



Draft – For discussion purposes
Subject to additional due diligence

Testing Services Agreement

This Testing Services Agreement (this “**Agreement**”), dated as of _____, 2020 (the “**Effective Date**”), is by and between Ark Laboratory, LLC dba Helix Diagnostics, a Michigan limited liability company, 6620 Highland Road, Suite 240, Waterford, MI 48327 (“**Helix**”) and _____ University, a Michigan nonprofit corporation, with offices located at _____ (“**Client**” and together with Helix, the “**Parties**”, and each a “**Party**”).

Recitals

A. Helix has the capability and capacity to provide certain medical testing services as described in this Agreement and Exhibits attached to this Agreement; and

B. Client desires to retain Helix to provide the services, and Helix is willing to perform such services under the terms and conditions in this Agreement;

In consideration of the mutual covenants and agreements set forth in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Helix and Client agree as follows:

1. Services. Helix shall, on a non-exclusive basis, provide to Client the services (the “**Services**”) set out in one or more statements of work to be issued by Client and accepted by Helix (each, a “**Statement of Work**”) and Client retains Helix, on an exclusive basis, to perform the Services, including and without limitation, COVID 19 testing as described on Exhibit A. The initial accepted Statement of Work is attached to this Agreement as Exhibit A. Additional Statements of Work shall be deemed issued and accepted only if signed by the Helix Contract Manager and the Client Contract Manager (each defined below), appointed pursuant to Section 2.2 and Section 3.1, respectively.

2. Helix Obligations. Helix shall:

2.1 Designate a number of employees or independent contractors that it determines, in its sole reasonable discretion, to be capable of performing the Services.

2.2 Identify a primary contact to act as its authorized representative with respect to all matters pertaining to this Agreement (the “**Helix Contract Manager**”).

2.3 Require that the Helix Contract Manager respond promptly to any reasonable request from Client for instructions, information, or approvals required by Client in connection with receiving the Services

2.4 Provide all testing supplies and equipment to collect samples.

2.5 Use its best efforts to ensure that its turn-around time for delivering laboratory test result reports to Client shall not exceed seventy-two (72) hours from the time of receipt at Helix’s designated laboratory to the time a detailed lab report is received by Client or the turn-around time specified on

Exhibit A with respect to particular tests, in which event Helix shall use its best efforts to meet the turn-around times set forth on Exhibit A for those tests. If there is a delay in reported results or additional testing is required to confirm or clarify the result of a specific test or sample, and the additional testing cannot be performed within the applicable turn-around time, Helix shall notify Client when results will be available.

2.6 Cooperate with Client with respect to the performance of the Services.

3. Client Obligations. Client shall:

3.1 Designate one of its employees to serve as its primary contact with respect to this Agreement and to act as its authorized representative with respect to matters pertaining to this Agreement (the “**Client Contract Manager**”), with such designation to remain in force unless and until a successor Client Contract Manager is appointed.

3.2 Require that the Client Contract Manager respond promptly to any reasonable requests from Helix for instructions, information, or approvals required by Helix to provide the Services.

3.3 Provide for Helix’s exclusive use a private room and/or appropriate outdoor accommodations on site of Client’s premises to perform the Services, including the safe collection of samples, in compliance with all local, state, and national social distancing and health guidelines, which premises shall be available to Helix Monday through Friday, 8:00 am to 8:00 pm each day.

3.4 Identify the individuals subject to testing and prepare, with Helix’s input and approval, and deliver communications to such individuals regarding the testing process, requirements, location(s), date(s), time(s), etc.

3.5 Require the individuals presented to Helix from which it will obtain samples to review and execute the appropriate HIPAA releases and consent forms with the understanding by Client and each such individual must consent to the release of the test results for such individual to the State of Michigan, Oakland County, Client, and any other party directed or required of any governmental authority by law, regulation, ordinance, policy or otherwise.

3.6 Cause to be provided no less than _____,000 testing samples subject to the Services, within not longer than twelve months from the Effective Date.

3.7 Cooperate with Helix in its performance of the Services and provide access to Client's premises, employees, contractors, and equipment as required to enable Helix to provide the Services.

3.8 Take all steps necessary, including obtaining and paying for any required licenses, consents, or permits necessary or required for Helix's provision of the Services to Client, other than those licenses required of Helix's personnel necessary for their respective clinic functions (i.e., LARA and related licensing).

3.9 Reasonably promote Helix and its Services to other members of Michigan Independent Colleges & Universities and assist with establishing similar service agreements between Helix and such other members.

3.10 Subject to Section 1, obtain from Helix any services, on an exclusive basis, (i) similar to or the same as the Services or for the same or similar purpose, including, not limited to, services available through alternative means of testing to those set forth in the Statement of Work and testing for antibodies

for conditions diagnosed through the current Services; and/or (ii) to conduct drug testing of its employees, independent contractors, or other persons associated with Client pursuant to Client's policies and procedures.

3.11 Notify Helix of any complaint within twenty-four (24) hours of occurrence. Any complaint not provided within such time shall be deemed a waiver by Client and acceptance of the Services.

4. Fees and Expenses.

4.1 In consideration of the provision of the Services by Helix and the rights granted to Client under this Agreement, Client shall pay the fees set out in Helix's then current fee schedule attached to this Agreement as **Exhibit B** (the "**Fee Schedule**") (referred to on Exhibit B as the "**Fees**" and "**Complete Fees**"). The fee for the Services shall not increase unless agreed to, in writing, by Client. Unless otherwise provided in the Statement of Work, said fee will be payable within thirty (30) days of receipt by the Client of an invoice from Helix.

4.2 Any additional expenses incurred by Helix in the performance of this Agreement shall be submitted to Client in advance for pre-approved in writing by the Client Contract Manager not less than fifteen (15) days prior to the required purchase of such expenses and Helix will provide Client with a copy of the invoice and supporting documentation.

4.3 Client shall be responsible for all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, state or local governmental entity on any amounts payable by Client hereunder; provided, that, in no event shall Client pay or be responsible for any taxes imposed on, or regarding, Helix's income, revenues, gross receipts, personnel, or real or personal property or other assets.

4.4 Except for invoiced payments that the Client has successfully disputed, all late payments shall bear interest at the lesser of (a) the rate of 4% per month and (b) the highest rate permissible under applicable law, calculated daily and compounded monthly. Client shall also reimburse Helix for all reasonable costs incurred in collecting any late payments, including, without limitation, attorneys' fees. In addition to all other remedies available under this Agreement or at law (which Helix does not waive by the exercise of any rights hereunder), Helix shall be entitled to suspend the provision of any Services if the Client fails to pay any fees when due under this Agreement.

5. Intellectual Property.

5.1 Intellectual Property Rights. All intellectual property rights, including copyrights, patents, patent disclosures and inventions (whether patentable or not), trademarks, service marks, trade secrets, know-how and other confidential information, trade dress, trade names, logos, corporate names and domain names, together with all of the goodwill associated therewith, derivative works, works developed by Helix, its employees, agents, or affiliates while rendering the Services (related or unrelated thereto) and all other rights (collectively, "**Intellectual Property Rights**") in and to all documents, work product and other materials that are delivered to Client under this Agreement or prepared by or on behalf of Helix in the course of performing the Services, including any items identified as such in the Statement of Work, except for any Confidential Information of Client or Client materials shall be owned by Helix. Except as provided in Section 5.2, Helix shall have no right to utilize any of the intellectual property of Client and shall specifically not use Client's name, logo, photographs or any likenesses without the prior written permission of Client.

5.2 Publicity. Client grants to Helix a perpetual right to use of Client's name, domain name(s), logo, trademark, service mark, for the sole purpose of Helix publicizing its portfolio of clients and examples of its work-product and services to others ("Helix Client Portfolio Reference"). Client acknowledges that Helix may use the Helix Client Portfolio Reference in various formats and media, including, without limitation, a banner at Client's campus showing the affiliation between Client and Helix in providing COVID 19 testing to Client's faculty and students, Helix's marketing materials, Helix's website, slide presentations and other formats and media as determined appropriate by Helix.

6. Confidentiality. From time to time during the Term of this Agreement, either Party (as the "**Disclosing Party**") may disclose or make available to the other Party (as the "**Receiving Party**"), non-public, proprietary, and confidential information of Disclosing Party, including, but not limited to, organizational information, marketing plans, financial information, and information regarding clients, vendors, suppliers, and employees ("**Confidential Information**"); provided, however, that Confidential Information does not include any information that: (a) is or becomes generally available to the public other than as a result of Receiving Party's breach of this Section 6; (b) is or becomes available to the Receiving Party on a non-confidential basis from a third-party source, provided that such third party is not and was not prohibited from disclosing such Confidential Information; (c) was in Receiving Party's Group's (as defined below) possession prior to Disclosing Party's disclosure under this Agreement; (d) was or is independently developed by Receiving Party without using any Confidential Information; or (e) is required to be disclosed in accordance with law or court order. The Receiving Party shall: (x) protect and safeguard the confidentiality of the Disclosing Party's Confidential Information with at least the same degree of care as the Receiving Party's Group would protect its own Confidential Information, but in no event with less than a commercially reasonable degree of care; (y) not use the Disclosing Party's Confidential Information, or permit it to be accessed or used, for any purpose other than to exercise its rights or perform its obligations under this Agreement; and (z) not disclose any such Confidential Information to any person or entity, except to the Receiving Party's representatives who need to know the Confidential Information to assist the Receiving Party, or act on its behalf, to exercise its rights or perform its obligations under this Agreement.

If the Receiving Party is required by applicable law or legal process to disclose any Confidential Information, it shall, prior to making such disclosure, use commercially reasonable efforts to notify Disclosing Party of such requirements to afford Disclosing Party the opportunity to seek, at Disclosing Party's sole cost and expense, a protective order or other remedy. For purposes of this Section 6 only, Receiving Party's Group shall mean the Receiving Party's affiliates and its or their employees, officers, directors, shareholders, partners, members, managers, agents, independent contractors, service providers, sublicensees, subcontractors, attorneys, accountants, and financial advisors. Each Receiving Party shall promptly return all Confidential Information of the other Party it holds in written form and all copies of it upon the Disclosing Party's written demand, except for Confidential Information that may be incorporated in any information that the Receiving Party is required to maintain by law to verify the work that it performed, which may be retained by such Party subject to the restrictions contained in this Section.

7. Term, Termination, and Survival.

7.1 This Agreement shall commence as of the Effective Date and shall continue thereafter until the completion of the Services under all Statements of Work (the "**Term**") unless sooner terminated pursuant to Section 7.2 or Section 7.3.

7.2 Either Party may terminate this Agreement, effective upon written notice to the other Party (the "**Defaulting Party**") if the Defaulting Party:

(a) Materially breaches this Agreement, and such breach is incapable of cure, or with respect to a material breach capable of cure, the Defaulting Party does not cure such breach within thirty (30) days after receipt of written notice of such breach.

(b) Becomes insolvent or admits its inability to pay its debts generally as they become due.

(c) Becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law, which is not fully stayed within seven (7) business days or is not dismissed or vacated within forty-five (45) days after filing.

(d) Is dissolved or liquidated or takes any corporate action for such purpose.

(e) Makes a general assignment for the benefit of creditors.

(f) Has a receiver, trustee, custodian, or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.

7.3 Notwithstanding anything to the contrary in Section 7.2(a), Helix may terminate this Agreement before the expiration date of the Term on written notice if Client fails to pay any amount when due under this Agreement: (a) and such failure continues for ten (10) days after Helix's delivery of written notice of nonpayment; or (b) more than two (2) times in any six (6)-month period.

7.4 The rights and obligations of the Parties set forth in this Section 7 and in Sections 6, 8, 9, 10, 11, 12 and any right or obligation of the Parties in this Agreement which, by its nature, should survive termination or expiration of this Agreement, will survive any such termination or expiration of this Agreement.

8. Limitation of Liability.

8.1 EXCEPT AS PROVIDED HEREIN, HELIX MAKES NO WARRANTIES. ALL WARRANTIES, EXPRESS AND IMPLIED, ARE EXPRESSLY DISCLAIMED.

8.2 IN THE EVENT THAT HELIX FAILS TO PERFORM UNDER THIS AGREEMENT, THEN CLIENT SHALL FIRST SEEK TO OBTAIN A RECOVERY FROM HELIX' INSURANCE POLICIES PRIOR TO MAKING OR ISSUING A CLAIM AGAINST HELIX. HOWEVER, IN NO EVENT SHALL HELIX BE LIABLE TO CLIENT OR TO ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE, OR PROFIT OR LOSS OF DATA OR DIMINUTION IN VALUE, OR FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGE WAS FORESEEABLE AND WHETHER OR NOT HELIX HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

8.3 IN NO EVENT SHALL HELIX'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EXCEED THE FEES ACTUALLY PAID TO HELIX PURSUANT TO THE APPLICABLE STATEMENT OF WORK,

PROVIDED SUCH STATEMENT OF WORK WAS ENTERED INTO IN THE 12-MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM.

9. Regulatory Compliance.

9.1 Compliance with Law/Material Breach. Each Party represents and warrants that in the performance of its obligations under this Agreement, it will comply with all applicable laws, rules, or regulations that pertain to its business operations and to this Agreement (“**Applicable Laws**”). Failure by either Party to comply with any Applicable Law as required by this Agreement shall be considered a material breach of this Agreement. In the event of a determination that this Agreement is not in compliance with any Applicable Law, then the Parties shall negotiate in good faith to bring this Agreement into compliance.

9.2 HIPAA/FERPA Compliance. Each Party represents and warrants that it shall protect the privacy, integrity, security, confidentiality and availability of the protected health information disclosed to, used by, or exchanged by the Parties by implementing and maintaining privacy and security policies, procedures, and practices, and administrative, physical and technological safeguards and security mechanisms that reasonably and adequately protect the confidentiality, integrity and availability of the protected health information created, received, maintained or transmitted under this Agreement, all as required by, and set forth more specifically in, the Health Insurance Portability and Accountability Act of 1996 (HIPAA) or related privacy regulations, as applicable, and Client represents and warrants that it shall further comply with the Family Educational Rights and Privacy Act (FERPA), as, in each case, may be amended from time to time. In the event HIPAA or FERPA or other the privacy regulations or security regulations require any addition to or modification of this Agreement, the Parties shall use commercially reasonable efforts to agree upon such additions or modifications in a timely manner. If such agreement cannot be reached in a timely manner, either Party may terminate this Agreement by written notice to the other Party.

10. Insurance. During the term of this Agreement, each of Client and Helix shall, at its own expense, maintain and carry insurance with financially sound and reputable insurers, in full force and effect that includes, but is not limited to, commercial general liability in the minimum amounts of one million dollars (\$1,000,000) per claim and two million dollars (\$2,000,000) annually in the aggregate. Upon the other’s request, each shall provide the other with a certificate of insurance from the insurer evidencing the insurance coverage specified in this Agreement (or if either self-insures, documented proof of the existence of a self-insurance program meeting the requirements set forth in this Section). The certificate of insurance shall name the other as an additional insured. Each shall provide the other with thirty (30) days’ advance written notice in the event of a cancellation or material change in the insurance policies. Except where prohibited by law, each shall require its insurer to waive all rights of subrogation against the other’s insurers. If such insurance is of the “claims made” type, each agrees that the insurance shall be continued for a period of at least four (4) years after the termination of this Agreement, or each shall purchase extended reporting period insurance (also known as “tail coverage”) to extend the insurance for a minimum of four (4) years after the termination of this Agreement.

11. Entire Agreement. This Agreement, including and together with any related Statements of Work, exhibits, schedules, attachments and appendices, constitutes the sole and entire agreement of the Parties with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, regarding such subject matter. The Parties acknowledge and agree that if there is any conflict between the terms and conditions of this Agreement and the terms and conditions of any Statement of Work, the terms and conditions of this Agreement shall supersede and control.

12. Notices. All notices, requests, consents, claims, demands, waivers and other communications under this Agreement (each, a “**Notice**”, and with the correlative meaning “**Notify**”) must be in writing and addressed to the other Party at its address set forth below (or to such other address that the receiving Party may designate from time to time in accordance with this Section). Unless otherwise agreed herein, all Notices must be delivered by personal delivery, nationally recognized overnight courier or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only (a) on receipt by the receiving Party; and (b) if the Party giving the Notice has complied with the requirements of this Section 12.

Notice to Client:

Attention: _____

Notice to Helix:

6620 Highland Road, Suite 240,
Waterford, MI 48327

Attention: Brian Tierney

13. Severability. If any term or provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon a determination that any term or provision is invalid, illegal or unenforceable, the Parties shall negotiate in good faith to modify this Agreement to effect the original intent of the Parties as closely as possible in order that the transactions contemplated by this Agreement be consummated as originally contemplated to the greatest extent possible.

14. Amendments. No amendment to or modification, rescission, termination or discharge of this Agreement is effective unless it is in writing and signed by an authorized representative of each Party.

15. Waiver. No waiver by any Party of any of the provisions of this Agreement shall be effective unless explicitly set forth in writing and signed by the Party so waiving. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

16. Assignment. Client shall not assign, transfer, delegate or subcontract any of its rights or delegate any of its obligations under this Agreement without the prior written consent of Helix. Any purported assignment or delegation in violation of this Section 16 shall be null and void. No assignment or delegation shall relieve the Client of any of its obligations under this Agreement. Helix may assign any of its rights or delegate any of its obligations to any person, entity or organization acquiring all or substantially all of Helix's assets or more than fifty percent (50%) of the equity of Helix without Client's consent.

17. Successors and Assigns. This Agreement is binding on and inures to the benefit of the Parties and their respective permitted successors and permitted assigns.

18. Relationship of the Parties. The relationship between the Parties is that of independent contractors. The details of the method and manner for performance of the Services by Helix shall be under its own control, Client being interested only in the results thereof. Helix shall be solely responsible for supervising, controlling and directing the details and manner of the completion of the Services.

Nothing in this Agreement shall give the Client the right to instruct, supervise, control, or direct the details and manner of the completion of the Services. The Services must meet the Client's final approval and shall be subject to the Client's general right of inspection throughout the performance of the Services and to secure satisfactory final completion. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the Parties, and neither Party shall have authority to contract for or bind the other Party in any manner whatsoever.

19. No Third-Party Beneficiaries. This Agreement benefits solely the Parties to this Agreement and their respective permitted successors and assigns and nothing in this Agreement, express or implied, confers on any other person, entity, or organization any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

20. Choice of Law. This Agreement and all related documents, including all exhibits attached to this Agreement, and all matters arising out of or relating to this Agreement, whether sounding in contract, tort, or statute, are governed by, and construed in accordance with, the laws of the State of Michigan, United States of America, without giving effect to the conflict of law provisions thereof to the extent such principles or rules would require or permit the application of the laws of any jurisdiction other than those of the State of Michigan.

21. Choice of Forum. Each Party irrevocably and unconditionally agrees that it will not commence any action, litigation or proceeding of any kind whatsoever against the other Party in any way arising from or relating to this Agreement, including all exhibits, schedules, attachments and appendices attached to this Agreement, and all contemplated transactions, including contract, equity, tort, fraud and statutory claims, in any forum other than the Sixth Judicial Circuit Court of the State of Michigan, the 51st District of the State of Michigan or the United States District Court of the Eastern District of Michigan, Southern Division, as dictated by the applicable jurisdiction of the court. Except as otherwise required by law or court rule, venue is proper in the courts set forth above. The choice of forum set forth above shall not be deemed to preclude the enforcement of any judgment obtained in such forum or taking action under this Agreement to enforce such judgment in any appropriate jurisdiction.

22. WAIVER OF JURY TRIAL. EACH PARTY ACKNOWLEDGES THAT ANY CONTROVERSY THAT MAY ARISE UNDER THIS AGREEMENT, INCLUDING EXHIBITS, SCHEDULES, ATTACHMENTS, AND APPENDICES ATTACHED TO THIS AGREEMENT, IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, EACH SUCH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT, INCLUDING ANY EXHIBITS, SCHEDULES, ATTACHMENTS OR APPENDICES ATTACHED TO THIS AGREEMENT, OR THE TRANSACTIONS CONTEMPLATED HEREBY.

23. Counterparts; Electronic Signatures. This Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement. Notwithstanding anything to the contrary in Section 12, a signed copy of this Agreement delivered by facsimile, email, or other means of electronic transmission is deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

24. Force Majeure. Helix shall not be liable or responsible to Client, nor be deemed to have defaulted or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of Helix including, without limitation, acts of God, flood, fire, earthquake,

explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, revolution, insurrection, epidemic, pandemic, lock-outs, strikes or other labor disputes (whether or not relating to either Party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, materials or telecommunication breakdown or power outage, provided that, if the event in question continues for a continuous period in excess of five (5) days, Client shall be entitled to give notice in writing to Helix to terminate this Agreement, but Client shall be responsible for payment of the Fee described on Exhibit A without penalty and without any further obligation.

[Signatures appear on the following page]

Signature Page to Testing Services Agreement

The Parties have caused this Agreement to be executed as of the Effective Date by their respective duly authorized officers.

“Client”

**University, a
nonprofit corporation**

By: _____
Its: President

“Helix”

**Ark Laboratory, LLC, a Michigan limited
liability company (dba Helix Diagnostics)**

By: Brian Tierney
Its: Founding Partner

EXHIBIT A

INITIAL STATEMENT OF WORK

Services is defined to mean that Helix will provide Client and Client will guaranty Helix a minimum of _____,000 Molecular Pathogen Detection Testing for COVID 19 during the period of _____ to _____ subject to the terms and conditions of the Agreement.

Helix may provide Antibody Serum testing for _____ University at a future date with an amount per test to be determined beyond this agreement.

EXHIBIT B
FEE SCHEDULE

1. Fee. In exchange for the Services, Client shall pay to Helix seventy dollars (\$____.00) per sample collected (the “**Fee**”). Initially, Client shall provide Client with _____,000 samples (“**Guaranteed Tests**”) for testing, the Fee for which shall be _____ thousand (\$_____,000) dollars (“**Service Fees**”) and Client shall pay as provided in Section 2 below. Fees for samples in excess of _____,000 shall be paid in accordance with the terms of the Agreement or as otherwise agreed by the Parties.
2. Payment Schedule. Client shall pay the Initial Fee by check or by Automated Clearing House electronic payments, as determined by Helix, as follows:
 - A. \$_____,000 upon Client’s execution of this Agreement (“**First Installment**” aka “**Initial Fee**”). Notwithstanding any provision in this Agreement to the contrary, the Initial Fee payment shall be non-refundable and necessary for Helix to advance pay for the cost to perform the Services, including without limitation, payment for the cost of COVID 19 test kits.
 - B. \$_____,000 on or before _____ (“**Second Installment**”).
 - C. \$_____,000 on or before _____ (“**Third Installment**”).
3. No Refund/Reimbursement. The Initial Fee and all other payments issued by Client to Helix shall be deemed nonrefundable for any reason or purpose.
4. Payment to Helix upon Termination of Agreement by Client. In the event that Client terminates this Agreement due to no fault by Helix, then in addition to the Initial Fee, Client shall pay Helix the sum of 20% of the Guaranteed Tests not performed by Helix as liquidated damages. For example, and for avoidance of doubt, if Client terminates this Agreement due to no fault by Helix and after Helix has performed _____ COVID 19 tests, then Client shall pay Helix \$_____,000 (_____ unperformed tests multiplied by \$____ per test) as liquidated damages.
5. Failure to Perform and Payment by Client. In the event that Helix is unwilling or unable to perform the Services in whole or part, then Helix and Client will coordinate a mutually agreeable time for Helix to perform and complete the Services described in this Agreement (“**Opportunity to Cure**”). Helix shall have not less than fifteen (15) days from the date that the Client Contract Manager notifies Helix in writing that Helix has not performed the Services as required under this Agreement (“**Cure Period**”). In the event that Helix is unable or unwilling to perform the Services during the Cure Period, then Client may withhold payment from the Third Installment (listed above) equal to the Fee per sample multiplied by the number of students tested, which is less than _____ thousand (_____,000).
 - a. For clarity and for avoidance of doubt the following examples shall control and govern Section 4 under this Agreement:
 - i. Example #1. In the event that Helix attempts to perform the Services at Client’s premises, but due to no fault of Helix, including without limitation, (i) Client’s

facility and students do not participate in the COVID 19 testing; or (ii) Client's faculty and students do not attend the COVID 19 testing during Helix's hours of operation at Client's premises; or (iii) Client's faculty and Students obtain COVID 19 testing from other sources; or Client's faculty or students are not sufficiently directed by Client to get tested for COVID 19 by Helix, then in such events, Helix's failure to perform the Services shall not be deemed a default by Helix and Client shall be required to pay Helix the complete Service Fees of \$____,000 as described herein even if Helix performs less than __,000 COVID 19 tests as described in this Agreement.

- ii. Example #2. If Helix is legally prohibited from performing the Services on Client's premises due to a Force Majeure event, then Client shall only be responsible for paying Helix the Initial Fee plus an amount equal to the number of COVID 19 test performed by Helix multiplied by the Fee of \$__ per test actually performed.
- iii. Example #3. If Helix performs __,000 COVID 19 tests, but is unable or unwilling to perform the additional tests due to Helix' own fault or lack of staffing, then, Client may withhold from the Third Installment the sum of \$__,000 (__ ,000 tests not performed by Helix multiplied by \$__ per test).