



## AGREEMENT TO PROVIDE SERVICES

By and Between

And

GRAND VALLEY STATE UNIVERSITY

COMPANY

1 Campus Drive

Allendale, Michigan 49401

("GVSU")

("\_\_\_\_\_")

Attention:  
Telephone:  
E-mail:

Attention:  
Telephone:  
E-mail:

\_\_\_\_\_ wishes to retain GVSU to perform certain services ("**Services**") related \_\_\_\_\_, including providing certain data and data reports ("**Reports**"), described in the statement of work, attached hereto as **Exhibit A ("Statement of Work")**. GVSU represents that it has sufficient training, expertise, and time to provide the Services and is willing to provide such Services as an independent contractor in accordance with the terms and conditions set forth in this agreement ("**Agreement**"). For the purposes of this Agreement, GVSU and \_\_\_\_\_ may be referred to collectively as the "**Parties**," or each a "**Party**."

The Parties agree as follows:

1. **Scope of Services.** GVSU agrees to perform the Services set forth in the Statement of Work. GVSU will not perform any work in furtherance of such Services until it receives a Purchase Order number or payment from \_\_\_\_\_.

2. **Payment.** GVSU will invoice \_\_\_\_\_ in accordance with the fee schedule and payment schedule provided in the Statement of Work. \_\_\_\_\_ will pay invoices in U.S. dollars within thirty (30) days of receipt and in accordance with invoice instructions.

3. **Reports.** Reports will be the property of \_\_\_\_\_. Notwithstanding anything to the

contrary in this Agreement, \_\_\_\_\_ grants to GVSU the right to use such Reports for research and educational purposes, including related publication purposes, subject to Section 7. In the event that GVSU intends to publish any information contained in the Reports, GVSU will give \_\_\_\_\_ thirty (30) days' prior written notice of such publication and will to allow \_\_\_\_\_ to review proposed publication to ensure GVSU's compliance with Section 7.

4. **Works Made for Hire.** The Parties specifically acknowledge and agree that the Services, the Model, the Reports, and any other results of the Services are considered "works for hire," as that term is defined in the Copyright

Law of the United States of America and upon \_\_\_\_'s payment of GVSU in full under this Agreement shall be the sole property of \_\_\_\_ (subject to GVSU limited use rights described in Section 3).

**5. Title to Equipment, Supplies, and Materials.** Title to any equipment, supplies, and materials purchased by GVSU or \_\_\_\_ for use by GVSU in performing the Services shall vest with and be retained by GVSU, notwithstanding any termination of this Agreement.

**6. Independent Contractors.** GVSU and \_\_\_\_ are independent contractors, neither has the right or authority to bind the other in any way, and no personnel, employees, agents, or representatives of any party shall be deemed to be employees of the other.

**7. Confidential Information.** Should it be necessary for GVSU to receive \_\_\_\_'s Confidential Information ("**Confidential Information**"), \_\_\_\_ agrees to mark the word "Confidential" on any such Confidential Information; or, if given orally, \_\_\_\_ agrees to reduce such Confidential Information to writing and clearly mark it as "Confidential" within ten (10) days of the oral disclosure. To the extent permitted by law, (unless we include a CRIIA statement where appropriate) GVSU will not disclose Confidential Information marked as provided above for a period of three (3) years from the date of disclosure. Confidential Information does not include information that: (a) is known to the public or otherwise in the public domain at the time of disclosure; (b) becomes publicly known after disclosure by any means other than breach of this Agreement; (c) was already known to GVSU at the time of disclosure; (d) is obtained by GVSU, free of any obligations of confidentiality, from a third party who has a lawful right to disclose it; or (e) is independently generated by or for GVSU without use of such Confidential Information.

**8. Representations.** Each Party represents and warrants to the other that: (a) it has the legal right and power to enter into this Agreement and to perform its obligations hereunder; (b) the performance of its obligations under this Agreement will not conflict with its charter documents or any agreements, contracts, or other arrangements to which it is a party; (c) it is organized, validly existing, and in good standing under the laws of the applicable jurisdiction and has taken all necessary action to authorize the execution, delivery, and performance of this Agreement; and (d) upon execution and delivery of this Agreement, this Agreement shall constitute a valid and binding obligation of such Party, enforceable in accordance with its terms. \_\_\_\_ represents that it will comply with all laws, rules, and regulations applicable to the jurisdiction where the Reports are used, including without limitation any export and import laws. \_\_\_\_ acknowledges and agrees that (i) GVSU is an academic organization and, as such, may utilize methods that have not been accepted by standard-setting organizations or certified by government agencies; (ii) the Services are not performed under Good Laboratory Practices, as that term is defined by federal regulations; (iii) the results of the Services, including the Reports, are not to be used for clinical medicine diagnosis, treatment, or similar purposes; and (iv) if any Services involve a human subjects protocol or research animal protocol, \_\_\_\_'s institutional coversheet or letter with an approval number should be provided. GVSU makes no representation that \_\_\_\_'s use of the Reports will not infringe on any patent or proprietary right of any third party. GVSU MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AS TO ANY MATTER WHATSOEVER, INCLUDING WITHOUT LIMITATION THE SERVICES OR THE REPORTS.

**9. Other Research and Services.** \_\_\_\_ further acknowledges that GVSU has in the past

performed and will in the future perform research and services for GVSU or for third parties concerning medical and scientific information and know-how in furtherance of GVSU's goals for the improvement of human health and that, subject to the provisions of Section 7, nothing in this Agreement shall limit the right of GVSU to conduct any research or to provide services of any type to any other party.

10. **Assumption of Risk.** \_\_\_\_\_ hereby assumes any and all risk associated with (i) any documentation, records, or other materials provided by \_\_\_\_\_ to GVSU to facilitate the performance of the Services under this Agreement ("**Research Materials**"); (ii) GVSU's use of Research Materials in the performance of Services; and (iii) use of the Reports by \_\_\_\_\_ or any third parties.

11. **Limitation of Liability.** GVSU's total liability under this Agreement is limited to the total amounts to be paid to GVSU by \_\_\_\_\_ in accordance with the Statement of Work. GVSU SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR OTHER INDIRECT DAMAGES SUFFERED BY \_\_\_\_\_ OR ANY OTHER THIRD PARTIES AS A RESULT OF THE SERVICES OR THE REPORTS, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

12. **Term.** This Agreement shall become effective on the date of the final signature hereto, and will remain in effect for \_\_\_\_\_ year(s) or until terminated in accordance with Section 13.

13. **Termination.** This Agreement may be terminated, in whole or in part, for any reason or for no reason, by either Party at any time upon fifteen (15) days' notice to the other Party. Additionally, GVSU may terminate this Agreement in accordance with Section 18. Upon termination by either Party, \_\_\_\_\_ will compensate GVSU for (a) all work completed or in progress as of the date of termination, and (b) any obligations incurred by GVSU as of the

date of termination that cannot be revoked or cancelled as of that date.

14. **Survival.** The respective obligations of the Parties set forth in this Agreement that by their nature would continue beyond the termination of this Agreement, including but not limited to obligations concerning payment obligations, title to equipment, confidentiality, use of either Party's name, compliance with laws, and governing law, shall survive the termination of this Agreement.

15. **Dispute Resolution.** If there is a disagreement between the Parties relating to the terms of this Agreement that is not resolved in the normal course of business, either Party may give the other Party written notice of such dispute. Within twenty (20) days after delivery of such notice and thereafter as necessary, the Parties' agents shall meet or conference to exchange relevant information and attempt in good faith to resolve such dispute. If any such dispute cannot be resolved thereby, the Parties shall, before formal legal proceedings are instituted, undertake nonbinding, voluntary, facilitative mediation under the jurisdiction of the United States District Court for the Western District of Michigan, before a mediator agreed upon by the Parties, to attempt in good faith to resolve the dispute, and such mediation shall be conducted at a mutually convenient site agreed upon by the Parties. The Parties agree that any dispute failing resolution in accordance with the foregoing provisions shall be brought before any court of competent jurisdiction of the State of Michigan or, if the dispute includes issues reserved to the exclusive jurisdiction of the federal district courts, before the United States District Court for the Western District of Michigan, and the Parties irrevocably agree to submit to the jurisdiction of either such court.

16. **Force Majeure.** Neither Party shall be liable for any loss or damage suffered or incurred by the other Party that arises from delay in the performance of, restriction of the Party's ability to perform, or failure to perform the Party's



obligations under this Agreement to the extent that and for so long as the delay, restriction, or failure results from any circumstance or occurrence that is beyond the reasonable control of that Party, including but not limited to acts of nature, governmental actions, war or national emergency, riot, civil commotion, fire, explosion, flood, epidemic, strike, lock-out or other form of industrial action other than an action relating solely to that Party's own workforce (a "Force Majeure Event"); provided the Force Majeure Event arises without the fault or negligence of that Party. If a Force Majeure Event affects either Party (the Party experiencing the Force Majeure Event, the "Affected Party"), the Affected Party shall promptly notify the other Party of the nature and extent of the Force Majeure Event. The obligations of the Affected Party shall be postponed only for so long as and to the extent necessitated by the Force Majeure Event; provided that if any Force Majeure Event continues for a period exceeding three (3) months, the other Party shall have the right to terminate this Agreement immediately upon written notice to the Affected Party. The Affected Party will use its commercially reasonable best efforts to avoid, remove, or lessen the effects of any Force Majeure Event on its obligations under this Agreement and to resume performance of its obligations under this Agreement as soon as possible. Nothing in this agreement will suspend or modify the obligation of either party to pay any money under this Agreement.

**17. Export Controls and Economic Sanctions** GVSU and \_\_\_\_\_ will comply with all applicable export control and economic sanctions laws and regulations of the United States and other governments in the performance of this Agreement, including but not limited to the International Traffic in Arms Regulations, Export Administration Regulations, U.S. anti-boycott laws implemented by the Departments of Treasury and Commerce, and the economic sanctions rules and regulations implemented under statutory authority and/or

President's Executive Orders and administered by the U.S. Treasury Department's Office of Foreign Assets Control (collectively, "Trade Control Laws"). \_\_\_\_\_ will not directly or indirectly use or transfer the Services for use (i) in violation of any Trade Control Laws; (ii) in activities directly or indirectly related to the design, development, production, stockpiling or use of nuclear explosive devices, missiles, chemical or biological weapons or other restricted end-uses; or (iii) for activities directly or indirectly related to Restricted Parties or Restricted Territories (as defined in the following sentence). \_\_\_\_\_ represents that it (i) is not identified on, or owned or controlled by or acting on behalf of any individuals or entities identified on, U.S. or other applicable restricted party lists ("Restricted Parties"); (ii) is not located in, organized under the laws of or ordinarily resident in Cuba, Iran, North Korea, Syria or the Crimea region ("Restricted Territories"); or (iii) will not directly or indirectly export, re-export or otherwise transfer any goods, technology or Services covered by this Agreement to or for use in or by Restricted Parties or Restricted Territories.

Prior to providing GVSU any goods, software, services and/or technical data (collectively, "Items") subject to export controls and controlled at a level other than EAR99/AT, \_\_\_\_\_ shall provide written notice to GVSU specifying the nature of the controls and any relevant export control classification numbers. GVSU may decline to receive Items subject to export controls at a level other than EAR99/AT and such Items may not be provided to GVSU until confirmed in writing by GVSU's Office of Research Compliance and Integrity. Prior to initiating work under a Statement of Work, the Parties will assess whether any Services, the Model, the Reports, or any other results of the Services is subject to export controls and controlled at a level other than EAR99/AT and GVSU may decline to be involved in such export-controlled activities.

If \_\_\_\_\_ or any of its employees violate the terms of this provision, \_\_\_\_\_ will promptly notify GVSU in writing. Notwithstanding any of other provisions of this Agreement, violation by \_\_\_\_\_ of this provision will render this Agreement immediately terminable in GVSU's sole discretion upon notice by GVSU.

**18. Use of Party's Name.** Neither Party will use the name, symbols, marks, or logotypes of the other Party in any publicity, advertising, website, or news release without the prior written consent of the other. This restriction shall not apply to materials used solely for financing purposes, to publicly-available documents identifying the existence of this Agreement, or to regulatory filings required of either Party. \_\_\_\_\_ will not state or imply that GVSU has tested, approved, or drawn any conclusions regarding any product, substance, or process, except as expressly set forth in the Reports.

**19. Modification; Severability; No Waiver.** No amendment or modification of any terms, provisions or conditions of this Agreement shall be binding or enforceable unless in writing and signed by both of the Parties. If any provision of this Agreement shall be rendered or deemed unenforceable, the remainder shall be enforced as fully as possible and the unenforceable provision shall be deemed modified to the limited extent necessary to permit its enforcement in a manner most closely approximating the intention of the Parties as expressed herein. If the unenforceable provision is determined by GVSU to be material to this Agreement and cannot be adequately modified to GVSU's satisfaction, GVSU may, at its sole discretion, terminate this Agreement immediately upon written notice to \_\_\_\_\_. No waiver by either Party of any right or remedy under this Agreement, or delay in the exercise of any such right or remedy, will constitute a waiver of any other right or remedy.

**20. Assignment.** Neither Party may assign or delegate this Agreement or any of its duties

or rights hereunder, whether voluntarily or by operation of law, without the prior written consent of the other Party. If either Party attempts to assign or delegate its duties or rights hereunder, the attempted assignment or delegation will be void and deemed to be a material breach of this Agreement.

**21. Notices.** Any notice, request, approval, consent, authorization, or other communication required or permitted under this Agreement will be in writing and will be considered to have been given if either (a) delivered and receipted by express courier service, charges prepaid, or (b) sent by electronic mail, provided that there is evidence and confirmation of delivery and receipt. Any such communications shall be sent to the appropriate Party at the address indicated above.

**22. Entire Agreement.** This Agreement is the entire agreement between the Parties regarding the subject matter hereof. No verbal agreement or representation between the Parties either before, during, or after the execution of this Agreement, shall affect or modify any of the terms or obligations herein. If any term or condition of the Statement of Work, or any other work or purchase order that purports to relate to this Agreement, is inconsistent with this Agreement, this Agreement shall supersede such term or condition.

**23. Governing Law.** This Agreement shall be governed, construed, and enforced in accordance with the laws of the State of Michigan and without the application of choice of law principles. The United Nations Convention on Contracts for the International Sale of Goods will not apply to this Agreement. GVSU and \_\_\_\_\_ irrevocably agree and consent to the exclusive jurisdiction of state and federal courts located in the State of Michigan for the resolution of claims, disputes, and controversies under this Agreement.

**24. Counterparts; Electronic Signatures.**  
This Agreement may be executed in one or more counterparts, which may be executed separately or simultaneously and each of which shall be deemed to be the original but all of which together shall constitute one and the

same agreement. Electronic signatures and electronically transmitted documents are binding.

The undersigned represent that they are duly authorized to execute this Agreement.

**GRAND VALLEY STATE UNIVERSITY**

**COMPANY**

By: \_\_\_\_\_  
(Signature)

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Type or Print Name)

\_\_\_\_\_  
(Type or Print Name)

Its: \_\_\_\_\_  
(Type or Print Title)

Its: \_\_\_\_\_  
(Type or Print Title)

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Principal Investigator Performing Services:

Principal Investigator Receiving Services:

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Type or Print Name)

\_\_\_\_\_  
(Type or Print Name)

EXHIBIT A

Statement of Work

Description of Services to be Provided:

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Fee Schedule:

	Analysis	Cost Each	Quantity	Extended Total
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				

Other Costs:

Item/Service	Cost
<i>(Equipment rental, shipping charges, data processing costs for reporting, etc.)</i>	
<b>Subtotal:</b>	\$0.00

**Total Cost Not to Exceed:**

Payment Schedule and Special Conditions:

Payment is due upon completion of services.