



PLEASE NOTE: This document represents a standard Nondisclosure Agreement with Bradley University. Parties interested in pursuing an NDA with Bradley University and its employees, representatives, or designees may discuss the negotiation or execution of such agreement with the Office of Sponsored Programs at Bradley University (see section 12.6 for contact information).

MUTUAL NONDISCLOSURE AGREEMENT

This Mutual Nondisclosure Agreement (“Agreement”), having an effective date (“Effective Date”) as of the date of the last signature hereto, is between BRADLEY UNIVERSITY (“University”), organized and existing under the laws of the State of Illinois and having offices at 1501 West Bradley Avenue, Peoria, Illinois 61625, and [COMPANY] organized and existing under the laws of the State of [INSERT STATE] and having offices at [ADDRESS/LOCATION] (“COMPANY”). The parties may be referred to individually as “Party” and collectively as the “Parties.”

Each party anticipates disclosing to the other party certain information for the purpose of determining whether to enter into a joint research project or joint development project, either of which would be subject for additional agreement(s) (the “Purpose”).

The parties agree to maintain the secrecy of the disclosed information as follows:

1.0. Confidential Information

1.1. **Definition of Confidential Information.** The term “Confidential Information” means all proprietary, privileged or confidential information in any form furnished by the disclosing party to the receiving party during the term of this Agreement in pursuit of the Purpose. For the purposes of this Agreement, Confidential Information includes but is not limited to business agreements, technology concepts, trade secrets, operations, all financial data and information, manuals and financial reports, sales and marketing principals, privileged information, information that could benefit competitors of the disclosing party if disclosed, and all other information regarding the other party or third parties for whom either party or the Parties jointly are performing services and which is not generally known to the public.

1.2. **Designating Confidential Information.** Information deemed Confidential Information must be labeled by the disclosing party with a label or stamp as “CONFIDENTIAL SUBJECT MATTER.” Any information disclosed in oral or other intangible form under this Agreement shall be identified as “Confidential Subject Matter” at the time of disclosure and shall be confirmed in written summary form marked “Confidential Subject Matter ” and transmitted to the receiving party within 30 days after its disclosure to the receiving party.

1.3. **Access and Copying of Information.** Under no circumstances shall a party remove any books, records, documents, customer lists, or any other form of material to which they are provided access without the written permission of the other party, nor shall either Party make any copies or duplicates of such documents unless specifically authorized in writing by the other party after an opportunity to determine and, if appropriate, label such information as “CONFIDENTIAL SUBJECT MATTER.”

2.0. Exclusions

Confidential Information does not include information that: (a) is, or after disclosure under this Agreement becomes, publicly available through no fault of receiving party; (b) was independently developed by receiving party without access to Confidential Information; (c) was furnished by a third party who, to receiving party's knowledge, had no known confidentiality obligation to disclosing party; (d) was in receiving party's possession on a non-confidential basis prior to receipt from disclosing party; or (e) is explicitly approved in writing for release by disclosing party.

3.0. Nondisclosure Obligation

The receiving party agrees not disclose or otherwise make available to any third parties the Confidential Information, except as expressly permitted under this Agreement. The receiving party may provide Confidential Information to its employees and agents (collectively "Representatives") who have a need to know the Confidential Information for the Purpose, provided such Representatives first sign an acknowledgement of this agreement reflecting their agreement to be bound by it. A copy of such acknowledgement shall be provided promptly to the disclosing party. The receiving party will be responsible for any unauthorized use, reproduction, or disclosure of Confidential Information by its Representatives. The receiving party will use the disclosing party's Confidential Information solely for the Purpose, and for no other purpose, and will not decompile, disassemble, or reverse engineer any products (including computer programs), prototypes or models received as Confidential Information. The receiving party will exercise the same degree of care to safeguard the Confidential Information as it uses to safeguard its own confidential, proprietary and privileged information, but in no event less than a reasonable degree of care.

4.0. Disclosure Required by Law

Receiving party will promptly notify disclosing party of any demand to disclose Confidential Information made under authority of law, including but not limited to an order of a court of competent jurisdiction or administrative body, a subpoena, or a valid public records request. To the extent legally permissible and as soon as practicable, receiving party will notify the disclosing party of the demand and will disclose only such Confidential Information as the demand requires. In no event will receiving party be in breach of this Agreement for its good faith compliance with applicable law.

5.0. Proprietary Legends

The receiving party will not remove any "CONFIDENTIAL SUBJECT MATTER" label or stamp, nor any copyright or other proprietary rights notice attached to or included in any Confidential Information, and will reproduce all such notices on any duplicates of the Confidential Information permitted under this Agreement.

6.0. Return of Confidential Information

Upon termination or expiration of this Agreement or upon disclosing party's request, and to the extent reasonably possible, receiving party will destroy or return all Confidential Information existing in tangible form; however, a receiving party may retain one archival copy of received Confidential Information in its legal or contracts department solely for evidentiary purposes.

7.0. Proprietary Rights

By furnishing Confidential Information, disclosing party does not convey or transfer to receiving party any title to, or interest in, the Confidential Information.

8.0. No Warranties

Confidential Information is furnished "AS IS" and without any warranty, express or implied, concerning its accuracy, completeness, or performance. Disclosing party expressly disclaims all warranties of use, fitness for particular purpose, merchantability, and non-infringement of third party rights.

9.0. Legal and Equitable Relief

In the event of any actual or threatened breaches of this Agreement by a party or its Representatives, the aggrieved party may seek all legal and equitable remedies afforded it by law.

10.0. Loss, Theft, or Unauthorized Disclosure

Promptly upon discovery, receiving party will notify disclosing party of any loss, theft, or unauthorized disclosure or use of Confidentiality Information and will cooperate in good faith to mitigate any damage to disclosing party.

11.0. Term and Termination

This Agreement is effective for one year from the Effective Date unless earlier terminated as provided in this Article 11.0. Either party may terminate this Agreement upon thirty (30) days' advance written notice to the other party. All obligations of confidentiality and non-use shall survive termination or expiration.

12.0. General Provisions

12.1. **Merger.** This Agreement contains the entire understanding of the parties with respect to the subject matter and supersedes all prior agreements or understandings, whether written or oral.

12.2. **Amendments.** No modification of this Agreement shall be effective unless made by a written instrument signed by both parties.

12.3. **Applicability.** This Agreement shall be binding upon and shall inure to the benefit of the Parties and their successors, assigns, executors, administrators and personal representatives.

12.4. **No Waiver.** A party's failure to enforce any provision of this Agreement shall not operate as that party's waiver of the particular provision or this Agreement as a whole.

12.5. **Governing Law.** This Agreement shall be governed by and construed in accordance with Illinois law without reference to its conflict of laws principles. Nothing in this Agreement is intended to constitute a waiver of a party's sovereign immunity under state or federal law.

12.6. **Notices.** A party will deliver all notices contemplated under this Agreement to the other party as prescribed below. All notices must be in writing and delivered by: postage prepaid, certified mail, return-receipt requested; overnight prepaid commercial delivery; fax; or other commercial methods with delivery verification. Notice is effective upon receipt. A party shall notify the other party of any change in the contact information:

COMPANY Contact:

Attn:

Delivery address:

Phone:

Fax:

E-mail:

UNIVERSITY Administrative Contact:

Attn: Office of Sponsored Programs, Bradley University

Delivery address: 1501 West Bradley Avenue, Peoria, IL 61625

Phone: 309-677-3777

E-mail: bj@fsmail.bradley.edu

UNIVERSITY Technical Contact and Recipient of COMPANY's Confidential Information:

Attn:

Delivery Address:

Phone:

E-mail:

12.6. **Counterparts.** The parties may sign this Agreement in one or more counterparts, each of which constitutes an original and all of which together constitutes the Agreement. Facsimile signatures constitute original signatures for all purposes.

12.7. **Export Compliance.** Each party shall comply with all relevant laws, whether United States or foreign, governing the exports and re-exports of technical data or commodities made under this Agreement. Prior to providing UNIVERSITY with any items subject to export control laws, COMPANY will notify UNIVERSITY and identify the items and issue and the applicable export control laws. If the items are subject to the Export Administration Regulations ("EAR"), COMPANY will either furnish to UNIVERSITY the applicable Export Control Classification Numbers or indicate that EAR 99 applies. If the items are subject to the International Traffic in Arms Regulations ("ITAR"), COMPANY will notify

UNIVERSITY of the relevant ITAR categories and subcategories. UNIVERSITY may decline to accept any export-controlled items. ORGANIZATION will direct all notices given under this section to UNIVERSITY's contact as follows:

Bradley University
Attn: Erin Kastberg, Vice President for Legal Affairs &
General Counsel
1501 West Bradley Avenue, Peoria, IL 61625
Phone: 309-677-3151
E-mail: ekastberg@fsmail.bradley.edu

12.8. **Severability.** If any provision of this Agreement is found by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remaining provisions of the Agreement shall remain in full force and effect.

12.9. **Ambiguities.** Any rule of construction that would resolve ambiguities against the drafting party shall not apply in interpreting this Agreement. Instead, the language in this agreement shall be accorded its fair meaning and not strictly for or against any party.

12.10. **No Third-Party Beneficiaries.** The parties do not intend for this Agreement to benefit any third party other than the following:

12.11. **Assignment.** No party may assign or delegate, in whole or in part, the rights or obligations created by this Agreement without the prior written consent of the other party.

12.12. **Authorized Signatories.** Each Party represents that the individuals signing this Agreement on its behalf are authorized, and intend, to bind the organization in contract:

BRADLEY UNIVERSITY

[COMPANY]

Date

[Name Title] Date

Understood and Agreed *Principal Investigator(s)*:

[Name Title] Date

ACKNOWLEDGEMENT

The undersigned, being an employee or agent of _____, has received and reviewed a copy of the **MUTUAL NONDISCLOSURE AGREEMENT** between Bradley University and [COMPANY]. Pursuant to Section 3.0, I hereby agree to be bound by the terms of such Agreement, to use any Confidential Information I receive solely for the Purpose, and to return all Confidential Information upon request.

Signed: _____

Date: _____

Printed Name: _____

Address: _____

Email: _____