Bucknell University
Additional Terms and Conditions for Technology
Contracts – Professional Services

The AGREEMENT titled_____ and dated _____ ____, 20____ ("Agreement") between Bucknell University ("Bucknell") and _____ ("Company") is subject to the following additional terms and conditions:

1. **Order of Precedence.** To the extent there is any conflict between the Agreement and the terms and conditions set forth herein, these Bucknell University Additional Terms and Conditions shall govern. Where Company is required to get Bucknell's prior written consent below, the terms of the Agreement shall not constitute such consent.

2. **Jurisdiction and Governing Law.** Any disputes arising under or related to the Agreement shall be governed by the laws of the Commonwealth of Pennsylvania, and shall be subject to the federal or state courts within the geographic limits of the United States District Court for the Middle District of Pennsylvania.

3. **Independent Contractor:** Company acknowledges status as an independent contractor and not as an employee of Bucknell. As such, Company shall have no claim against Bucknell for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment benefits or employee benefits of any kind. The Company shall not self-represent to any third-party as being an employee of Bucknell.

4. **Subcontracting.** Company shall not utilize or provide any subcontractors as personnel to provide the services required by the Agreement without the prior written consent of Bucknell. Where the Company subcontracts any of its obligations, the Company shall not be relieved of any of its liabilities or obligations under the Agreement by entering into any subcontract and, as between Bucknell and Company, the Company accepts liability for the acts and omissions of any subcontractor or any member of its staff as fully as if they were the acts or omissions of the Company.

5. **FERPA.** Company recognizes that Bucknell is an educational institution subject to the Family Educational Rights and Privacy Act ("FERPA") and that Company may have access to FERPA-protected student information during the performance of its obligations under the Agreement. For purposes of such access only, Company is a "School Official" under 34 C.F.R.§99.31 and shall access such information for the sole purpose of carrying out its obligations under the Agreement. Company shall not disclose any FERPA-protected data to any unauthorized third party without prior consent as set forth in 34 C.F.R. §99.33(a).

6. **Nondiscrimination:** Company agrees and warrants that in the performance of this Agreement, Company will not discriminate against any person or group of persons on the grounds of race, color, religion, sex, age, national origin or on the basis of being handicapped but otherwise qualified in a manner prohibited by the laws of the United States.

7. **Insurance.** At all times subject to the Agreement, Company shall maintain Cyber Liability insurance coverage at levels sufficient to cover its obligations under the Agreement, but in no event less than $5,000,000 per occurrence/aggregate. In addition, the Company shall maintain Professional/Technology Errors & Omissions Liability insurance in the amount of $1,000,000 per occurrence/$2,000,000 aggregate.

8. **Protected Information.** Company acknowledges that in its performance of services under the Agreement, Company may have access to confidential Bucknell information including, but not limited to, personally-identifiable information, student records, protected health information, and individual financial information ("Confidential Data"). Such Confidential Data may be subject to federal and state laws and regulations governing the use, maintenance, disclosure and destruction of such information ("Data Protection Laws"). Company shall strictly adhere to all such applicable Data Protection Laws, including but not limited to Article 28 of the General Data Protection Regulation (GDPR) when applicable.

9. **Security Safeguards.** Company agrees to protect the privacy and security of Bucknell's Confidential Data and other information with no less than commercially reasonable standards through the implementation and regular maintenance of appropriate administrative, technical, and physical security measures to preserve the confidentiality, integrity and availability of Bucknell's data. Company shall not store, transfer or process Bucknell data outside of data centers located in the United States except with prior written authorization from Bucknell.

10. **Unauthorized Use or Disclosure.** Company will hold Bucknell's Confidential Data and all information derived from such data in strictest confidence. Company shall not access, use or disclose Bucknell's Confidential Data except as permitted or required by the Agreement, or otherwise required by a court of competent jurisdiction provided that Company provides Bucknell with notice sufficient to seek an order protecting such information, to the extent allowed by law.

11. **Virus, Malicious, Mischievous or Destructive Programming**. Notwithstanding any other provision in the Agreement to the contrary, if Company or any of its employees, subcontractors or consultants introduces a virus or malicious, mischievous or destructive programming into the Bucknell software or computer networks, and provided further that Bucknell can demonstrate that the virus or malicious, mischievous or destructive programming was introduced by Company or any of its employees, subcontractors or consultants, Company shall be liable for any damage to any data and/or software owned or licensed by Bucknell. Company shall be liable for any damages incurred by Bucknell including, but not limited to, the expenditure of Bucknell funds to eliminate or remove a computer virus or malicious, mischievous or destructive programming that result from Company's failure to take proactive measures to keep virus or malicious, mischievous or destructive programming from originating from Company, its servants, agents or employees through appropriate firewalls and maintenance of anti-virus software and software security updates (such as operating systems security patches, etc.). In the event of destruction or modification of software, the Company shall eliminate the virus, malicious, mischievous or destructive programming, restore Bucknell's software, and be liable to Bucknell for any resulting damages.

12. **Ownership and Return of University Data.** All Bucknell data provided to or accessible by Company, will remain the property of Bucknell University. Company shall preserve such data for at least sixty (60) days following the termination of the Agreement for any reason. Promptly upon Bucknell's request during that preservation period, Company shall return all Bucknell Data in its possession in an agreed upon format. Alternatively, Bucknell may direct, in writing, that such data be destroyed, in which case such destruction shall be accomplished in accordance with commercially reasonable standards, provided that Company may retain encrypted backup copies of Bucknell Data located in its archival storage in accordance with its Record Retention Policy. Company shall certify in writing to Bucknell that such return or destruction has been completed.

13. **Conduct of Services.** Company shall perform all services diligently and with qualified personnel, in compliance with all applicable Federal, State, and local laws, rules, ordinances, and regulations affecting the conduct of services provided and the performance of all obligations undertaken by the Agreement.

14. **Liability for Infringement of Intellectual Property Rights.** Subject to Section 18 Indemnification of the Agreement, Company is responsible for ensuring that the services provided under the Agreement do not infringe on any third party's intellectual property rights. Company shall, at its own expense, defend Bucknell against any alleged infringement of any patent, trademark, or copyright related to the services. Company may, at its sole discretion, (a) modify the services with non- infringing components that are functionally equivalent, or (b) obtain a license at no additional charge to Bucknell to enable Bucknell to continue to use the services to be provided under the Agreement.

15. **Accessibility**. Company represents and warrants that at all times during the Term of this Agreement, the products and services provided by Company shall be in compliance with all applicable Federal disabilities laws and regulations, as well as, at a minimum, Web Content Accessibility Guidelines (WCAG) version 2.0 level AA. Company agrees to promptly respond to, resolve and remediate complaints regarding the accessibility of the products and services provided herein, at no cost to Bucknell.

16. **Audits.** Bucknell shall have the right to perform security audits at its expense to the extent necessary to ensure compliance with the terms of the Agreement or any other written statement made by Company as it relates to the confidentiality, integrity, and availability of Bucknell's data. Company agrees to cooperate in the performance of such audits.

17. **Force Majeure:** The Parties agree and acknowledge that performance of the terms of this Agreement may be delayed, prevented, or interrupted due to causes beyond the control of, and without the fault or negligence of either Party. Such causes may include, but shall not be limited to, Acts of God, natural disasters, epidemics and global pandemics, government restrictions, wars, insurrections and/or any other causes beyond the reasonable control of the other Party. In any such event or occurrence, the affected party shall use its reasonable efforts to advise the other Party if it is unable to perform, and the expected duration of such inability. The affected party shall use all reasonable efforts to resume performance as soon as possible.

18. **Indemnification.** To the fullest extent permitted by law, Company agrees to indemnify, defend and hold harmless Bucknell and its trustees, officers, directors, employees, agents and assigns from and against any and all liabilities, claims, losses, lawsuits, judgments and/or expenses (including reasonable attorney's fees) arising from any act or failure to act by Company or its employees or agents which may occur during, or which arise out of, the performance of this Agreement; provided, however, that Bucknell provides Company with prompt written notice of the claim, tenders control of the defense of the claim to Company, and cooperates fully with Company in settlement or defense of the claim

19. **Limitations on Liability.** Nothing in this Agreement shall limit the liability of Company under law or custom.

20. **Autorenewal**. Notwithstanding anything to the contrary contained within the Agreement (including, without limitation, any terms and conditions of Company incorporated by reference therein) the term of this Agreement shall not be longer than the Initial Term as set forth in the Agreement. Any automatic renewal or extension (whether or not conditioned upon any notice or absence thereof from either Party) shall be deemed null and void ab initio, and the term

of the Agreement shall not be extended or renewed except by mutual written agreement.

21. **Survival.** The terms and conditions set forth herein shall survive the termination of the Agreement.

22. **Miscellaneous.** No amendment, modification, supplement or waiver of this Agreement shall be binding unless set forth in writing and signed by both parties. Neither Party may assign its rights or obligations under this Agreement, in whole or in part, without the prior written consent of the other. A waiver of any provision hereof or the breach of any provision by either party in one instance shall not be deemed a waiver of the same in any future instance. Provision headings are solely for convenience and have no legal significance. The provisions of this Agreement are severable. If a court or arbitrator holds any provision of this Agreement invalid, illegal or unenforceable, then the validity, legality or enforceability of the remaining provisions will in no way be affected or impaired thereby. This Agreement may be executed in counterparts, each of which shall be deemed an original and both of which taken together shall represent one instrument. This Agreement shall constitute the entire understanding between the parties with respect to its subject matter, and shall supersede any prior agreements with respect to the subject matter of this Agreement.