

UNIVERSITY OF PORTLAND SHILEY SCHOOL OF ENGINEERING MASTER PROJECT AGREEMENT

This Agreement is made by and between University of Portland (hereafter referred to as "UP"), an Oregon nonprofit corporation, and the undersigned (hereafter referred to as the "Sponsor"). Throughout this Agreement, Sponsor and UP may be individually referred to as a "Party" and collectively referred to as "Parties."

RECITALS

WHEREAS, as part of its program leading to degrees in engineering and computer science, UP provides students the opportunity to work on projects in various manufacturing, design, and industrial settings ("Program").

WHEREAS, UP requires students to participate in a capstone design course to provide educational benefit from 'real world' problems.

WHEREAS, the Sponsor wants to participate in the Program to provide UP students with work experience, and to obtain the benefits of working with UP students and faculty members on projects that are of particular interest to the Sponsor.

NOW THEREFORE, in consideration of the mutual promises in this agreement, the Parties agree as follows:

AGREEMENT

1 Sponsored Project. The Sponsored Project will be agreed upon by a designated UP faculty supervisor(s) and a Sponsor liaison and defined in a Commitment and Scope of Project Agreement, which must be signed by both UP and Sponsor. For each Sponsored Project, the Parties will enter into a Commitment and Scope of Project Agreement. Each executed Commitment and Scope of Project Agreement will be incorporated into this Agreement as Exhibit A. Each student, faculty advisor, and industry advisor will execute a release agreement, which will be incorporated into this Agreement as Exhibits B, C, and D, respectively.

2 Responsibilities of UP.

2.1 Academic Instruction. UP will plan and implement the academic component of the program, including preparatory instruction, subject matter, and overall supervision of Students necessary to ensure proper application of principle and theory during Student's participation in the Program.

2.2 Faculty Supervisor. UP will designate and provide appropriately qualified faculty for administration of the Program and supervision of Students. School

shall retain ultimate responsibility for supervision, control, evaluation, and related matters concerning Students subject to Sponsor's responsibilities and authority set forth herein.

3 Responsibilities of Sponsor.

3.1 Project Oversight. Sponsor shall retain ultimate administrative authority for all Faculty, Student, and Program activities that influence the conduct of Sponsor operations, but University and University faculty will at all times be responsible for monitoring and evaluating student behavior and performance.

3.2 Industry Advisor. Sponsor agrees to provide a client contact and/or an industry advisor who will communicate and cooperate with UP's designated Faculty Advisor to ensure the educational goals of this agreement are being met and Student has access to appropriate resources for the Program experience.

3.3 FERPA. To the extent Sponsor generates or maintains educational records related to a Student, Sponsor agrees to comply with the Family Educational Rights and Privacy Act, to the same extent as such laws and regulations apply to UP, and shall limit access to only those employees or agents with a need to know. For the purposes of this Agreement, pursuant to FERPA, UP hereby designates Sponsor as a school official with a legitimate educational interest in the educational records of the Student(s) to the extent that access to the School's records is required by Sponsor to carry out the Program.

4 Intellectual Property.

4.1 Definition. "Intellectual Property" is any and all products, inventions, discoveries and improvements developed within the course and scope of a Sponsored Project, including any and all copyrights (including the underlying rights therein), patent rights, trademarks, service marks, trade secrets, confidential information, and all other intellectual property rights.

4.2 Assignments.

4.2.1 UP Students and Faculty. As consideration for participating in a Sponsored Project, and subject to the limitations contained in Section 4.3, UP students and UP faculty participating in a Sponsored Project hereby assign their entire right, title and interest in and to the Intellectual Property to UP. The students' assignment is memorialized in a Student Release Agreement, the form of which is attached as Exhibit B to this Agreement, and the faculty's assignment is memorialized in a Faculty Release Agreement, the form of which is attached as Exhibit C to this Agreement. Both exhibits are incorporated into this Agreement by this reference.

4.2.2 UP Assignment to Sponsor. UP hereby assigns its entire right, title and interest in and to the Intellectual Property to Sponsor.

4.2.3 UP Cooperation. UP will perform such lawful acts and execute confirmation of any assignment of rights and other lawful documents as the Sponsor may reasonably request to protect and perfect rights to the Intellectual Property.

4.3 Limitations. The Parties acknowledge and agree that this Agreement does not apply to Intellectual Property for which no equipment, supplies, facilities or trade secret information of the Sponsor was used and that was developed entirely on the personal time of the UP student, faculty, or staff involved, unless (a) the invention relates (i) directly to the business of the Sponsor associated with the design project, or (ii) to the Sponsor's actual or demonstrably anticipated research or development, or (b) the invention results from any work performed by the UP student, staff, or faculty member for the Sponsor.

5 Consideration. In consideration for the assignments set forth in Section 4.2, Sponsor will provide UP consideration in the form of royalty, record keeping, and audit rights, a license back to UP, and a commitment pledge as provided in Section 2 of the Commitment and Scope of Project Agreement.

5.1 License. Sponsor grants UP and its faculty, staff, and students a perpetual, nonexclusive, royalty-free, worldwide and irrevocable license to use, duplicate, or fabricate any and all Intellectual Property for academic and administrative purposes only, which includes, but is not necessarily limited to, publications, research, courses, assessment for accreditation purposes, presentations, and similar uses. This license includes any and all improvements, updates and/or modifications to the Intellectual Property.

5.2 Commitment Pledge. Sponsor agrees to pledge the amount(s) specified in Section 2 of the Commitment and Scope of Project Agreement(s) attached to this Agreement as Exhibit A.

6 Confidential Information.

6.1 Definition. "Confidential Information" is any and all information disclosed or delivered pursuant to this Agreement whether written or oral and in whatever form, including, but not limited to, any non-public Intellectual Property information or other proprietary, confidential, or competition-sensitive information which may be, but is not required to be, (i) expressly identified with an appropriate legend, marking stamp, or other written or oral identification as proprietary, confidential, or competition-sensitive at the time of the disclosure or delivery, or (ii) if not identified as proprietary, confidential, or competition-sensitive at the time of disclosure or delivery, is expressly identified in a written or other tangible form with an appropriate legend, marking stamp, or other written identification within thirty (30) days of such disclosure or delivery.

6.2 Confidentiality Obligations. Both UP and Sponsor agree not to disclose Confidential Information to third parties unless such disclosure is necessary for the performance of this Agreement and has been expressly authorized, in a prior writing, by the owner of the Confidential Information.

6.3 Limitations. The Parties' confidentiality obligations do not extend to information that: (i) is in the public domain or that, after disclosure, becomes part of the public domain through no action or fault of a Party; (ii) was received from a third party having the legal right to transmit the information; (iii) is shown by documented record to be developed by a Party, its employees, agents, or independent contractors, independently of the owner of the Confidential Information; (iv) is generally furnished to others by the owner without restrictions on disclosure; or (v) is required to be disclosed or made available to a third party pursuant to any applicable law, governmental regulation, or decision of any court or tribunal of competent jurisdiction.

7. Disclaimer of Warranties. The Parties recognize that the primary purpose of this Agreement is to provide UP students with project design experience in an academic setting associated with various manufacturing, design and industrial settings, and acknowledges that University is an educational institution and not a professional business, and that its students are not employees. ACCORDINGLY, UNIVERSITY MAKES NO REPRESENTATIONS OR WARRANTIES REGARDING THE OUTCOME OF THE PROJECT, AND EXPRESSLY DISCLAIMS ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT WITH RESPECT TO THE PROJECT AND/OR ANY WORKS OF AUTHORSHIP, INVENTIONS OR TANGIBLE MATERIALS CREATED DURING THE PROJECT. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, AND TO THE FULLEST EXTENT ALLOWED UNDER APPLICABLE LAW, EACH PARTY'S LIABILITY TO THE OTHER FOR CLAIMS ARISING OUT OF OR RELATING TO THIS AGREEMENT, WHETHER FOR BREACH, NEGLIGENCE, INFRINGEMENT, IN TORT OR OTHERWISE, SHALL BE LIMITED IN THE AGGREGATE TO THE AMOUNT DELIVERED AND/OR DUE TO UNIVERSITY PURSUANT TO SECTION 1 ABOVE. IN NO EVENT WILL SPONSOR, UNIVERSITY, OR ANY STUDENT OR FACULTY MEMBER PARTICIPATING IN THE PROJECT BE LIABLE FOR ANY INDIRECT, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES ARISING FROM SUCH PARTIES' PARTICIPATION IN THE PROJECT, EVEN IF SUCH PARTY HAS BEEN NOTIFIED OF THE POSSIBILITY OF SUCH DAMAGES.

- 8 Relationship of the Parties.** UP and the Students and Faculty members shall at all times be independent contractors with respect to Sponsor in the performance of UP's and Student and Faculty obligations under this Agreement. Nothing in this Agreement shall be construed to create an employer/employee, joint venture, agency, or partnership relationship between Sponsor and UP or Sponsor and any Student or Faculty member. Neither Party has the authority to enter into a contract or agreement to bind the other, and nothing in this Agreement makes either Party liable or responsible for any debt, liability, or obligation of the other.
- 9 Notice.** Under this Agreement, any written notice becomes effective when either: hand-delivered to the Party to which the notice is directed; or when deposited in the United States mail, postage prepaid, return receipt requested; or when communicated via email with appropriate date and time stamp tracked and properly addressed to the Party. The proper

address, unless designated by written notice to the other Party to this Agreement, is as follows:

for UP: Industry Relations Manager
Shiley School of Engineering
University of Portland
5000 N. Willamette Blvd.
Portland, OR 97203

for Sponsor: _____

- 10 Modification.** Amendments or other modifications to the terms of this Agreement, or any exhibits hereto, must be in writing and are not effective until signed by both Parties to this Agreement.
- 11 Attorney Fees.** If any action or legal proceeding is commenced for breach of this Agreement or to enforce this Agreement, the prevailing Party is entitled to reasonable attorney fees and costs.
- 12 Governing Law.** The validity, interpretation, construction, and performance of this Agreement is governed by, and interpreted in accordance with, the laws of the State of Oregon. The venue of any legal action regarding this Agreement will be in Multnomah County in the State of Oregon.
- 13 No Assignment.** Neither Party has the power to assign this Agreement without the prior written consent of the other Party.
- 14 Term.** This Agreement becomes effective as of the date of the last signature below, and will remain in force for one year thereafter, unless sooner terminated by either Party upon thirty (30) days prior written notice for any cause, and subject to the termination provisions in this agreement. This agreement shall automatically renew for additional terms of one year each, unless either Party gives the other Party written notice of its intention not to renew this Agreement at least thirty (30) calendar days prior to the expiration of the then current term. If there is an ongoing Sponsored Project, this Agreement may not be terminated without the mutual written consent of the Parties. Notwithstanding anything to the contrary in this Agreement, Sections 2., 3., 4., and 9. of this Agreement survive the termination of this Agreement.
- 15 Severability.** The provisions of this Agreement are severable and if any portion is held invalid, illegal, or unenforceable for any reason, the remainder of this Agreement is effective and binding on the Parties.
- 16 Non waiver.** A Party's failure or delay in exercising any right under this Agreement is not a waiver of that right or any other right under this Agreement.

Signed as of the _____ day of _____, 201__.

SPONSOR_____	UNIVERSITY of PORTLAND
By_____	By_____
Title_____	Title_____
Date_____	Date_____