

Standard Terms and Conditions for University Representatives

1 Responsibilities

- 1.1 **General responsibilities.** Both the University and the Representative must use best endeavours to:
- (a) Work with the other honestly, transparently and in good faith;
 - (b) Act ethically and in accordance with the University's Staff Conduct Policy (<https://www.wgtn.ac.nz/documents/policy/staff-policy/conduct-policy.pdf>);
 - (c) Keep the other informed of any matters relating to students or this agreement; and
 - (d) Provide any other information or assistance reasonably requested by the other.
- 1.2 **University responsibilities.** The University must use best endeavours to:
- (a) Provide the Representative information and material relevant to this agreement, including (for example) application forms, promotional material, course information and relevant policies.
 - (b) Pay the Representative the commissions as further set out in this agreement.
- 1.3 **Representative responsibilities.** The Representative must use best endeavours to:
- (a) Promote the University to prospective students;
 - (b) Facilitate applications to study at the University; and
 - (c) Keep the University informed as to relevant market intelligence and conditions.
- 1.4 **Verification of documents.** The Representative must provide certification or verification of documents as required by the New Zealand Ministry of Education. As of the date of this agreement, these requirements include providing copies of original passports or national identity cards that are dated, signed and stamped using the Representative's official stamp. The University may issue updated or revised requirements for document verification to the Representative if the New Zealand Ministry of Education updates its requirements or guidelines.
- 1.5 **Specific requirements.** In addition to the other specific requirements in this agreement, the University may issue guidance or instructions to the Representative relating to its responsibilities under this agreement. The Representative must use best endeavours to fulfil its responsibilities in accordance with such guidance or instructions.

2 Student information and welfare

- 2.1 **Student information and welfare.** Both the University and the Representative acknowledges that the health, safety and wellbeing of students, and the appropriate handling of student information, is of paramount importance.
- 2.2 **Student information.** The Representative must ensure that each student expressly authorises:
- (a) The Representative to share student information with the University; and
 - (b) The University to collect, hold and manage that student information in accordance with its privacy notice (<https://www.wgtn.ac.nz/site-info/privacy>).
- 2.3 **Pastoral Care Code.** The Representative acknowledges that The Education (Pastoral Care of Tertiary and International Learners) Code of Practice 2021 (the *Pastoral Care Code*) applies to all students studying at the University (<https://www2.nzqa.govt.nz/tertiary/the-code/> and <https://www.wgtn.ac.nz/students/support/pastoral-care-code>). The Representative must:
- (a) Be familiar with, and at all times act consistently with, the requirements of the Pastoral Care Code;

- (b) Immediately notify the University if the Representative has any concerns regarding the welfare of any student studying at the University; and
- (c) Provide any information or assistance reasonably requested by the University in connection with the Pastoral Care Code or a student welfare event (for example, helping the University contact a student's next-of-kin).

3 University reputation

3.1 **Standard of care.** The Representative must carry out its responsibilities under this agreement:

- (a) In accordance with the highest standards and correct procedures and the other instructions of the University;
- (b) Using appropriately qualified and experienced staff; and
- (c) Maintaining the University's reputation and good standing.

3.2 **Prohibited conduct.** The Representative must not:

- (a) Engage in any conduct that is false, misleading, deceptive or in breach of any applicable law;
- (b) Jeopardise the University's compliance with the Pastoral Care Code;
- (c) Purport to make any statement on behalf of the University;
- (d) Do anything that may bring the University into disrepute; nor
- (e) Provide any commission, bonus, or other incentive payment based in any part, directly or indirectly, upon success in securing enrolments or the award of financial aid, to any of its employees that undertake, and its higher-level employees that have responsibility for, any student recruitment or admissions activity, or making decisions regarding the award of title IV Higher Education Act 1965 funds, in full compliance with the Higher Education Act of 1965, as amended (at 20 U.S.C. § 1094(a)(20)) and its implementing regulations (at 34 C.F.R. § 668.14(22)).

4 Intellectual property and branding

4.1 **Ownership retained.** Each party retains ownership of its intellectual property, except as otherwise expressly agreed by the parties.

4.2 **Deliverables.** The University will own any deliverables prepared by the Representative specifically for the University under this agreement (for example, a report detailing performance of the Representative under this agreement).

4.3 **Branding.** Each party authorises the other to use its trade marks, logos, name and other branding for purposes connected with this agreement, provided the branding is used in accordance with the reasonable instructions of the party. For the University's logos and branding instructions, see <https://wgtm.brandkit.io/>.

5 Confidential information

5.1 **Confidentiality.** Each party will keep all confidential information of the other in confidence, using systems and processes no less secure than it uses to keep its own information in confidence.

5.2 **Disclosure.** A party may disclose confidential information:

- (a) To its employees, agents and professional advisers on a "need to know" basis;
- (b) If the confidential information becomes generally known (other than due to breach of this agreement); or
- (c) Where the disclosure is required by law, including the New Zealand Official Information Act 1982 and Privacy Act 2020.

5.3 **Return or destruction.** If one party requests, the other must return or destroy all copies of confidential information that it holds or controls. Despite this, a party may keep copies of confidential information that are retained in accordance with the party's ordinary backup or archive processes, or where required by law, provided that such copies are not readily accessible in the ordinary course of business.

5.4 **Immigration New Zealand information.** The Representative authorises the University to request the following data from Immigration New Zealand:

- (a) Performance data, including student visa application volumes and approval rates;
- (b) Reasons for decline decisions;
- (c) Any instances of fraud or misrepresentation by the Representative.

5.5 **Notification of breach.** If a party becomes aware or suspects that there has been a data breach affecting information under this agreement, that party will, on becoming aware of such data breach, immediately notify the other party of that data breach. The party will also provide any further information relating to the data breach requested by the other party. The parties will work together, and provide all reasonable assistance to each other, to investigate, assess, contain, and mitigate any data breach.

6 Withholding taxes

6.1 **Application.** This clause only applies where the University is required by applicable tax law to withhold some of payments under this agreement. To avoid doubt, this clause does not apply to New Zealand goods and services tax.

6.2 **Withholding where legally required.** The University may deduct from payments under this agreement any withholding taxes or other deductions required by applicable tax law. Any amount deducted will be deemed to have been paid by the University to the Representative at the time deducted.

6.3 **Cooperation.** The parties will provide reasonable cooperation to each other to make sure the appropriate amounts of tax are withheld (for example, completing appropriate tax forms).

6.4 **Evidence.** The University will provide evidence of the deduction and payment to the Commissioner of Inland Revenue at the reasonable request of the Representative.

7 General

7.1 **Assignment and subcontracting.** The Representative must notify the University prior to assigning or subcontracting any part of this agreement. Despite any assignment or subcontract, the Representative remains responsible for all obligations under this agreement.

7.2 **Changes to this agreement.** Any changes to this agreement must be agreed by both parties and recorded in writing clearly demonstrating agreement to the change. A verbal agreement will not be effective unless documented in writing.

7.3 **Compliance with governing law.** This agreement does not require either party to breach any law applicable to it. If any law prevents a party from complying with an obligation in this agreement, the parties will work together in good faith to resolve the situation. To the extent that a dispute arises between the parties regarding the interpretation or application of this agreement, and New Zealand and any other law may produce different outcomes, the parties agree that New Zealand law will prevail.

7.4 **Counterparts.** This agreement may be executed in counterparts (including digital signing platform) and all counterparts taken together will form a single instrument.

7.5 **Disputes.** In the event of any dispute between the parties regarding this agreement, or any works carried out under this agreement, the parties agree to make good faith efforts to resolve any dispute by negotiation. This includes referring any dispute to a senior manager of the parties with sufficient authority to negotiate and resolve the dispute.

7.6 **Entire agreement.** This agreement records the entire agreement between the parties regarding the subject of this agreement and supersedes any previous agreements and negotiations.

7.7 **Force majeure.** A party is not liable for any act, omission or failure under this agreement if that act, omission or failure is due to a force majeure event, provided that the affected party notifies the other and takes all reasonable actions to mitigate the effects of the force majeure event.

7.8 **Lingua franca.** The language of this agreement is English. Any translations to other languages are provided for convenience only. If there are any ambiguities or translation differences between versions, the English language version will apply.

- 7.9 **Non-exclusive.** This agreement is non-exclusive. Either party may enter into other similar agreements with third parties.
- 7.10 **Notices.** Any notice under this agreement must be in writing and delivered electronically to the relevant contact person. Any notice of a legal dispute must be copied to legal-services@vuw.ac.nz.
- 7.11 **Relationship of parties.** The parties are independent contractors and nothing in this agreement is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, or constitute any party the agent or employee of the other party. Neither party will have the authority to act for or incur any obligation on behalf of another party, except as expressly provided for in this agreement.
- 7.12 **Termination.** Either party may terminate this agreement by notice to the other in the case of a material, ongoing or repeated breach of this agreement by the other.
- 7.13 **Warranties as to status.** Each party warrants to the other party that:
- (a) It has obtained all authorisations and has done all things necessary in order to enter into this agreement and to perform its obligations under this agreement; and
 - (b) It is not aware of anything which will, or might reasonably be expected to, prevent that party from performing all of its obligations under this agreement, in the manner and at the times contemplated by this agreement.
- 7.14 **About.** This document is version 1.0 of the Standard Terms and Conditions for University Representatives, published in March 2024.