

**MEMORANDUM OF AGREEMENT**  
BETWEEN  
**FAIRLEIGH DICKINSON UNIVERSITY – VANCOUVER CAMPUS**  
*(hereinafter referred to as “FDU-Vancouver”)*  
842 Cambie Street, Vancouver, BC V6B 2P6, Canada

AND

*(Hereinafter referred to as the “Agency/Consultant”)*

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**WHEREAS** on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, **Agency/Consultant** agrees to be a consultant to FDU-Vancouver to facilitate relationships between FDU-Vancouver and groups, companies, institutions and governments for the purpose of identifying qualified applicants for FDU-Vancouver’s academic programs.

**I. TERM**

This Agreement shall become effective on July 1<sup>st</sup>, 2022 and shall continue until June 30<sup>th</sup>, 2025 unless earlier terminated in accordance with the terms herein.

**II. COMPENSATION AND SCOPE**

- Consultant/Agency’s activities under this Agreement shall be performed solely with respect to prospective students residing in countries outside the United States who are not eligible to receive U.S. Federal student financial assistance.
- Payment under this Agreement shall only be made for students enrolling in the FDU-Vancouver campus and not for enrolment in either of the New Jersey campuses.
- In this agreement:
  - *International Students* refers to students who are not citizens or permanent residents of Canada and who were recruited from markets outside of Canada.
  - *Domestic Students* refers to students who are citizens or permanent residents of Canada.

**a. Graduate Programs, International Students**

FDU-Vancouver agrees to pay the **Agency/Consultant** USD \$2,000 per International Student recruited for graduate degree programs at FDU-Vancouver only if the following conditions have been met.

**Failure to follow any of these conditions may lead to forfeiture of the payment.**

- The student is enrolled in full time studies (9 credits).
- Tuition fees have been paid in full within 6 weeks of the start of the semester.
- The **Agency/Consultant** must have been identified on the student’s application form.
- The email used on the application must be the student’s most frequently used email address and not an email created by the **Agency/Consultant** for the purpose of the application.

**b. Undergraduate Programs, International Students**

FDU-Vancouver agrees to pay the **Agency/Consultant** USD \$2,500 per international student recruited for undergraduate degree programs at FDU-Vancouver, only if the following conditions have been met. **Failure to follow any of these conditions may lead to forfeiture of the payment.**

- The student is enrolled in full time studies (12 credits in the fall and spring trimesters; 9 credits in summer trimester). This does not apply to students enrolled in the Pre-University Program (PUP) or to students admitted under special conditions. Compensation will only be paid for PUP students and students admitted under special conditions after they have matriculated successfully into the regular degree program.
- Tuition fees are paid in full within 6 weeks of the start of the semester.
- The **Agency/Consultant** must have been identified on the student's application form.
- The email used on the application must be the student's most frequently used email address and not an email created by the **Agency/Consultant** for the purpose of the application.

**c. Graduate Programs, Domestic Students**

FDU-Vancouver agrees to pay the **Agency/Consultant** CAD \$2,000 per domestic student recruited for graduate degree programs at FDU-Vancouver only if the following conditions have been met. **Failure to follow any of these conditions may lead to forfeiture of the payment.**

- The student is enrolled in full time studies (9 credits).
- Tuition fees are paid in full within 6 weeks of the start of the semester.
- The **Agency/Consultant** must have been identified on the student's application form.
- The email used on the application must be the student's most frequently used email address and not an email created by the **Agency/Consultant** for the purpose of the application.

**d. Undergraduate Programs, Domestic Students**

FDU-Vancouver agrees to pay the **Agency/Consultant** CAD \$2,500 per domestic student recruited for undergraduate degree programs at FDU-Vancouver only if the following conditions have been met. **Failure to follow any of these conditions may lead to forfeiture of the payment.**

- The student is enrolled in full time studies (12 credits in Fall and Spring trimester; 9 credits in Summer trimester). This does not apply to students enrolled in the Pre-University Program (PUP) or to students admitted under special conditions. Compensation will only be paid for PUP students and students admitted under special conditions after they have matriculated successfully into the regular degree program.
- Tuition fees are paid in full within 6 weeks of the start of the semester.
- The **Agency/Consultant** must have been identified on the student's application form.
- The email used on the application must be the student's most frequently used email address and not an email created by the **Agency/Consultant** for the purpose of the application.

**Agency/Consultant** is not entitled to any compensation outlined above with respect to prospective or enrolled students who are provided a tuition refund from FDU. **Agency/Consultant** is entitled to payment only with respect to the first enrollment of any student. Without limitation, if a student enrolls in FDU-Vancouver and in subsequent years continues their education at FDU-Vancouver or if the student in the future elects to enroll at FDU-Vancouver for a different program (e.g., initially undergraduate and then continues as a graduate student), **Agency/Consultant** shall be entitled to payment based only on the initial enrollment.

**e. Payment Schedule**

The **Agency/Consultant** will receive full payment after the six week census has confirmed that the student is enrolled as a full time student in the first semester.

**III. DEADLINE FOR INVOICE SUBMISSIONS**

The **Agency/Consultant** must submit invoices within six weeks of the start of the semester. Invoices not submitted timely will not be paid.

**IV. PROMOTION AND EXPENSES; STATUS OF AGENCY/CONSULTANT**

**Agency/Consultant** shall market FDU with accurate and up-to-date information; facilitate relationships between FDU and groups, companies, institutions and governments; engage in effective and ethical student recruitment activities; assure that applicants complete all forms and papers required by FDU; follow up with applicants and admitted persons as requested by FDU; and perform other reasonable duties requested by FDU. The **Agency/Consultant** at its own expense shall advertise, market and promote FDU-Vancouver in a professional manner and make positive, truthful representations satisfactory to FDU-Vancouver. All advertisements and marketing materials must be approved by FDU-Vancouver before circulation. Failure to comply may result in the immediate termination of this Agreement.

FDU and **Agency/Consultant** are independent contractors, and this Agreement does not establish an agency relationship, master-servant relationship, partnership, joint venture, or employment relationship between them. Neither FDU nor **Agency/Consultant** shall have the power to bind the other or incur obligations on the other's behalf without the prior written consent of the other. As such, as between FDU and **Agency/Consultant**, **Agency/Consultant** assumes the full responsibility for the acts or omissions of its employees, agents, contractors, and subcontractors as related to this Agreement; and **Agency/Consultant** is solely responsible for payment of all compensation, severance, taxes, benefits, withholdings, and contributions with respect to its employees, agents, contractors, and subcontractors.

**V. STUDENT ADMISSION**

**Agency/Consultant** agrees to follow all policies and procedures regarding FDU-Vancouver admissions and understands that FDU-Vancouver will make the final decision on whether a candidate will be accepted into FDU-Vancouver. FDU-Vancouver will also make final decisions on student placement in programs. Successful applicants must fulfill the admission criteria set by FDU-Vancouver; the **Agency/Consultant's** willful misrepresentation or withholding of FDU-Vancouver admission or scholarship information will result in immediate termination of this Agreement.

**VI. ASSIGNMENT OF AGREEMENT**

Agency/Consultant shall not assign, subcontract, or delegate its rights and duties under this Agreement to any other individual or entity without the express prior written permission of FDU. Any purported assignment, subcontract, or delegation without FDU's prior written consent shall be void and constitute cause for immediate termination of this Agreement.

**VII. CONFIDENTIALITY**

**Agency/Consultant** agrees to treat as confidential all non-public information concerning FDU-Vancouver's and its affiliates' finances, strategies, operations, employees, and plans, and to use such information solely for the purpose of meeting **Agency/Consultant's** obligations under this Agreement.

University Security Policy. **Agency/Consultant** understands that the use of e-mail and other electronic methods to transmit and receive information, including confidential information, between

**Agency/Consultant** and University and between Consultant and other third parties engaged by either **Agency/Consultant** or FDU shall be subject to any electronic security policies of FDU-Vancouver that Consultant is made aware of. Consultant acknowledges that it is aware of FDU's Written Information Security Program, available at <https://it.fdu.edu/written-information-security-program/>, and FDU's Confidentiality Agreement and Security Policy, and that same is available at <https://it.fdu.edu/confidentiality-agreement-and-security-policy/>. **Agency/Consultant** promises to implement reasonable administrative, technical, and physical safeguards designed to protect FDU-Vancouver's business and other proprietary information from unauthorized disclosure.

**Agency/Consultant** promises to update its safeguards as may be required under applicable law, as amended from time to time. Upon FDU-Vancouver's request, **Agency/Consultant** agrees to provide documentation sufficient to demonstrate Consultant's compliance with its confidentiality and safeguarding requirements. The provisions of this section shall survive the expiration or earlier termination of this Agreement.

### ***VIII. FORCE MAJEURE***

Neither party shall be liable for failure to perform under this Agreement due to events or conditions beyond its reasonable control. These circumstances may include, without limitation, natural disasters or acts of God; acts of war, terrorism, riots, or widespread criminal activity; changes in law, regulation, or rule; government acts or orders (including the extension or modification of a pre-existing governmental act or order); a state of emergency; labor disputes or stoppages; fire, storm, or other natural disaster; quarantines; new outbreaks or expansion of Coronavirus or other communicable diseases, viruses or illnesses requiring quarantine or significant curtailment of activities, or other pandemics or epidemics; or any other cause, whether or not similar in kind to the foregoing that is beyond the party's reasonable control, taking into account the associated budget allocated by such party for the activities contemplated hereunder. If an event described under this provision continues for more than 15 consecutive days, either party may upon written notice elect to terminate this Agreement.

### ***IX. TERMINATION***

This Agreement may be terminated immediately upon notice if the **Agency/Consultant** misrepresents FDU or knowingly passes incorrect and/or misleading information to any prospective or enrolled student or otherwise takes action that is unlawful or jeopardizes the reputation of FDU.

Either party to this Agreement may terminate this Agreement provided 30 days prior written notification is made to the other party. This in no way eliminates either party's right or obligations as contained herein that either party incurred prior to the termination.

### ***X. COMPLIANCE***

**Agency/Consultant** represents and warrants that it possesses all governmentally-required approvals, licenses, permits, and authorizations necessary to perform its duties hereunder and that it shall maintain such approvals, licenses, permits, and authorizations throughout the term of this Agreement, in all jurisdictions in which **Agency/Consultant** does business in. **Agency/Consultant** shall immediately notify FDU about the revocation or loss (or notice of threatened revocation of loss) of any governmentally-required approval, license, permit, or authorization.

**Agency/Consultant** agrees that in connection with this Agreement it shall comply with all relevant rules, regulations of British Columbia, and Canada, the Ministry of Education as well as those of any other

jurisdiction, and shall take no action, or omit to take any action, which would violate or cause FDU-Vancouver or its affiliates to be in violation of, applicable laws, including, without limitation, any U.S. trade controls, export, and anti-boycott laws. (As used throughout this Agreement, “laws” includes statutes, regulations, and rules; and “affiliates” of FDU-Vancouver shall include Fairleigh Dickinson University based in the State of New Jersey, U.S.A.) **Agency/Consultant** warrants that it is not itself and is not affiliated with any entity or other person on the List of Specially Designated Nationals and Blocked Persons List ([www.treasury.gov/sdn](http://www.treasury.gov/sdn)) or on any other restricted parties lists maintained by the U.S. Government.

**Anti-Corruption:** Each party agrees that in connection with this Agreement, it shall comply with applicable anti-bribery and anti-corruption laws, including the U.S. Foreign Corrupt Practices Act. Each party further agrees that it shall not offer, promise, provide, or pay (or authorize the offer, promise, provision, or payment of), directly or indirectly, anything of value to any entity or other person of any type (including, but not limited to, any government official) for the purpose of influencing any act or decision or to secure any other improper advantage or benefit.

## ***XI. Intellectual Property***

FDU-Vancouver retains sole and exclusive ownership of all rights, title, and interest in the names, logos, service marks, and other trademarks of FDU-Vancouver and its programs and affiliates, and any derivations thereof, including all associated trademark and other intellectual property rights (collectively, the “FDU Marks”). **Agency/Consultant** acknowledges the great value of the goodwill associated with the FDU Marks and agrees that it shall not during the term of this Agreement, or any time thereafter dispute or contest FDU-Vancouver’s or its affiliates’ sole right and title to the FDU Marks or assist others in doing so or otherwise take any action that would interfere with FDU-Vancouver’s or its affiliates’ sole and exclusive ownership and enjoyment of the FDU Marks. **Agency/Consultant** shall not use the FDU Marks except as authorized under this Agreement.

As between **Agency/Consultant** and FDU-Vancouver, FDU-Vancouver shall solely and exclusively own the copyright and all other intellectual rights to any written and other works of authorship provided by FDU-Vancouver and to any works related to FDU-Vancouver to be developed or delivered by **Agency/Consultant** under this Agreement. To the extent not automatically vested in FDU, **Agency/Consultant** hereby assigns to FDU-Vancouver all right, title, and interest to such works, including without limitation, trademark, copyright, patent, and trade secret rights.

The provisions of this section shall survive any termination or expiration of this Agreement.

## ***XII. Notices.***

Every notice required or permitted under this Agreement shall, unless otherwise specifically provided herein, be given in writing and may be sent by either Canada Post, Registered Mail, Delivery Notice Card, or by reputable overnight courier, provided that such courier obtains and makes available to its customers evidence of delivery. All notices shall be addressed by the party giving, making or sending the same to the party at the address set forth below or to such other address as either party may designate from time to time by a notice given to the other party.

Notice shall be deemed to be given upon receipt, provided, however, that in the event a party shall refuse to accept delivery, the notice shall nevertheless be deemed to be given upon the date of refusal to accept delivery. Notwithstanding the above, a notice of change of address shall not be effective until received.

Fairleigh Dickinson University	Agency/Consultant
1000 River Road	
Teaneck, New Jersey 07666	

Attn: General Counsel	
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### **XIII. Non Discrimination.**

The parties to this Agreement hereby agree that they shall not unlawfully discriminate on the basis of race, color, creed, national origin, ancestry, disability, marital status, gender, sexual orientation, handicap, age, pregnancy status, veteran status, or other protected status in connection with this Agreement and that each shall fully comply with any applicable laws or statutes, and all rules and regulations promulgated thereunder, concerning discrimination in connection with their respective obligations pursuant to this Agreement.

### **XIV. Student Information.**

Fairleigh Dickinson University-Vancouver may provide **Agency/Consultant** with contact information for students being considered for, or enrolled in FDU-Vancouver, **Agency/Consultant** agrees that the exclusive use of any student information is to fulfill its obligations under this Agreement and further agrees not to release any information in the student profile to any third party. To the extent the **Agency/Consultant** is in possession of any student record or information, such record or information shall be handled in accordance with all applicable Federal, Provincial and local privacy of data laws. The provisions of this section shall survive the expiration or earlier termination of this Agreement.

### **XV. Indemnification and Insurance**

**Agency/Consultant** agrees to defend, indemnify and save Fairleigh Dickinson University-Vancouver and its affiliates harmless from and against all claims, liabilities, actions, proceedings, judgments, losses, costs and expenses, including reasonable attorneys' fees, arising from, related to, or in connection with (a) any loss, injury or damage whatsoever caused by **Agency/Consultant**, its employees or agents, or (b) any breach of this Agreement or applicable law by **Agency/Consultant** or its employees or agents. However, notwithstanding anything herein contained to the contrary, **Agency/Consultant** shall not be obligated or required hereunder, to defend, save harmless or indemnify Fairleigh Dickinson University-Vancouver or its affiliates from or against any claims to the extent determined by a court of applicable jurisdiction to have arisen from the negligence or willful misconduct of Fairleigh Dickinson University-Vancouver or its affiliates or their agents, servants, employees or contractors. The provisions of this section shall survive the expiration or earlier termination of this Agreement.

**Insurance:** During the term of this Agreement, **Agency/Consultant** shall, at all times, provide and maintain Commercial General Liability insurance, insuring the risk of **Agency/Consultant**'s failure to perform its obligations under this Agreement, including, but not limited to, **Agency/Consultant**'s indemnity of Fairleigh Dickinson University-Vancouver and its affiliates herein in the amount of one million dollars (\$1,000,000.00) per occurrence with a limit of four million dollars (\$4,000,000.00). **Agency/Consultant** shall insure itself and Fairleigh Dickinson University-Vancouver, as their interests may appear, against any and all claims for loss, damage, injury or death, and damage to, or loss of, personal or real property. **Agency/Consultant**'s insurance policy shall provide that it shall not be cancelled or terminated without 30 days' written notice to Fairleigh Dickinson University-Vancouver. **Agency/Consultant**'s insurance policy shall be primary and non-contributing with any insurance carried by Fairleigh Dickinson University-Vancouver and shall contain a severability of interests clause, with respect to liability, and shall protect **Agency/Consultant** and Fairleigh Dickinson University-Vancouver, as if separate insurance policies had been issued to each. The aforesaid liability insurance coverage shall be issued in the name of **Agency/Consultant** naming Fairleigh Dickinson University-Vancouver as an additional insured.

**Agency/Consultant** shall inform its insurance carrier of its obligation under this Agreement and shall include these obligations in its insurance coverage.

The foregoing insurance requirements shall not diminish or qualify **Agency/Consultant's** obligation to indemnify Fairleigh Dickinson University-Vancouver as provided in this Agreement.

Within ten (10) days prior to the expiration of all required insurance, **Agency/Consultant** shall deliver to Fairleigh Dickinson University-Vancouver certificates of insurance evidencing the renewal of such insurance, for the term of this Agreement, unless the parties agree in writing to another date.

#### **XVI. Complete Agreement: No Waiver.**

This Agreement, along with any exhibits, appendices, addendums, schedules, and amendments hereto, encompasses the entire agreement of the parties, and supersedes all previous understandings and agreements between the parties, whether oral or written. The parties hereby acknowledge and represent that they have not relied on any representation, assertion, guarantee, warranty, collateral contract, or other assurance, except those set out in this Agreement, made by or on behalf of any other party or any other person or entity whatsoever, prior to the execution of this Agreement. No waiver of any term, provision, or condition of this Agreement, whether by conduct or otherwise, in any one or more instances, will be deemed to be or be construed as a further or continuing waiver of any such term, provision, or condition or as a waiver of any other term, provision, or condition of this Agreement.

This Agreement may be signed in as many counterparts as may be necessary and delivered by facsimile, and each of which so signed will be deemed to be an original, and such copies together will constitute one and the same instruments.

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be executed by their duty-authorized officers at Vancouver, British Columbia, Canada on the date indicated above.

For **Fairleigh Dickinson University**

By: 

Date Nov 10, 2022

Name: **Dr. Wilfred Zerbe**

Title: **Campus Executive**

For **Agency/Consultant**

By: 

Date \_\_\_\_\_

Name:

Title: