

# STUDENT RECRUITMENT REPRESENTATIVE AGREEMENT



This Student Recruitment Representative Agreement (the "Agreement") is dated as of \_\_\_\_\_, 20\_\_\_\_ (the "Effective Date"), by and between \_\_\_\_\_ ("Representative"), located at \_\_\_\_\_, and Middle Tennessee State University ("MTSU"), located at 1301 East Main Street, Murfreesboro, TN 37132-0001, collectively referred to in this Agreement as "Parties."

The Parties agree as follows:

## Section 1. Background and Purpose \_\_\_\_\_

- (a) \_\_\_\_\_ is a company duly incorporated in \_\_\_\_\_.
- (b) MTSU wishes to appoint the Representative to act as a student recruitment representative to promote the programs run by MTSU (the "MTSU Programs") to international students Worldwide (the "Territory") for the purposes of enrollment in MTSU Programs on the terms set out within this Agreement.

## Section 2. Appointment \_\_\_\_\_

MTSU appoints the Representative as a non-exclusive student recruitment representative to promote MTSU Programs to prospective international students subject to the following limitations:

- (a) The Representative shall have all relevant authorization, license, and approval to market MTSU Programs anywhere within the Territory.
- (b) MTSU may, in its sole discretion, appoint other marketing representatives who may market MTSU Programs within the same Territory.
- (c) All marketing and advertising activities conducted by the Representative shall be approved in advance by MTSU.
- (d) The Representative shall market MTSU Programs by using professional and ethical standards of conduct, integrity, and accuracy of information. If, at MTSU's sole discretion, the Representative fails to comply with this sub-section (d), MTSU may terminate this Agreement immediately upon written notice to the Representative.
- (e) The Representative shall not change fees for MTSU Programs. MTSU, at its sole discretion, determines the tuition fees for MTSU Programs and may, at its sole discretion and without prior notice, change the tuition fees for any of MTSU's Programs.

- (f) The Representative shall not disclose or distribute any policy of MTSU or any internal, confidential, non-public or proprietary information to any third party not affiliated with the Representative without the prior written consent of MTSU.
- (g) The Representative shall not make any representations, warranties or covenants regarding a potential student's ability to secure temporary or permanent residence in the US by attending any of MTSU's Programs.
- (h) The Representative shall not engage in any false or misleading advertising or recruiting practices.
- (i) The Representative shall not charge additional application fees beyond the amount specified by MTSU to any prospective student. The Representative shall inform the prospective students that submitting a completed application file and application fee do not guarantee admission by MTSU and the issuance of an I-20 form. Both of these processes are dependent upon MTSU's policies and procedures, which are not tied to fee payment.
- (j) The Representative shall comply with all the policies and regulations set forth by MTSU.
- (k) All and any non-public and confidential information with regard to the relevant student collected by the Representative shall be kept confidential. Such information shall not be disclosed to any third party or be used for any purpose other than for the recruiting of the student.

### **Section 3. Representative's Responsibilities**

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The Representative shall:

- (a) Promote MTSU's Programs and student services to the prospective students within the Territory in accordance with the applicable laws and regulations;
- (b) Identify qualified students for MTSU's Programs;
- (c) Provide accurate and timely advice to the prospective students about the facilities, faculty, admissions requirements and composition of MTSU's Programs;
- (d) Assist qualified students to complete the enrollment application of MTSU and submit any and all required documentation, application fees and tuition fees;
- (e) Verify the authenticity and validity of all documents submitted by students as part of their admissions application, including but not limited to academic transcripts, financial statements, affidavit of support;
- (f) Forward completed applications (including accommodation application, if applicable) to MTSU promptly;
- (g) Allow MTSU to inspect facilities of the Representative from time to time to monitor and control the quality of the Representative's marketing, advertising and recruiting activities.

- (h) Ensure that the Representative’s staff are properly trained regarding details of MTSU’s Programs and other aspects of student life such as housing, facilities, and transportation;
- (i) Adhere to American International Recruitment Council (AIRC) guidelines.

**Section 4. Representative Service Fee and Payment** \_\_\_\_\_

- (a) MTSU shall pay the Representative a service fee (the “Service Fee”) as indicated in the table below for each Qualified Enrollment as defined in this Section 4 of the Agreement:

	MTSU Program	Commission	Application Waved
I	Undergraduate and Graduate Programs	<b>\$1,700 each semester for the first two consecutive semesters</b>	No
II	Online Degree Program	<b>\$1,200 each semester for the first two consecutive semesters</b>	No
III	Short Term non-degree Program	<b>\$1,200 each semester for the first two consecutive semesters</b>	No

- (b) Qualified Enrollment is defined as:
  - (i) The student has been exclusively recruited by the Representative;
  - (ii) The student meets all eligibility criteria to enroll in MTSU’s Programs and has been admitted and accepted by MTSU;
  - (iii) The student has obtained all necessary approvals, including but not limited to visa and I-20 form to study at MTSU Program at any campus of MTSU.
- (c) The Service Fee shall be paid by MTSU subject to the following conditions:
  - (i) Invoices must be submitted to MTSU in order to claim the Service Fee;
  - (ii) No Service Fees will be paid unless an invoice is received by MTSU from the Representative including the following information:
    - (A) Family and given name of the student;
    - (B) Date of birth of the student;
    - (C) Student Number of the relevant School;
    - (D) MTSU Program name and enrollment date; and

- (E) The Representative’s contact details and banking information, including full mailing address, bank account number, contact numbers, and SWIFT code where relevant.

- (d) The Service Fee shall be paid to the Representative for each Qualified Enrollment in accordance with this Agreement as follows:

Payment
<ul style="list-style-type: none"> <li>• Payable within thirty (30) days after the add/drop deadline of the first semester (as per MTSU’s academic calendar)</li> </ul>
<ul style="list-style-type: none"> <li>• Student must be enrolled in classes</li> </ul>

- (e) If the Representative requests payment by electronic transfer, the Representative will bear any bank fees or costs for this payment method. Notwithstanding any language in this Agreement to the contrary, no fees will be paid by MTSU to Representative under any circumstances for students who withdraw from MTSU before or during the drop/add period.

This Fee will be paid for each student who has enrolled full-time according to the terms outlined above. Full-time is defined as 12 credit hours for undergraduate students.

In the event a student credited to Representative does not continue full-time in the second semester and MTSU is paying a fee on a two semester schedule, the second portion of the commission will not be paid. Students beginning enrollment in the summer sessions must be enrolled full-time in the fall. They will then be considered new students and qualified for commission payment.

- (f) MTSU shall pay The Representative an additional incentive/bonus of \$600 USD for each enrolled student of five or more in the same academic year (Fall Semester-Spring Semester).

**Section 5. Solicitation of Students – Student Qualifications** \_\_\_\_\_

- (a) The Representative will make best efforts to enroll students who meet the following minimum qualifications:
  - i. The student must meet basic requirements for academic qualification as per MTSU’s Program requirements (must meet the minimum requirements as set forth by MTSU).
  - ii. The student must prove his/her financial ability to enroll in MTSU’s Programs and pay the associated living expenses.
  - iii. The student must have a passport valid for at least six months after the date the student intends to apply for a visa from the relevant government authorities.
- (b) Even if a student meets the minimum criteria described above, MTSU may decline to enroll a student in a MTSU Program for any reason.

- (c) The Representative must ensure all students present all original documentation at time of enrollment at MTSU. The students will not be permitted to enroll if the original documentation is not presented at time of enrollment.

## **Section 6. Term and Termination**

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- (a) The term of this Agreement shall be one year commencing from the Effective Date. After the one year probation, the Representative maybe eligible for a one year, three year or four year renewable contract based upon quantitative and qualitative performances, for a total of no more than five (5) years including the first year.
- (b) But for terminations pursuant to Provision 2.d., the Agreement may be terminated in the event of a material breach of the terms of the Agreement by either party, with ten (10) days written notice.
- (c) But for terminations pursuant to Provision 2.d. or 6.b., this Agreement may be terminated by either party with 30 days notice.
- (d) Upon the termination of this Agreement, the Representative shall, at MTSU's option, return to MTSU or destroy any materials MTSU has furnished to the Representative.

## **Section 7. Indemnification**

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- (a) Each party shall be solely liable for payment of its portion of all claims, liability, costs, expenses, demands, settlements or judgments resulting from the negligence, actions or omissions of itself or those for whom the party is legally responsible. Any and all claims against the State of Tennessee, including MTSU or its employees, based upon this Agreement shall be heard and determined by the Tennessee Claims Commission in the manner prescribed by law. Damages recoverable against the State of Tennessee or MTSU shall be limited expressly to claims paid by the Claims Commission pursuant to Tennessee Code Annotated (T.C.A.) § 9-8-301, et. seq.
- (b) Representative, being an independent contractor and not an employee of MTSU, agrees to pay applicable taxes incident to this Agreement. Representative agrees to fully comply with all provisions of all applicable workers' compensation insurance laws, and shall carry and pay for workers' compensation insurance, public liability insurance, property damage insurance in such amounts as Representative deems appropriate, and such other insurance in such amounts and for such coverage as Representative and MTSU deem reasonably necessary in connection with this Agreement. Such policies may be carried by blanket policies of insurance.

## **Section 8. Relationship of the Parties**

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This Agreement is not intended to, and nothing contained in this Agreement will, create any employment relationship, partnership, joint venture or other such relationship between the Representative and MTSU. No term or provision of this Agreement is intended to be, or will be, for the benefit of any person, firm, organization or corporation not a party to this Agreement, and no such other person, firm, organization or corporation will have any right or cause of action as a result of this Agreement.

## **Section 9. Representations**

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- (a) Each party has all requisite capacity to execute and deliver this Agreement and perform its obligations hereunder under this Agreement. This Agreement constitutes legal, valid and binding obligations of each party, enforceable in accordance with its terms.
- (b) The execution, delivery and performance of this Agreement by each party will not violate, create a default under or breach of any charter, by laws, agreement or other contract, license, permit, indebtedness, certificate, order, decree or security instrument to which such party or any of its principals is a party or is subject to.
- (c) Neither party is the subject of any current or pending dissolution, receivership, bankruptcy, reorganization, insolvency, or similar proceeding on the Effective Date.
- (d) Each party represents and certifies to the other party that the person signing this Agreement is authorized to execute this Agreement on behalf of that party and has full authority to bind that party accordingly.
- (e) None of the representations, certifications or warranties made by each party under this Agreement as of the date such representations, certifications and warranties are made or deemed made contains any untrue statement of a material fact or omits any material fact required to be stated therein or necessary to make the statements made therein, in light of the circumstances under which they are made, not misleading as of the time when made or delivered.

## **Section 10. Funding**

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This Agreement is subject to the appropriation and availability of State and/or Federal funds for MTSU. In the event that the funds are not appropriated or are otherwise unavailable to continue this Agreement, MTSU reserves the right to terminate this Agreement upon written notice to Representative. Termination under this Section 10 shall not be deemed a breach of contract by MTSU. Upon receipt of the written notice, Representative shall cease all activities and services associated with this Agreement. Upon such termination, Representative shall have no right to recover from MTSU any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

## **Section 11. Miscellaneous**

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- (a) The Representative represents and warrants that no fee or compensation has been or shall be paid directly or indirectly to any officer, employee, or official of MTSU or the State of Tennessee as wages, compensation, or gifts in exchange for acting as officer, agent, employee, subcontractor or consultant to Representative in connection with this Agreement.
- (b) This Agreement shall be binding upon and inure to the benefit of each party and their respective successors, heirs and assigns.

- (c) This Agreement, together with its exhibits and schedules, constitutes the entire agreement between the parties with respect to the subject matter contained herein. This Agreement supersedes all prior agreements and understandings between the parties with respect to such subject matter.
- (d) No failure on the part of each party to exercise and no delay in exercising, and no course of dealing with respect to, any right, power or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege under this Agreement preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The remedies provided herein are cumulative and not exclusive of any remedies provided by law.
- (e) This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee without regard to its principles of conflicts of law.
- (f) MTSU reserves the right to amend, revise or modify this Agreement by giving the Representative a 30 day notice prior to implementing such modifications.
- (g) In case any provision in this Agreement shall be held invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions hereof will not in any way be affected or impaired thereby.
- (h) Each Party shall be responsible for their respective expenses with respect to the execution of this Agreement.
- (i) The Representative shall not assign this Agreement or enter into sub-contracts for any of the work described herein without obtaining the prior written approval of MTSU.
- (j) MTSU will comply with the Tennessee Open Records Act in performing its duties under this Agreement.
- (k) MTSU shall have no liability except as specifically provided in this Agreement.
- (l) The Representative shall comply will all applicable State and Federal laws and regulations and MTSU policies and guidelines in the performance of this Agreement.
- (m) The Representative shall maintain documentation for all charges against MTSU under this Agreement. The books, records, and documents of the Representative, insofar as they relate to work performed or money received under this Agreement, shall be maintained for a period of three full years from the date of the final payment, and shall be subject to audit, at any reasonable time and upon notice, by MTSU or the Comptroller of the Treasury for the State of Tennessee, or their duly appointed representatives.
- (n) The parties shall abide by all applicable Federal and State law pertaining to discrimination and hereby agree and assure that no person shall be excluded from participation in, be denied benefits of, or otherwise be subjected to discrimination in the performance of this Agreement or in the employment practices of the party on the grounds of classifications protected by Federal or State law.

(o) By its authorized signature on this Agreement, the Representative is attesting that Representative will not knowingly utilize the services of illegal immigrants within the scope of its operations in the United States and will not knowingly utilize the services of any subcontractor, if permitted under this Agreement, who will utilize the services of illegal immigrants in performance of this Agreement. If the Representative is discovered to have breached this attestation, Representative shall be prohibited from contracting with any Tennessee state entity for a period of one (1) year from the date of discovery of the breach. Representative may appeal the one (1) year by utilizing the established appeals process.

(p) Data Privacy and Security:

Data Privacy. "Personal Information" means information provided to Representative by or at the direction of Institution, or to which access was provided to Representative by or at the direction of Institution, in the course of Representative's performance under this Agreement that:

1. Identifies or can be used to identify an individual (including, without limitation, names, signatures, addresses, telephone numbers, e-mail addresses and other unique identifiers); or
2. Can be used to authenticate an individual (including, without limitation, employee identification numbers, government-issued identification numbers, passwords or PINs, financial account numbers, credit report information, biometric or health data, answers to security questions and other personal identifiers).

Representative represents and warrants that its collection, access, use, storage, disposal and disclosure of Personal Information complies with all applicable federal and state privacy and data protection laws, including without limitation, the Gramm-Leach-Bliley Act ("GLBA"); the Health Information Portability and Accountability Act ("HIPAA"); the Family Educational Rights and Privacy Act ("FERPA") of 1974 (20 U.S.C. 1232g), the FTC's Red Flag Rules and any applicable federal or state laws, as amended, together with regulations promulgated thereunder. Some Personal Information provided by Institution to Representative is subject to FERPA.

Data Security. Representative represents and warrants that Representative will maintain compliance with the SSAE18 standard, and shall undertake any audits and risk assessments Representative deems necessary to maintain compliance with SSAE18.

(q) With respect to any processing of personal data of persons located in, or such data obtained from within, the European Union (EU), each party certifies that it will comply with all applicable laws or regulations related to acceptance, transmission, and/or storage of personal data in accordance with the EU's General Data Protection Regulations ("GDPR"). The parties have or will specify the subject matter and duration of the processing; the nature and purpose of the processing; and the type of personal data and categories of data subject. Representative (Processor) will only act on the written instruction of the University (Controller) and will assist the University in compliance with GDPR in relation to the security of processing, the notification of personal data breaches, data protection impact assessments, answering data subjects' requests, and allowing data subjects to exercise their rights. Representative will ensure that individuals processing the data are subject to a duty of confidentiality and only engage sub-processors with the prior consent of the University and under a written contract. Representative consents to audits and inspections as necessary to ensure compliance with these provisions. Representative shall return, or, at the University's discretion, delete all personal data obtained from the University (and any copies thereof) at the end of the contract and submit whatever information the University needs to ensure that both parties are meeting their GDPR Article 28 obligations.



- (r) Debarment and Suspension. The Contractor certifies, to the best of its knowledge and belief, that it and its principals:
- (i). are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal or State department or agency;
  - (ii). have not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offense in connection with, attempting to obtain, or performing a public (Federal, State, or Local) transaction or embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property.
  - (iii). Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or Local) with commission of any of the offenses listed in section b) of this certification; and
  - (iv). Have not within a three (3) year period preceding this Contract had one or more public transactions (Federal, State, or Local) terminated for cause or default.

{Signature Page to Follow}

**SIGNED AND AGREED UPON BY:**

Middle Tennessee State University, a public institution operated under the laws of the State of Tennessee,

\_\_\_\_\_

Alan R. Thomas,

Vice President, Business & Finance

\_\_\_\_\_

a limited liability corporation duly incorporated in \_\_\_\_\_

\_\_\_\_\_

Representative Signature

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Representative Title



0123-0188 / Middle Tennessee State University does not discriminate against students, employees, or applicants for admission or employment on the basis of race, color, religion, creed, national origin, sex, sexual orientation, gender identity/expression, disability, age, status as a protected veteran, genetic information, or any other legally protected class with respect to all employment, programs, and activities sponsored by MTSU. The Assistant to the President for Institutional Equity and Compliance has been designated to handle inquiries regarding the non-discrimination policies and can be reached at Cope Administration Building 116, 1301 East Main Street, Murfreesboro, TN 37132; Christy.Sigler@mtsu.edu; or 615-898-2185. The MTSU policy on non-discrimination can be found at [mtsu.edu/tec](http://mtsu.edu/tec).