Confidentiality and Nondisclosure Agreement

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This is a Nondisclosure Agreement made as of [month]/[day]/2019 between Moreno Valley College, an educational corporation hereinafter referred to as "MVC," with its principal place of business at 16130 Lasselle St, Moreno Valley, CA 92551 and Interact Communications Inc., an S corporation, hereinafter referred to as "Company," with its principal place of business at 502 Main Street, 3rd Floor, La Crosse, WI 54601 for the purpose of protecting and preserving the confidential and/or proprietary nature of information to be disclosed or made available by MVC to the Company under this Agreement. For purposes of this Agreement, MVC and Company are sometimes collectively referred to as the "Parties" and individually referred to as a "Party".

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1. <u>Definitions</u>. As used herein, the following terms are defined as follows:

   a. "Confidential Information" means any business and/or personally identifiable information relating to MVC's students, employees or other parties contained in files or storage systems to which the Company will be provided access by MVC. "Confidential Information" shall include, without limitation, printed or electronically recorded matter, "Personally Identifiable Information" (as defined below), customer and employee information, business information, student information, and other information of a non-public nature. "Confidential Information" also includes information generated as a result of the activities of the Parties hereunder, and information, whether disclosed in writing or orally, that is marked "confidential" or should be deemed by its nature to be confidential.

   b. "Personally Identifiable Information" means information that can be used on its own or with other information to identify, contact, or locate a single person, or to identify an individual in context, including without limitation names; addresses; a personal identifier, such as a social security number, student or employee number, or biometric record; other indirect identifiers, such as date of birth, place of birth, and mother's maiden name; other information that, alone or in combination, is linked or linkable to a specific individual that would allow a reasonable person in the campus community, who does not have personal knowledge of the relevant circumstances, to identify the individual with reasonable certainty; or information requested by a person who the educational agency or institution reasonably believes knows the identity of the individual to whom the information relates.

2. <u>Use of Confidential Information Limited to Purpose</u>. The Company agrees to use the Confidential Information received hereunder solely for the purpose of performing the service or services for which the Company and MVC have made an agreement ("Purpose"), and only to the extent necessary for the stated Purpose.

3. <u>Ownership Of Confidential Information</u>. All Confidential Information shall remain the property of MVC. No rights or license therein is granted except a limited right to use the Confidential Information solely for the Purpose. Upon request of MVC, the Company shall promptly return all copies of the Confidential Information, in whatever form or media, to MVC, or certify the destruction of all such Confidential Information.

4. <u>Nondisclosure And Nonuse Of Confidential Information</u>.

   a. The Company shall not, without the prior written approval of MVC in each instance, or unless otherwise expressly permitted in this Agreement, use for its own benefit, publish or otherwise disclose to others, or permit the use by others for their benefit or to the detriment of MVC, any Confidential Information. The Company shall not use any Confidential Information to engage in targeted advertising.

   b. The Company agrees that it will not provide Confidential Information to any third parties or business partners without prior written agreement from MVC. The Company warrants that all confidentiality

and security measures identified in the Agreement will be extended by contract to any and all subcontractors used by the Company, if any, to execute the terms of the Agreement. The Company will do the following to ensure the security and confidentiality of MVC's Confidential Information:

1) Designate an employee responsible for the training and compliance of all Company employees, agents, and assigns on compliance with security and confidentiality provisions detailed in this Agreement.

2) Restrict access to MVC's Confidential Information to those of Company's employees who have a clear need to such access and who are subject to written confidentiality agreements sufficient to carry out the intent of this Agreement.

3) Take all reasonably necessary measures consistent with industry standards, and with state and federal law, to protect the Confidential Information from any and all unauthorized access and disclosures.

4) Develop, implement, maintain and use appropriate administrative, technical and physical security measures to preserve the confidentiality, integrity and availability of all stored, managed, retained, accessed or used Confidential Information received from or on behalf of MVC.

5) Encrypt all Confidential Information in transmission and storage.

6) Use appropriate and reliable storage media, regularly backup Confidential Information and retain such backup copies for the duration of the Agreement.

7) Store all Confidential Information in the United States.

Compliance with these requirements shall not, in itself, absolve the Company of any liability in the event of an unauthorized disclosure of Confidential Information.

c. The Company may disclose Confidential Information if required by any judicial or governmental request, requirement or order, provided that the Company will take reasonable steps to give MVC sufficient prior notice of the Company's obligation to disclose the information so as to allow MVC to contest that request, requirement or order, as it deems appropriate.

d. The confidentiality and security requirements provided herein shall survive the termination or expiration of the Agreement.

5. <u>Compliance with Applicable Laws</u>. The Company warrants and represents that is familiar with and will comply with all laws governing the Confidential Information of MVC, including, but not limited to, the Family Educational Rights and Privacy Act ("FERPA"), the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), the Gramm-Leach-Bliley Act, the Sarbanes-Oxley Act, Payment Card Industry Data Security Standards ("PCI/DSS"), the California Information Practices Act (California Civil Code section 1798 *et seq.*), and the California Education Code. The Company shall be liable for the costs associated with its violation of laws governing the Confidential Information of MVC.

6. <u>Compliance with Applicable Board Policies and Administrative Procedures</u>. The Company shall comply with all applicable MVC Board-approved Policies and Administrative Procedures when utilizing information systems sponsored or owned by MVC. The Company shall be liable for the costs associated with its violation of such policies and regulations.

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7. <u>Unauthorized Disclosure or Use Notifications</u>.

   a. Within one (1) business day of becoming aware, the Company shall notify MVC in writing of any actual or suspected misuse, misappropriation or unauthorized disclosure of Confidential Information.

   b. The Company understands and acknowledges that any disclosure or misappropriation of any of the Confidential Information in violation of this Agreement, or any threat thereof, may cause MVC irreparable harm, the amount of which may be difficult to ascertain and, therefore, agrees that MVC shall have the right to apply to a court of competent jurisdiction, without necessity of posting bond, for an order restraining any further disclosure or misappropriation, and for such other relief as MVC shall deem appropriate. This right of MVC shall be in addition to the remedies otherwise available to MVC at law or in equity.

8. <u>Indemnity</u>. Company shall indemnify, defend and hold MVC harmless from all claims, liabilities, damages or judgments involving a third party, including MVC's costs and attorney's fees, which arise as a result of any unauthorized disclosures or misuse of Confidential Information, including Personally Identifiable Information, or Company's breach of any terms of this Agreement, excluding those claims, liabilities, damages or judgments arising from the sole active negligence or willful misconduct of MVC. The indemnity requirements provided herein shall survive the termination or expiration of the Agreement.

9. If any of this Agreement is held to be unenforceable, such unenforceable part shall be deemed modified or eliminated to the extent necessary to make the remaining parts enforceable. Any waiver of a default in performance hereunder shall be deemed a waiver of the particular instance only and shall not be deemed consent to continuing default.

10. The execution, interpretation and performance of this Agreement, and any disputes with respect to the transactions contemplated by this Agreement, shall be governed by and construed according to the internal laws and judicial decisions of the State of California. Exclusive jurisdiction shall be with the courts of California and venue shall be in the county in which the college is located.

11. Neither Party may assign its rights or delegate its duties or obligations under this Agreement without the other Party's prior written consent. This Agreement constitutes the entire agreement of the Parties with respect to the subject matter and supersedes all prior agreements or understandings, written or oral, between the Parties with respect thereto.

12. Except as otherwise provided by this Section, all notices, consents, approvals, demands, requests or other communications provided for or permitted to be given under any of the provisions of this Agreement will be in writing and will be sent via certified mail, hand delivery, overnight courier, or email (to the extent an email address is set forth below) as provided below, and notice will be deemed given (i) if delivered by certified mail, when deposited, postage prepaid, in the United States mail, or (ii) if delivered by hand, overnight courier, or email (to the extent an email address is set forth below), when received:

   If to MVC: Moreno Valley College
   16130 Lasselle St
   Moreno Valley, CA 92551
   Attn: [contact person]
   Email: [email]

If to Company: Interact Communications: 502 Main Street, 3rd Floor, La Crosse, La Crosse, WI 54601 608.781.8496 (fax)   email: anthony.jones@interactcom.com

or such other person or address as may be given in writing by either party to the other in accordance with this Section.

13.   Each Company individual with access to MVC's Confidential Information has signed, or will sign before gaining access to such Confidential Information, an acknowledgment in the Exhibit A which is attached and incorporated by reference. This Agreement is binding upon MVC and Company and upon the directors, officers, employees and agents of each.

14.   This Agreement is effective as of the later date of execution and will continue through 12/31/2019, unless terminated on thirty (30) days' written notice by either Party.

Moreno Valley College

By: _____

Name: _____

Title: President

Date: _____

Interact Communications

By: _Cheryl Broom_____

Name: Cheryl Broom

Title: President   Date:

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As an employee of Company, I have read the **Confidentiality and Non-Disclosure Agreement**, understand my obligations, and agree to comply with the terms and conditions of the Agreement.

Signature: _____   Signature: _____

Printed name: _____   Printed name: _____

Date: _____   Date: _____

Signature: _____   Signature: _____

Printed name: _____   Printed name: _____

Date: _____   Date: _____

Signature: _____   Signature: _____

Printed name: _____   Printed name: _____

Date: _____   Date: _____

Signature: _____   Signature: _____

Printed name: _____   Printed name: _____

Date: _____   Date: _____