

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 effective shall be signed by an authorized Pace representative. Anything to the contrary notwithstanding, 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, 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. **Proprietary Rights.** Vendor hereby acknowledges and agrees that Pace has specially commissioned the Work as a “work made for hire” under Section 101 of the United States Copyright Act of 1976, as amended (the “Copyright Act”). Accordingly, all intellectual property developed by Vendor for Pace in connection with this Agreement, including but not limited to all monitoring, testing and other data, reports, materials,

- schematic drawings, illustrations, trademarks, trade names, slogans, logos or other designs in any form, whether electronic, print or any other format, shall be owned solely and exclusively by Pace. All copyrights and patents with respect to such intellectual property created for Pace in accordance with this Agreement shall be registered in the name of Pace University. If the Work is determined not to be a work made for hire under the Copyright Act, then, as of the date of this Agreement or the creation of any of the intellectual property, whichever is earlier, Vendor irrevocably transfers and assigns to Pace the entire right, title, and interest, including, but not limited to, copyright, in and to the intellectual property, in whole or in part, together with all extensions of such copyrights, that may be secured under the Copyright Act or under any other copyright law or similar law in effect in the United States or in any other countries or under any treaties, conventions, or proclamations. Vendor agrees to execute and deliver to Pace any documents that may be necessary to effectuate the transfer and assignment of the intellectual property rights in the Work contemplated by this Agreement and to do such other acts and things as may be reasonably requested by Pace to perfect or evidence such transfer. Vendor shall have no ownership or copyright in Pace materials, nor in the intellectual property contained therein, nor in the delivery formats, whether electronic, print or any other form. **[USE THE FOLLOWING SENTENCE ONLY FOR CONTRACTS WITH PROVIDERS OF INTELLECTUAL PROPERTY WHO ARE BASED OUTSIDE THE U.S.:** Vendor hereby waives any moral rights of any kind in the Work and the intellectual property.] Pace shall have no rights in any of Vendor's intellectual property that is not developed specially for Pace pursuant to this Agreement.
6. **Termination.** Either party may terminate this Agreement with thirty (30) days prior written notice to the other party. In addition, and anything to the contrary notwithstanding, 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, anything to the contrary notwithstanding, 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.
 7. **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.
 8. **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.

9. **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 9 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.

10. **Assignment.** Vendor shall not assign its duties hereunder without the prior written consent of Pace.
11. **Binding Effect.** This Agreement shall be binding upon the parties hereto and upon their respective successors and assigns.
12. **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.
13. **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, and Security policies.

14. **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.
15. **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 associated costs, expenses, and reasonable attorneys' fees incurred on account thereof ("Claims"), that may be asserted by Vendor's employees, employees of Vendor's subcontractors or agents, or any other person(s) ("Claimants") for loss, damage, death, or injury to persons or property ("Losses") arising in any manner out of or incident to Vendor's use of Pace facilities and/or its performance or nonperformance of this Agreement. Without limiting the generality of the preceding sentence of this Section 15, Vendor agrees to defend, indemnify, and hold harmless the Indemnified Parties from and against Claims that may be asserted by Claimant(s) for Losses arising from Vendor's infringement in the course of Vendor's performance or nonperformance hereunder of any third-party intellectual-property rights, including, but not limited to, those of copyright.
16. **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.
17. **Insurance**. (a) Where Vendor requires the use of a vehicle in the performance of work under this Agreement, Vendor shall, at all times during the term hereof and at its own expense, keep in full force and effect automobile insurance, in amounts acceptable to Pace, for property damage, bodily injury or death. Vendor shall provide Pace with evidence of such insurance upon request. (b) In addition to Worker's Compensation, as required by law, Vendor shall carry Commercial General Liability insurance in the minimum amount of three million dollars (\$3,000,000.00), covering all of Vendor's activities related to this Agreement. Vendor's liability policies shall name Pace as an additional insured. Vendor shall provide Pace with certificates of insurance evidencing the aforesaid coverage, prior to commencing Work pursuant to this Agreement. The amounts of insurance required to be obtained by Vendor hereunder shall not constitute a limitation on the indemnification obligations of Vendor.

18. **[USE SECTION 19 ONLY FOR CONSTRUCTION/INSTALLATION/REPAIR MASTER AGREEMENTS. DELETE FOR ALL OTHER MASTER AGREEMENTS.]**

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.

19. **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.

20. **Notices.** All notices to Pace University in connection with this Agreement shall be sent to:

[CONTACT INFORMATION FOR PACE REPRESENTATIVE]

with simultaneous copies to:

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

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:

[CONTACT INFORMATION FOR VENDOR]

- 21. . **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.

- 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: _____
Thomas Brady
Treasurer

By: _____
Name (please print): _____
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]**