REPRESENTATIVE AGREEMENT

This Representative Agreement (the “Agreement”) is entered into by and between Texas A&M University-Corpus Christi, a member of The Texas A&M University System, and an agency of the State of Texas (“University”), and _____________________, a ______ established under the law of ___________ (“Contractor”).

1. Engagement of Contractor

Contractor shall collaborate with the University’s Office of International Education in identifying and referring interested and qualified international students who wish to pursue a course of undergraduate or graduate study in one or more academic programs offered by the University. This is a nonexclusive agreement and the University may appoint other representatives for any country or area. Contractor may not recruit and will not be paid for recruiting any student who is eligible to receive U.S. federal financial aid under Title IV of the Higher Education Act of 1965, as amended. Contractor may only recruit foreign nationals abroad who are not U.S. citizens or U.S. permanent residents. All decisions regarding admission and conditional admission remain with the University.

2. Obligations of Contractor

The Contractor:

a. Shall promote the University’s academic programs with integrity and accuracy and recruit students in an honest, ethical and responsible manner;

b. Shall present accurate and truthful information to prospective students about the University’s programs, requirements, fees, services, facilities and/or opportunities;

c. May not suggest to prospective students that they can come to the United States on a student visa with a primary purpose other than full-time study;

d. May not make any representations or offer any guarantees to prospective students about the likelihood of acceptance into the University’s academic program, whether they will be granted a student visa, or the likelihood of awards of financial aid or scholarships;

e. May not accept any fee or payment for itself or on behalf of the University from a prospective student or his/her representative;

f. May not recruit students who are eligible to receive U.S. federal financial aid under Title IV of the Higher Education Act of 1965, as amended;

g. Shall provide written updates of activities on a regular basis to the Office of International Programs of the University; and

h. Shall perform the services required by this Agreement in countries/areas from which the University wishes to attract students and at such times as the Contractor shall determine.
3. **Obligations of University**

The University shall:

a. Provide the Contractor with sufficient information to enable the Contractor to perform its duties under this Agreement;
b. Provide the Contractor with promotional materials necessary to inform prospective students;
c. Communicate changes to policy and procedures, the academic program and course list, and new and updated promotional materials;
d. Update the Contractor in writing of any changes in fees and services;
e. Duly process all completed applications received but is under no obligation to accept any prospective students referred by the Contractor; and
f. Respond promptly to the Contractor’s questions or requests for information.

4. **Compensation**

The University shall pay the Contractor a professional service fee of $2,000.00 per student (a) whose application the Contractor submitted to the University, (b) who enrolls in the University, (c) and who pays his/her student bill in full for two or more semesters not to include the summer term.

The service fee will be payable in two installments; the first $1,000.00 payment after the student’s first semester bill has been paid in full, and the second $1,000.00 payment after the student’s second semester bill has been paid in full. The Contractor shall invoice the University at the close of the University’s refund period for students listing the names, dates enrolled, and reference numbers of the students. Payment will be due within 30 days after receipt of original invoice.

No fee is payable by the University to the Contractor for:

a. a student recruited by the Contractor who withdraws from his or her academic program within 30 days after commencement of the academic program;
b. a student recruited by the Contractor who is accepted by the University but is not granted a visa; or
c. a student recruited by the Contractor who is eligible to receive Title IV program funds under the Higher Education Act of 1965, as amended.

5. **Expenses**

The Contractor shall bear all costs and expenses incident to performance of services for the University, including, but not limited to all costs of equipment, all fees, fines, licenses, bonds or taxes required or imposed against the Contractor and all other of the Contractor’s costs of doing business. The University will not be responsible for expenses incurred by the Contractor in performing services for University, unless there is prior approval by the University.
6. **Insurance Responsibility**

Contractor shall obtain and maintain, for the duration of this Agreement or longer, the minimum insurance coverage set forth below. With the exception of Professional Liability (E&O), all coverage shall be written on an occurrence basis. All coverage shall be underwritten by companies authorized to do business in the State of Texas or eligible surplus lines insurers operating in accordance with the Texas Insurance Code and have a financial strength rating of A- or better and a financial strength rating of VII or better as measured by A.M. Best Company or otherwise acceptable to End-User. By requiring such minimum insurance, the Owner shall not be deemed or construed to have assessed the risk that may be applicable to Contractor under this Agreement. Contractor shall assess its own risks and if it deems appropriate and/or prudent, maintain higher limits and/or broader coverage. Contractor is not relieved of any liability or other obligations assumed pursuant to this Agreement by reason of its failure to obtain or maintain insurance in sufficient amounts, duration, or types. No policy will be canceled without unconditional written notice to End-User at least ten days before the effective date of the cancellation.

**Insurance:**

<table>
<thead>
<tr>
<th>Coverage</th>
<th>Limit</th>
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</thead>
<tbody>
<tr>
<td><strong>A. Worker’s Compensation</strong></td>
<td></td>
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<tr>
<td>Statutory Benefits (Coverage A)</td>
<td>Statutory</td>
</tr>
<tr>
<td>Employers Liability (Coverage B)</td>
<td>$1,000,000 Each Accident</td>
</tr>
<tr>
<td></td>
<td>$1,000,000 Disease/Employee</td>
</tr>
<tr>
<td></td>
<td>$1,000,000 Disease/Policy Limit</td>
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</tbody>
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Workers’ Compensation policy must include under on the information page of the workers’ compensation policy the state in which work is to be performed for University. Workers’ compensation insurance is required, and no “alternative” forms of insurance will be permitted.

**B. Automobile Liability**

Business Auto Liability Insurance covering all owned, non-owned or hired automobiles, with limits of not less than $1,000,000 Single Limit of liability per accident for Bodily Injury and Property Damage;

**C. Commercial General Liability**

<table>
<thead>
<tr>
<th></th>
<th>Limit</th>
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<tbody>
<tr>
<td>Each Occurrence Limit</td>
<td>$1,000,000</td>
</tr>
<tr>
<td>General Aggregate Limit</td>
<td>$2,000,000</td>
</tr>
<tr>
<td>Products / Completed Operations</td>
<td>$1,000,000</td>
</tr>
<tr>
<td>Personal / Advertising Injury</td>
<td>$1,000,000</td>
</tr>
<tr>
<td>Damage to rented Premises</td>
<td>$300,000</td>
</tr>
</tbody>
</table>
Medical Payments $5,000

The required commercial general liability policy will be issued on a form that insures Contractor or its subcontractors’ liability for bodily injury (including death), property damage, personal and advertising injury assumed under the terms of this Agreement.

D. Contractor will deliver to End-User: Evidence of insurance on a Texas Department of Insurance approved certificate form verifying the existence and actual limits of all insurance after the execution and delivery of this Agreement and prior to the performance of any services by Contractor under this Agreement. Additional evidence of insurance will be provided on a Texas Department of Insurance approved certificate form verifying the continued existence of all required insurance no later than thirty (30) days after each annual insurance policy renewal.

All insurance policies, with the exception of worker’s compensation, employer's liability and professional liability will be endorsed and name The Board of Regents for and on behalf of The Texas A&M University System, The Texas A&M University System and Texas A&M University – Corpus Christi (End-User) as Additional Insureds up to the actual liability limits of the policies maintained by Contractor. Commercial General Liability and Business Auto Liability will be endorsed to provide primary and non-contributory coverage. The Commercial General Liability Additional Insured endorsement will include on-going and completed operations and will be submitted with the Certificates of Insurance.

All insurance policies will be endorsed to provide a waiver of subrogation in favor of The Board of Regents of the Texas A&M University System, The Texas A&M University System and Texas A&M University – Corpus Christi. No policy will be canceled without unconditional written notice to Texas A&M University – Corpus Christi at least ten days before the effective date of the cancellation. All insurance policies will be endorsed to require the insurance carrier providing coverage to send notice to Texas A&M University – Corpus Christi ten (10) days prior to the effective date of cancellation, material change, or non-renewal relating to any insurance policy required in this Section.

Any deductible or self-insured retention must be declared to and approved by Texas A&M University – Corpus Christi prior to the performance of any services by Contractor under this Agreement. Contractor is responsible to pay any deductible or self-insured retention for any loss. All deductibles and self-insured retentions will be shown on the Certificates of Insurance.

Certificates of Insurance and Additional Insured Endorsements as required by this Agreement will be delivered electronically, hand delivered, or 1st class mail to TAMU-CC’s Contracts Manager at 6300 Ocean Drive, MS 5731, Corpus Christi, Texas 78412 – contracts@tamucc.edu
The insurance coverage required by this Agreement will be kept in force until all services have been fully performed and accepted by Texas A&M University – Corpus Christi in writing.

7. **Indemnification**

The Contractor shall, during and after the terms of this Agreement, indemnify the University, The Texas A&M University System, their regents, officers, agents and employees, from all liability, loss, damages, costs, or expenses which are sustained, incurred, or required arising out of the actions or negligence of the Contractor in the course of performing under this Agreement, including breach of any part of this Agreement.

8. **Independent Contractor Status**

The Contractor and its associates are independent contractors and not employees, agents, joint ventures or partners of the University. The Contractor may not bind the University or represent itself as the University’s agent for any purpose or allow any personnel of Contractor to do so except as specifically authorized in this Agreement, and then only for the limited purpose stated in such authorization. This Agreement does not create or establish the relationship of employer and employee between the University and Contractor and neither Contractor nor Contractor personnel are entitled or eligible, by reason of this contractual relationship, to participate in any benefits or privileges given or extended by the University to its employees. Contractor is not an employee for state and federal tax purposes.

9. **University Marks**

Contractor may not use any trademarks, service marks, slogans, logos, designs, and other similar means of distinction associated with the University (the “University marks”) without the prior written approval of the University in each case. The University retains all copyrights, trademark rights and other intellectual property rights to the University marks and all promotional and related materials. The Contractor may not use any colorable imitation of the University marks, or any variant form (including variant design forms, logos, colors, or type styles/fonts) of the University marks not specifically approved by the University or use the University mark, or any confusingly similar mark or name, as a corporate or trade name. The Contractor may not at any time do or cause to be done any act or thing challenging, contesting, impairing, invalidating, or tending to impair or invalidate any of the University’s rights in the University marks.

10. **Confidentiality**

The Contractor must keep confidential all information provided by the University, other than to the extent disclosure is required for the performance of services to the University in accordance with the terms of this Agreement.
11. **Codes of Ethics**

   The Contractor shall follow the NAFSA: Association of International Educators *Code of Ethics*[^1] and NAFSA’s *Guidelines for the Ethical Recruitment of International Students*[^2].

[^1]: [http://www.nafsa.org/about.sec/governance_leadership/ethics_standards/nafsa_s_code_of_ethics](http://www.nafsa.org/about.sec/governance_leadership/ethics_standards/nafsa_s_code_of_ethics)
[^2]: [www.nafsa.org/publication.sec/documentlibrary.dlib/students_coming_to_the/guidelines_for_ethical](www.nafsa.org/publication.sec/documentlibrary.dlib/students_coming_to_the/guidelines_for_ethical)

12. **Term**

   This Agreement is effective on ________________ and continues for three years unless terminated in accordance with Section 13. The parties may renew this Agreement in writing for two additional one year terms.

13. **Termination**

   a. Either party may terminate this Agreement at any time by giving the other party 60 days prior written notice.
   
   b. The University may terminate this Agreement at any time and with immediate effect by giving notice to the Contractor if the Contractor breaches any provision of this Agreement.
   
   c. Upon termination of this Agreement, the Contractor shall:
      - Submit all applications and fees from prospective students received up to the termination date to the University; and
      - Immediately cease use of the University marks and any advertising, promotional or other material supplied by the University that incorporates the University marks and return all such material to the University by certified mail.

14. **Notices**

   Any notices required or permitted under this Agreement will be deemed given (a) three business days after it is sent by certified or registered mail, return receipt requested, (b) the next business day after it is sent by overnight carrier, (c) on the date sent by facsimile or email transmission with confirmation of transmission and receipt, if sent during the recipient’s normal business hours and if not, on the next business day, or (d) on the date of delivery if delivered personally, an in each case, addressed to the intended recipient at the address below or such other address as the intended recipient may specify in writing:

   For the University: For the Contractor:
   Texas A&M University-Corpus Christi
   6300 Ocean Drive – Unit 5731
   Corpus Christi, Texas 78412-5731
   contracts@tamucc.edu

15. **General Provisions**

   a. **Assignment and Subcontracting.** The Contractor may not assign this Agreement or any of its duties or obligations under this Agreement without the prior written consent of the University (which can be withheld at its discretion). The Contractor must not
subcontract to any person the performance of any of its obligations under this Agreement without the prior written consent of the University (which can be withheld at its discretion).

b. **Compliance with Laws.** Contractor shall comply with all applicable federal, state, and local laws, ordinances, rules, and regulations, including, but not limited to, Title IX of the Education Amendments of 1972, Sections 503 and 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990. Furthermore, Contractor may not discriminate on the basis of race, sex, religion, color, national or ethnic origin, age, disability or military service in its administration of policies, programs, activities, and employment.

c. **Governing Law.** The substantive laws of the State of Texas (and not its conflicts of laws principles or statutes) govern all matters arising out of or relating to this Agreement and all of the transactions it contemplates. Venue for any claim arising out of or relating to this Agreement or any of the transactions it contemplates is in Nueces County, Texas.

d. **Dispute Resolution.** The Contractor shall use the dispute resolution process provided in Chapter 2260, Texas Government Code, and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260, to attempt to resolve any claim for breach of contract made by the Contractor that cannot be resolved in the ordinary course of business. The Contractor shall submit written notice of a claim of breach of contract under this chapter to the Director of Purchasing of the University, who shall examine the Contractor’s claim and any counterclaim and negotiate with the Contractor in an effort to resolve the claim.

e. **Public Information.** (1) Contractor acknowledges that the University is obligated to strictly comply with the Public Information Act, Chapter 552, Texas Government Code, in responding to any request for public information pertaining to this Agreement, as well as any other disclosure of information required by applicable Texas law. (2) Upon the University’s written request, Contractor will provide specified public information exchanged or created under this Agreement that is not otherwise excepted from disclosure under chapter 552, Texas Government Code, to the University in a non-proprietary format acceptable to the University. As used in this provision, “public information” has the meaning assigned Section 552.002, Texas Government Code, but only includes information to which TAMUS has a right of access. (3) Contractor acknowledges that the University may be required to post a copy of the fully executed Agreement on its Internet website in compliance with Section 2261.253(a)(1), Texas Government Code.

f. **Force Majeure.** Each party shall excuse any breach of this Agreement which is proximately caused by war, act of God, terrorism, or other similar occurrence normally outside the control of well-managed businesses, provided that the breaching party makes diligent efforts to expeditiously remedy the breach.

g. **Modification.** This Agreement may be amended or supplemented only by a written agreement signed by both parties.

h. **Severability.** Each provision of this Agreement is severable. If any provision is rendered invalid or unenforceable by statute or regulation or declared null and void by
any court of competent jurisdiction, the remaining provisions will remain in full force and effect if the essential terms of this Agreement remain valid, legal, and enforceable.

i. **Waiver.** The failure of either party to enforce any condition or part of this Agreement will not waive that condition or part, nor shall it forfeit any rights to future enforcement thereof.

j. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties as to its subject matter and supersedes any prior agreement or understanding, written or oral, between the parties with regard to that subject matter. The parties may execute other contracts, but those will not change or alter this Agreement unless expressly stated in writing.
[NOTE: PROVISIONS K. THROUGH O. MAY BE REMOVED WHEN CONTRACTING WITH INTERNATIONAL ENTITY.]

k. **Delinquent Child Support Obligations.** Pursuant to Section 231.006, *Texas Family Code*, Contractor certifies that it is not ineligible to receive the award of or payments under the Agreement and acknowledges that this Agreement may be terminated and payment may be withheld if this certification is inaccurate.

l. **Payment of Debt or Delinquency to the State.** Pursuant to Sections 2107.008 and 2252.903, *Texas Government Code*, any payments owing to the Contractor under this Agreement may be applied directly toward certain debts or delinquencies that the Contractor owes the State of Texas or any agency of the State of Texas regardless of when they arise, until such debts or delinquencies are paid in full.

m. **Loss of Funding.** Performance by the University under this Agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the “Legislature”). If the Legislature fails to appropriate or allot the necessary funds, the University may issue written notice to the Contractor and terminate this Agreement. The Contractor acknowledges that appropriation of funds is beyond the control of the University.

n. **Franchise Tax Certification.** If the Contractor is a taxable entity subject to the Texas Franchise Tax (Chapter 171, *Texas Tax Code*), then the Contractor certifies that it is not currently delinquent in the payment of any franchise (margin) taxes or that the Contractor is exempt from the payment of franchise (margin) taxes.

o. **State Auditor’s Officer.** Acceptance of funds under this Agreement constitutes acceptance of the authority of the Texas State Auditor’s Office, or any successor agency (collectively, “Auditor”), to conduct an audit or investigation in connection with those funds pursuant to Section 51.9335(c), *Texas Education Code*. The Contractor shall cooperate with the Auditor in the conduct of the audit or investigation, including without limitation, providing all records requested. The Contractor shall include this provision in all contracts with permitted subcontractors.

p. **Non-Waiver.** Contractor expressly acknowledges that the University is an agency of the State of Texas and nothing in this Agreement will be construed as a waiver or relinquishment by the University of its right to claim such exemptions, privileges, and immunities as may be provided by law.

q. **Limitations.** Contractor acknowledges that the University is subject to constitutional and statutory limitations on its ability to enter into certain terms and conditions of the Agreement, which may include those terms and conditions relating to: liens on the University’s property; disclaimers and limitations of warranties; disclaimers and limitations of liability for damages; waivers, disclaimers, and limitations on legal rights, remedies, requirements, and processes; limitations of time in which to bring legal action; granting control of litigation or settlement to another party; liability for acts or omissions of third parties; payment of attorney’s fees; dispute resolution; indemnities; and confidential information. Terms and conditions relating to these limitations will only be binding on the University to the extent permitted by the Constitution and the laws of the State of Texas.
The parties have executed this Agreement as of the last dates set forth below.

Texas A&M University-Corpus Christi

[______________________________]

Name: _________________________
Title: _________________________
Date: _________________________

Name: _________________________
Title: _________________________
Date: _________________________