

MASTER VENDOR AGREEMENT

AGREEMENT made this ____ day of _____, 20__ by and between PACE UNIVERSITY, One Pace Plaza, New York, New York 10038 (“Pace”), and [**FULL LEGAL NAME OF VENDOR**], with offices at _____ (“Vendor”).

1. **Term.** This Agreement shall commence on [**DATE**] and terminate, unless earlier terminated as authorized by paragraph 5, below, on [**DATE**] (the “Term”). Thereafter, this Agreement may be renewed by a writing countersigned by duly authorized signatories of Pace and Vendor.
2. **Duties.** During the Term, Vendor shall [**DESCRIBE WORK TO BE PROVIDED TO PACE**] _____ (the “Work”), exclusively on an as-needed basis. Pace shall notify Vendor from time to time during the Term of Pace’s desire that Vendor provide the Work on each such discrete occasion as shall have been specified in a writing (“Work Order”), in the form annexed hereto as Exhibit A or such other form as Pace may select, that Pace shall transmit to Vendor in advance and that to be binding shall be signed by an authorized Pace representative. Notwithstanding anything to the contrary contained herein, Vendor hereby covenants with and represents and warrants to Pace that the Work shall not include or entail lobbying or campaign intervention within the meaning of applicable law.
3. **Expertise.** Vendor hereby represents and warrants to Pace that Vendor has sufficient staff and equipment available to perform the Work and that all individuals providing the Work have the background, training, licensure, and experience to perform properly the Work to be delivered under this Agreement and/or, as appropriate, for adequately supervising such individuals at the worksite(s).
4. **Fees and Expenses.** *Provided* that Pace shall first have received from Vendor an original of this Agreement that shall have been countersigned by an authorized Vendor signatory, fees shall be payable as set forth in a discrete Work Order, following Pace’s receipt from Vendor of an invoice that, in form and substance satisfactory to Pace, shall describe the goods and/or services that Vendor shall have provided to Pace in the period set forth in such Work Order. Except as specifically provided to the contrary in this Agreement, all expenses shall be borne by Vendor. Vendor shall only be entitled to reimbursement of reasonable expenses that are actually incurred and allocable solely to the Work provided to Pace pursuant to the Agreement. Vendor shall provide such reasonable evidence as Pace may request in support of Vendor’s claims for expense reimbursement. Final payment shall be subject to Vendor’s delivery to Pace of all deliverables in form and substance satisfactory to Pace. Notwithstanding the foregoing, or any other term or condition of this Agreement to the contrary, Vendor acknowledges and agrees that if the Work for which Vendor is being retained by Pace is being funded by a government or private grant, then Pace’s obligation to make payments to Vendor hereunder is

contingent upon Pace's actual receipt of monies under such grant. No amounts, other than those set forth in this Section 4, shall be payable to Vendor under this Agreement.

5. **Termination.** Either party may terminate this Agreement with thirty (30) days prior written notice to the other party. In addition, and notwithstanding anything to the contrary contained herein, Pace may terminate this Agreement immediately for cause with notice to Vendor. For the avoidance of doubt, "cause," as used in this paragraph 5, shall include, but not be limited to, Vendor's material failure to perform any term or condition of this agreement, which failure shall not have been cured within a reasonable time, but not later than five (5) days following Pace's notice to Vendor of said failure. Vendor hereby acknowledges and agrees that, notwithstanding anything to the contrary contained herein, in the event this Agreement is terminated, Pace shall only be liable for, and Vendor agrees only to retain, payment of the portion of the fee earned as a result of Work actually and satisfactorily performed through the effective date of termination.
6. **No Employment Relationship Created.** It is understood and agreed between the parties that the Agreement is not intended to nor does it create an employment contract between Pace, on the one hand, and Vendor and any of its employees, on the other, nor does it create a joint relationship or partnership between the parties hereto. Neither Vendor nor its employees are entitled to benefits that Pace provides for Pace employees. Vendor's relationship to Pace is solely and exclusively that of an independent contractor. Pace is interested only in the results to be achieved and the conduct and control of the Work shall be solely with Vendor. Vendor shall be permitted to engage in any business and perform services for its own accounts, *provided* that the Work is not compromised. Except as specifically permitted in this Agreement, neither party shall use the name or trademarks of the other party or incur any obligation or expense for or on behalf of the other party without the other party's prior written consent in each instance.
7. **No Withholding.** Vendor is solely and exclusively responsible for the satisfaction of Vendor's own local, state, and federal income tax and Social Security withholding that may be applicable to the amounts payable by Pace under this Agreement.
8. **Confidentiality.** During the course of performance of the Agreement, Vendor may be given access to information that relates to Pace's past, present and future research, development, business activities, products, services, technical knowledge and personally identifiable student and employee information. All such information shall be deemed to be "Confidential Information" unless otherwise indicated by Pace in writing at or after the time of disclosure. Vendor may use the Confidential Information only in connection with the specific duties authorized pursuant to this Agreement. Access to the Confidential Information shall be restricted to those of Vendor's personnel, representatives and consultants on a need-to-know basis solely in connection with Vendor's internal business. Vendor further agrees that it shall

(i) take all necessary steps to inform any of its personnel, representatives or consultants to whom Confidential Information may be disclosed of Vendor's obligations hereunder and (ii) cause said personnel, representatives and consultants to agree to be bound by the terms of this Agreement by executing a confidentiality agreement containing the same restrictions contained herein or some other method acceptable to Pace. Vendor agrees to protect the confidentiality of the Confidential Information in the same manner that it protects the confidentiality of its own proprietary and confidential information of like kind. Vendor agrees to notify Pace of any unauthorized use or disclosure of Confidential Information and to take all actions reasonably necessary to prevent further unauthorized use or disclosure thereof. The terms of this Section 8 shall survive the expiration or termination of this Agreement.

These requirements apply to any subcontractors or agents Vendor uses in the performance of the Work and it is Vendor's responsibility to assure that all such subcontractors and agents comply with all such requirements.

9. **Assignment.** Vendor shall not assign its duties hereunder without the prior written consent of Pace.
10. **Binding Effect.** This Agreement shall be binding upon the parties hereto and upon their respective successors and assigns.
11. **Compliance With Laws.** Vendor warrants on its behalf and that of its subcontractors, employees, and agents that it shall comply with all applicable federal, state, and local laws, ordinances, rules, regulations and codes, including, but not limited to, the Family Educational Rights and Privacy Act of 1974 (the "Buckley Amendment") with respect to personally identifiable student education records; U.S. Occupational Safety and Health Administration ("OSHA") requirements; the Health Insurance Portability and Accountability Act with respect to medical records; the Gramm-Leach-Bliley Act with respect to student financial information; and applicable provisions of paragraphs (1) through (7) of section 202 of Executive Order 11246 relating to Equal Employment Opportunity, section 402 of the Vietnam Era Veterans Readjustment Act of 1974, as amended, and section 503 of the Rehabilitation Act of 1973. Vendor and its subcontractors, employees, and agents shall obtain and maintain in full force and effect, all necessary permits, licenses, and authorizations required by governmental and quasi-governmental agencies. Vendor shall advise Pace of all permits and licenses required to be obtained in Pace's own name for the Work to be provided hereunder, and shall cooperate with Pace in obtaining the same.
12. **Compliance With Pace Policies.** Vendor, on behalf of itself and of its subcontractors, employees, and agents, agrees to comply with all Pace policies and procedures with respect to Vendor's activities under or in connection with this Agreement, including, but not limited to, Pace's Guiding Principles of Conduct, its

Information Technology Appropriate Use Policy, its Ebola Response Policy, and security policies.

13. **Force Majeure**: Notwithstanding anything to the contrary contained in this Agreement, Pace shall not be liable, nor shall any credit or other remedy be extended, for Pace's failure, in whole or in part, to fulfill its obligations under this Agreement where such failure arises from or in connection with causes beyond Pace's control, including, but not limited to, acts of God, flood, extreme weather, fire or other natural calamity, terrorist attack, any law, order, or regulation or action of any governmental entity or civil or military authority, power or utility failure, cable cuts, unavailability of rights-of-way, national emergencies, riots, wars, strikes, lock-outs, work stoppages, or other labor difficulties (each a "Force Majeure Event"). If a Force Majeure Event occurs during the term hereof, Pace shall be excused from performance hereunder.
14. **Indemnification**. Vendor agrees to defend, indemnify, and hold harmless Pace University, its successors and assigns, and their respective trustees, officers, employees, and agents (the "Indemnified Parties") to the fullest extent permitted by law from and against any and all claims or demands whatsoever, including, but not limited to, associated costs, expenses, and reasonable attorneys' fees incurred on account thereof ("Claims") asserted against Pace as a result of Vendor's work or performance or non-performance of this Agreement, including, but not limited to, Claims that may be asserted by any person(s), including, but not limited to, Consultant's employees and employees of Vendor's subcontractors or agents ("Claimants"), for loss, damage, death, injury, sexual harassment, or molestation to or of persons or property; or, where applicable, infringement of any third-party intellectual property rights, including, but not limited to, those of copyright; or, where applicable, unauthorized release of or failure to protect confidential information of all types, including, but not limited to, personally identifiable information (PII) or electronic protected health information (ePHI) ("Losses") arising in any manner out of or incident to Vendor's performance or nonperformance hereunder.
15. **Cooperation**. The parties agree to cooperate with each other in connection with any internal investigations by Pace or Vendor of possible violation of their respective policies and procedures and any third party litigation, except that Pace shall not be required to have any contact with any Union or Union representatives of Vendor's employees or subcontractors or participate in any Union grievance or other proceedings relative to Vendor's employees or subcontractors except as a fact witness.
16. **Insurance**. Vendor shall at all times during the term of this agreement carry, and require its subcontractors to carry, at least the following types and amounts of insurance:
 - Workers Compensation insurance on all employees, whether paid or volunteer, as may be required by applicable state law. If Vendor is exempt

under appropriate state law from the requirement to carry workers compensation insurance, Vendor must submit a written statement to that effect in a form satisfactory to Pace;

- Commercial General Liability with limits of not less than \$1,000,000 each occurrence, \$1 million products and completed operations aggregate, and \$2 million general aggregate. Such insurance shall include coverage for claims arising from all activities and work to be performed by Vendor;
- If vehicles will be used in the performance of the work, Commercial Automobile Liability insurance with limits of not less than \$1,000,000 combined single limit each accident covering all owned and non-owned vehicles;
- If professional services, or any other services, requiring a license are to be performed by Vendor, Professional Liability (Malpractice) insurance with limits of not less than \$1 million each accident or occurrence covering claims arising from the professional service being performed.
- Pace shall be named as additional insured on all of Vendor's liability insurance policies, and Vendor's policies shall be primary coverage for Pace, regardless of whatever other insurance Pace may have available.

Such policies of insurance shall be maintained with insurance companies authorized to do business in the State of New York and provide that they may not be canceled or materially changed except upon 30 days prior written notice to Pace. Vendor shall, at the time of the execution of this Agreement, furnish Pace with a certificate of insurance evidencing such coverage, and naming Pace as an additional insured with respect to its liability coverages. It is the intent of the parties that Vendor's insurance be primary and non-contributory coverage for Pace for claims arising from Vendor's performance of this contract, regardless of whatever other insurance Pace may have available. The insurance required pursuant to this Section 16 shall not be deemed to limit Vendor's obligations to indemnify Pace under this Agreement.

17. Vendor's Waiver of Mechanic's Lien. Vendor has furnished or will furnish certain labor, services, materials, or equipment to Pace on the _____ Project at [ADDRESS] (the "Project") pursuant to the Agreement. In consideration of the sum total of payments to date and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Vendor hereby permanently and irrevocably waives and releases any right which it now has or which it may have in the future to file or claim a mechanic's lien or any other lien rights, and waives and releases all other claims of any kind (whether billed or unbilled), against (a) the real property where the Project is located; (b) the improvements and other property located thereon; (c) the Owner and its title company and lender and their respective trustees, officers, employees, and agents; and (d) the surety or sureties of the Owner. In order to induce payment to be made to the undersigned, Vendor hereby certifies that it has paid all of its subcontractors, suppliers, and employees for all items connected with the above-referenced Project. Vendor agrees to this waiver voluntarily and with full knowledge of its rights under law. Vendor hereby agrees to indemnify Pace and its

lender and title company (the “Indemnified Parties”) from and against all costs and expenses, including attorneys’ fees, an Indemnified Party may incur as a result of claims (a) that any of Vendor’s subcontractors, suppliers or employees have not been paid for goods and/or services relating to the Project or (b) relating to the enforcement of this Mechanics’ Lien Waiver.

18. **Governing Law and Jurisdiction.** Except as may be preempted by federal law, this Agreement shall be governed by the laws of the State of New York, without regard to any choice of law principles. Litigation of all disputes between the parties arising from or in connection with this Agreement shall be conducted in a court of appropriate jurisdiction in the State of New York, County of New York.
19. **Notices.** All notices to Pace University in connection with this Agreement shall be sent to:

[INSERT CONTACT INFORMATION FOR PACE REPRESENTATIVE]

with simultaneous copies (which shall not constitute notice) to:

Pace University
 One Pace Plaza
 New York, NY 10038
 Attn: Vice President for Finance

and

Pace University
 One Pace Plaza
 New York, NY 10038
 Attn: University Counsel

All notices to Vendor in connection with this Agreement shall be sent to:

[INSERT CONTACT INFORMATION FOR VENDOR]

20. . **Entire Agreement.** This Agreement, together with any exhibits or addenda annexed hereto, is the sole, complete, and exclusive expression of the parties’ intent with respect to the subject matter hereof. This Agreement may be amended or modified only by a writing countersigned by authorized representatives of each party.

21. **Severability.** If a court holds any provision of this Agreement to be illegal, invalid, or unenforceable, the remaining provisions shall remain in full force and effect and the parties shall amend this Agreement to give effect to the stricken clause to the maximum extent possible.

22. **No Waiver.** Failure of either party to enforce any of its rights hereunder shall not constitute a waiver of such right(s) or of any other rights and shall not be construed as a waiver or relinquishment of any such provisions, rights, or remedies; rather, the same shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

PACE UNIVERSITY

[FULL LEGAL NAME OF VENDOR]

By: _____ By: _____

Joseph A. Capparelli
Vice President for Finance
and Controller

Name: _____

Title: _____

**EXHIBIT A
FORM OF WORK ORDER**

[PACE UNIVERSITY LETTERHEAD]

[DATE]

[NAME, TITLE, AND ADDRESS OF VENDOR CONTACT]

Re: Work Order under [MONTH] [DAY], [YEAR] Master Agreement

Dear [Ms.] [Mr.] _____:

We refer to the above-referenced Master Agreement between Pace University (“Pace”) and **[FULL LEGAL NAME OF VENDOR]** (“Vendor”). Capitalized terms not otherwise defined in this letter (“Work Order”) have the meaning(s) assigned to them in the Master Agreement.

Pursuant to paragraph 2 of the Master Agreement, Pace hereby authorizes and requests Vendor to provide Pace with the following goods and/or services:

[DESCRIBE SPECIFIC GOODS AND/OR SERVICES THAT VENDOR IS TO PROVIDE TO PACE ON THIS OCCASION, THE DATE ON WHICH SUCH GOODS AND/OR SERVICES ARE DUE, AND THE FEE PAYABLE TO VENDOR IN EXCHANGE.]

Such provision of such goods and/or services is subject to and governed in full by the terms and conditions of the Master Agreement.

Thank you for your timely attention to this Work Order.

Very truly yours,

**[NAME AND TITLE
OF AUTHORIZED PACE UNIVERSITY REPRESENTATIVE]**

