

31/V5/2018

**ARIZONA STATE UNIVERSITY
STUDY ABROAD PROGRAM SERVICES AGREEMENT**

This Study Abroad Program Services Agreement (this "Agreement") is entered into this 7th day of May, 2015 (the "Effective Date") by and between University of Economics, Prague ("VSE") ("Provider"), and The Arizona Board of Regents for and on behalf of Arizona State University and its Study Abroad Office ("ASU").

RECITALS

A. ASU desires to engage Provider to provide certain services to ASU's Study Abroad Office ("SAO") from time to time in connection with the SAO's study abroad programs (each, a "Program").

B. Each Program and the scope of services to be provided by Provider to SAO in connection with each Program (the "Services") will be described on a scope of work (each, a "Scope of Work") agreed to by the parties. Each Scope of Work will be subject to the terms of this Agreement and will generally follow the form set forth on Exhibit A, which may be altered by agreement of the Parties.

C. Provider desires to be so engaged and to perform the Services required by SAO from time to time subject to the terms and conditions of this Agreement.

AGREEMENT

1. Scope of Services.

1.1. Provider will use its best efforts to provide the Services requested by SAO from time to time pursuant to this Agreement and agreed to by the parties in a Scope of Work. To the extent there are any conflicts between the provisions of any Scope of Work and this Agreement, the terms of this Agreement will control.

1.2. Each party will appoint one of its staff members who will act as the primary contact for each Program and who will be authorized to work with the other party on development of, and any changes that may be necessary to, the Program. Either party may replace its primary contact from time to time upon notice to the other party. Each party's primary contact will be identified in the applicable Scope of Work.

1.3. Provider Assistant. Intentionally Omitted.

2. **Coordination of Services.** Provider will work with faculty from ASU to coordinate and conduct each Program. If Provider wishes to engage a third party to provide any services in connection with a Program, Provider must first obtain SAO's approval, such approval not to be unreasonably withheld. Provider will pay the third party directly for its services to the Program. The costs incurred by Provider for such third party services will be included in the Program Fees (defined herein) charged by Provider to ASU for that Program.

3. **Enrollment: Deadlines.** ASU students participating in a Program (the "Participants") will be current degree-seeking students enrolled at ASU who are in good academic standing or students who will apply to and be accepted by ASU as non-degree-seeking applicants. The Scope of Work for each Program will set forth the deadline for Provider's receipt of any required documentation for each Participant.

Last Updated: May 2015

4. **Program Fees.**

4.1. ASU will pay Provider for the Services performed under this Agreement in accordance with the Program fees (the "Program Fees") agreed by the parties and set forth in the applicable Scope of Work. The parties acknowledge and agree that rates are subject to change from time to time during the Term of this Agreement but that Program Fees set forth on a Scope of Work will not change once agreed by the parties.

4.2. ASU will deliver fifty percent (50%) of the total Program Fees due to Provider by the date indicated in the Scope of Work.

4.3. Upon the completion of a Program, Provider will invoice ASU for the balance of the Program Fees due to Provider. ASU will deliver the entire remaining amount due to Provider no later than thirty (30) days from the date of the final invoice submitted by Provider. Provider reserves the right to subject invoices not paid within forty-five (45) days of the invoice date to a 2% per month late fee on the unpaid balance.

4.4. ASU will send payments to the Provider contact identified in the Scope of Work or as otherwise communicated to SAO by Provider. ASU will send checks or paper remittance advices to the payment address set forth in the Scope of Work or communicated by Provider to SAO. Questions regarding invoices should be directed to the Provider contact identified in the Scope of Work.

4.5. To the extent required by Arizona Revised Statutes ("A.R.S.") Section 35-214, Provider agrees to retain all records relating to this Agreement. Provider agrees to make those records available at all reasonable times for inspection and audit by ASU or the Auditor General of the State of Arizona during the Term of this Agreement and for a period of five (5) years after the completion of this Agreement. The records shall be provided at Arizona State University, Tempe, Arizona, or another location designated by ASU upon reasonable notice to Provider.

5. **Term: Cancellation.**

5.1. Provided that this Agreement is not earlier terminated pursuant to Section 5.4, the term of this Agreement will begin on the Effective Date and will continue for a period of one (1) year (the "Initial Term"). This Agreement will automatically renew at the end of the Initial Term for successive one-year terms (each of which shall be a "Renewal Term"), not to exceed a total of five (5) years, unless either party gives written notice to the other of its intention not to renew at least ninety (90) days before the expiration of the then-current Term. The Initial Term and any Renewal Term under this Section 5 shall hereinafter be referred to collectively as the "Term". The Term of this Agreement must run consecutively and without interruption.

5.2. In its sole discretion, ASU may terminate a specific Program and the accompanying Scope of Work. If ASU cancels a Program for any reason after the date indicated in the Scope of Work, ASU will be responsible for all payments that Provider has made or has committed to make in furtherance of the Program. Provider will make good faith efforts to mitigate its damages in the event ASU cancels any Program.

5.3. The SAO will promptly notify the Provider in the event a Participant withdraws from a Program. If a Participant withdraws at any time after the date indicated in the Scope of

Work, ASU will be responsible for payment to the Provider of all fees and expenses due as a result of that Participant's withdrawal.

5.4. Either party may terminate this Agreement upon written notice to the other if the other party commits a material breach of the terms of this Agreement and (if such breach can be remedied) fails to remedy that breach within fifteen (15) days of being notified in writing of the breach. Without prejudice to any other remedy for breach of this Agreement, upon termination of this Agreement, no party will be released from any obligations which have accrued prior to the effective date of such termination.

6. **Promotion; Use of Names or Logos.**

6.1. The SAO is solely responsible for promoting the Program to its students. Provider will not be responsible for any promotion of the Program or recruitment of Participants.

6.2. Neither party will use any names, service marks, trademarks, trade names, logos or other identifying names, domain names, or identifying marks of the other party ("Marks"), without in each case, the prior written consent of the party that owns the Marks. Use of any party's Marks must comply with the owning party's requirements including using the ® indication of a registered trademark where applicable.

7. **Independent Contractor.**

7.1. Each party is an independent contractor and is independent of the other party. Under no circumstances will any employees of one party be deemed the employees of the other party for any purpose. This Agreement does not create a partnership, joint venture or agency relationship between the parties of any kind or nature. This Agreement does not create any fiduciary or other obligation between the parties, except for those obligations expressly and specifically set forth herein. Neither party will have any right, power, or authority under this Agreement to act as a legal representative of the other party, and neither party will have any power to obligate or bind the other or to make any representations, express or implied, on behalf of or in the name of the other in any manner or for any purpose whatsoever contrary to the provisions of this Agreement.

7.2. Each party acknowledges that the relationship of the parties hereunder is non-exclusive.

8. **Notices.** All notices, requests, demands and other communications hereunder will be deemed to have been duly given if the same will be in writing and will be delivered (a) personally, (b) by registered or certified mail, postage prepaid, (c) by facsimile transmission, with a copy by regular mail or (d) by overnight delivery service and addressed as follows:

If to the SAO:

Attention: [REDACTED]
Arizona State University
Interdisciplinary B, 255
1120 South Cady Mall
Tempe, Arizona 85287-4003
Fax: 480.965.4026

If to the Provider:

Attention: [REDACTED]
Vysoká škola ekonomická
v Praze/University of Economics,
Prague
Oddělení zahraničních
styků/International Office
Nám.W. Churchilla 4
13067 Praha 3 (Czech republic)
Fax: +420 224 098 591

or to such other addresses or to such facsimile numbers as may be specified from time to time in a written notice given by a party in accordance with this Section. The parties agree to acknowledge in writing the receipt of any written demand, notice, report, request or other communication under this Section that is delivered in person.

9. **Force Majeure.**

9.1. No liability will result from the delay in performance or nonperformance caused by force majeure or circumstances beyond the reasonable control of the party affected, including, but not limited to, acts of God, fire, flood, substantial snowstorm, war, terrorism, embargo, any United States or foreign government regulation, direction or request, accident, strike or other labor dispute or labor trouble, or any failure or delay of any transportation, power or communications system or any other or similar cause beyond that party's reasonable control.

9.2. The party which is so prevented from performing will give prompt notice to the other party of the occurrence of such event of force majeure, the expected duration of such condition and the steps which it is taking to correct such condition. This Agreement or any individual Scope of Work may be terminated by either party by written notice upon the occurrence of such event of force majeure which results in a delay of performance hereunder exceeding thirty (30) days.

10. **Applicable Law.** This Agreement will be construed and interpreted and its performance will be governed by the substantive laws of the State of Arizona without regard to its conflict or choice of law principles.

11. **Contract Claims and Controversies.**

11.1. If a dispute arises under this Agreement, the parties will exhaust all applicable administrative remedies provided for under Arizona Board of Regents Policy 3-809.

11.2. As required by A.R.S. § 12-1518, the parties agree to make use of arbitration in all contracts that are subject to mandatory arbitration pursuant to rules adopted under A.R.S. § 12-133.

12. **Assignment.** Neither party will assign or transfer any interest in this Agreement without the prior written approval of the other party. Any attempted assignment in violation of this Section will be null and void. Subject to the foregoing, this Agreement will be binding upon the permitted successors and permitted assigns or other permitted transferees of the parties.

13. **Recitals and Exhibits.** All recitals herein and all exhibits attached hereto and referred to herein, including each Scope of Work, are integral and material parts of this Agreement.

14. **Severability.** If any provision of this Agreement shall for any reason be found invalid, illegal, unenforceable, or in conflict with any valid controlling law: (a) such provision will be separated from this Agreement; (b) such invalidity, illegality, unenforceability, or conflict will not affect any other provision hereof; and (c) this Agreement will be interpreted and construed as if such provision, to the extent the same will have been held invalid, illegal, unenforceable, or in conflict, had never been contained herein.

15. **Waiver.** No delay or omission by either of the parties in exercising or enforcing any right or power accruing under the Agreement shall impair any such right or power or be construed to be a waiver of such right or power. A failure by either party to exercise any right or power or any of the covenants, conditions or agreements of this Agreement or to enforce any breach or failure of the other party shall not be construed to be a waiver of any subsequent breach of this Agreement or of any other covenant, condition or agreement contained in this Agreement. No waiver of any provision of this Agreement will be valid unless in writing and signed by the party against whom enforcement of the waiver is sought.

16. **Modification.** Any modification or amendment of this Agreement will be effective only if made in writing and signed by both parties.

17. **No Third Party Beneficiaries.** Nothing in this Agreement, express or implied, is intended or will be construed to confer upon any person or entity, other than the parties and their respective successors and assigns permitted by this Agreement, any right, remedy or claim under or by reason of this Agreement.

18. **Merger and Integration.** This Agreement contains the entire understanding between the parties concerning the subject matter of this Agreement and supersedes any and all prior understandings, agreements, representations, and warranties, express or implied, written or oral, between the parties concerning the subject matter of this Agreement.

19. **Nondiscrimination.** The parties will comply with all applicable state and federal laws, rules, regulations, and executive orders governing equal employment opportunity, immigration and nondiscrimination, including the Americans with Disabilities Act. **If applicable, the parties will abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.**

20. **Conflict of Interest: Gratuities.**

20.1. In accordance with A.R.S. § 38-511, ASU may cancel this Agreement within three years after the execution of this Agreement, without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting, or creating this Agreement on behalf of ASU, at any time while this Agreement or any extension thereof is in effect, is an employee

or agent of any other party to this Agreement in any capacity or a consultant to any other party with respect to the subject matter of this Agreement.

20.2. ASU may, by written notice to Provider, cancel this Agreement if it is found by ASU that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by Provider, or any agent or representative of Provider, to any officer or employee of the State of Arizona with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performing of such contract. In the event this Agreement is canceled by ASU pursuant to this provision, ASU will be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by Provider in providing such gratuities.

21. **Failure of Legislature to appropriate.** In accordance with A.R.S. § 35-154, if ASU's performance under this Agreement depends upon the appropriation of funds by the Arizona Legislature, and if the Legislature fails to appropriate the funds necessary for performance, then ASU may provide written notice of this to Provider and cancel this Agreement without further obligation of ASU. Appropriation is a legislative act and is beyond the control of ASU.

22. **Authorized Presence Requirements.** As required by A.R.S. § 41-4401, ASU is prohibited from awarding a contract to any contractor or subcontractor that fails to comply with A.R.S. § 23-214(A) (verification of employee eligibility through the e-verify program). Provider warrants that it and its subcontractors comply fully with all applicable federal immigration laws and regulations that relate to their employees and their compliance with A.R.S. § 23-214(A). A breach of the foregoing warranty will be deemed a material breach of this Agreement that is subject to penalties up to and including termination of the Agreement. ASU retains the legal right to inspect the papers of any contractor or subcontractor employee who works hereunder to ensure that the contractor or subcontractor is complying with the warranty stated above.

23. **Student Educational Records.** Student educational records are protected by the federal Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g ("FERPA"). Provider will comply with FERPA and will not access or make any disclosures of student educational records to third parties without prior notice to and consent from ASU or as otherwise provided by law. If this Agreement contains a scope of work or any provision that requires or permits Provider to access or release any student records, then, for purposes of this Agreement only, ASU hereby designates Provider as a "school official" for ASU under FERPA, as that term is used in FERPA and its implementing regulations. As such, Provider will comply with FERPA and will not make any disclosures of ASU students' educational records to third parties without prior notice to, and consent from, ASU or as otherwise permitted by law. In addition, any access or disclosures of student educational records made by Provider or its employees and agents must comply with ASU's definition of legitimate educational purpose, which definition can be found at: SSM 107-01: Release of Student Information (<http://www.asu.edu/aad/manuals/ssm/ssm107-01.html>). If Provider violates the terms of this section, Provider will immediately provide notice of the violation to ASU.

24. **Insurance Requirements.** Without limiting any liabilities or any other obligations of the Provider, Provider will purchase and maintain insurance coverage in types and amounts sufficient to protect the Provider, its agents, representatives or employees from liabilities that might arise out of the performance of the work under this Agreement.

25. **Indemnification.** Provider will indemnify, defend, save and hold harmless the State of Arizona, its departments, agencies, boards, commissions, universities and its and their officials, officials, agents and employees (collectively, "Indemnatee") for, from and against any and all claims, actions, liabilities, damages, losses or expenses (including court costs, attorneys' fees and costs of claim processing, investigation and litigation) for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property to the extent caused, or alleged to be caused, by (i) the negligence, acts or omissions of Provider or any of its owners, officers, directors, members, managers, agents, employees or subcontractors; (ii) a breach of this Agreement, or (iii) failure to comply with any applicable law. Provider will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration of the award of this Agreement, Provider waives all rights of subrogation against Indemnatee for losses arising from the Services performed by Provider under this Agreement.

26. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument, and photocopy, facsimile, electronic and other copies shall have the same effect for all purposes as an ink-signed original.

[SIGNATURES ON NEXT PAGE.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives on the respective dates entered below.

**THE ARIZONA BOARD OF REGENTS
FOR AND ON BEHALF OF
ARIZONA STATE UNIVERSITY**

By:  _____

Name: Adam Henry

Title: Director, Study Abroad

Date: 02 June 2015

Prague University of Economics

By:  _____

Name: JANA MACHKOVA

Title: RECTOR

Date: 19.5.2015

EXHIBIT A
TO STUDY ABROAD PROGRAM SERVICES AGREEMENT

Form of Scope of Work

This Scope of Work, dated November 6, 2017, is issued pursuant to, made part of, and governed by the Study Abroad Program Services Agreement, dated May 7, 2015 (the "Agreement"), by and between University of Economics, Prague ("VSE"), ("Provider"), and The Arizona Board of Regents for and on behalf of Arizona State University and its Study Abroad Office ("ASU").

1. **Name of Program:** ASU: International Business in Prague
2. **Dates of Program:** May 19, 2018 – June 16, 2018
3. **Number of Participants:** 30 - 40 Students; 2 Faculty; 32 – 42 Total Participants
4. **Deadline for Provider's Receipt of Required Documentation regarding Participants:** **April 20, 2018**
5. **Contact Details**

Point of Contact for SAO:

Attention: [REDACTED]
Arizona State University
Interdisciplinary B, 255
1120 South Cady Mall
Tempe, Arizona 85287-4003
Fax: 480.965.4026

Point of Contact for Provider

Attention: [REDACTED]
Vysoká škola ekonomická v Praze /
University of Economics, Prague
Oddělení zahraničních styků /
International Office
Nám. Winstona Churchilla 4
130 67 Praha 3 (Czech Republic)
Fax: +420 224 098 591

6. Provider Services and Program Fees

| SERVICES | TOTAL COSTS (in USD) |
|--|---|
| Academic Portion | (CZK) 240.000 for 30 students; (CZK) 245.000 for 35 students; (CZK) 250.000 for 40 students |
| Classroom Rental | (CZK) 130.000 for 30 students; (CZK) 140.000 for 35 - 40 students |
| Administrative Fee (3 company visits, Prague Guided Tour, Dinner | (CZK) 275.000 for 30 |

Last Updated: August 2015

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|--|--|
| Cruise, Cesky Krumlov trip, VSE services) | students; (CZK) 290.000 for 35 students; (CZK) 310.000 for 40 students |
| Bus Transport (3 company visits, Cesky Krumlov trip) | (CZK) 90.000 |
| Bank Transfer Fee | (CZK) 500 |
| ASU Support Staff Housing for 2 (375 CZK/night/person) | (CZK) 22.5000 |
| | |
| Subtotal of fixed costs | (CZK) 758.000 for 30 students; (CZK) 788.000 for 35 students; (CZK) 813.000 for 40 students |
| | |
| Student Housing - per student (250 CZK/night) | (CZK) 7.000 |
| Subtotal of per Participant costs | (CZK) 7.000 |
| | |
| | |
| TOTAL PROGRAM FEES | (CZK) 968.000 for 30 students; (CZK) 1.033.000 for 35 students; (CZK) 1.093.000 for 40 students |

7. Provider Payment Address; Payment Terms

Street Address for Payments to Provider (if different than above address) NO PO Boxes

*same as above

ASU will deliver fifty percent (50%) of the total Program Fees due to Provider upon receipt of invoice.

Upon the completion of the Program, Provider will invoice ASU for the balance of the Program Fees due to Provider. ASU will deliver the entire remaining amount due to Provider no later than thirty (30) days from the date of the final invoice submitted by Provider.

8. Provider Cancellation Policy/ Terms

ASU will notify Provider of a withdrawal within 1 business day of receiving confirmation of a student withdrawal.

If withdrawal notification takes place:

- 15 or more days before the start for the program- the student's housing costs will not be owed to Provider
- 14 days or fewer before the start of the program - 50% of the student's housing costs will be owed to Provider
- After the start of the program - 100% of student's housing costs will be owed to Provider

[SIGNATURES ON NEXT PAGE.]

IN WITNESS WHEREOF, the parties have executed this Scope of Work as of the date first set forth above.

**THE ARIZONA BOARD OF REGENTS
FOR AND ON BEHALF OF
ARIZONA STATE UNIVERSITY**

By:  _____

Name: Adam Henry

Title: Director, ASU Study Abroad Office

Date: 2-9-18 (us)

9-FEB-18

University of Economics, Prague (VSE)

By:  _____

Name: _____

Title: RECTOR

Date: 3.1.2018