

Texas A&M University-Kingsville Capstone Agreement

Texas A&M University-Kingsville ("TAMUK"), a member of The Texas A&M University System (the "A&M System") and an agency of the State of Texas, and [Sponsor] ("Sponsor") enter into this Capstone Agreement ("Agreement") effective [date] (the "Effective Date").

The goals of the capstone project are to provide students in TAMUK's Department of [Department] with real-world experience and to provide Sponsor with the opportunity to work with students, develop relationships with students and faculty, and benefit from design efforts and innovations resulting from student projects. The parties therefore agree as follows:

1. The Project

1.1 TAMUK shall provide students in TAMUK course number [#] (the "Course") an opportunity through a capstone project to perform research, design and/or development of a [project description] (the "Project"). Project goals include:

- (a) [goal]
- (b) [goal]
- (c) [goal]

1.2 The Project will run [[from [start date] to [end date]] OR [during TAMUK's [Fall/Spring] [year] semester[s]].

1.3 TAMUK encourages Sponsor to make representatives available for consultation and guidance with participating students and faculty, including for an initial meeting at the commencement of the Project and student presentations throughout the Project.

2. Project Funding

2.1 Sponsor shall provide TAMUK the non-refundable amount of \$[] to support the Project, to be paid upon execution of this Agreement and receipt of invoice.

2.2 TAMUK shall submit its invoice to Sponsor at the following address: [invoice info]

2.3 Sponsor shall submit payments to TAMUK at the following address: [payment info]

3. Sponsor Information

3.1 Sponsor acknowledges that students participating in the Project may include foreign nationals. Sponsor may not, in connection with the Project, disclose to TAMUK or participating students software, technical data, technology, and other information that is (a) subject to the U.S. Export Administration Regulations and classified under any ECCN in the Commerce Control List other than EAR99 or 5D992, (b) controlled under the U.S. International Traffic in Arms Regulations, or (c) otherwise controlled by the U.S. government for national security or foreign policy purposes.

3.2 TAMUK recommends that Sponsor not introduce confidential information into the Project, which takes place in an open and collaborative academic environment. TAMUK will not be responsible for the enforcement or any violations of any nondisclosure agreement which may be executed by students.

3.3 Sponsor certifies that none of its personnel participating in the Project on its behalf is a "restricted party" as listed on the Denied Persons List, Entity List, and Unverified List (U.S. Department of Commerce), the Debarred Parties List (U.S. Department of State), the Specially Designated Nationals List (U.S. Department of Treasury), or any similar governmental lists.

4. Student Work Product

- 4.1 TAMUK shall require the Project students to provide Sponsor with an oral briefing and/or a presentation or written report at the end of the semester.
- 4.2 For purposes of this Agreement, the "Student Work Product" means any inventions, ideas, discoveries, algorithms, copyrightable works, data, and other results and knowledge created, developed, or discovered by students in the course of the Project. "Student Work Product" does not include any intellectual property owned by TAMUK, the A&M System, or TAMUK faculty or staff.
- 4.3 TAMUK will not claim ownership or any rights in the Student Work Product. For avoidance of doubt, TAMUK hereby quitclaims any rights that TAMUK may have to any Student Work Product, other than TAMUK's right to use Student Work Product to evaluate student performance in the Course and for other educational purposes, to the appropriate student inventor(s) or author(s).
- 4.4 Sponsor acknowledges that:
- (a) TAMUK has no authority to make legal commitments on behalf of its students or to assign any student-owned intellectual property rights. TAMUK cannot require participating students to sign intellectual property licenses or assignments or nondisclosure agreements with Sponsor. Sponsor acknowledges that TAMUK will not be a party to any such assignment agreement and will not be responsible for the enforcement or any violations of such an agreement.
 - (b) The Project is educational in nature and intended to facilitate student learning;
 - (c) Students may make mistakes as a natural, expected, and appropriate aspect of the educational process;
 - (d) The Project is performed by students and is not subject to peer review or independent verification of Student Work Product;
 - (e) In performing the Projects, students are not the employees or agents of either TAMUK or Sponsor; and
 - (f) **The Student Work Product is provided "as is," without any representation, guarantee, or warranty, express or implied. Neither TAMUK nor its employees or students make any warranties of merchantability, fitness for a particular purpose, non-infringement, or any other warranties, express or implied, and hereby disclaim all such warranties as to any matter including, without limitation, warranties as to the Project and any Student Work Product.**
- 4.5 At all times during and after the termination of this Agreement, Sponsor shall indemnify and defend TAMUK, the A&M System, its regents, officers, employees, agents, and students (collectively, the "Indemnitees") against any claims, proceedings, demands, liabilities, and expenses (including legal expenses and reasonable attorneys' fees) arising out of or in connection with Sponsor's use of the Student Work Product, except to the extent that such loss, claim, damage or other liability arises from an Indemnitee's gross negligence or willful misconduct.
- 4.6 Sponsor may not use the name or any adaptation of the name of TAMUK, the A&M System, or any of its employees or students in any way except in factual statements that, in context, are not misleading or imply an endorsement. Sponsor shall clearly identify the source of the Student Work Product in any references, either internally or to third parties, as an undergraduate student project performed at TAMUK without subsequent independent evaluation.

5. Termination

- 5.1 Either party may terminate this Agreement effective upon 30 days' written notice to the

other, but the parties shall use their best efforts to prevent or minimize any disruption to the educational experience and academic progress of the students while the Project is underway.

6. General Provisions

- 6.1 The substantive laws of the State of Texas (and not its conflicts of law principles) govern all matters arising out of or relating to this Agreement and all of the transactions it contemplates. Venue for any claim arising out of or relating to this Agreement and all of the transactions it contemplates is as provided under Texas law.
- 6.2 Both parties acknowledge that this Agreement is subject to compliance with any and all applicable United States laws, regulations, and orders.
- 6.3 Any notices required or permitted under this Agreement will be deemed given: (a) three business days after it is sent by certified or registered mail, return receipt requested, (b) the next business day after it is sent by overnight carrier, (c) on the date sent by email transmission with confirmation of transmission and receipt, if sent during the recipient's normal business hours and if not, on the next business day, or (d) on the date of delivery if delivered personally, and in each case, addressed to the intended recipient at the address below or such other address as the intended recipient may specify in writing:
- (a) Sponsor: [Sponsor]
Attn: [name]
[address]
[phone]
[email]
- (b) TAMUK: Texas A&M University-Kingsville
Attn: [name]
[address]
[phone]
[email]
- 6.4 The parties are independent contractors, and this Agreement is not intended to create a partnership, joint venture, or employment relationship between the parties. Neither party may bind the other or otherwise act in any way as the representative of the other, unless specifically authorized, in advance and in writing, to do so, and then only for the limited purpose stated in such authorization.
- 6.5 This Agreement contains the entire understanding of the parties as to its subject matter and supersedes all other written and oral agreements between the parties as to that subject matter. The parties may execute other contracts, but those will not alter this Agreement unless expressly stated in writing. This Agreement may only be amended if expressly stated in a written agreement signed by an authorized representative of each party. Each party hereby objects to any different or additional terms on any purchase order, invoice, acknowledgement, or similar form.
- 6.6 This Agreement is assignable only with the written consent of both parties. Any purported assignment in violation of this Section 6.6 will be void.
- 6.7 Sponsor acknowledges that TAMUK, as an agency of the State of Texas, possesses certain rights and privileges, is subject to certain limitations and restrictions, and only has authority as is granted to it under Texas law. Nothing in this Agreement is intended to waive or relinquish TAMUK's sovereign immunity or any other exemptions, remedies, privileges, or immunities as may be provided by law, or to exceed the authority granted to TAMUK under Texas law.
- 6.8 Neither party will be liable or responsible to the other party nor be deemed to have breached this Agreement for failure or delay in fulfilling or performing any obligation under

this Agreement if and to the extent such failure or delay is caused by or results from causes beyond the affected party's reasonable control, including, but not limited to, acts of God, strikes, riots, flood, fire, epidemics, natural disaster, embargoes, war, insurrection, terrorist acts, or any other circumstances of like character; provided, however, that the affected party has not caused such force majeure event(s), uses reasonable efforts to avoid or remove such causes of nonperformance, and continue performance with reasonable dispatch when such causes are removed. The affected party shall provide the other party with prompt written notice of any delay or failure to perform that occurs due to force majeure, including describing the force majeure event(s) and the actions taken to minimize the impact of such event(s).

- 6.9 The failure of either party at any time to require performance by the other party of any provision of this Agreement will in no way affect the right to require such performance at any time thereafter nor will the waiver by either party of a breach of any provision be taken or held to be a waiver of any succeeding breach of such provision or as a waiver of the provision itself.
- 6.10 Each provision of this Agreement is severable. If any provision is rendered invalid or unenforceable by statute or regulations or declared null and void by any court of competent jurisdiction, the remaining provisions will remain in full force and effect if the essential terms of this Agreement remain valid, legal, and enforceable.

The parties have executed this Agreement on the dates indicated below.

Texas A&M University-Kingsville

[Sponsor]

By: _____
Name: _____
Title: _____
Date: _____

By: _____
Name: _____
Title: _____
Date: _____

Sample