The Provider may be audited to check whether actual enrolments in Commonwealth supported places align with funding in Table 2 of Appendix 1.

PART C: Other conditions and requirements*Short Courses*

13. Short courses must be 0.5 EFTSL and offered in 2021 and 2022 only.
14. In addition to the Provider's obligations under sections 36-5 and 36-10 of HESA, the Provider must provide a person who has enrolled in unit(s) in a short course shown in Table 2 of Appendix 1 with written notice for the unit(s) informing them that they will only be Commonwealth supported for units of study undertaken in 2021 and/or 2022.
15. The Provider must set student fees for units undertaken after 2022 as part of these short courses as soon as practicable. The Commonwealth expects that the Provider will charge a reasonable amount for a unit undertaken after 2022.
16. Upon course completion, students who have undertaken the short courses shown in Table 2 of Appendix 1 must be awarded an Undergraduate Certificate or Graduate Certificate.
17. Subject to the requirements of the *Higher Education Standards Framework (Threshold Standards) 2021*, the Provider commits to grant credit for units of study undertaken as part of the short courses if those units may also contribute to a different higher education award that a student enrolls in subsequent to completing the short course, including but not limited to those set out in Table 2 of Appendix 1.
18. The Provider must supply data on students enrolled in short courses as directed by the Commonwealth. By 31 January 2022, the Provider must provide data on the total number of enrolments and course completions for 2021. By 31 January 2023, the Provider must provide data on the total number of enrolments and course completions for 2022.

New campuses and campus closures

19. The Provider must use the funding it is allocated under this agreement to deliver the courses listed in Table 2 of Appendix 1 in 2021 and/or 2022 at the campus(es) listed in Table 1 below.
20. The Provider must obtain the Commonwealth's prior written approval if the Provider proposes to enrol Commonwealth supported students in a course of study that is to be undertaken in 2021 and/or 2022 primarily at a campus other than one of the Provider's campuses listed in Table 1 below.
21. Similarly, if the Provider proposes to close a campus where Commonwealth supported students are enrolled in 2021 and/or 2022, the Provider must obtain the Commonwealth's prior written approval.

Table 1: Provider's campus(es)

Name of campus	
Sydney	

Closure of courses

22. The Provider must obtain the Commonwealth's prior written approval before closing a course listed in Table 2 of Appendix 1 in which students are enrolled in Commonwealth supported places in 2021 and/or 2022.

Applicable law and jurisdiction

23. The laws of the Australian Capital Territory apply to the interpretation of this agreement.
24. The parties agree to submit to the non-exclusive jurisdiction of the courts of the Australian Capital Territory and any courts which have jurisdiction to hear appeals from any of these courts in respect to any dispute under this agreement.

Entire agreement, variation and severance

25. This agreement and HESA record the entire agreement between the parties in relation to its subject matter. Any previous agreement covering the relevant grant years is terminated and replaced by this agreement on the date this agreement is made.
26. Except for action the Commonwealth is expressly authorised or required to take elsewhere in this agreement or HESA, no variation of this agreement is binding unless it is agreed in writing and signed by the parties.
27. If a court or tribunal says any provision of this agreement has no effect or interprets a provision to reduce an obligation or right, this does not invalidate, or restrict the operation of, any other provision.

Notices

28. A party giving notice under this agreement must do so in writing or by Electronic Communication:
 - a. if given by the Provider, marked for the attention of the First Assistant Secretary of the Higher Education Division of the Department of Education, Skills and Employment or other person as notified in writing by the Commonwealth to the Provider; or
 - b. if given by the Commonwealth, marked for the attention of the President or other person as notified in writing by the Provider to the Commonwealth;

and must be hand delivered or sent by pre-paid post or Electronic Communication to the address specified in this clause.

The address for notices to the Commonwealth is:

First Assistant Secretary
Higher Education Division
Department of Education, Skills and Employment
50 Marcus Clarke Street
GPO Box 9880
CANBERRA ACT 2601
Email: cgs@dese.gov.au

The address for notices to the Provider is:

Suite 1, Biomedical Building
1 Central Avenue
EVELEIGH NSW 2015
lily.yu@top.edu.au

29. A notice given under clause 28 is taken to be received:
 - a. if hand delivered, on delivery;
 - b. if sent by pre-paid post, 6 business days after the date of posting; or
 - c. if sent by Electronic Communication, at the time that would be the time of receipt under section 14A of the *Electronic Transactions Act 1999*.

Interpretation

30. In this agreement, unless the contrary intention appears:

'ABN' has the same meaning as in section 41 of the *A New Tax System (Australian Business Number) Act 1999*;

'CGS' means Commonwealth Grant Scheme;

'Commonwealth Grant' is the grant payable to the Provider under Part 2-2 of HESA;

'course completion' is the point at which an enrolled student satisfies the requirements for a particular qualification;

'course of study' has the same meaning as in subclause 1(1) of Schedule 1 of HESA;

'EFTSL' has the same meaning as in subclause 1(1) of Schedule 1 of HESA;

'Electronic Communication' has the same meaning as in the *Electronic Transactions Act 1999*;

'grant year' has the same meaning as in subclause 1(1) of Schedule 1 of HESA;

'HESA' means the *Higher Education Support Act 2003*;

'maximum basic grant amount' or **'MBGA'** has the same meaning as in subclause 1(1) of Schedule 1 of HESA.

31. In this agreement, unless the contrary intention appears:

31.1. words in the singular include the plural and vice versa;

31.2. clause headings or words in bold format are inserted for convenience only, and have no effect in limiting or extending the language of provisions;

31.3. all references to dollars are to Australian dollars;

31.4. unless stated otherwise, a reference to legislation is to legislation of the Commonwealth, as amended from time to time;

31.5. an uncertainty or ambiguity in the meaning of a provision of this agreement will not be interpreted against a party just because that party prepared that provision;

31.6. where a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning; and.

31.7. where a word or phrase is not specifically defined in this agreement and the word or phrase occurs in the *Higher Education Support Act 2003*, the word or phrase will have the same meaning as in that Act.

SIGNED for and on behalf of

THE COMMONWEALTH OF AUSTRALIA

by Dom English, First Assistant Secretary,
Higher Education Division of the
Department of Education, Skills and
Employment as delegate of the Minister
for Education.

Signed by

Dom English

Date: 28 December 2021

In the presence of:

Signed by

Hayley Manning

Position of witness

Policy Officer

SIGNED for and on behalf of

TOP Education Group Ltd

Signed by

Cathy Xu

Position

Acting CEO

In the presence of:

Signed by

Jessica Zhang

Position or profession of witness

Administrator

Appendix 1

Table 1: Allocation of non-grandfathered Commonwealth supported places for 2021 and 2022

Funding cluster	Funding cluster part and national priority	Number of non-grandfathered undergraduate places for 2021 and 2022 grant years (EFTSL)	Number of non-grandfathered non-research postgraduate places for 2021 and 2022 grant years (EFTSL)	Total Allocation (EFTSL)
1	The Behavioural Science subpart of the Society and Culture part of funding cluster one	108.0	342.0	450.0
2	Education, English, Mathematics, Allied Health, Other Health, Built Environment, Computing	0.0	0.0	0.0
3	Nursing, Indigenous and Foreign Languages, Engineering, Environmental Studies, Science	0.0	0.0	0.0
4	Agriculture	0.0	0.0	0.0
	Total	108.0	342.0	450.0

NOTES:

- Figures are rounded for display, however they may contain underlying decimal places.
- The relevant national priority is set out in paragraph 10(d) of the *Commonwealth Grant Scheme Guidelines 2020*: "in 2021 and 2022 only, providing retraining and upskilling opportunities in the following areas of study: Education, Nursing, the Behavioural Science subpart of the Society and Culture part of funding cluster one, English, Mathematics, Indigenous and Foreign Languages, Agriculture, Allied Health, Other Health, Computing, Built Environment, Science, Engineering and Environmental Studies." The CGS funding provided under this agreement must only be used by the Provider to provide courses in areas of study referred to in this national priority.

Table 2: Allocated funding for short courses for 2021 and 2022

Course type	Short course name	Course(s) the short course can articulate to	Funding Allocation for 2021 and 2022
Undergraduate Certificate	Undergraduate Certificate in Accounting	Bachelor of International Business (Accounting major)	\$59,400
Undergraduate Certificate	Undergraduate Certificate in Business	Bachelor of International Business (General stream)	\$59,400
Graduate Certificate	Graduate Certificate in Business		\$59,400
Graduate Certificate	Graduate Certificate in Accounting		\$49,500
Graduate Certificate	Graduate Certificate in Business Analytics		\$89,100
Graduate Certificate	Graduate Certificate in Financial Technology Management		\$89,100

Graduate Certificate	Graduate Certificate in Digital Financial Technologies		\$89,100
Total funding			\$495,000