

CONSULTING AGREEMENT

This CONSULTING AGREEMENT (“Agreement”) is effective as of _____, by and between MARQUETTE UNIVERSITY, a Wisconsin nonstock corporation (“Marquette”) and _____ (“Consultant”).

RECITAL

Marquette and Consultant desire to enter into this Agreement to provide for each party’s responsibilities with respect to the program services described on attached Exhibit A (the “Program Services”).

AGREEMENTS

In consideration of the recital and other good and valuable consideration, Marquette and Consultant agree as follows:

1. Consultant Responsibilities. Consultant will perform the Program Services.
2. Fees and Payments. Marquette shall pay Consultant the amount set forth on Exhibit A. Consultant is an independent contractor and shall be solely and personally responsible for all federal, state and local taxes, contributions and premiums with regard to such payments.
3. Term. The term of this Agreement shall be from the date of this Agreement until completion of the Program Services and payment therefor by Marquette. Other than for material breach of the Agreement, this Agreement may not be terminated by either party except that Marquette may immediately terminate this Agreement upon the death or incapacity of Consultant in order to provide for the timely completion of Consultant’s services.
4. Ownership of Work Product. Consultant hereby sells, assigns, grants and transfers to Marquette all right, title and interest in any reports, documents or other copyrighted materials prepared by Consultant for Marquette pursuant to this Agreement, including all copyrights, renewals and extensions thereof. Consultant represents and warrants to Marquette that no third party shall have any rights in any reports, documents, or other copyrighted materials prepared by Consultant for Marquette pursuant to this Agreement and that Consultant has the authority to deliver title to any reports, documents, or other copyrighted materials prepared by Consultant for Marquette pursuant to this Agreement.
5. Nondisclosure of Confidential Information. Consultant will not, either directly or indirectly, as an employee, agent, consultant, partner, shareholder or in any other capacity, use or disclose any confidential or proprietary information, including without limitation employee and student data, financial data and mailing lists (the “Confidential Information”) of Marquette for any purpose other than performance of the Program Services. Unless Consultant has obtained the prior written consent of Marquette to the contrary, Consultant will not disclose the Confidential Information to any third parties and Consultant shall limit disclosure of the Confidential Information to Consultant employees with a need to know the Confidential Information. Consultant agrees that it is responsible for any breach of this Agreement by its officers, directors, shareholders, employees, consultants and agents. This section 5 will not apply to any information that Consultant can demonstrate by written evidence (a) was known to Consultant prior to the disclosure to Consultant by Marquette or (b) has become public knowledge without a breach of this Agreement or other confidentiality obligation.

6. Delivery of Documents. Marquette may discontinue furnishing or making available access to Confidential Information at any time in the sole discretion of Marquette. Upon demand by Marquette, Consultant shall promptly deliver to Marquette all Confidential Information and all correspondence, designs, sketches, drawings, manuals, letters, notes, computer diskettes, computer or voice tapes, notebooks, reports or any other documents or media embodying or concerning the Confidential Information that came into Consultant's possession, by any means whatsoever, during the term of and performance of the Services.

7. Insurance. If the amount paid to Consultant under this Agreement is in excess of \$2,000, Consultant shall maintain the following insurance policies from insurers licensed to do business in the State of Wisconsin: (a) commercial general liability (CGL) insurance of not less than \$1,000,000/occurrence and \$2,000,000 aggregate; (b) worker compensation insurance in accordance with applicable state statutory limits; (c) automobile insurance in the amount of \$1,000,000 (including coverage for insured, uninsured, underinsured, owned and non-owned vehicles). Certificates of insurance shall be provided upon request of Marquette. Where liability insurance is required, Marquette shall have no duty to pay any invoice until proof of liability insurance with appropriate minimum limits is provided to Marquette by Consultant.

To the extent that Consultant is an individual person or sole proprietorship and that Consultant has no employees except for the individual performing the services, the preceding insurance provision shall not apply, but the following language shall apply. Marquette and Consultant are independent contractors. Nothing in this Agreement shall be understood or construed to create or imply any relationship between Marquette and Consultant in the nature of any joint venture, employer/employee, principal/agent, or partnership. Neither Marquette nor Consultant shall have the authority to, nor shall either attempt to, assume any obligation by or on behalf of the other. Consultant shall in no way become an employee of Marquette by performing services under this Agreement and is not eligible for worker compensation benefits from Marquette. Therefore, Consultant agrees and understands that, as an independent contractor, Consultant may be required by applicable law to provide Consultant's own Worker Compensation insurance coverage. *See, e.g.,* § 102.04(1)(b)2, Wis.Stats. Consultant or Consultant's worker compensation insurer shall be responsible for health and medical bills for sickness and injury, including sickness or injury that may be suffered by Consultant while working on or arising from activities covered by this Agreement. Consultant also understands the need to purchase, and has considered the purchase of, individual health insurance and benefit coverage as may be applicable to Consultant's needs, apart from worker compensation insurance coverage. In addition, Consultant understands and agrees that financial responsibility for Consultant's legal liability arising from Consultant's actions and activities shall rest with Consultant. Therefore, Consultant should effect and maintain any insurance coverage, including but not limited to General Business and Automobile Liability policies, necessary to assure Consultant's financial obligations and legal liability. Personal liability coverage afforded by standard Homeowners/Rental Owners and Automobile policies may meet this obligation if endorsed for business use. Consultant should obtain whatever review by Consultant's insurer or agent of Consultant's insurance needs as Consultant deems necessary to assure that adequate insurance coverage and protection has been obtained by Consultant.

8. Relationship. The parties hereto are independent contractors. Nothing in this Agreement shall be understood or construed to create or imply any relationship between the parties in the nature of any joint venture, employer/employee, principal/agent or partnership. Consultant shall in no way become an employee of Marquette. Neither party is authorized to nor shall any party represent itself as, the agent, representative, partner or joint venturer of the other party unless agreed upon by both parties in specified circumstances. Consultant shall make clear to all third-parties that Consultant is an independent contractor and consultant to Marquette and that Consultant is not an employee or official of Marquette. Neither party shall have the authority to nor shall either party attempt to assume any obligation by or on behalf of the other party.

9. Expenses. Except as expressly provided to the contrary in this Agreement, all expenses incurred by the parties shall be the sole responsibility of the party who ordered the service or incurred the particular

expense.

10. Governing Law. This Agreement shall be governed by and construed exclusively in accordance with the laws of the State of Wisconsin, regardless of choice of law requirements. The parties hereby consent to the jurisdiction of the state courts of Wisconsin and of any federal court in the venue of Wisconsin for the purpose of any suit, action or proceeding arising out of or related to this Agreement and expressly waive any and all objections they may have as to venue in any of such courts.

11. Assignment. This Agreement may not be assigned without the written consent of the other party. Consultant's services are personal in nature and may not be assigned or delegated to any other person.

12. Entire Agreement. This Agreement represents the entire Agreement between the parties and supersedes any prior oral or written understandings with respect to the Program. This Agreement may only be amended by an agreement signed in writing by all of the parties hereto. Upon execution, this Agreement will be a valid and binding obligation of each party and enforceable in accordance with its terms.

13. University Purchase Order. Any purchase order issued by Marquette in connection with this Agreement is intended to establish payment authority for Marquette's internal accounting purposes. The terms and conditions of any such purchase order do not constitute a counteroffer, amendment, modification, revision, or supplement to the terms of this Agreement, and no term or condition of any such purchase order shall be part of this Agreement. It is agreed, however, that all invoices not referencing a valid University Purchase Order Number for the amount invoiced will be rejected, and the total amount invoiced or paid under this Agreement may not be greater than the amount stated on the University Purchase Order(s) applicable to this Agreement.

CONSULTANT:

MARQUETTE UNIVERSITY

BY _____

BY _____

Print Name: _____

Print Name: _____

FEIN/SSN: _____

Print Title: _____

EXHIBIT A

Program Services

Description of Program Services:

Date(s) for Program Services:

Date for Final Completion of Program Services:

Payment for Program Services:

Date(s) for Payment(s):