**MANUFACTURING EXTENSION PARTNERSHIP
AGREEMENT No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
for the
Undergraduate Engineering Student Capstone Design Program**

This Fixed Price Agreement for the Undergraduate Engineering Student Capstone Design Program (the “***Agreement***”) is by and between the University of Utah, a body politic and corporate of the State of Utah (“***University***”), on behalf of its Manufacturing Extension Partnership Center (the “***Center***”) and **\_\_\_\_\_\_\_\_\_\_\_\_** (the “***Sponsor***”), dated effective this \_\_\_\_ day of \_\_\_\_\_\_\_\_\_, 2021, (the “***Effective Date***”). Center and Sponsor shall be referred to hereinafter together as the “***Parties***” and, separately, as a “***Party***”.

A. The University’s Department of Mechanical Engineering (the “***Department***”) administers the Capstone Design Program for the educational benefit of the University’s undergraduate engineering students (the “***Capstone Program***”).

B. For purposes of the Capstone Program, the Department matches a team of students (the “***Participating Students***”) with a multi-disciplinary project defined and funded by an industry sponsor (in each case, a “***Capstone*** ***Project***”).

C. The Department provides Participating Students access to undergraduate mechanical engineering labs, facilities and other University resources, as well as a faculty advisor for each student team (the “***Advisor***”).

D. Under the guidance of the Advisor, as well as an engineer/liaison from the industry sponsor, and over the course of two semesters, Participating Students scope, research, analyze, design, manufacture and/or test the Participating Students’ proposed solution designed to satisfy the Capstone Project’s objectives.

E. At completion of the Capstone Program, Participating Students participate in the Department’s Design Day Event, in which the Participating Students showcase their work (the “***Technical Open House***”).

F. Upon completion of the Capstone Program, Participating Student teams submit to the Department and industry sponsor a report (the “***Final Report***”), and deliver to the industry sponsor a prototype and related documentation package (collectively, “***Project Deliverables***”).

G. To administer the Capstone Program and manage relationships between the Department and industry sponsors, the Department has enlisted support from the Center, an affiliate of the Manufacturing Extension Partnership (MEP), a national program of the U.S. Department of Commerce’s National Institute of Standards and Technology (NIST).

H. Sponsor desires to participate in, and fund, a Capstone Project, in accordance with the terms of this Agreement.

In consideration of the mutual promises set forth herein, the Parties agree as follows:

1. **Services and Deliverables.**
	1. Upon acceptance of a Capstone Project funded by Sponsor, the Department, in its sole discretion, will select those students who will be assigned to participate on the Capstone Project. The Advisor will coordinate closely with an advisor / liaison employed and designated by Sponsor (the “***Sponsor Liaison***”), in order to confirm that the Capstone Project described in the Sponsor’s project proposal is suitable for Participating Students, taking into account such Participating Students’ relevant education, skills and expertise. As necessary, the Advisor will make adjustments to the proposal, as deemed appropriate by the Advisor, in consultation with the Sponsor Liaison.
	2. Over the course of the Capstone Program, Participating Students will complete the Capstone Project assigned to the Participating Students’ team, under the direction of their Advisor and in consultation with the Sponsor Liaison. Participating Students will first develop a strategy to work toward the objectives and desired results of the Capstone Project. The Department and Center will coordinate in good faith to provide University facilities and other resources necessary to permit Participating Students the opportunity to complete the Capstone Project, including appropriate supervision of Participating Students’ work on the Project under the guidance of the Advisor.
	3. The Capstone Project team is expected to perform two design reviews during the course of the Capstone Program. At completion of the Capstone Program, Participating Students will present their findings, conclusions and prototype (if applicable) at the Technical Open House. Sponsor acknowledges that the Technical Open House is open to the public. If Sponsor desires to hold all or parts of the presentation in confidence, the Sponsor Liaison will notify the Advisor at least twenty (20) days prior to the scheduled Technical Open House in order to permit the Advisor to arrange for a confidential presentation.
	4. The principal deliverables from the Participating Students team will be the Final Report and Project Deliverables, which will include hardware and software constructed or developed in the course of the Project, if applicable. At the conclusion of the Capstone Program, the Department will forward to the Sponsor a copy of the Final Report and the Project Deliverables.
	5. Sponsor acknowledges and agrees that it is Sponsor’s responsibility to use Sponsor’s own resources in order to validate and confirm Participating Student findings or recommendations in the Final Report, as well as the performance, functionality and usefulness of Project Deliverables. It is solely Sponsor’s responsibility to decide the extent to which, and how, Sponsor will utilize the Final Report and Project Deliverables for purposes of Sponsor’s strategic plans and business operations.
2. **Invoicing and Payment.** In support of the Capstone Project, Sponsor shall pay the Center a fee in the amount of $\_\_\_\_\_\_\_\_\_\_\_, which amount will be invoiced and due in full at the outset of the Capstone Project. Sponsor agrees to pay to Center all such compensation, in full, within thirty (30) days of Sponsor’s receipt of an invoice.

Invoices shall be addressed to Sponsor and sent to:
Email Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
Attn: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Sponsor shall provide payment by check (referencing Agreement No.\_\_\_\_\_\_\_\_\_\_), payable to “The University of Utah” and delivered to:

University of Utah Manufacturing Extension Partnership
1495 E 100 S, MEK 1121

Salt Lake City, UT 84112
Attn: Accounts Receivable

1. **Representations and Warranties; Disclaimers.** Sponsor warrants to the Center that no portion of the Fees will be comprised of Federal or Federal flow-through funding. Sponsor’s use of any Federal funding will require a separate research agreement with the Center, through the University’s Office of Sponsored Projects. Sponsor acknowledges that the services performed hereunder are performed by University students having no particular skills or expertise, and that the primary objective of both Parties in entering this Agreement is to provide Participating Students with real-world educational opportunities. UNIVERSITY HEREBY EXPRESSLY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES WITH RESPECT TO THE SERVICES CONTEMPLATED HEREUNDER, THE FINAL REPORT AND THE PROJECT DELIVERABLES, WHETHER EXPRESS OR IMPLIED, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICUILAR PURPOSE, WORKMANLIKE QUALITY, NON-INFRINGEMENT, ACCURACY AND SPONSOR’S SATISFACTION WITH THE WORK PRODUCT. CLIENT ASSUMES ALL RISK OF LOSS RELATED TO ITS USE (OR NON-USE) OF THE FINAL REPORT AND PROJECT DELIVERABLES. IN NO EVENT WILL THE UNIVERSITY’S LIABILITY RELATED TO THIS AGREEMENT, FOR ANY REASON AND BASED ON ANY CLAIM, WHETHER AT LAW OR IN EQUITY, EXCEED THE AGGREGATE CONSIDERATION THE UNIVERSITY HAS RECEIVED FROM SPONSOR HEREUNDER.
2. **Term; Period of Performance.** This Agreement will be effective as of the Effective Date, and will automatically expire on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.
3. **Confidentiality.** Sponsor may provide confidential information to the University in connection with the Capstone Program during the term of this Agreement. Such information shall be deemed Sponsor’s confidential information to the extent: (a) Sponsor specifically designates such information in writing as confidential or proprietary; or (b) a reasonable person would conclude such information is confidential or proprietary, based on the nature of the information or the circumstances of its disclosure.
	1. With respect to such confidential information, and subject to GRAMA (defined below), University agrees as follows:
		1. University will use such confidential information solely for purpose of the University’s administration of the Capstone Program.
		2. University will not disclose such information to any third party without Sponsor’s prior, written consent.
		3. Sponsor’s provision to University of confidential information under this Agreement will not constitute any grant or license from the Sponsor to University, except to the extent use of such information is necessary and appropriate to permit University to administer the Capstone Program.
		4. The obligations of University under the terms of this Agreement shall remain in effect for three (3) years from the date of University's signature below, notwithstanding the expiration of this Agreement.
	2. The foregoing non-use and non-disclosure obligations will not apply to information that the University can demonstrate, by written evidence, that such information:
		1. Was previously known to the University on a non-confidential basis prior to the Effective Date;
		2. Is upon disclosure, or later becomes, public knowledge other than through acts or omissions of University;
		3. Is lawfully obtained by University from sources independent of Sponsor, to the extent such sources are not bound by contractual or other legal obligations of confidentiality to Sponsor;
		4. Is developed independently by University personnel without any reliance on Sponsor’s confidential information; or
		5. Must be disclosed by the University pursuant to applicable law, including GRAMA.
	3. Sponsor acknowledges that University is subject to the Utah Governmental Records Access Management Act, Utah Code Section 63G-2-101 et seq. (as amended, “***GRAMA***”). Pursuant to GRAMA, this Agreement, and information provided pursuant hereto, may be subject to public disclosure. Any person who provides University with records that such person believes should be protected from disclosure for business reasons must, pursuant to Section 63G-2-309 of GRAMA and Utah Code Section 53B-16-304, provide University with a written claim of business confidentiality and a concise statement of reasons supporting such claim. Sponsor agrees to appropriately and clearly mark all confidential information consistent with the foregoing GRAMA provisions, as applicable.
4. **Indemnification.**
	1. Indemnification by University. University is a governmental entity subject to the Utah Governmental Immunity Act, Utah Code Section 63G-7-101 et seq. (as amended, the “***Immunity Act***”). Nothing in this Agreement shall be construed as a waiver of any rights or defenses applicable to the University under the Immunity Act including, without limitation, the provisions of the Immunity Act regarding limitation of judgements. Subject to the provisions of the Immunity Act, University agrees to indemnify, defend and hold harmless Sponsor, its directors, officers, agents and employees against any third party actions, suits, proceedings, liabilities and damages to the extent arising from the negligent acts or omissions of University, its officers, agents or employees in connection with this Agreement.
	2. Indemnification by Sponsor. Sponsor shall indemnify, defend and hold harmless University, its directors, officers, agents and employees against any third party actions, suits, proceedings, liabilities and damages to the extent arising from the negligent acts or omissions of Sponsor, its officers, agents or employees in connection with this Agreement, or Sponsor’s use of the Final Report or Project Deliverables.
5. **Intellectual Property.** As recognition of the Sponsor’s support for the Capstone Program, the University hereby agrees that Sponsor shall retain ownership rights to all new products, processes, technologies and other intellectual property that are conceived or first reduced to practice by Participating Students during the term of this Agreement, as a direct result of their work in the Capstone Project, and disclosed or embodied in the Final Report or Project Deliverables.
6. **General Terms.**
	1. Amendment; Waiver. Any amendment to this agreement shall be consummated by formal written amendment, signed by the authorized signatories of both Parties. No waiver hereunder shall be enforceable against a Party unless such waiver is specifically set forth in a written instrument executed by an authorized representative of that Party.
	2. Entire Agreement. This Agreement represents the entire understanding and agreement between the Parties relating to the subject matter hereof.
	3. Relationship of Parties. In assuming and performing the obligations of this Agreement, University and Sponsor are each acting as independent parties and neither shall be considered or represent itself as a joint venturer, partner, agent or employee of the other. Neither Party shall use the name or any trademark, logo, service mark, brand or other, similar mark of the other Party in any advertising, sales promotion or other publicity matter without the prior written approval of the other Party.
	4. Applicable Law; Exclusive Venue. This agreement, and all matters or issues collateral to it shall be governed by, and construed in accordance with, the laws of the State of Utah without application of any principles of choice of laws. Any litigation arising from any dispute between the Parties in connection with this Agreement shall be subject to the exclusive jurisdiction of the state and federal courts located in Salt Lake County, Utah.
	5. Assignment. Neither Party may assign its rights or obligations hereunder without the prior, written consent of the other Party, which consent will not be unreasonably withheld, delayed or conditioned.
	6. Survival of Terms. The following provisions of this Agreement will survive the expiration or earlier termination of this Agreement: Sections 3 (Representations and Warranties; Disclaimers), 5 (Confidentiality), 6 (Indemnification), 7 (Intellectual Property) and 8 (General Terms).

IN WITNESS WHEREOF, each of the Sponsor and the Center has caused this Agreement to be executed by its duly authorized representatives effective as of the Effective Date.

“**Center**” “**Sponsor**”

**UNIVERSITY OF UTAH, on behalf of its \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
Manufacturing Extension Partnership Center**

Name: Steve Black Name:
Title: Director Title:
Date: Date:

**University of Utah, on behalf of its
Office of Sponsored Projects**

Name: Brent K. Brown
Title: Director
Date: