



**GRAND VALLEY STATE UNIVERSITY  
MUTUAL CONFIDENTIALITY AGREEMENT**

This Agreement made and entered into this \_\_\_ day of \_\_\_\_\_, 2018 (the "Effective Date") by and between \_\_\_\_\_, with its principal place of business at \_\_\_\_\_ and Grand Valley State University with its principal place of business at 1 Campus Drive, Allendale, Michigan, 49401, governs disclosures of Confidential Information (as hereinafter defined) by and between each party.

The \_\_\_\_\_ parties \_\_\_\_\_ wish \_\_\_\_\_ to \_\_\_\_\_ enter \_\_\_\_\_ into \_\_\_\_\_ discussions concerning \_\_\_\_\_.

In the course of such discussions it may be necessary for one party to disclose to the other party certain confidential and proprietary information or samples of materials relating to the Subject Matter (such information and materials, and any derivatives thereof, the "Confidential Information").

NOW, THEREFORE, the parties agree as follows:

1. Confidential Information as used in this Agreement shall mean all technical and non-technical proprietary and confidential information and materials which relate to the business or interests of either party or of any third party to whom either party owes a duty of confidentiality, including, but not limited to: patent and patent applications, ideas, techniques, sketches, drawings, works of authorship, website password and password-protected content, models, inventions, know-how, processes, equipment, gene sequences, cell lines, samples, vectors, clones, media, chemical compounds, biological materials, algorithms, software programs, software source documents, and formulae, information concerning research, experimental work, development, strategy, finances, purchasing, manufacturing, customers, forecasts or sales and marketing that relates to the Subject Matter or that, although not related to the Subject Matter, is nevertheless disclosed and should reasonably have been understood by either party, because of legends or other markings, the circumstances of disclosure or the nature of the information itself, to be proprietary and confidential.
2. Each party may use the Confidential Information of the other party only for the purposes of evaluating or pursuing a collaborative relationship with the other party. Neither party will make, use, or disseminate, or in any way disclose any Confidential Information of the other party to any person, firm or business. Each party shall only permit access to Confidential Information of the other party to those of its employees or authorized

representatives having a need to know and who have signed confidentiality agreements or are otherwise bound by confidentiality obligations at least as restrictive as those contained herein. Notwithstanding the above, the party to whom Confidential Information is disclosed (the "Recipient") shall not be in violation of this Section 2. with regard to a disclosure that is in response to a valid order by a court or other governmental body, provided that the recipient provides the other party with prior written notice of such disclosure in order to permit the other party to seek confidential treatment of such information.

3. Such restrictions on use or disclosure of Confidential Information are set forth in this Agreement do not extend to any item of information which: (a) is at the time of disclosure is in the public domain, or became a part of the public domain through no fault or omission of the Recipient, (b) is as shown by written records, already known by the Recipient, (c) is revealed to the Recipient by a third party who does not thereby breach any obligation of confidentiality and who discloses such information in good faith.
4. Each party shall treat all Confidential Information of the other party disclosed under this Agreement as the strictly confidential and exclusive property of the other party. Upon termination or expiration of this Agreement, or upon written request of the other party, each party shall promptly destroy or return to the other all documents and other tangible materials representing the other's Confidential Information and all copies thereof.
5. No license or other rights under any patents, patent applications, copyrights, or any other intellectual property rights are conveyed by the disclosure of Confidential Information by one party to the other under this Agreement; nor is either party bound to enter into any business relationship with the other party as a result of any disclosures of Confidential Information under this Agreement. None of the Confidential Information which may be disclosed or exchanged by the parties under this Agreement shall constitute any representation, warranty, assurance, guarantee or inducement by either party to the other of any kind. Neither party shall have any liability or responsibility to the other party for errors or omissions in any decisions made in reliance on any confidential information disclosed under this Agreement.
6. Neither party shall in any way or in any form disclose, publicize or advertise in any manner the discussions that give rise to this Agreement or the discussions or negotiations covered by this Agreement without the prior written consent of the other party.
7. This Agreement shall become effective as of the Effective Date and shall automatically terminate \_\_\_\_\_ year thereafter; provided, however, that either party may earlier terminate this Agreement at any time by written notice to the other.
9. Both parties 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 (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.

8. This Agreement constitutes the entire understanding between the parties hereto with respect to the subject matter hereof and merges any and all prior agreements, understandings and representations related to such subject matter. This Agreement may not be superseded, amended or modified except by written agreement between the parties hereto. This Agreement may not be assigned or transferred without the prior written consent of both parties, which consent shall not be unreasonably withheld; provided, however, that either party may assign this Agreement to any person or entity which acquires all or substantially all of its business or assets (or of the business division or product line of such party to which the information primarily relates).
9. This Agreement shall be governed and construed in accordance with the laws of the State of Michigan.

10. If any provision of this Agreement shall be rendered unenforceable, the remainder shall be enforced as fully as possible and the unenforceable provision shall be deemed modified to the limited extent required to permit its enforcement in a manner most closely approximating the intention of the parties as expressed herein.
11. This Agreement is the complete agreement of the parties concerning the subject matter hereof and supersedes any prior such agreements.

IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be executed by its duly authorized representatives as of the date first written above.

\_\_\_\_\_

**GRAND VALLEY STATE UNIVERSITY**

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

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

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

PROPERTY OF GRAND VALLEY STATE UNIVERSITY