

**MUTUAL NONDISCLOSURE AGREEMENT BETWEEN**

**BUCKNELL UNIVERSITY**

**And**

\_\_\_\_\_

This MUTUAL NONDISCLOSURE AGREEMENT (“Agreement”) is made by and between Bucknell University, a non-profit institution of higher education located at One Dent Drive, Lewisburg, Pennsylvania 17837 (“Bucknell”), and \_\_\_\_\_ (“Company”), having an address at \_\_\_\_\_, each of which may be referred to herein as a “Party” or collectively, the “Parties”.

In consideration of the mutual covenants of this Agreement and intending to be legally bound hereby, the Parties agree as follows:

1. **Terms:** These terms have the following definitions in this Agreement:

“Disclosing Party” is the Party disclosing Confidential Information

“Opportunity” means the potential business relationship between the Parties

“Receiving Party” is the Party receiving Confidential Information

“Representatives” means the controlled affiliates of either Party, and the respective directors, officers, employees, attorneys, consultants and other agents and advisors of either Party or of their controlled affiliates.

2. **Purpose:** The Parties recognize that it may be necessary for the Parties to disclose information to one another that the Disclosing Party considers its proprietary and confidential information (“Confidential Information”) to fulfill the following purpose (the “Purpose”):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. **Confidential Information:** In connection with ongoing discussions between Bucknell and Company concerning the Opportunity, the Parties may disclose or provide to each other certain proprietary and confidential information including without limitation, information concerning studies, protocols, financials, customers, trade secrets, patents, patent applications, business plans, strategies, pricing, technology, know-how and/or processes pertaining to current, future and proposed business development plans, products or services, whether disclosed before or after the execution of this Agreement (“Confidential Information”). Confidential Information may take the form of documentation, drawings, specifications, software, technical or engineering data, and other forms, and may be communicated orally, in writing, by electronic or magnetic media, by visual observation and by other means, and includes any reports, analyses, studies or other materials, whether prepared by the Receiving Party or otherwise, that contain or are based upon Confidential Information covered by this Agreement, and derivatives thereof. In addition, the terms of this Agreement shall be deemed Confidential Information of both Parties.

4. **Exclusions:** Confidential Information shall not include any information that the Receiving Party can reasonably demonstrate through documentation:

- a. was previously known to such Party free of any obligation to keep it confidential; or
  - b. is or becomes publicly available by means other than unauthorized disclosure; or
  - c. is developed by or on behalf of such Party independent of any Confidential Information furnished under this Agreement; or
  - d. is received from a third party whose disclosure does not violate any confidentiality obligation.
5. **Non-Disclosure and Non-Use:** The Receiving Party agrees to:
- a. hold the Confidential Information in confidence, exercising a degree of care not less than the care used by the Receiving Party to protect its own proprietary or confidential information, and in no event less than a reasonable degree of care;
  - b. use the Confidential Information only in connection with the Opportunity, except as may otherwise be mutually agreed upon in writing, and shall reproduce such Confidential Information only to the extent necessary for such purpose;
  - c. disclose only to Representatives (i) with a need to know the Confidential Information to achieve the Opportunity and (ii) who are bound by confidentiality obligations at least as restrictive as this Agreement; and
  - d. advise those Representatives of their obligations with respect to the Confidential Information.

Each Party shall be responsible for any breach of this Agreement by its respective Representatives and shall take all reasonably necessary measures to restrain its Representatives from unauthorized disclosure or use of Confidential Information.

6. **Legally Required Disclosure:** In the event that the Receiving Party or its Representatives are required by law, regulation, court order, interrogatory, request for information or documents, subpoena, or civil investigative demand to disclose any Confidential Information, the Receiving Party shall be permitted to make such disclosure so long as (i) to the extent legally permissible, the Receiving Party notifies the Disclosing Party prior to such disclosure in order to allow the Disclosing Party a reasonable opportunity to seek an appropriate protective order or other means to protect the confidentiality of such Confidential Information; and (ii) the Receiving Party, at the Disclosing Party's sole cost, reasonably cooperates with the Disclosing Party's efforts to seek an appropriate protective order or other means of protection of such Confidential Information.
7. **No Further Obligation:** Each Party retains the right, in its sole discretion, to determine whether to disclose its Confidential Information to the other Party, and disclosure of Confidential Information of any nature shall not obligate the Disclosing Party to disclose any further Information. Neither this Agreement, nor the disclosure of Confidential Information under this Agreement, nor the ongoing discussions and correspondence by the Parties concerning the Opportunity or any other matter, shall constitute or imply any promise or intention to make any purchase or use of products, facilities or services by either Party or its affiliated companies or any commitment by either Party or its affiliated companies with respect to any other present or future transaction. If, in the future, the Parties elect to enter into binding commitments relating to the Opportunity or any other transaction, such commitments will be explicitly stated in a separate written agreement executed by both Parties, and the Parties hereby affirm that they do not intend their discussions, correspondence, and other activities to be construed as forming a contract relating to the transactions or any other transaction with execution of such separate written agreement.

8. **Disclaimer:** All Confidential Information is provided “AS IS” and without any warranty, express, implied or otherwise, including but not limited to any warranties regarding accuracy, completeness, performance, non-infringement of third-party rights, merchantability or fitness for a particular purpose. Each Party hereby expressly disclaims any and all liability that may be based, in whole or in part, on any Confidential Information, errors therein or omissions therefrom.
9. **Ownership:** As between the Parties, ownership of Confidential Information disclosed by the Disclosing Party shall be retained by the Disclosing Party, and no license under any patent, trademark, copyright, trade secret or other proprietary or intellectual property right is either granted or implied by the disclosure of any information, including Confidential Information, by a Disclosing Party.
10. **Term and Termination:** This Agreement shall become effective as of the date of the last signature below (“Effective Date”) and shall continue for a period of three (3) years thereafter unless earlier terminated by one Party by providing written notice of termination to the other or the execution of a definitive agreement including confidentiality provisions.
11. **Survival:** Notwithstanding the termination of this Agreement for any reason, the Receiving Party’s obligations with respect to the Confidential Information shall extend for a period of three (3) years following termination; provided, however, that with respect to trade secret information, each Party’s obligations shall extend until such information no longer constitutes a trade secret under applicable law.
12. **Return/Destruction:** Upon the Disclosing Party’s request, the Receiving Party will return or destroy the Confidential Information in its possession. Notwithstanding the foregoing, (a) any return or destruction is subject to law, regulation and compliance policies, and (b) nothing requires the alteration, modification, deletion or destruction of backup tapes or other backup or archived media made in the ordinary course of business.
13. **Assignment:** This Agreement shall be binding upon and inure to the benefit of the Parties, their legal representatives, successors, and assigns. This Agreement may not be assigned by either Party without the prior written consent of the other Party, provided, however, that a Party may assign or transfer this Agreement or its rights, interests or obligations under this Agreement without the other Party’s consent to another Party due to that Party’s acquisition by, or merger with, the assignee, by providing written notice to the other Party within thirty (30) days following such assignment or transfer.
14. **Governing Law & Jurisdiction:** This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania without giving effect to choice of law or conflict of laws principles thereof. Any actions arising out of or relating to this Agreement shall be subject to the federal or state courts within the geographical limits of the United States District Court for the Middle District of Pennsylvania.
15. **Injunctive Relief:** Each Party agrees that the Disclosing Party would be irreparably injured by a breach of this Agreement by the Receiving Party or its Representatives and that the Disclosing Party shall be entitled to equitable relief, including injunctive relief and specific performance, in the event of any breach of the provisions of this Agreement. Such remedies shall not be deemed to be the exclusive remedies for a breach of this Agreement, but shall be in addition to all other remedies available at law or in equity.
16. **Miscellaneous:**
  - a. If any provision of this Agreement shall be held to be illegal, invalid or unenforceable, such illegality, invalidity or unenforceability shall attach only to such provisions and shall not in any manner affect or render illegal, invalid or unenforceable any other provision of this Agreement, and this Agreement shall be carried out as if any such illegal, invalid or unenforceable provision were not contained herein.

- b. Any notice to be given under this Agreement shall be in writing and given to a Party at the address set forth above by (i) personal deliver; (ii) certified or registered mail, postage prepaid, signature required or (iii) overnight delivery service, charges prepaid, signature required.

In the case of notice to Bucknell, a copy of such notice will be sent to:

\_\_\_\_\_  
\_\_\_\_\_  
Bucknell University  
One Dent Drive  
Lewisburg, PA 17837

- c. This Agreement (i) constitutes the entire understanding between the Parties with respect to Confidential Information provided in connection with the Opportunity and (ii) supersedes all prior and contemporaneous agreements between the Parties with respect to Confidential Information provided in connection with discussions relating to the Opportunity. No amendment or modification of this Agreement shall be valid or binding on the Parties unless made in writing and executed on behalf of each Party by its duly authorized representative. This Agreement may be executed in two or more counterparts, each of which is an original, but taken together constituting one and the same instrument. Execution of a facsimile copy (including PDF) shall have the same force and effect as execution of an original, and a facsimile signature shall be deemed an original and valid signature.

Each Party has caused this Agreement to be executed on its behalf as of the Effective Date.

COMPANY:

BUCKNELL UNIVERSITY:

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (Printed)

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date