

# Confidential Disclosure Agreement

THIS AGREEMENT, entered into and effective this \_\_\_\_\_ day of \_\_\_\_\_ 2007, 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 \_\_\_\_\_, having a place of business at \_\_\_\_\_ (hereinafter referred to as "Company").

## WITNESSETH:

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

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

WHEREAS, Company, a \_\_\_\_\_ organization, has certain information related to its operation which is proprietary to Company; and

WHEREAS, LEHIGH and Company desire to exchange certain proprietary information for the sole purpose of \_\_\_\_\_; and

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. Any failure by disclosing party to identify orally disclosed information in writing shall not relieve the receiving party of its obligations under this Agreement.  
  
(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.
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.
3. 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. 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.
  4. This Agreement shall terminate upon 2 years 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 five (5) years from receipt of the information.
  5. 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.
  6. 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.
  7. 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.

8. This Agreement contains the entire agreement between the parties and supercedes 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.
9. This Agreement shall be governed by the laws of the Commonwealth of Pennsylvania, excluding its choice of law rules.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year first above written.

**Lehigh University**

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

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

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

**Read and Understood by**

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

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

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

**Company**

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

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

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