



Student Exchange Agreement between

The University of Sydney, Australia

ABN 15 211 513 464, CRICOS Provider 00026A

and

Xi'an Jiaotong University, China

OBJECTIVE

Xi'an Jiaotong University and The University of Sydney agree to the establishment of a **Student Exchange Program** on the terms set out below to enhance educational and cultural exchange opportunities for students and to promote mutually beneficial academic linkages.

1 Definitions

In this Agreement:

Background IP means all the Intellectual Property owned by or licensed to an Institution and made available to the Student Exchange Program for the purposes of the Student Exchange Program, and which has been created and/or developed prior to the date of the commencement of this Agreement.

Confidential Information means all information or data that is exchanged between the parties for the purposes of the Student Exchange Program before, on or after the date of this Agreement (including the terms of this Agreement) relating to business and commercial information about the disclosing party and its operations, scientific and technical information incorporating its processes and development activities, excluding information which is:

- (a) available in the public domain or subsequently becomes available in the public domain other than by way of a breach of this agreement;
- (b) lawfully known to the other party on a non-confidential basis before being disclosed by the party that owned the confidential information; or
- (c) rightly acquired from a third party who is not in breach of an agreement to keep such information confidential.

In particular, confidential information may also include information or data within the Institutions Materials, or as is precisely identified to an Institution (being a party to this Agreement) by the disclosing party as confidential and of particular commercial sensitivity to the disclosing party.

Exchange Student means a student enrolled in the Student Exchange Program at the Host Institution.

Exchange Student Candidate means a student candidate for enrolment in the Student Exchange Program.

Firm Offer means a written offer of admission from the Host Institution, confirming that an Exchange Student Candidate has met all Host Institution admission requirements.

Force Majeure Event means any event which is outside the reasonable control of the affected Institution and could not have been prevented by that Institution taking all reasonable steps.

Home Institution means the institution at which the Exchange Student is enrolled in a degree program.

Host Institution means the institution at which the Exchange Student will enrol, or is enrolled, in a Student Exchange Program.

Intellectual Property means all copyright including future copyright, trademarks, designs, patents registered and unregistered, plant breeders rights, trade secrets, semiconductor or circuit layouts and all other intellectual property as defined in the convention of 1967 establishing the World Intellectual Property Organisation.

Institutions means both the Home and Host Institutions.

Institution Materials means the Universities' materials used as part of the Student Exchange Program.

Student Exchange Program means the exchange of students between the Home and Host Institutions for the delivery of education to those Exchange Students.

2 Term of Agreement

- 2.1 This Agreement commences on 30 July 2012 and 30 July 2017, unless it is terminated at an earlier time in accordance with **clause 18**.
- 2.2 The Institutions agree to discuss whether they are going to renew this Agreement at least (6) six months prior to its expiry.

3 Student Exchange Program

- 3.1 During the term of this Agreement, up to (3) three full time equivalent ('FTE') Exchange Students will be accepted by the Institutions to participate in the Student Exchange Program on an annual basis. However, the principle of reciprocity applies to the final number of FTE Exchange Students that the Institutions agree to admit to their respective Institutions under the Student Exchange Program during the term of this Agreement.
- 3.2 The number of FTE Exchange Students in clause 3.1 may be modified by mutual written agreement between the Institutions.

4 Annual Review

- 4.1 This Agreement will be reviewed annually by the Institutions to determine the final number of FTE Exchange Students to be admitted to both Institutions for the following year. The number of FTE Exchange Students may be adjusted on an annual basis so long as they balance out at the end of the term of the Agreement.

5 Program Expenses

- 5.1 Exchange Students will not be enrolled as degree students at the Host Institution.
- 5.2 Exchange Students participating in the Student Exchange Program are exempt from paying tuition fees at the Host Institution. The Exchange Student must continue to pay its normal tuition fees and other costs at its Home Institution.
- 5.3 Exchange Students will be responsible for all living, travel, insurance and ancillary costs in connection with the Student Exchange Program.
- 5.4 Students enrolling in the Student Exchange Program at the University of Sydney are required to pay for Overseas Student Health Cover ('OSHC').

6 Eligibility and Selection

- 6.1 The Institutions may propose Exchange Student Candidates. All Exchange Student Candidates will be required to comply with the Host Institution's international student enrolment and admission criteria, including (but not limited to) English and Chinese language proficiency, qualifications and student visa requirements.
- 6.2 Details of these criteria will be listed on the Host Institution's website, and must be separately provided by the Host Institution to Exchange Student Candidates prior to the Institutions accepting an Exchange Student Candidate's enrolment at the time of application.
- 6.3 Subject to **clauses 7 and 8** (admission criteria specific to the Institutions), if the Institutions propose Exchange Student Candidates, the Institutions will select candidates on the basis of:
- (a) academic merit;
 - (b) successful completion of no less than (1) one year of undergraduate study at the time of application for the Student Exchange Program;
 - (c) Undergraduate students who are eligible at the Host Institution for Undergraduate level study at the time of admission to the Host Institution;
 - (d) AND/OR postgraduate coursework and research students who are eligible at the Host Institution for postgraduate level study at the time of admission to the Host Institution with the exclusion of students seeking enrolment in restricted units under **clause 10.4**;
 - (e) language ability (English) and
 - (f) suitability to undertake a period of study abroad.

The Institutions may, from time to time, agree in writing on additional selection criteria for the eligibility of Exchange Student Candidates.

- 6.4 The Xi'an Jiaotong University acknowledges that the University of Sydney is a registered provider pursuant to the *Education Services for Overseas Students Act 2000* (Cth) ('**ESOS Act**') and the ESOS legislative framework, is obliged to comply in this regard with Standard 2 of the *National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2007* ('**National Code**'), which sets out its obligations in relation to a student's engagement before enrolment. The Xi'an Jiaotong University further acknowledges that the University of Sydney must comply with the ESOS Act and the National Code in relation to the engagement of Exchange Student Candidates and agrees that it will not interfere and/or will reasonably assist in any way with the University's compliance with that legislation (as directed by the University of Sydney).
- 6.5 The Host Institution may reject an Exchange Student Candidate proposed by the Home Institution on academic, and/or language grounds, and/or in accordance with its standard admissions, and/or enrolment policy. The Host Institution will provide written reasons for rejecting any Exchange Student Candidate proposed by the Home Institution. The Home Institution may submit alternative Exchange Student Candidates for consideration by the Host Institution.
- 6.6 Neither Institution will unlawfully reject an Exchange Student Candidate on the grounds of gender, race (including colour, descent or nationality), disability, age, sexual preference or

orientation, marital status, pregnancy, family or carer's responsibility, social origin, political belief or religious belief.

7 Admission Procedures Specific to the University of Sydney

- 7.1 The Exchange Student Candidates desiring to participate in the Student Exchange Program at the University of Sydney must:
- (a) complete the University of Sydney's 'Study Abroad and Exchange Application' form (as amended from time to time at the University of Sydney's sole discretion);
 - (b) provide the required supplementary admission documentation;
 - (c) following receipt of the University of Sydney's letter of Firm Offer, formally accept the Firm Offer by completing and returning the Acceptance of Offer form or using the Web Acceptance facilities. The Xi'an Jiaotong University cannot accept a Firm Offer on a student's behalf;
 - (d) send to the University of Sydney the appropriate payment for OSHC (if applicable);
 - (e) obtain the necessary visa and associated travel documentation following receipt of the University of Sydney's electronic Confirmation of Enrolment ('eCOE'). The University of Sydney does not take any responsibility for the Exchange Student Candidates not being able to meet the requirements of their student visa applications for the Student Exchange Program or of the Exchange Student not being able to meet the necessary ongoing student visa conditions under the laws of Australia; and
 - (f) send to the relevant Faculty any additional fees associated with their enrolment in a unit of study that involves the use of specific material or resources.
- 7.2 The Xi'an Jiaotong University must use reasonable endeavours to facilitate the Exchange Student Candidate to comply with the requirements in **clause 7.1**.

8 Admission Procedures Specific to the Xi'an Jiaotong University

- 8.1 The Exchange Student Candidates desiring to participate in the Student Exchange Program at the Xi'an Jiaotong University must:
- (a) complete the registration form of the Xi'an Jiaotong University;
 - (b) following receipt of an acceptance email from the Xi'an Jiaotong University, obtain the necessary student visa. If required by the Exchange Student Candidate, the Xi'an Jiaotong University will provide them with a formal invitation letter. Exchange Student Candidates are responsible for all remaining documents required by China Consular Authorities to participate in the Student Exchange Program; and
 - (c) register their arrival and departure at the Dean's Office.

9 Offer

- 9.1 The Host Institution will confirm a student's participation in the Student Exchange Program by providing the Home Institution with a letter of Firm Offer sent to the Exchange Student Candidate.

10 Enrolment

- 10.1 Exchange Students will enrol in courses offered by the Host Institution, subject to availability, for which they meet pre-requisite study requirements of the Host Institution.
- 10.2 The Institutions reserve their rights to exclude Exchange Students from enrolling in specific units of study.
- 10.3 The Host Institution may require pre-approval from the relevant Faculty or School prior to enrolling Exchange Students in certain disciplines.
- 10.4 At the University of Sydney Exchange Students are precluded from enrolling in Graduate units of study offered by the Sydney Law School, with the exception of Juris Doctor units of study. Exchange Students are also precluded from enrolling in Graduate units of study offered by the Faculty of Medicine, Sydney Nursing School, Clinical units of study in the School of Psychology and all Dentistry Programs.
- 10.5 The Institutions acknowledge that the admission and enrolment of students that are part of the Student Exchange Program will be subject to compliance with the entry and visa regulations of Australia and China, and the applicable visa conditions.
- 10.6 The Host Institution will not be liable to the Home Institution for deferring, suspending or cancelling enrolment of an Exchange Student due to an Exchange Student's non-compliance with visa requirements, for example, student visa conditions relating to attendance, or any other condition of enrolment at the Host Institution.
- 10.7 The Xi'an Jiaotong University acknowledges that the University of Sydney must comply with its obligations under the ESOS Act and ESOS legislative framework, including the National Code in relation to the deferral, suspension or cancellation of an Exchange Student's enrolment, and agrees that it will not interfere and/or will reasonably assist in any way with the University's compliance with that legislation (as directed by the University of Sydney).

11 Student Exchange Program at the Host Institution

- 11.1 Exchange Students participating in the Student Exchange Program must:
- (a) be admitted and enrolled as full-time, non-award students;
 - (b) enrol for a minimum period of (1) one semester or for a maximum period of (1) one year;

- (c) are entitled to the same rights and privileges (including library resources and student support services) and subject to the same rules, policies, penalties and discipline as other enrolled students at the Host Institution. The Xi'an Jiaotong University acknowledges that the University of Sydney must comply with the ESOS Act and the ESOS legislative framework, including the National Code, in relation to the care for and services to students, including Standard 6 under the National Code, and agrees that it will not interfere and/or will reasonably assist in any way with the University's compliance with that legislation (as directed by the University of Sydney); and
- (d) must comply with and will be bound by the statutes, rules, regulations, policies and procedures of the Host Institution, including those affecting enrolled students; and
- (e) meet the necessary ongoing student visa conditions under the laws of the Host Institutions.

12 Academic Assessment and Applicable Standards

- 12.1 Subject to **clause 10.1**, Exchange Students will enrol in a standard full-time study load (non award students) and complete all relevant assessment, including examinations, in accordance with the rules and policies of the Host Institution.

13 Academic Results

- 13.1 The Institutions must first organise appropriate academic credit arrangements for the Student Exchange Program prior to the exchange taking place, including documented procedures for the granting and recording of course credit. The Exchange Students will be notified of such arrangements prior to enrolling in their studies at the Host Institution.
- 13.2 Exchange Students thereafter will be responsible for these academic credit arrangements with their Home Institution.
- 13.3 Official transcripts will be provided to each Exchange Student according to institutional protocol after the release of results at the end of the Student Exchange Program.
- 13.4 The Xi'an Jiaotong University further acknowledges that the University of Sydney must comply with the ESOS Act and ESOS legislative framework, including the National Code, in relation to the recognition of course credit, and agrees that it will not interfere, and/or will reasonably assist in any way with the University's compliance with that legislation (as directed by the University of Sydney).

14 Accommodation and Care

- 14.1 Exchange Students will be responsible for organising their own accommodation.
- 14.2 The Institutions will provide information regarding temporary and longer-term accommodation (on and off campus) to Exchange Students prior to the commencement of their exchange with the Host Institution.
- 14.3 Neither Institution guarantees that accommodation on campus will be available. If accommodation on campus is available Exchange Students will not be charged more than the amount normally charged to onshore students for the available accommodation.

15 Education Services for Overseas Students in Australia

- 15.1 The Xi'an Jiaotong University acknowledges that:
- (a) Australian law requires providers of education and training courses to overseas students who come to Australia to study on a student visa (as defined in Regulation 1.3 of the *Education Services for Overseas Students Regulations 2001*) to be registered and comply with the ESOS Act and ESOS legislative framework, including the National Code;

- (b) the University of Sydney is registered on the Commonwealth Register of Institutions and Courses for Overseas Students ('**CRICOS**'); and
 - (c) the University of Sydney's CRICOS number is 00026A.
- 15.2 The Xi'an Jiaotong University agrees to participate in, advertise and promote the Student Exchange Program in accordance with **Schedule 2** of this Agreement.
- 15.3 The Xi'an Jiaotong University further acknowledges that the University of Sydney must ensure that its marketing of its education is professional, accurate and maintains the integrity and reputation of the industry and the University of Sydney, and agrees that it will not interfere, and/or will reasonably assist in any way with the University's compliance with that legislation (as directed by the University of Sydney). The Xi'an Jiaotong University agrees that it will:
- (a) clearly identify the University of Sydney's CRICOS number in written marketing and other material provided by the Xi'an Jiaotong University to its students (including material in electronic form);
 - (b) not give false or misleading information or advice in relation to the Student Exchange Program offered at the University of Sydney;
 - (c) only use promotional material and application and enrolment documents provided or endorsed by the University of Sydney; and
 - (d) not modify any written material or documents provided by the University of Sydney to The Xi'an Jiaotong University without prior permission of the University of Sydney.

16 Intellectual Property Rights and Confidential Information

16.1 Intellectual Property

Each Institution retains ownership of its Backgrounds IP and grants to each other Institution a non-exclusive, non-transferable, royalty free, revocable, world-wide licence to use its Background IP for the purposes of performing its obligations under this Agreement and the Student Exchange Program.

16.2 Confidential Information

Each Institution ('recipient') must keep any Confidential Information disclosed to it confidential and must not deal with it in any way that might prejudice its confidentiality. These obligations continue indefinitely beyond the end of this Agreement but do not extend to disclosures:

- (a) required by law; and
- (b) to a recipient's officers or employees:
 - i. who have a need to know for the purposes of this Agreement (but only to the extent that each has a need to know); and
 - ii. before disclosure, have been directed by the recipient to keep that Confidential Information confidential.

17 Privacy and Personal Information

- 17.1 The University of Sydney is subject to the *Privacy and Personal Information Protection Act 1998* (NSW) ('**PPIP Act**'), and the privacy policies of the University.
- 17.2 The Xi'an Jiaotong University acknowledges that if the University of Sydney provides it with personal information (as defined by section 4 of the PPIP Act) that it:
- (a) may use that personal information only for the purposes of performing its obligations under this Agreement and for the Student Exchange Program;

- (b) must observe any directions of the University of Sydney concerning use, storage or security of that personal information;
- (c) may disclose that personal information to its officers and employees:
 - (i) who have a need to know for the purposes of this Agreement (but only to the extent that each has a need to know); and
 - (ii) before disclosure, have been directed by the Xi'an Jiaotong University to keep that personal information confidential.

18 Termination of Agreement

- 18.1 Either Institution may terminate this Agreement at any time, and for any reason, by giving the other Institution (6) six months written notice of termination. No compensation is payable by either Institute for termination under this clause.
- 18.2 Termination of this Agreement will not affect any student who has already commenced study at the Host Institution, or received a letter of Firm Offer to participate in the Student Exchange Program.
- 18.3 On termination of this Agreement, the Institutions must:
 - (a) stop advertising the Student Exchange Program;
 - (b) deal with Institution Materials as reasonably directed by either Institution;
 - (c) return all of the Institutions' Confidential Information to the other Institution (as reasonably directly by either Institution); and
 - (d) cease use of the Institutions' Background IPRs (as reasonably directed by either Institution).

- 18.4 On termination of this Agreement the Institutions are released from the obligations to continue to perform the Agreement except those obligations in **clauses 15, 16, 17, 18.4, 18.5, 19** and **20** and any other obligations that, by their nature, survive termination.
- 18.5 Termination of this Agreement does not affect any accrued rights or remedies of the Institutions.

19 Disputes

- 19.1 The Institutions must without delay and in good faith attempt to resolve any dispute, controversy or claim arising out of, relating to or in connection with this Agreement, including any questions regarding its existence, validity or termination (the '**Dispute**').
- 19.2 The Institutions will attempt to resolve the Dispute in accordance with the following procedures:
- (a) the Institute claiming that a Dispute exists must notify the other Institute that a Dispute exists and refer the Dispute to the following senior officers of the Institutions for resolution, DVC (Education) for the University of Sydney and the Department of International Cooperation and Exchanges for the Xi'an Jiaotong University.
 - (b) if the Senior Officers of the Institutions are not able to resolve the Dispute within 60 days of the date of the first notification of the Dispute to the other Institution, or such other period as the Institutions may agree in writing, the Dispute must be resolved by arbitration in accordance with **clause 19.3**.
- 19.3 The Institutions must submit to the Hong Kong International Arbitration Center ('HKIAC') Arbitration Rules. The seat of arbitration shall be Hong Kong. The language of the arbitration shall be English, and if requested by Xi'an Jiaotong University, in Chinese as well. The number of arbitrators shall be determined in accordance with the HKIAC Arbitration Rules.
- 19.4 **Clauses 19.1, 19.2** and **19.3** do not prejudice any Institutions' rights to apply to a court for injunctive, provisional, conservatory, or other interim or emergency relief. Any such application to a court shall not amount to a waiver of the Institution's rights under **clause 19.2(b) and 19.3** of this Agreement (arbitration clauses).

20 Indemnity

- 20.1 The Institutions indemnify one another against all losses, costs, damages or expenses (including legal costs and expenses) it directly sustains or incurs as a result of:
- (a) any negligent, unlawful or wilful act or omission of either Institute and its officers and employees or any subcontractor;
 - (b) any infringement of the Intellectual Property or moral rights of a third party arising out of:
 - i. the use, or provision, by either Institute of Institution Materials; and/or
 - ii. use by either Institution of Institution Materials including Background IP; and/or
 - (c) a breach of clause 17 (privacy and personal information),

except to the extent that any negligent, unlawful or wilful act or omission of either Institution or the Institutions' offices, employees and/or subcontractors, contributed to the relevant liability.

- 20.2 Neither Institution will be liable for any indirect, incidental, special or consequential damages, including the loss of profits or revenue, incurred by Institution or any third party, whether in an action in contract or tort, even if the other Institution or any other person has been advised of the possibility of such damages. Except due to losses for which either Institution is required to indemnify pursuant to **clause 20.1** and due to a breach of either Institution's obligations under **clauses 16 and 17** of this Agreement.

21 General

21.1 Representations or warranties

The Institutions acknowledge that in entering into this Agreement they have not relied on any representations or warranties about its subject matter except as expressly provided by this Agreement.

21.2 Variation and waiver

A provision of this Agreement or a right created under it may not be waived or varied except in writing, signed by the Institutions. A failure or delay in exercise of a right arising from a breach of this Agreement does not constitute a waiver of that right.

21.3 No agency or partnership

Nothing contained or implied in this Agreement constitutes a party as the partner, agent or legal representative of the other party for any purpose or creates any partnership, agency or trust, and a party has no authority to bind the other party in any way.

21.4 Force majeure

Neither party is liable for any breach of its obligations under this Agreement to the extent that the breach resulted from a Force Majeure Event provided that it:

- (a) promptly notifies the other party (with appropriate details, including (but not limited to) the nature and cause of the Force Majeure Event and details of how the Institution is mitigating its losses in relation to the Force Majeure Event); and
- (b) takes all reasonable steps to work around or reduce the effects of the Force Majeure Event.

If a Force Majeure Event continues for more than 30 days or continues beyond the term of this Agreement, either party may terminate this Agreement with immediate effect by written notice.

21.5 Severability

If any part of this Agreement is or later becomes unenforceable, then:

- (a) those unenforceable terms shall be deleted from this Agreement, to the extent that they are unenforceable; and
- (b) the remaining terms of this Agreement shall continue in full force and effect.

21.6 Counterparts

This Agreement may consist of a number of counterparts and the counterparts taken together form one and the same document.

21.7 Assignment and novation

Either Institution may only assign its rights or novate its rights and obligations under this Agreement with the prior written consent of the other Institution.

21.8 Contacts

The personal details of the contact persons primarily responsible for the administration and management of this Agreement and the Student Exchange Program are set out in **Schedule 1** of this Agreement.

The personal details of the contacts persons may vary from time to time, and will be separately notified to either Institution in writing. These details may be provided to the Exchange Students as the nominated contract officer of the Student Exchange Program.

21.9 Language

The Institutions agree that this Agreement and all documents related to it must be written in English, and if directed by the Xi'an Jiaotong University, in Chinese as well. In the event of dispute, the English version prevails.

21.10 General interpretation

Unless the contrary intention appears, in this Agreement:

- (a) references to the singular includes the plural and vice versa;
- (b) references to person or individuals include:
 - (i) that person's successors, administrators, executors and assignees; and
 - (ii) a firm, a body corporate, a partnership, a joint venture, an unincorporated body or association, or any government agency;
- (c) the words "include", "including" are not used as, nor are they to be interpreted as, words of limitation;
- (d) headings are for convenience only and do not affect interpretation;
- (e) a reference to a party includes, where appropriate, that party's officers, employees, suppliers or agents;
- (f) a reference to any law includes any amendment to, or replacement of, it;
- (g) a reference to a thing (including an amount) means any whole or part of it; and
- (h) a reference to a clause or a Schedule is a reference to a clause in, or a schedule to, this Agreement.

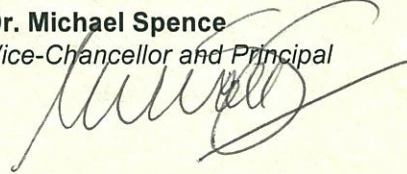
Executed as an Agreement

On behalf of Xi'an Jiaotong University

On behalf of The University of Sydney

Professor Nanning Zheng
President

Dr. Michael Spence
Vice-Chancellor and Principal

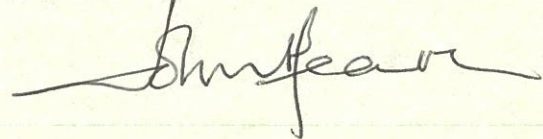
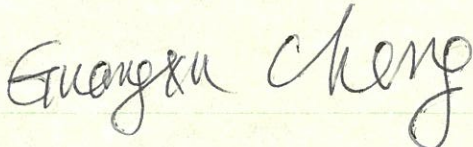


Date: 31. 7. 2012

Date: 31. 7. 2012.

Professor Guangxu Cheng
Vice President

Professor John Hearn
Deputy Vice-Chancellor (International)



Date: 2012. July 31.

Date: 31 - 7 - 12

SCHEDULE 1

PRIMARY STUDENT EXCHANGE PROGRAM CONTACTS

The University of Sydney

Management of the Program

Ms Kate Smart

Senior Manager, Study Abroad & Exchange
International Office
Jane Foss Russell Building G02
The University of Sydney
NSW 2006
Tel: +61 2 8627 8308
Fax: +61 2 8627 8390
Email: kate.smart@sydney.edu.au
Web: <http://www.usyd.edu.au/studyabroad>

Xi'an Jiaotong University

Management of the Program

Ms LIANG Li

Director, International Cooperation and Exchanges
Department
Science Hall
Xi'an Jiaotong University
No.28 Xianning West Road,Xi'an,Shaanxi
Tel: +86 29 82665004
Fax +86 29 83234716
Email: lli@mail.xjtu.edu.cn
Web: <http://zq.xjtu.edu.cn/gjc>

SCHEDULE 2

EDUCATION SERVICES FOR OVERSEAS STUDENTS IN AUSTRALIA

1. Australian law requires providers of education and training courses to overseas students who come to Australia to study on a student visa (as defined in Regulation 1.3 of the *Education Services for Overseas Students Regulations 2001*) to be registered and comply with the requirements of the ESOS Act and the ESOS legislative framework, including the National Code.
2. The National Code provides nationally consistent standards for the registration and conduct of registered education providers, and the conduct of persons who deliver educational services on behalf of education providers. The University of Sydney, as a registered education provider, must demonstrate its continuing compliance with the ESOS Act and the ESOS legislative framework, which includes the standards set out in Part D, titled 'Standards for Registered Providers' of the National Code.
3. The Xi'an Jiaotong University acknowledges the University of Sydney's obligations under the ESOS Act and the ESOS legislative framework, including the National Code, and that it has reviewed this legislation and agrees to:
 - (a) promptly provide any information reasonably required by the University of Sydney to enable the University of Sydney to meet its obligations or seek any approvals under the ESOS Act and ESOS legislative framework, including the National Code; and
 - (b) provide any assistance to the University of Sydney necessary for it to comply with its obligations under the ESOS Act and the ESOS legislative framework, including the National Code.