

CERTIFIED ETHICAL RECRUITER (CER) AGREEMENT AND CONSENT TO MONITORING

SECTION 1: DEFINITIONS

In addition to terms defined elsewhere in this CER Agreement (“Agreement”), the following terms shall have the following meanings:

- A. **Alliance:** Alliance shall refer to the Alliance for Ethical International Recruitment Practices, a non-profit 501(c)(3) corporation registered and located in **Washington, D.C.**
- B. **Code:** Whenever the word “Code” is used in this agreement, it refers to the *Voluntary Code of Ethical Conduct for the Recruitment of Foreign-Educated Health Professionals to the United States*.
- C. **Confidential Information:** Any confidential or proprietary information provided to the Alliance by an organization to secure certification as a formally recognized Certified Ethical Recruiter.
- D. **Application Process:** This refers to the steps required for a recruiter or employer to become certified as Code compliant. Administratively, this includes: 1) completion of an initial application, 2) submission of the Compliance Report, 3) signing of this Agreement, 4) participation in an interview with Alliance staff, 5) demonstration of compliance with the Alliance Survey Monitoring Program, and 6) payment of any applicable certification fees.
- E. **Certified Ethical Recruiter (CER):** An organization or its agents involved in, connected with, or related to the implementation of the Code for its organization, who has submitted an accepted application, demonstrated compliance with the Alliance Survey Monitoring Program, signed the Subscriber Agreement, and paid the requisite certification fee. CERs may include, but are not limited to, staffing or placement agencies, healthcare facilities that recruit personnel directly (i.e. hospitals, nursing homes), and health care facilities that employ personnel recruited by third parties, and their agents. Once certified, the organization will be listed on the Alliance Web site.
- F. **Survey:** The series of surveys issued and distributed by the Alliance to newly recruited foreign-educated health professionals (FEHPs) at intervals throughout the recruitment process and for a period following the start of employment for the purpose of monitoring Subscriber compliance with the Code. In addition to newly recruited FEHPs, the surveys will also be made available by CERs to FEHPs in their recruitment pipelines. In addition, surveys are also made available to FEHPs via the Alliance Web site.
- G. **Mediation:** The strictly confidential process between the Alliance, the CER, and where appropriate, other interested parties, to discuss non-compliance issues raised, clear up misunderstandings, determine the underlying interests or concerns, find areas of agreement and, ultimately, to incorporate those areas of agreement into resolutions. At the Alliance’s discretion, the mediation process may include a third party mediator, but it is not a requirement.

- H. **Remediation:** An act taken or process adopted by the Subscriber to correct areas of non-compliance or incorporate agreed-upon resolutions, normally prompted by and in consultation with the Alliance.

SECTION 2: MONITORING PROGRAM

A. Mechanisms for Monitoring Recruitment Activity

- i. **Alliance Survey Monitoring Program:** FEHPs shall have the opportunity to participate in Alliance-administered surveys concerning the recruitment process and work conditions experienced upon arrival in the United States.
 - **CER agrees** to copy the Alliance on a standardized email provided by the Alliance informing newly recruited FEHPs about the survey. After receiving the standardized email, the Alliance will send a second email directly to the FEHPs that contains a link to the survey.¹
 - **Alliance agrees** that all information entered into the Alliance Survey software system, including FEHP email addresses, will be kept strictly confidential and used solely for the purpose of generating and administering Survey materials. In addition, every e-mail communication connected to the monitoring Survey will provide FEHPs with an opportunity to opt-out of the Survey, and FEHPs may do so at any time. Alliance also agrees that all other information concerning individual FEHPs or CER business practices provided to the Alliance by CER for the purposes of Survey administration or compliance monitoring, will be kept strictly confidential.
- ii. **Open Reports of Non-Compliance:** The Alliance will also accept Open Reports via a portal on the Alliance Web site. Newly recruited FEHPs, existing foreign-educated health care workers, Alliance CERs, and other industry participants may visit the Web site and submit a secure and confidential report of alleged non-compliance with the Code. Reports will be reviewed by the Alliance, and the Alliance will determine whether to inquire further based on a number of factors, including the severity and credibility of the allegation, as well as the frequency of reports pertaining to the subscriber in question.

B. Tracking and Resolving Reports of Non-Compliance

- i. **Mediation for CERs:** The Alliance will attempt to resolve all credible, validated reports of CER non-compliance (whether received through the Alliance Survey Monitoring Program or Open Reports) via confidential communication with all parties. Many reports will not be the result of systemic non-compliance and can readily be resolved by mediation and agreement of the interested parties.
- ii. **Remediation for CERs:** Some grievances will raise systemic problems embedded in a company's business practices or culture that result in non-compliance with the Code. When a problem does appear systemic, CER will enter into a remediation process with the Alliance to repair the source of the systemic non-compliance with the Code.

¹ As indicated in Section 3(L) below, failure to fully participate in the Alliance Survey Monitoring Program may result in loss of Certification.

- iii. **Benchmarking Data:** CER agrees to provide to the Alliance the total number of health professionals in your organization's pipeline at the time of certification, and then quarterly thereafter. The Alliance will use this benchmarking data to provide each CER with a confidential annual activity report, as well as to track its own performance. The Alliance agrees to keep this and all other proprietary information completely confidential, and utilize data for the purposes of analyzing survey participation, providing CER with an individualized report on annual activity, and as the basis for recertifying CER.
- iv. **End of Year Report and Findings:** The Alliance will publish an annual end-of-year activity report. Data pertaining to CERs will be de-identified and presented in aggregate form by sector for the purpose of maintaining confidentiality. The report shall include the number of problems reported to the Alliance, the number investigated, the number found to be unsubstantiated, the number found to be situations of non compliance, and information on actions taken to correct identified problems.
- v. **Reports Concerning Non-Certified Organizations:** For reports received concerning non-certified organizations, the Alliance will provide the party filing the report with a service referral if appropriate, and contact the non-certified organization with information about both the Alliance and how to become compliant with the Code.

SECTION 3: APPLICATION PROCEDURE AND SUBSCRIBER OBLIGATIONS

- A. **Applicant Screening:** Except as expressly provided herein, Alliance agrees to evaluate an interested applicant by reviewing a complete application, including: 1) application for certification, 2) complete Compliance Report, and 3) answers provided during the applicant's interview.
- B. **Application Process:** Certification requires a 5 step process. The application process is as follows:
 - a. **Step 1: Submit the [online application](#)**
 - i. This is a short application that notifies Alliance staff that your organization is interested in becoming certified.
 - b. **Step 2: Submit the Compliance Report**
 - i. Please use the template provided to submit your Compliance Report. Please provide as much information as you feel necessary to demonstrate Code compliance.
 - ii. Required information includes, but is not limited to, the following:
 - 1. **Benchmarking data:** The Alliance requires applicants to provide the number of health professionals in your recruitment pipeline. This information provides a frame of reference for evaluating your full participation in the Alliance Survey Monitoring Program.
 - 2. **Implementation plan:** The Alliance requires a roadmap that details how your organization will implement business practices contained in the Code.

3. **References:** The Alliance requires a minimum of two references, preferably recent institutional clients.
- c. **Step 3: Schedule an interview**
 - i. After your organization has submitted the completed Compliance Report the Alliance will review your submission and schedule an interview.
 - ii. All interview questions are provided to your organization in advance and your responses are completely confidential. The Alliance never reveals any proprietary information disclosed during the application process.
 - iii. The interview serves two purposes:
 1. To provide an opportunity for the Alliance to clarify, if necessary, how your organization integrates Code provisions operationally; and
 2. To introduce your organization to the basic process and functionality of the Alliance monitoring process.
 - d. **Step 4: Demonstrate compliance with the Alliance Survey Monitoring Program**
 - i. Compliance is demonstrated by ensuring that 100% of health professionals in your recruitment pipeline are registered for the survey.²
 - e. **Step 5: Submit CER Agreement**
 1. After completing the interview, your organization is required to submit this signed and notarized subscriber agreement.
- C. **Re-application:** If an applicant is not accepted as a CER after completing the application process, the organization may reapply after a six-month waiting period.
- D. **Conflict of Interest:** CER and Alliance shall each disclose in writing any conflict of interest between CER and Alliance.
- E. **Publication of Certified status, distribution of the Code, and use of Seal:** Once an applicant is Certified, Alliance and CER agree that the name of the CER will be listed on the Alliance Web site as an entity in compliance with the Code and the CER will be permitted to utilize the Alliance certification seal within parameters outlined in this Agreement and in the guidelines distributed with the downloadable digital files of the seal. CER is encouraged to prominently display Alliance certification seal on their Web site and other materials. CER agrees to distribute the Code to potential and active FEHPs and is encouraged to include a statement announcing Alliance Certification as part of information provided to FEHPs. Organizations that became certified during the Pilot Phase will be identified on the Alliance Web site with a (P) for as long as they remain certified.
- F. **Use of Seal:** Use of the Alliance certification seal representing compliance with the Code is encouraged on materials distributed to potential and existing recruited FEHPs, including on CER Web site. CER should note that cancellation of certification or de-listing of CER will require distributed materials, active Web sites, and all other materials to be updated promptly with removal of certification seal and is the sole responsibility of the CER. Please note CERs who cancel or become de-listed MUST remove the Alliance certification seal from all materials and cease all distribution of materials with the certification seal.

² See Section 2(a)(i) above.

- G. **Cancellation Policy:** CERs shall have the right to cancel their certification at any time. Cancellation requests must be received in writing. Certification is non-transferable and no refunds will be issued after 30 days. Upon cancellation, the CER shall immediately be removed from the Alliance Web site. CER will cease and desist all representations of certification including use of the Alliance certification seal.
- H. **Certification Term, Recertification:** CER status remains valid for a term of two years. To maintain certified status, CER will submit a self-assessment 45 days prior to certification expiration date. The Alliance will be review the self-assessment, along with survey responses and benchmarking data.
- I. **Subscription Fees, Payment, and Renewal:** CER shall pay Certification Fees on an annual basis as indicated by the fee schedule in effect at the time of renewed subscription. A renewal notice shall be sent to CER within 30 days of subscription expiration.
- J. **Lapsed Subscriptions:** Should a CER choose to allow their certification to lapse, the CER's name will be removed from the Alliance Web site and all other Alliance materials where they were listed as an active CER. CER will cease and desist all representations of subscription including use of the Alliance certification seal.
- K. **Process of Remediation, De-listing, and Forfeiture of Fees:** Should the Alliance ascertain CER is no longer in compliance with either the Code or the Alliance Survey Monitoring Program, the Alliance will provide notice to CER with the basis for such action and opportunity for CER to respond and correct such deficiency. In instances where CER is notified of non-compliance and fails to cure, Alliance reserves the authority to de-list a CER. The Alliance will make public the name of any organization de-listed as the result of non-compliance with the Code. Alliance reserves entirely the authority to both set policies concerning remediation procedures and to make determinations regarding the de-listing of CERs. In addition, should the Alliance find it necessary to de-list a CER, CER shall forfeit fees paid for balance of certification term, and CER will cease and desist all representations of subscription including use of the Alliance certification seal.

SECTION 4: ENTITY OBLIGATIONS

- A. **Confidentiality of data provided by CER for Certification purposes:** Alliance agrees and commits to preserve the confidential nature of all data and documents submitted by CER in the application, via Survey registrations, or otherwise, including, but not limited to, proprietary contract language, recruitment terms or employment agreements, or structural organizational information.
- B. **Confidentiality on data provided by the Alliance Survey Monitoring Program and other monitoring instruments:** Alliance agrees to keep confidential all information pertaining to reports of non-compliance received and under review by the Alliance Compliance Committee except that information required to be disclosed by law. The Alliance also agrees to disclose to CER all processes and policies relating to the handling of reports of non-compliance.
- C. **Information provided to third parties:** The Alliance shall provide the names of all Alliance CERs to third parties and to the public at large. The Alliance shall release additional CER information to third parties only with the consent of the CER or as required by law.

- D. **Disclosures required by law:** In the event the Alliance receives a subpoena, court order or other similar request to disclose CER information, the Alliance will provide the CER with prompt notice so that the CER may seek to protect their interests in any manner they deem necessary.
- E. **Web site resources:** CER shall have access via Alliance Web site to all resources and tools developed by Alliance to aid and enhance the CER's implementation of the Code.
- F. **Publication of certification:** The Alliance shall list CER on Alliance Web site and on all official CER listings as an organization committed to adherence to the Code. Alliance may include CER name in complete CER lists published in all marketing, outreach, and education materials utilized to promote the Code and the mission of the Alliance.
- G. **Revocable Subscription:** The Alliance retains exclusive right to revoke any certification granted via this Agreement. In general, the Alliance will only revoke certified status for cause.

SECTION 5: OTHER TERMS AND CONDITIONS

- A. **Indemnification by CER:** CER agrees to indemnify, defend, and hold harmless the Alliance, and its directors, officers, owners, employees, **affiliates, subsidiaries and parent entities** (collectively "Alliance Indemnified Parties") from and against any and all claims, demands, causes of action, debt or liability, including without limitation reasonable attorneys fees and costs incurred by the Alliance Indemnified Parties to the extent caused by: (i) CER's breach or non-compliance by CER of any term of this Agreement or any of the Alliance's CER Policies or the Code; (ii) CER's negligent actions or omissions; or (iii) CER's negligence or violation or alleged violation of any law or rights of a third party.
- B. **Indemnification by Alliance:** Alliance agrees to indemnify, defend and hold harmless CER, and its directors, officers, owners, employees, **affiliates, subsidiaries and parent entities** (collectively "CER Indemnified Parties") from and against any and all claims, demands, causes of action, debt or liability, including without limitation, reasonable attorneys fees and costs incurred by CER Indemnified Parties to the extent arising out of any claim that the Alliance Web site, certification seal, CER Policies, Code, or other intellectual property or documents provided by Alliance for use by CER infringes on any copyright, patent, trademark, trade secret or other proprietary or intellectual property interest of any third party.
- C. **Indemnification Procedures:** As a condition of the foregoing indemnification obligations, the indemnified party shall (i) notify the indemnifying party of any indemnifiable claim within a reasonable period of time; (ii) give the indemnifying party general control over the defense and settlement of such claim, unless such defense jeopardizes the reputation of the Alliance; (iii) require the indemnifying party to consult and confer with counsel for the organization represented by indemnified party, where applicable; and (iv) provide reasonable cooperation and assistance to the indemnifying party in conducting its defense, at the indemnifying party's expense; provided, however, that the indemnified party may participate in the defense at its expense. In addition the indemnified party's advance written approval is required for any settlement that (A) imposes any obligation of payment on the indemnified party, (B) does not unconditionally release indemnified party, or (C) any binding admission made on behalf of the indemnified party.

- D. **Survival:** This indemnification obligation shall expressly survive the expiration or termination, for whatever reason, of this Agreement.
- E. **Waiver and Disclaimer:** Except as set forth herein, Alliance disclaims any warranties, express or implied.
- F. **Assignment:** CER shall not assign, delegate or transfer (including, without limitation, by operation of law) any of CER's rights or duties under this Agreement without the express prior written consent of the Alliance, and any purported or attempted assignment, delegation or transfer in violation of the foregoing shall be null and void and without force or effect.
- G. **Compliance with Laws:** CER shall, at all times, comply with all federal, state, and local laws with respect to CER's use of the services and benefits provided by the Alliance.
- H. **Dispute Resolution; Governing Law; Forum:** This Agreement is to be construed and enforced by the laws of the District of Columbia.
- I. **Force Majeure clause:** Neither party shall be liable in damages or have the right to terminate this Agreement for any delay or default in performing hereunder if such delay or default is caused by conditions beyond its control including, but not limited to Acts of God, natural disasters, Government restrictions (including the denial or cancellation of any license or permit), wars, insurrections and/or any other cause beyond the reasonable control of the party whose performance is affected.
- J. **Modifications or Amendments:** No modifications or amendments may be made to this Agreement unless in hard copy writing and signed by the Alliance and the CER.
- K. **No Oral Agreements; Other Agreements:** This document and its listed appendices represent the complete Agreement between Alliance and CER for all services and mutual obligations and supersedes any other understanding of the parties concerning the subject matter herein. There are no other representations, covenants, arrangements, or understandings, either written or oral, between the parties relating to the subject matter which are not fully expressed herein or have been relied upon in entering this Subscriber Agreement. No other provision of this Agreement is affected if any provision is held invalid or cannot be enforced.

SECTION 6: ACKNOWLEDGMENT OF RECEIPT AND CONSENT TO MONITORING

ACKNOWLEDGEMENT OF RECEIPT OF CER AGREEMENT

I, _____ (print name) an agent of _____ (name of CER) have received a copy of the Alliance’s CER Agreement, and confirm that I have read and agree to all terms described herein on behalf of myself and the entity that I represent, listed below. _____ (agent’s initial)

SUBSCRIBER AGREEMENT AND CONSENT TO MONITORING

I, _____ (print name) the undersigned, as an agent of _____ (name of CER), acknowledge and consent to the monitoring of recruitment practices by the Alliance staff and Board in connection with the provisions of the *Voluntary Code of Ethical Conduct for the Recruitment of Foreign-Educated Health Professionals to the United States*. Furthermore, I agree and bind the CER organization to the terms of the above Certification Agreement and I understand and agree that any decision concerning de-listing or remediation, as well as any decisions regarding the CER’s organization’s continued qualification for CER status rests within the sole and exclusive discretion of the Alliance and that these decisions are final.

Subscriber Agent Name (print)

Patricia Pittman
Alliance Executive Director

Position

Date

Name of Organization (Subscriber)

Subscriber Agent Signature

Date

Signed and attested to on this ____ Day of _____, 20____.

Signature - Chair or President of the governing body (CER)

State of: _____

County of: _____

Subscribed and sworn to before me this ____ day of _____, ____.

Notary Public
My Commission Expires: