

ESL HAWAII LLC, Honolulu, Hawaii

Agent Agreement for the years 2008 and 2009

INDEPENDENT CONTRACTOR AGREEMENT (Student Referrer / Language School Consultant)

THIS INDEPENDENT CONTRACTOR AGREEMENT (herein "Agreement") is entered into this the day of _____ by and between
(day) (month) (year)

ESL Hawaii LLC (herein "ESL Hawaii") and (_____) (herein "Representative") and is based upon the following:

A – ESL Hawaii provides English Language instruction to international students. ESL Hawaii wishes to retain the services of a recruiter for the purpose of obtaining students for ESL Hawaii’s English Study Tours program.

B - Representative wishes to recruit students for ESL Hawaii.

Now THEREFORE, in consideration of the terms and conditions contained herein the Parties here agree as follows:

1. Appointment of Representative

1.1 Authorization to Recruit Students

ESL Hawaii hereby authorizes Representative to recruit students for ESL Hawaii by all lawful and proper means, subject to the terms and conditions of this Agreement. The Representative undertakes to represent ESL Hawaii accurately and ethically, keeping the best interests of the student and ESL Hawaii in mind at all times. The Parties hereto recognize and agree that this appointment shall be non-exclusive except where agreed upon in writing.

1.2 Recruitment of Students

A. Representative may assist any prospective student in completing the application form to be submitted to ESL Hawaii for student acceptance. Representative shall advise student that acceptance by ESL Hawaii is made only upon the approval of ESL Hawaii which reserves the right to accept or refuse any prospective student.

B. Representative agrees to calculate the full application, tuition, and housing payments

due from any prospective student based upon those rates charged by ESL Hawaii (herein “Total payment”), and agrees to assist the student in understanding these costs. The Representative agrees to assist the student in every way to assure that the transference of all fees due ESL Hawaii is completed on time and confirmed by ESL Hawaii.

C. Representative agrees to accept the commission payments to which the Representative is entitled, as discussed in section 3 herein, from ESL Hawaii payable within 72 hours of ESL Hawaii’s receipt of student’s funds.

D. Representative may charge a prospective student a fee for Representative Costs incurred in processing all applications and paperwork for prospective student. Representative agrees that any such fee shall be reasonable and shall be known to ESL Hawaii. ESL Hawaii representative will not discount ESL Hawaii fees unless agreed upon by ESL Hawaii. Enrolments for juniors are the responsibility of the Representative, assuring the proper parental or guardian authorization for the student’s participation in the program.

E. In the event of a cancellation, Representative covenants and agrees that Representative shall return any and all commission unearned by the representative to ESL Hawaii.

F. Representative shall not execute any document on behalf of ESL Hawaii or in any way represent to any prospective student that Representative has the authority to in any way legally bind ESL Hawaii. Representative acknowledges here that it is understood that the acceptance of all applicants shall be at the discretion of ESL Hawaii. Representative shall have no authority to contractually bind ESL Hawaii to any student, organization or entity.

G. Representatives may not, except where a special agreement exists in writing, collect registration, tuition, accommodation or other fees directly from the student, but agrees to help the student understand the costs involved in participating in the ESL Hawaii program and, further, agrees to assist the student, where necessary, in understanding how to transfer funds directly to ESL Hawaii in the most timely manner.

2. Duties of ESL Hawaii

2.1 ESL Hawaii agrees that it shall periodically provide Representative with a reasonable supply of promotional material. ESL Hawaii agrees that such promotional materials shall be made available to Representative at no cost to Representative. Representative hereby recognizes and agrees that the promotional materials prepared by ESL Hawaii are costly, and promises to distribute such materials to such persons and/or entities that express an earnest interest in the ESL Hawaii programs.

2.2 ESL Hawaii reserves the right to refuse any application submitted by any student of Representative.

2.3 ESL Hawaii represents and agrees that it shall review and consider each and every

application submitted by a prospective student for admission to ESL Hawaii.

3. Probationary Period

ESL Hawaii will apply a 90 days probationary period during which the relationship with the representative will be evaluated. At the end of the period, if both parties involved are satisfied with the relationship, the appointment of representation shall be confirmed.

4. Length of the Appointment.

The appointment will be valid for 2 years after the completion of the probationary period. Upon expiry, the appointment shall be subject to review by both parties and it shall be renewed in agreement with both parties.

5. Compensation

5.1 Representative shall be entitled to receive, as compensation for recruitment services, a sliding scale commission of up to 30% (thirty percent) of the tuition fee set by ESL Hawaii for programs, as set out in the Tuition and Fees Schedule for the appropriate period. No compensation will be given on Registration Fees, Academic Fees (other than tuition), or Activity Fees. The sliding scale compensation rates for recruitment services are as follows:

- i. 20% of the tuition fee (as noted above) for the recruitment of a single student for the ESL Hawaii program.
- ii. 23% of the tuition fee (as noted above) for the simultaneous recruitment of two (2) students for the ESL Hawaii program.
- iii. 25% of the tuition fee (as noted above) for the simultaneous recruitment of three (3) or more students for the ESL Hawaii program.

“Simultaneous recruitment” means recruiting more than one student for the same term.

5.2 In the event that the Representative receives compensation for recruitment services from ESL Hawaii, the Representative agrees to inform the student of this arrangement.

5.3 Representative understands that he or she will receive the above-stated commission within 72 hours of the receipt of all student fees by ESL Hawaii.

6. Termination

6.1 Either Party hereto may terminate this Agreement upon ninety- (90) days prior written notice to the other Party. In the event of any such withdrawal, Both parties agree to tender any and all amounts owing to the other party within a period of thirty (30) days after termination.

7. Representative's Expenses

Unless otherwise specifically set forth in the Agreement, representative shall be solely responsible for expenses that may be incurred by Representative in connection with Agreement, and shall not be reimbursed by ESL Hawaii for any of such expenses whatsoever.

8. Representative's Agents

Representative may appoint or otherwise designate one or more agents in connection with Representative's performance of the agreement. Representative hereby represents and warrants that Representative's agents shall be subordinate to Representative and subject to all terms and conditions of the Agreement. Representative shall be solely responsible for the acts and conduct (including, without limitation, any risk of liability associated with, arising out of, or reasonably foreseeable as result as such), compensation, reimbursement, expenses and supervision of Representative's agents.

9. Limitation of Liability: Indemnification

Except as otherwise specifically provided herein neither Party hereto shall be liable for any liability, claims, losses, costs, expenses, injuries, or damages of any nature whatsoever, which the other may be subject to or incur as a result of any activities in connection with this Agreement. Each Party shall indemnify and hold the other harmless from and against any liability, claims, losses, costs, expenses, injuries or damages howsoever caused, by reason of any injury sustained to person or property, arising out of, associated with, or reasonably foreseeable as a result of a Party's act, negligence, default, or omission, and shall pay all sums to be paid or discharged in relation thereto. If either party is sued in any court by reason of the conduct of the Party as described above, such other Party will discharge any judgment rendered in favor of the opposing litigant. Nothing herein is intended to nor shall it relieve either Party from liability for its own conduct.

10. Code of Ethics and Best Practices

ESL Hawaii complies with the highest ethical standards with regards to the intake and fulfillment of its responsibilities as an education program for international students. Students are encouraged through regular written surveys to assess and evaluate their experience at ESL Hawaii. Representatives are kept apprised of their client's experience through these surveys and through regular communication with ESL Hawaii.

ESL Hawaii expects that its Representative will likewise conform to the highest ethical standards during the recruitment process. Complaints from students will be taken seriously, and will be thoroughly investigated. Complaints centered around misrepresentation, mishandling of funds, or a severe lack of professionalism will be of particular concern and, if substantiated, will lead to the termination of this agreement.

ESL Hawaii agrees to be bound by the highest ethical standards and freely and enthusiastically participates in monitoring by students, the Representative or its agents, the government of the State of Hawaii and the government of the United States.

IMMIGRATION: It is understood that U.S. Immigration rules change frequently and so both Representative and ESL Hawaii understand that it is advisable that the Representative and the student periodically contact the consulate in their immediate area for the most current regulations.

MEDICAL AND TRAVEL INSURANCE: International students must have appropriate and current medical and travel insurance while studying in the United States.

11. Withdrawal, Cancellation, and Refund Policy

General Refund Policy

- 1.** Applications for refunds must be in writing, addressed to The Registrar, ESL Hawaii LLC, P.O. Box 1554, Honolulu, Hawaii 96734, U.S.A. Any refunds payable under this policy will be made within 2 weeks of receiving the written refund application.
- 2.** Where a student withdraws from a course before all fees are paid, the refund policy is applied in reverse and the student is responsible for payment of all outstanding fees as notified.
- 3.** Refund of any external exam and registration fees (for example, TOEIC exam) will be made in accordance with the refund criteria of the respective organization.
- 4.** If a student is expelled from the school after course commencement, no refund shall be given in relation to unused tuition fees. For students in a Homestay, one-week notice will be given to the Homestay informing them of the expulsion, and the need for the student to find alternative accommodation. All Homestay fees will be refunded on a pro-rated basis, less the Placement Fee.
- 5.** Airport pick-up fee are not refundable if you advise us less than 5 working days before your arrival date that you will not be using the service.
- 6.** If the student cancels his or her Homestay anytime up to 30 days prior to the first day the student agreed to occupy the Homestay, the Homestay fees paid will be refunded in full, less the Homestay Placement Fee.
 - i.** If the student cancels his or her Homestay within 29 and up to 14 days prior to the first day the student agreed to occupy the Homestay, the student will be assessed a \$300 cancellation fee penalty. The Homestay Placement Fee will not be refunded.

- ii. If the student cancels his or her Homestay 13 or fewer days prior to the first day the student agreed to occupy the Homestay, there will be no refunds.
- iii. Students must be made aware that their agent may have an additional and / or different Homestay cancellation and refund policy that may have additional or different consequences.

7. If the student moves out of his or her Homestay before the end of the Homestay period the unused portion of the Homestay fees paid will be refunded to the student provided he or she gives two weeks notice in writing to the Homestay Coordinator. The Homestay Placement Fee will not be refunded.

8. In cases where ESL Hawaii has located non-Homestay accommodations for the student, and the student cancels his or her accommodations within 14 days prior to the commencement of his or her course, the student will not be refunded the placement fee. Any deposits paid to agents or landlords in connection with the reservation of the accommodations, may or may not be returned to the student depending on the individual third-party rules connected with the accommodation in question. The student will be made aware of the terms and conditions of the reservations for their accommodations.

9. All refunds are made in U.S. dollars at the exchange rate on the day of the transfer. Bank charges will be deducted from the refunded amount. Refunds are sent to the student 30 days after proper written notification of cancellation.

Refunds before commencements of classes:

- 1.** The student shall be entitled to a full refund of all money paid (except registration fee and activity fee) up until 14 days before the first day of class.
- 2.** The student shall be entitled to a 50% refund of all money paid (except registration fee and activity fee) during the first 13 of the 14 days before the first day of class.
- 3.** The student shall not be entitled to a refund of any kind during the 24-hour period before the first day of class.
- 4.** The activities deposit is fully refundable up until 30 days before the first day of class. If the student cancels within the 30-day period before the first day of class, the activities deposit is non-refundable because it was used to make accommodations and other reservations for the student for the first outer island study excursion.
- 5.** Students registered through the Representative may have signed contracts through the representative that may have separate cancellation penalties, no refund policies, or home-country-only conditions. All Representative-student contract conditions will be confirmed by ESL Hawaii prior to issuing a refund.

Refunds after commencements of classes:

1. If the student cancels in the first week of the term, the student shall be refunded 50% of his or her tuition. If the student cancels in the second week of the term, the student shall be refunded 25% of his or her tuition. If the student cancels in the third week of the term, the student shall receive a prorated tuition refund minus a 25% cancellation fee. There is no refund for cancellation in the last week of the student's participation. There are no partial week refunds.
2. Activities fees will be refunded based on the part of the term the student cancelled and at the discretion of the director. The purpose of advanced payment of activities fees is to secure advanced reservations for the student for a given activity.
3. Registration fees are non-refundable.
4. There are no partial-week refunds. Students must submit a cancellation request in writing by 2pm on the Friday prior to the week being cancelled.

Compassionate refund

A compassionate refund due to exceptional circumstances may be given at sole discretion of School Director. A 27% administration fee will be deducted from any unused tuition fees.

ESL Hawaii must, at all times, be made aware of the Representative's separate cancellation and refund policies.

12. ESL Hawaii's Student Fee and Records Assurance Program

The Student Fee and Records Assurance Program protects a student's fees in case ESL Hawaii can no longer offer the course in which the student is enrolled, and safely archives students' records for distribution on demand.

- Tuition and Homestay fees are covered.
- ESL Hawaii keeps a special account for student fees assurance. This account is held with ASB Hawaii, in Honolulu, Hawaii (asbhawaii.com).
- ESL Hawaii agrees that it will always notify its Representatives in a timely fashion of changes in course scheduling and school plans.
- All students and Representatives are urged to keep all invoices, receipts, and official letters of acceptance. Additionally, all students are urged to keep ESL Hawaii apprised of their correct contact information.

The **Student Fee and Records Assurance Program** covers

- all students

- all payments made to ESL Hawaii, including accommodation and living expenses, where applicable.
- the protection of academic records.

Any fee refunds will be paid to the student, or the agent who paid the fees. This can include parents, charitable trusts and employers.

Student records

ESL Hawaii digitally archives all student records and backs them up onto portable digital media (e.g. enrolment, attendance, and progress or achievement records). All digital media is securely stored. In the event of a closure, this information, will pass to the students themselves or Representatives who were responsible for recruiting the student, after proper notification.

IN WITNESS WHEREOF, the Parties here to have caused this Agreement to be executed as of the date first above written.

ESL Hawaii LLC

Name: Thomas Celentano

Signed:

Title: Principal

“Representative”

Print Name:

Signed:

Address:

Phone:

Fax:

E-mail: