Form No: OGC-S-2020-03

International Agent Agreement (for University of Houston)

This International Agent Agreement ("Agreement") is entered into between the University of Houston on behalf of the Department of Enrollment Services ("University") and ______________________________________ ("Provider"). University and Provider may be referred to singularly as a "Party" and collectively as the "Parties."

1. **TERM:** The term of this Agreement ("Term") will begin on _________________ and end on _________________, unless terminated earlier pursuant to the terms of this Agreement or extended by mutual written agreement of the Parties.

2. **SERVICES:** Insert detailed description of the goods and/or services to be provided by Provider pursuant to this Agreement ("Services") and attach additional pages if necessary:
<u>To promote and publicize University and its programs to international students and encourage their enrollment, under the terms set forth in Attachment A attached hereto and incorporated herein. In the event of any inconsistency between Attachment A and this Agreement, this Agreement will prevail.</u>

3. **COMPENSATION:** Check one box only:

   ☐ **This is a fixed price contract.** University will pay Provider the amount of $___________________.

   ☐ **This is <u>not</u> a fixed price contract**. University will pay Provider an amount not to exceed $______________ (based on an hourly fee and/or other method of calculation as follows:

   ____
   ____

   ☐ **This is <u>not</u> a fixed price contract and will be performed on a service-order basis**. University will pay Provider an amount not to exceed $_______________ (based on service order form(s) to be completed and signed by the Parties, a version of which will be provided to Provider by University). University will engage Provider on an "as-needed if needed" basis and does not guarantee the purchase of any quantity or dollar amount of Services.

4. **PAYMENT TERMS:** Provider shall submit detailed invoices to University describing the Services rendered, the times when such Services were performed, compensable expenses and the amount due. University will pay undisputed amounts within thirty (30) days of receiving invoices. Payment terms are subject to Chapter 2251 of the Texas Government Code.

5. **ELIGIBILITY TO RECEIVE PAYMENT:** In accordance with Section 231.006 of the Texas Family Code and Sections 2155.004 and 2155.006 of the Texas Government Code, Provider certifies that it is not ineligible to receive this Agreement and payments under this Agreement and acknowledges that University may terminate this Agreement and/or withhold payment if this certification is or becomes inaccurate. Provider acknowledges that, in accordance with Section 403.055 of the Texas Government Code, as applicable, if the Texas Comptroller of Public Accounts is currently prohibited from issuing a warrant to Provider, Provider agrees that payments under this Agreement will be applied to the debt or delinquent taxes owed to the State of Texas until the debt or delinquent taxes are paid in full.

6. **PROVIDER'S STATUS AND RESPONSIBILITIES:** In performing the Services, Provider will be deemed an independent contractor and not University's agent or employee. This Agreement will not be construed to create any partnership, joint venture or other similar relationship between the Parties. As an independent contractor, Provider will be solely responsible for determining the means and methods for performing the Services. Provider shall perform the Services in strict accordance with this Agreement and in accordance with the highest standards of care, skill, diligence and professional competence applicable to Providers engaged in providing similar services. ☐ ← Check here if Provider is an individual <u>and</u> has been a temporary or permanent employee of the State of Texas (including any component of the University of Houston System) within the past two (2) years. If so, Provider must attach a separate statement setting forth the name of the agency or department by which Provider was employed, the dates of employment, the annual rate(s) of compensation during such employment and the nature of Provider's assigned duties.

7. **INTELLECTUAL PROPERTY:** Provider represents that it has all intellectual property rights necessary to enter into and perform its obligations in this Agreement.

8. **OWNERSHIP OF WORK PRODUCT:** All work product, including any software, research, reports, studies, data, photographs, negatives or other documents, drawings or materials prepared by Provider in the performance of its obligations under this Agreement will be deemed works for hire and the exclusive property of University. Provider shall deliver all such materials to University upon completion, termination or

cancellation of this Agreement. Any programs, data or other materials furnished by University for use by Provider in connection with the Services performed under this Agreement will remain University's property.

9. **INDEMNITY:** To the fullest extent permitted by law, Provider shall indemnify and hold harmless University, its component institutions and each of their directors, officers, agents and employees from and against all liability, loss, expense (including reasonable litigation costs and attorney fees), or claims for injury or damages arising out of the performance of this Agreement (collectively, "Claim") to the extent the Claim arises from the negligence, willful act, breach of contract or violation of law by Provider, its employees, agents, Providers or subcontractors.

10. **INSURANCE:** Provider shall maintain adequate industry-standard business and liability insurance coverage in all countries that Provider conducts business in, and shall provide proof of such insurance to University upon request.

11. **INSPECTION AND ACCEPTANCE OF SERVICES:** University reserves the right to inspect the Services provided under this Agreement at all reasonable times and places during the Term. If any of the Services do not conform to the requirements set forth in this Agreement, University may (i) require Provider to perform the Services again in conformity with such requirements, with no additional charge to University; or (ii) equitably reduce payment due Provider to reflect the reduced value of the Services performed. These remedies do not limit other remedies available to University in this Agreement or otherwise available at law.

12. **RISK OF LOSS:** All work performed by Provider pursuant to this Agreement will be at Provider's exclusive risk until final and complete acceptance of the work by University. In the case of any loss or damage to the work prior to University's acceptance, such loss or damage will be Provider's responsibility. Delivery of any goods to University pursuant to this Agreement must be FOB destination.

13. **COMPLIANCE:** Provider shall observe and abide by all applicable local, state and federal laws (including without limitation the Jeanne Clery Act), regulations and University policies and procedures.

14. **CONFIDENTIALITY; DATA PROTECTION:** Subject to the Texas Public Information Act (Chapter 552 of the Texas Government Code) and any similar legal requirements, neither Party shall disclose any confidential information obtained from the other Party without such Party's prior written approval. As applicable, Provider shall maintain and process all information it receives in compliance with all applicable data protection/privacy laws and regulations and University policies.

15. **PUBLICITY:** Provider shall not use University's name, logo or other likeness in any press release, marketing material or other announcement without University's prior written approval.

16. **SUBCONTRACTORS:** If Provider is permitted to subcontract any of the Services, Provider shall ensure that each subcontractor complies with all provisions of this Agreement. Provider will remain liable for the acts and omissions of such subcontractor (s) and the proper performance and delivery of the Services.

17. **AUDIT:** Execution of this Agreement constitutes Provider's acceptance of the authority of University, the Texas State Auditor and/or their designated representative (collectively, "Auditor") to conduct audits or investigations in connection with this Agreement. Provider agrees to cooperate with the Auditor conducting such audits or investigations and to provide all information and documents reasonably requested.

18. **TIME IS OF THE ESSENCE:** Time is of the essence in the performance of this Agreement.

19. **DEFAULT:** A Party will be in default of this Agreement if such Party fails to comply with any obligation in this Agreement and such failure continues for ten (10) days after receiving written notice from the non-defaulting Party. In the event of default, the non-defaulting Party, upon written notice to the defaulting Party, may terminate this Agreement as of the date specified in the notice, and may seek other relief as provided by law.

20. **TERMINATION FOR CONVENIENCE:** University may terminate this Agreement in writing at any time upon providing at least thirty (30) days written notice to Provider. University will only be liable for payment for Services received prior to the effective date of such termination.

21. **NOTICE:** Any notice required or permitted by this Agreement must be in writing and addressed to the Party at the address set forth below, or such other address as is subsequently specified in writing. Notices will be effective as of the date: (i) delivered by hand, (ii) delivered by national courier service or Registered/Certified Mail, postage prepaid, return receipt requested, or (iii) received by facsimile.

To University:	To Provider:
Dept. Name: Office of Provost Attn: Tim Council, AVP, Enrollment Services Address: 4302 University Drive, Room 209 Houston, TX 77204-2019 **with a copy to:** Office of the General Counsel Attn: Contract Administration 4302 University Drive, Room 311 Houston, TX 77204-2028	____________________________ Attn: ________________________ Address: ______________________ ____________________________ **with a copy to:** ____________________________ Attn: ________________________ Address: ______________________ ____________________________

22. BREACH OF CONTRACT CLAIMS: To the extent Chapter 2260 of the Texas Government Code is applicable to this Agreement and not preempted by other law, the dispute resolution process provided by Chapter 2260 and the rules adopted by the Texas Attorney General will be used by the Parties to attempt to resolve any claim for breach of contract made by Provider against University that cannot be resolved in the ordinary course of business.

23. FUNDING CONTINGENCY: University's performance under this Agreement may be dependent upon appropriation of funds by the Texas State Legislature ("Legislature") and/or allocation of funds by University's Board of Regents ("Board"). If the Legislature fails to appropriate the necessary funds or the Board fails to allocate the necessary funds, University may terminate this Agreement without liability by providing written notice to Provider.

24. PROVIDER REPRESENTATIONS: If Provider is a business entity, it represents that: (i) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization; (ii) it has all necessary power and has received all necessary approvals to execute and perform its obligations in this Agreement; and (iii) the individual executing this Agreement on behalf of Provider is authorized to do so.

25. PUBLIC INFORMATION. University strictly adheres to all statutes, court decisions and the opinions of the Texas Attorney General with respect to disclosure of public information under the Texas Public Information Act. In accordance with Section 552.002 of the Texas Public Information Act and Section 2252.907 of the Texas Government Code, and at no additional charge to University, Provider will make any information created or exchanged with University pursuant to this Agreement (and not otherwise exempt from disclosure under the Texas Public Information Act) available in a format reasonably requested by University that is accessible by the public.

26. WAIVER: Waiver by either Party of a breach or violation of any provision of this Agreement will not operate as a waiver of any subsequent breach.

27. SURVIVAL: Termination or expiration of this Agreement will not affect the Parties' rights or obligations that, by their nature and context, are intended to survive termination or expiration.

28. ELECTRONIC DELIVERY: Execution and delivery of this Agreement by exchange of email or fax copy containing the signature of a Party will constitute a valid and binding execution and delivery of this Agreement by such Party.

29. LIMITATIONS: Terms and conditions of this Agreement will only be binding on University to the extent permitted by the Constitution and laws of the State of Texas.

30. NO FRAUD VIOLATIONS. Provider affirms that it has not been administratively or judicially determined to have committed fraud or any other material violation of law involving Federal, State, or local government funds and that it does not employ officers or employees that have been convicted of, or pled *nolo contendere* or guilty to, a crime involving the acquisition, use, or expenditure of Federal, State, or local government funds.

31. FOREIGN NATIONAL INFORMATION ADDENDUM: Provider must check the appropriate box. The Provider **IS NOT BOTH** an **individual** and a **Foreign National** (i.e., is not a U.S. Citizen or U.S. Resident Alien☐or the Provider **IS BOTH** an **individual** and a **Foreign National**☐ A Provider who is **BOTH** an individual and a Foreign National must complete the Foreign National Information Addendum located on the University of Houston website (http://www.uh.edu/legal-affairs/contract-administration/contract-documents/amendments-addenda/) and submit it with this Agreement to the University. This information is required to ensure that the Provider is eligible to receive payment and that the correct tax withholding, if any, is applied to that payment. The Foreign National Addendum must be submitted to the University at least three weeks before services will be performed under this Agreement. Providers who are not individuals and Foreign Nationals are not required to attach the Foreign National Information Addendum to this Agreement.

32. NO BOYCOTT: Provider certifies and verifies that it: (i) does not boycott Israel and (ii) will not boycott Israel during the Term of this Agreement.

33. GOVERNING LAW; VENUE: This Agreement will be governed by the laws of the State of Texas without regard to choice of law principles. In the event of any suit or action arising from this Agreement, the Parties consent to jurisdiction of the courts in Harris County, Texas.

34. MISCELLANEOUS: This Agreement, together with any Attachment(s), constitutes the entire agreement between the Parties with respect to the subject matter hereof, and supersedes all prior contracts, agreements, representations and understandings made by the Parties relating to such subject matter. This Agreement may not be amended or otherwise modified except by the written agreement of both Parties. Provider may not assign this Agreement without University's prior written consent. The invalidity or unenforceability of any provision(s) of this Agreement will not impair the validity and enforceability of the remaining provisions.

UNIVERSITY OF HOUSTON	**PROVIDER:**
Signature:____________________	**Signature:** ____________________
Printed Name:____________________	**Printed Name:** ____________________
Title: ____________________	**Title:** ____________________
Date: ____________________	**Date:** ____________________

Attachment A
Scope of Work

This Attachment A documents the Scope of Work and understandings of the Parties under the International Agent Agreement to which it is attached.

Purpose:

University seeks to promote the enrollment of full-time international students in its undergraduate and graduate master's level programs. The following programs are excluded from this Agreement and **not** eligible for agency commission payouts to the Provider.

- Programs offered by the University's College of Medicine
- Programs offered by the University's College of Law, however the LL.M. in U.S. Law program is eligible
- Programs offered by the University's College of Pharmacy
- Programs offered by the University's College of Optometry
- Doctoral level programs including, but not limited to PhD, EdD, DMA, DGHL, DBA
- Non-degree certificate programs
- University's UH Extend and other fully online programs

Provider will work in accordance with AIRC (American International Recruitment Council) standards to promote and publicize University and its eligible programs to international students and encourage their enrollment.

Services and Responsibilities of Provider:

Under this Agreement, Provider must:
1. In accordance with University procedures and requirements recruit and assist in the recruitment of international students (non US-citizens) to undertake University academic programs;
2. Inform prospective students accurately about requirements of University academic programs;
3. Inform students about living in the United States and the local environment of Houston, including information about campus location, Support services and cost of living;
4. Promote University academic programs with integrity and accuracy and recruit students in an honest, ethical and responsible manner based on American International Recruitment Council (AIRC) standards;
5. Assist student applicants through the application process and make sure that all the necessary evidence and documents accompany a student's application and acceptance of offer;
6. Only undertake promotional marketing activities that are connected to or make reference to University after receiving authorization from University to do so;
7. Provide University with market intelligence about the recruitment of students;
8. Take no action that will result in University's non-compliance with any US laws or regulations or any local or national laws or regulations of the country or countries in which Provider operates;
9. Submit an invoice in accordance with University requirements for referral fee payment;
11. Provide any and all reports and documentation that University requests regarding its Services under the Agreement; and
11. Comply with all applicable University policy and procedures, including without limitation those relating to usage of University trademarks and logos.

Under this Agreement, Provider must not:

1. Engage in any dishonest practices, including suggestions to prospective students that they can come to the United States on a student visa with a primary purpose other than full time study;
2. Facilitate applications for students who do not comply with visa requirements;
3. Make any representations or offer any guarantees to students about whether they will be granted a student visa or about the likelihood of awards of financial aid or scholarships; or
4. Commit University to accept any prospective students into academic programs and must not make representations to the contrary.

Responsibilities of University:

University must use reasonable endeavors to:
1. Give Provider sufficient information to enable Provider to conduct the Services;
2. Communicate changes to policy and procedures and the academic programs and course list, and provide new and updated promotional material when available;
3. Ensure to the best of its ability that complete applications will be processed promptly; and

4. Duly process all applications received.

University is under no obligation to accept any prospective students referred by Provider.

Provider Fees:

For providing the Services described herein, University agrees to pay: ______ Percent (_____%) of net tuition actually paid in full by international (non-US Citizen) students net of scholarship awards who are recruited by Provider and who enroll in eligible academic programs at University for up to two consecutive semesters (no fees for Summer sessions).

a. Net tuition actually paid is:
   i. The total non-resident tuition paid for students not receiving competitive scholarship waivers; or
   ii. The total resident tuition paid for students receiving a non-resident tuition waiver.
b. Non-resident tuition is defined as the total non-resident tuition and mandatory fees as defined in the University's Academic Catalog.
c. Resident tuition is defined as the total resident tuition and mandatory fees as defined in the University's Academic Catalog
d. University agrees to pay the fee to Provider, following receipt of Provider's invoice, in two (2) separate payments, each made within sixty (60) days of the commencement of the semester.
e. University will only make payments on student accounts that have been paid in full.
f. No fee is payable by University to Provider where:
   i. A student recruited by Provider withdraws from his or her academic program within thirty (30) days after commencement of the academic program;
   ii. A student recruited by Provider is accepted to University but is not granted a visa;
   iii. A student is expelled from University; or
   iv. A student recruited by Provider is eligible to receive Title IV program funds under the Higher Education Act of 1965.

No Exclusivity:

This Agreement does not establish an exclusive relationship between University and Provider. University may at any time engage other providers to assist in its recruitment efforts, including in the same country that Provider is operating in.

Access to records:

Provider shall adequately account for and maintain reasonable records for its performance and allow access to these records by University as may be necessary for audit purposes and in determining compliance with the terms of this Agreement. All records pertaining to this Agreement must be retained by Provider for a period of seven (7) years from the termination date of this Agreement and provided to University immediately upon request. If any litigation, claim, or audit is started before the expiration of the seven- year period, the records must be retained until the litigation, claim or audit findings have been resolved.

Foreign Vendor Tax Compliance:

University requires all foreign vendors to comply with all United States tax laws. Foreign Individuals and Foreign Entities must complete a W8BEN. Provider should consult the IRS website for details as well as its own legal counsel on the foreign tax process.