

# Confidential Disclosure Agreement

THIS AGREEMENT, entered into and effective this **NUMERIC DAY** day of **MONTH**, 2018, by and between Lehigh University, having a place of business at 354 Whitaker Laboratory, 5 E. Packer Ave., Bethlehem, PA 18015 (hereinafter referred to as "LEHIGH") and **NAME OF COMPANY**, having a place of business at **FULL ADDRESS OF COMPANY** (hereinafter referred to as "Company").

## WITNESSETH:

WHEREAS, LEHIGH owns or has rights to certain technology, know-how, or other confidential information which is proprietary to Lehigh; and

WHEREAS, LEHIGH has the right to disclose such proprietary information to third parties; and

WHEREAS, Company, **NAME OF COMPANY**, owns or has rights to certain technology, know-how, or other information which is proprietary to Company; and

WHEREAS, LEHIGH and Company desire to exchange certain proprietary information specifically **Brief background on what you're doing or intend to do with the company**, for the sole purpose of **PURPOSE** (hereinafter, the "Purpose");

NOW, THEREFORE, in consideration of the premises and covenants herein contained the parties hereto agree as follows:

1.
  - (a) For the purpose of this Agreement, "Confidential Information" shall mean such technical, scientific, financial and business information which is not generally available to others and which each party endeavors to maintain as confidential.
  - (b) Any such Confidential Information disclosed to either party and entitled to protection hereunder shall be marked "Confidential" if disclosed in documentary form. Confidential Information disclosed in non-documentary form (e.g. oral, visual, etc.) and entitled to protection hereunder shall be confirmed in writing as "CONFIDENTIAL" within thirty (30) days of any such disclosure.
  - (c) Confidential Information shall remain the property of the disclosing party and all written or otherwise recorded Confidential Information shall be returned to the disclosing party upon first written request or expiration of this Agreement, whichever is first with the exception that the receiving party may retain one copy for its records.
2. Upon execution of this Agreement, a confidential relationship shall arise between Company and LEHIGH and each party agrees to hold in confidence the Confidential

Information disclosed to it by the other party and not to disclose such Confidential Information to anyone except such of its employees as may be necessary and not to use such Confidential Information for a purpose not covered by this Agreement, unless:

- a) Such Confidential Information is a part of the public domain prior to the date first written hereinabove; or
- b) Such Confidential Information is a part of the public domain not due to some unauthorized act by or omission of the receiving party after this Agreement is executed; or
- c) The receiving party can demonstrate, by evidence or dated writings, that it or a subsidiary of such party independently developed knowledge of such Confidential Information; or
- d) Such Confidential Information is disclosed to the receiving party by a third party who has the right to make such disclosure; or
- e) Permission to disclose said Confidential Information or to make use thereof is obtained by the receiving party from the disclosing party in writing; or
- f) Confidential Information that is required to be disclosed by operation of law, federal or state regulation(s), or by court order. To the extent the receiving party is required to disclose Confidential Information of the disclosing party, the receiving party will provide the disclosing party reasonable notice to allow the disclosing party sufficient time to take legal or other action to prevent disclosure of the Confidential Information.

3. The parties designate the following individuals, each as sole recipients of Confidential Information from the other party, and each of whom may share said Confidential Information with others within her or his organization solely in support of the Purpose:

For LEHIGH:

For **NAME OF COMPANY**:

\_\_\_\_\_

\_\_Name\_\_\_\_\_

\_\_\_\_\_

\_\_Title\_\_\_\_\_

4. Each party shall use such efforts to preserve the confidentiality of the Confidential Information disclosed as it would if the Confidential Information had been developed by itself, but in no event less than reasonable efforts. Furthermore, Company agrees to use the Confidential Information only for the purpose described herein; to restrict disclosure of the Confidential Information solely to those employees of Company having a need to know such Confidential Information in order to accomplish the purpose stated herein; and to advise each such employee, before he or she receives access to the Confidential

Information, of the obligations of Company under this Agreement, and require each such employee to maintain those obligations.

5. This Agreement shall terminate upon one (1) year from the date entered above. Upon termination, the receiving party shall return to the disclosing party upon request any and all written material and/or prototypes and/or software and/or samples furnished by a disclosing party to a receiving party. The return of the materials shall not affect the obligations of the receiving party to treat the Confidential Information as confidential and not to use same, which shall continue for a period of one (1) year from receipt of the information.
6. It is understood that nothing herein shall be construed as granting or implying any right under any Letters Patent, or as permitting a receiving party to unfairly obtain the right to use information which becomes publicly known through an improper act or omission on its part.
7. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto, but neither of the parties hereto shall assign this Agreement without the prior written consent of the other party.
8. LEHIGH DOES NOT MAKE ANY REPRESENTATION WITH RESPECT TO AND DOES NOT WARRANT ANY INFORMATION PROVIDED UNDER THIS AGREEMENT, BUT SHALL FURNISH SUCH IN GOOD FAITH. WITHOUT RESTRICTING THE GENERALITY OF THE FOREGOING, LEHIGH DOES NOT MAKE ANY REPRESENTATIONS OR WARRANTIES, WHETHER WRITTEN OR ORAL, STATUTORY, EXPRESS OR IMPLIED WITH RESPECT TO THE INFORMATION WHICH MAY BE PROVIDED HEREUNDER, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE. UNIVERSITY SHALL NOT BE LIABLE FOR ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY NATURE WHATSOEVER RESULTING FROM RECEIPT OR USE OF THE INFORMATION BY THE COMPANY.
9. The parties do not anticipate the need to disclose to each other technical data that are subject to control under the Commerce Control List of the Export Administration Regulations, 15 CFR 730-774, or the U.S. Munitions List of the International Traffic in Arms Regulations, 22 CFR 120-130, (collectively, "export controls regulations"). In the event a party believes it is necessary to disclose technical data that are regulated under export controls regulations, the Disclosing Party will inform the Receiving Party, in writing, prior to disclosing any such data of its intention to disclose to the Receiving Party export controlled data and provide sufficient information (e.g., ECCNs, USML categories/articles) to allow the Receiving Party to comply with any applicable export controls, provided the Receiving Party agrees to accept any such data. The parties shall not export, disclose, or transfer any such data directly or indirectly without complying with these and any other applicable laws and regulations.

10. This Agreement contains the entire agreement between the parties and supersedes any previous understanding, oral or written, with respect to the subject matter contained herein. No modification or waiver of any of the provisions of this Agreement shall be valid unless in writing and signed by the parties hereto.
11. This Agreement shall be governed by the laws of the Commonwealth of Pennsylvania, excluding its choice of law rules.

IN WITNESS WHEREOF, the parties, intending to be legally bound, have hereunto set their hands the day and year first above written.

**Lehigh University**

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

Printed name: \_\_\_\_\_

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

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

**NAME OF COMPANY**

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

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

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

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