

Cal Poly - CLASS PROJECT SPONSORSHIP AND INTELLECTUAL PROPERTY AGREEMENT

THIS CLASS PROJECT SPONSORSHIP AND INTELLECTUAL PROPERTY AGREEMENT ("Agreement") is dated and effective as of the date listed below ("Effective Date"), and is by and between Cal Poly Corporation dba Cal Poly Partners, a non-profit public benefit corporation and auxiliary organization serving the interests of the California Polytechnic State University, with a mailing address of 1 Grand Avenue, San Luis Obispo, CA 93407 (hereafter "Cal Poly"), and _____ ("Sponsor") doing business at _____ (hereafter "Sponsor") (each party individually referred to as "Party" and collectively "parties").

1. **PURPOSE:** The Sponsor has agreed to provide financial support, technical support, and/or participate in activities as set forth below in this Agreement to support a curricular project ("Class Project"). The intention of the Class Project is to benefit the instructional and educational outcomes of the students. This Agreement addresses the terms of Sponsor's support, including confidentiality and intellectual property terms.

2. CONFIDENTIAL INFORMATION:

Will business and/or non-technical confidential information be shared with Cal Poly Advisors and/or the student team?

Such confidential information is not technical in nature, and includes business strategic plans and forecasts; business and product or service plans; financial condition, affairs, and predictions; pricing policies and practices; identity of and plans for the development of new customers and information about customer purchases; information concerning sales, sales volume, sales and marketing methods, sales proposals, and sources of supply; billing and collection procedures; procurement requirements; human resources; documentation of meetings; and artwork.

Yes No

Will technical confidential information be shared with Cal Poly Advisors and/or the student team?

Such technical confidential information would include technical data, know-how, or trade secrets; patent applications; computer object or source code; programming materials; engineering, technical, or hardware designs or schematics; prototypes and designs; inventions; research and development information or data; technical processes; formulas and compositions of materials or products; engineering information; hardware configuration, settings, or other information; technical manuals and handbooks; and other technical data.

NOTE: Projects involving confidential and/or proprietary technical components will take 4-8 weeks for Cal Poly's export team to review. Cal Poly is not currently able to accept projects with ITAR components and will likely be unable to accept projects with components classified within the EAR above EAR99. If Cal Poly can accept an EAR-related project, Sponsor may be required to pay additional fees to support appropriate cybersecurity measures.

Yes No

If either or both boxes are checked yes, the following terms will apply to all shared confidential information.

"Confidential Information" means information which is not in the public domain and is deemed confidential and proprietary if it: (A) is clearly and conspicuously marked as "confidential" or "proprietary" at the time of initial disclosure hereunder; (B) is transmitted via electronic or hard copy cover letter or memorandum stating that the contents are "confidential" or "proprietary;" (C) if disclosed by oral communication or through visual display/inspection, is orally identified as confidential at the time of disclosure and then subsequently confirmed as confidential in writing within twenty (20) days of the initial disclosure. Recipients shall use reasonable care to prevent disclosure or dissemination of Confidential Information. **Confidential Information transmitted by Sponsor to Cal Poly may only be transmitted to the Cal Poly Faculty/Staff Advisor designated below in this Agreement.**

- 3. INFORMATION NOT COVERED:** A receiving party has no obligation with respect to any information which: (A) was lawfully known by the receiving party before receipt of it from the other party; (B) is or becomes generally known to the public through no wrongful act or omission of the receiving party; (C) is rightfully provided to the receiving party by a third party, without restriction on disclosure or use; (D) is independently developed by personnel of the receiving party, without breach of the obligations of confidentiality set forth in this Agreement; (E) is explicitly approved for release by written authorization; (F) is made available to a third party by the owner without restriction concerning use or disclosure and not in violation of any confidentiality agreement.
- 4. OWNERSHIP AND USE:** If either business/non-technical or technical Confidential Information is expected to be shared with Cal Poly Advisors and/or the student team, as indicated by checking "Yes" in section 2. Confidential Information, Confidential Information may only be used by a receiving party for the purpose of performing this Agreement. Neither Party acquires ownership of the other Party's Confidential Information. If no Confidential Information is expected to be shared, as indicated by checking "No" in section 2. Confidential Information, this section is self-deleting.
- 5. PERMITTED DISCLOSURE:** No Party will be liable for disclosure of Confidential Information to the extent made: (a) to comply with a valid Public Records Act request (as applicable to public entities); or (b) in response to a valid order of court or authorized government agency. Prior to disclosure hereunder, a notice shall first be given to the Party owning the Confidential Information so that a protective order may be sought by the owner.
- 6. INTELLECTUAL PROPERTY RIGHTS:**
- "Intellectual Property" means all inventions (whether patentable or unpatentable and whether or not reduced to practice), all improvements thereto, and all patents, patent applications, and patent disclosures, trademarks, trade names, service marks, domain names, copyrightable works, know-how, trade secrets, computer software programs, and other intangible proprietary information.
 - "Class Project Intellectual Property" means Intellectual Property that is first created, developed, invented, discovered, or derived from the Class Project.
 - "Sponsor Separate Intellectual Property" means Intellectual Property that either now exists and belongs to Sponsor or is hereafter owned or developed by or through Sponsor.
 - "Cal Poly Separate Intellectual Property" means Intellectual Property that either now exists and belongs to Cal Poly or is hereafter owned or developed by or through Cal Poly.
- 7. INTELLECTUAL PROPERTY OWNERSHIP:**
- Sponsor Intellectual Property. This Agreement confers no ownership, no rights, and no license to any person or entity in and to any Sponsor Intellectual Property. Sponsor retains full ownership and control of Sponsor Intellectual Property.
 - Cal Poly Intellectual Property. This Agreement confers no ownership, no rights, and no license to any person or entity in and to any Cal Poly Intellectual Property. Cal Poly retains full ownership and control of Cal Poly Intellectual Property.
 - Class Project Intellectual Property. Class Project Intellectual Property shall be owned as set forth in the checked clause below **[if none is checked, the first clause, (1), shall apply]:**
 - Cal Poly Ownership. Class Project Intellectual Property shall belong exclusively to Cal Poly.
 - Joint Ownership. Class Project Intellectual Property shall belong jointly to Sponsor and Cal Poly. The Party filing any patent or other application shall pay the entire cost of doing so, unless a cost sharing agreement is otherwise agreed in writing by the Parties. Unless otherwise agreed in writing, neither joint owner is accountable to the other for any profits or proceeds from utilization or licensing, but any licensing must be on a non-exclusive basis.

- 3) Sponsor Ownership with Research License to Cal Poly. Cal Poly hereby assigns to Sponsor all rights to Class Project Intellectual Property. Sponsor hereby grants to Cal Poly a royalty free, worldwide, perpetual, irrevocable, non-exclusive license (without the right to sublicense) to utilize such Class Project Intellectual Property for academic/research purposes.
- 4) Sponsor Ownership. Cal Poly hereby assigns to Sponsor all rights to Class Project Intellectual Property that Cal Poly may obtain in all works that any faculty, staff, or student creates in connection with the Class Project.

8. PUBLICATION RIGHTS: Sponsor hereby authorizes the following publication rights regarding the research associated with the Class Project:

- a. Internal Publication. Students may prepare and submit to **Cal Poly Faculty/Staff Advisor**, and **Cal Poly Faculty/Staff Advisor** may receive and review internal/non-public project reports and papers for academic evaluation and grading, which may refer to Confidential Information and/or Class Project Intellectual Property.
- b. External Publication, subject to elimination of references to Confidential Information of Sponsor (but not elimination of Class Project Intellectual Property) in such publication. Prior to publication or dissemination, Sponsor shall receive a draft of such manuscript (or other form/format of publication) at least thirty (30) days prior to publication or dissemination. Within such thirty (30) day review period, Sponsor may identify any of Sponsor's Confidential Information embedded therein, which shall be redacted and removed from any publication or dissemination, and (if Sponsor has ownership rights to Class Project Intellectual Property) may identify Class Project Intellectual Property embedded therein which is patentable, which shall be redacted and removed from any publication or dissemination for a period of eighteen (18) months from the original date of submission to Sponsor.

9. NO WARRANTIES: CAL POLY, ITS FACULTY, STAFF, AND STUDENTS MAKE NO WARRANTIES, EXPRESSED OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, THE CONDITION OF THE RESEARCH OR ANY INVENTION(S) OR PRODUCT(S), WHETHER TANGIBLE OR INTANGIBLE, CONCEIVED, DISCOVERED, OR DEVELOPED UNDER THIS AGREEMENT; OR THE NON-INFRINGEMENT, OWNERSHIP, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OF THE RESEARCH OR ANY SUCH INVENTION OR PRODUCT. Cal Poly, its faculty, staff, and students shall not be liable for any direct, indirect, consequential, special, punitive, or other damages suffered by any licensee or any others resulting from the use of the research or any invention, service, or product.

*Note: Since the class project by its nature is unpredictable and without guarantee of successful results, this project is conducted on a **"reasonable efforts"** basis. Cal Poly will not accept agreement provisions that guarantee results, impose penalties for failure to make progress by firm deadlines, or provide for withholding of payments if the sponsor is not satisfied with the results.*

10. EQUIPMENT: Title to any equipment or supplies purchased or manufactured by Cal Poly for purposes only in the performance of the work, and funded under this Agreement shall vest in Cal Poly upon acquisition.

11. INDEPENDENT INQUIRY: Nothing in this Agreement shall be construed to limit the freedom of researchers who are participants in this Agreement, whether paid under this Agreement or not, from engaging in similar research inquiries made independently under agreements with third parties.

12. PERIOD OF PERFORMANCE, EFFECTIVE DATE, TERM AND TERMINATION: Cal Poly Class Project period of performance runs from the beginning to the end of the Academic Year. This Agreement is effective on the last signature date set forth below ("Effective Date") and will continue through the end of the Academic Year, or 12 months from effective date, whichever occurs first, unless otherwise terminated earlier in accordance with the terms of this Agreement. Either Party may terminate this Agreement upon written notice to the other for convenience. If work has commenced, then no refunds of sponsorship fees will be made if sponsor elects to terminate for convenience. Each Party's respective obligations accrued during the Term of this Agreement shall remain in effect for three (3) years following the termination or conclusion of the Term of this Agreement.

- 13. MUTUAL DISCLAIMERS:** No other existing agreement between the Parties, if any, is modified or terminated by this Agreement. No Party has an obligation under this Agreement to purchase any product or service from the other Party.
- 14. GOVERNING LAW/VENUE:** This Agreement is governed by the law of the State of California, United States of America. This Agreement shall be enforceable against the parties in the courts of the United States of America and of the State of California. Each party hereby irrevocably submits to the exclusive jurisdiction (including personal jurisdiction) of such courts located within the State of California.
- 15. EXPORT REGULATION:** Cal Poly is a public educational entity, with extensive teaching and research functions and activities. Cal Poly students, faculty, and staff come from a diverse set of backgrounds and nationalities. It is the intent of the Parties to remain fully compliant at all times with all U.S. export control regulations, including but not limited to the Export Administration Regulations (EAR), International Traffic in Arms Regulations (ITAR), and embargo sanctions under the Office of Foreign Assets Control (OFAC). **Export controlled information or materials shall not be exchanged or received by either Party as part of a Class Project sponsorship.**
- 16. PUBLICITY:** Either Party may publicly disclose the general nature of the research relationship under this Agreement but shall not utilize the trademarks of the other Party or disclose the specific contract terms without prior written consent of the other Party.
- 17. SEVERABILITY:** If any provision of this Agreement is held to be illegal, invalid or unenforceable, in whole or in part, that provision will be modified to the minimum extent necessary to make it enforceable, and the legality, validity and enforceability of the remaining provisions will not be affected thereby.
- 18. FINAL AGREEMENT:** This Agreement states the entire agreement between the parties relating to the Purpose and supersedes all prior written or verbal agreements relating to this Agreement. This Agreement may only be modified in a writing signed by all parties. The parties agree to be legally bound by this Agreement. A signature provided by any electronic format will be deemed to be an original signature, and this Agreement may be executed in counterparts.
- 19. CLASS PROJECT DESCRIPTION(S) and SUPPORT FEE(S):** Class project descriptions and associated fees are attached hereto in Attachment A and incorporated by reference. Upon execution of this Agreement, Cal Poly will issue an invoice. The sponsor shall pay Cal Poly within thirty (30) days following issuance of invoice.
- 20. ADDITIONAL MATERIALS/EQUIPMENT TO BE SUPPLIED BY SPONSOR-SUPPLIED DIRECTLY TO PROJECT TEAM:**
Yes (Provide description): _____

No
- 21. CAL POLY TECHNICAL CONTACT:**
Cal Poly Faculty/Staff Advisor: _____
Email and Phone Number: _____

Contract #

- 22. PAYMENT:** The Class Sponsorship Fee is issued as a fixed price noted in Exhibit A. Payment is due within 30 days of receipt of the invoice.

Class Project Support Fee Payment and Invoice Contact Information:

Organization:
Name:
Email:
Phone:
Address:

Cal Poly Partners contact information: sponprog@calpoly.edu

Will a PO be issued: Yes No

Any reference to a purchase order or similar documentation or other acceptance thereof is solely for Sponsor's convenience in record keeping, and no such reference shall be deemed an acknowledgement of or agreement to any terms or conditions associated with any such purchase order or other Customer-provided documentation. Any such associated terms and conditions shall be of no force and effect and shall not in any way be deemed to amend, modify, supersede, alter or supplement this Agreement.

Acceptance of the terms in this Agreement (authorized signatories):

Cal Poly Corporation, dba Cal Poly Partners

Sponsor Name

Darya Veach
Director, Sponsored Programs Office
Date:

Name:
Title:
Date:

Attachment A

<u>Project Title:</u>	<u>Project Description:</u>	<u>Amount: \$</u>