**NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT**

To protect the Confidential Information (as defined below) which may be disclosed by Pace University (“Pace”) to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Vendor”), with an office at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, during discussions or negotiations in connection with the potential provision by Vendor of goods or services to Pace or to any of Pace’s affiliates (the "Business Purpose"), the parties hereby enter into this Non-Disclosure and Confidentiality Agreement (the "Agreement").

1. As used herein, Confidential Information shall mean the information described in Exhibit A and any information that relates to Pace’s or its consultants’ or contractors’ past, present and future research, development, business activities, products, services, technical knowledge, and/or personally identifiable student and employee information that may be received from Pace or from Pace’s consultants or contractors. Without limiting the generality of the foregoing provisions of this paragraph 1, all discussions between Vendor and Pace in relation to the Business Purpose shall be deemed Confidential Information.
2. Confidential Information shall not include information that: (a) is or becomes publicly available through no fault of Vendor; (b) was in the possession of or demonstrably known by Vendor prior to its receipt from Pace; (c) is independently developed by Vendor without use of or reference to the Confidential Information; or (d) becomes known by Vendor from a third party and, to Vendor’s knowledge, is not subject to an obligation of confidentiality to Pace.
3. Vendor will maintain the confidentiality of the Confidential Information using procedures not less rigorous than those Vendor uses to protect and preserve the confidentiality of its own similar proprietary information. Vendor may disclose the Confidential Information to its affiliates and its and their agents, advisors, officers, directors, employees, consultants, attorneys, accountants or other representatives (each, a "Representative") who have a need to know such Confidential Information solely in connection with the Business Purpose, *provided* that Vendor shall assume full responsibility for any breach of this Agreement caused by any such Representatives.
4. If Vendor or any of its Representatives is requested or required to disclose any of the Confidential Information pursuant to a subpoena, court order, statute, law, rule, regulation or other similar requirement (a "Legal Requirement"), Vendor shall immediately provide written notice of such Legal Requirement to Pace. If Vendor or such Representative is legally compelled to disclose such Confidential Information, or if Pace in writing waives compliance with the provisions of this Agreement, Vendor or such Representative may disclose, without liability hereunder, such Confidential Information in accordance with the Legal Requirement.
5. Vendor agrees not to disclose the identity of Pace or any of its Representatives as a customer or prospective customer of Vendor or the existence or nature of the relationship of the parties under this Agreement. Vendor agrees that it will not use Pace’s name in any way without prior written consent of Pace.
6. Each party's duties under this Agreement will continue until the earlier of: (a) five years after termination by the parties of their discussions relating to the Business Purpose; and (b) the execution by the parties of a definitive written agreement that expressly supersedes this Agreement. Notwithstanding the foregoing, Vendor's obligations set forth in paragraph 5, above, shall be perpetual.
7. At Pace’s request, Vendor shall return to Pace, or destroy, the Confidential Information.
8. Except as may be preempted by federal law, this Agreement is governed by the laws of the State of New York, without regard to its 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.
9. Each party hereby acknowledges that a breach of its obligations to the other party under this Agreement may, as determined by a court of appropriate jurisdiction, result in irreparable and continuing damage to the other party for which monetary damages will not be sufficient, and agrees that such other party will be entitled to seek, in addition to its other rights and remedies hereunder or at law, injunctive and/or other equitable relief, and such other and further relief as may be proper from a court of appropriate jurisdiction.
10. No agreement, other than this Agreement, shall be deemed to have been made between the parties unless and until such time as a written agreement shall have been appropriately executed and delivered by the parties, acting in their own discretion. Neither party has an obligation under this Agreement to purchase any service or item from, or enter into any transaction with, the other party. This Agreement supersedes all prior agreements and understandings, and constitutes the complete agreement and understanding, between the parties with respect to the subject matter hereof. No amendment or other modification to this Agreement shall be valid or binding with respect to either party unless acknowledged and agreed to in writing and signed by a duly authorized officer of each party.
11. If any one or more of the provisions of this Agreement shall for any reason be held to be invalid, illegal or unenforceable by a court of appropriate jurisdiction, the remaining provisions of this Agreement shall be unimpaired and shall remain in full force and effect, and the invalid, illegal or unenforceable provision shall be replaced by a valid, legal and enforceable provision that comes closest to the intent of the parties underlying the invalid, illegal or unenforceable provision.
12. Vendor shall not assign its rights or obligations under this Agreement without the prior written consent of Pace and any attempt to do so without such consent shall be null and void and without legal effect.

**IN WITNESS WHEREOF**, the parties have executed this Agreement on the \_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_:

|  |  |
| --- | --- |
| **PACE UNIVERSITY** | [***COMPLETE LEGAL NAME OF VENDOR***] |
| By: Name:Title: | By: Name:Title: |

**EXHIBIT A**

**CONFIDENTIAL INFORMATION**

Description of confidential information being provided to Vendor by Pace:

* 1. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
* 2. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
* 3. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
* 4. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
* 5. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_