DESIGN AND DEVELOPMENT AGREEMENT

Dartmouth College Thayer School of Engineering
Cook Engineering Design Center (CEDC)

Agreement No. _____

THIS DESIGN AND DEVELOPMENT AGREEMENT, dated as of _____, 2022, ("Agreement"), is made by and between _____ with a principal address at _____ ("Sponsor"), and Trustees of Dartmouth College, ("Dartmouth").

A. The CEDC 89/90 Program ("Program") is a research and development program at Dartmouth College's Thayer School of Engineering, with the primary purpose to provide Dartmouth students with experiential learning opportunities in the capstone engineering design two-course sequence ENGS 89/90 relating to the design and development needs of sponsors, including businesses.

B. Sponsor desires to support the Program.

C. As part of the Program, a Project contemplated by this Agreement is also of mutual interest to Sponsor and Dartmouth, and furthers Dartmouth's educational, scholarship and research objectives as an institution of higher education.

NOW, THEREFORE, in consideration of the provisions set forth herein and the mutual benefits to be derived herefrom, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Sponsor and Dartmouth agree as follows:

1. SECTION 1. DEFINITIONS

1.1 "Deliverables" shall mean the Final Prototype and Final Reports.

1.2 "Final Prototype" shall mean a physical prototype, software package, final measurement data, mathematical model, analytical analysis, or other form presenting the results developed by the Project Team in the Project. The nature of the Prototype shall be determined by the Project Team in consultation with the Sponsor during the Project Period.

1.3 "Final Reports" shall mean the documentation and technical reports describing the work performed on the Project by the Project Team during the Project Period.

1.4 "Intellectual Property" shall mean (i) all patentable discoveries and inventions and (ii) all software, whether or not patentable, invented or developed by the Project Team during the Project Period.

1.5 "Intellectual Property Protections" shall mean the registration, application, filing, prosecution or maintenance of a patent or copyright for Intellectual Property.

1.6 "Program Funds" shall mean any funds to be paid by Sponsor to Dartmouth to support the Program in the amount of _____ ($_____).

1.7 "Project" shall mean the design project as described in the application # _____ submitted by the Sponsor and agreed upon in writing by Dartmouth on (date)_____.

1.8 "Project Period" shall mean the period commencing as of _____ , *202__*, and ending on _____ __, 202__.

1.9 "Project Team" shall mean the students performing the Project.

1.10 "Work Product" shall mean results of the work on the Project by the Project Team throughout the Project Period, including preliminary reports and proposals, prototypes prior to the Final Prototype, and other such work product.

SECTION 2. OBLIGATIONS OF THE PARTIES

2.1 Program Funds. Sponsor shall make full payment of the Program Funds to Dartmouth upon execution of this Agreement.

Invoices shall be sent to:

_____
_____
_____
_____

All payments shall be in U.S. dollars and made by check payable to the order of Trustees of Dartmouth College and delivered to:

Dartmouth College
Thayer School of Engineering
15 Thayer Drive
Hanover, NH 03755
Attn: Lori Laventure

The parties acknowledge that the Program Funds may not cover the full cost of the Project, and/or that all Program Funds may not be fully expended during the Project Period. Dartmouth shall not bill Sponsor for additional costs beyond the Program Funds, and shall not be required to reimburse Sponsor for any Program Funds that remain unspent at the completion of the Project.

2.2. Project and Deliverables. Dartmouth shall assemble a Project Team, which shall a) perform the Project and provide Sponsor with periodic reports on Results during the Project Period, b) invite Sponsor to attend (in person or virtually) the final oral presentations for ENGS 89/90, and c) deliver Deliverables to Sponsor at the end of the Project Period.

SECTION 3. PUBLICATIONS AND PRESENTATIONS; NAME AND LOGO USE

3.1 Publications and Presentations. Subject to Sections 3.3 and 4, Dartmouth and Project Team members shall have the right to publish or otherwise disclose information included in the Work Product and Final Reports and information relating to the Project within Dartmouth and at academic and professional conferences, provided, however, prior to any publication or presentation outside of Dartmouth, a draft copy of the proposed publication or presentation shall be provided to Sponsor for its review at least 30 days prior to submission for publication or presentation. During such 30-day period, a) Sponsor may request that Dartmouth delay the proposed publication or presentation for up to an additional 30 days to allow for patent or copyright filings, and b) Sponsor may suggest changes to the proposed publication or presentation, but the author shall retain final authority; provided, however, that the author shall be obligated to make changes necessary to remove Confidential Information. During the Project Period and for one year after the termination of the Project Period, Sponsor may not publish or otherwise disclose information included in the Work Product and Final Reports without the prior written approval of Dartmouth, in order to avoid interference with any proposed academic projects or publications. Notwithstanding anything in this Agreement to the contrary, copyrights in publications, presentations or other scholarly writings shall be owned by their authors.

3.2 Website Postings and CV Materials. Subject to Section 3.3, each party has the right to post information on its website that identifies Dartmouth as the grantee and Sponsor as the grantor of the Project, and includes an abstract of the Project that does not include Confidential Information. Subject to Section 3.3, members of the Project Team may refer to their participation in the Project in their curriculum vitae and other materials describing their experience or qualifications, identify Dartmouth as the grantee and Sponsor as the grantor, and include an abstract of the Project that does not include Confidential Information.

3.3 Name and Logo Use. Neither Sponsor nor Dartmouth shall use the other party's name, trademarks or other logos, or the names of any individuals involved in the Project, including, but not limited to, the Project Team members, in any publication, presentation or other materials without the prior written consent of such other party or individual. The foregoing restriction shall not apply to the inclusion of an acknowledgment of Sponsor's funding of the Project in any such publication, presentation or other materials.

SECTION 4. SPONSOR'S CONFIDENTIAL INFORMATION

4.1 Definition. "Confidential Information" shall include all information proprietary to Sponsor that the Sponsor ordinarily maintains as confidential, which is disclosed by the Sponsor in any manner or media to Dartmouth or Product Team members, and which is marked as "Confidential" at the time of disclosure or, if disclosed orally or visually, is identified as confidential at the time of disclosure and reduced to written, printed or other tangible form, marked as "Confidential' and delivered to Dartmouth within ten (10) days from the date of disclosure. All Confidential Information of Sponsor is and shall remain the sole and exclusive property of Sponsor, and this Agreement shall not be deemed to grant or convey to Dartmouth any license or other right to any Confidential Information.

4.2 Limitations on Disclosure and Use. During the Project Period and for three (3) years after the end of the Project Period, without written consent of Sponsor Dartmouth shall not directly or indirectly publish, disseminate or otherwise disclose, deliver or make Confidential Information available to any person outside of Dartmouth, and shall use all Confidential Information solely for the purpose of the Project and not for the benefit of any other person or entity.

4.3 Permitted Disclosures. The limitations on use and disclosure of Confidential Information will not apply to Confidential Information that (i) is already available without restriction to the general public, (ii) becomes available to the general public through no act or omission of Dartmouth, (iii) is independently obtained by Dartmouth without being subject to any confidentiality obligation, or (iv) is required to be disclosed in order to comply with any mandatory legal process or requirement. Prior to disclosing any information pursuant to clause (iv) above, Dartmouth shall provide (if legally permitted under the circumstances) the Sponsor with prompt prior written notice of such request or requirement so that the Sponsor may seek a protective order or other legal protection of such disclosure. Dartmouth shall deliver to Sponsor all manifestations in any manner or media of Confidential Information upon a request by the Sponsor or the expiration or termination of this Agreement.

SECTION 5. ASSIGNMENT OF INTELLECTUAL PROPERTY

Provided that Sponsor has notified Dartmouth at the time of Project submission that Sponsor wishes to take assignment of Intellectual Property developed during the course of the Project, Dartmouth shall require Project Team members to assign all right, title, and interest in Intellectual Property to Dartmouth. Dartmouth hereby assigns and shall assign to Sponsor all right, title, and interest in Intellectual Property; provided, however, Sponsor hereby grants and shall grant to Dartmouth a royalty-free, non-exclusive license with no right to sublicense the Intellectual Property solely for research and educational purposes.

SECTION 6. DISCLAIMER OF WARRANTIES; LIABILITY LIMITATION; INDEMNIFICATION; EXPORT COMPLIANCE

6.1 Disclaimer of Warranties. Notwithstanding anything in this Agreement to the contrary, Dartmouth makes no representations or warranties of any kind, express or implied, concerning the the Project or Deliverables or Work Product or any related Intellectual Property, including, but not limited to, representations and warranties as to non-infringement, merchantability and fitness for any particular purpose.

6.2 Liability Limitation. Dartmouth shall not be liable for, and Sponsor hereby irrevocably and forever releases Dartmouth, including Dartmouth's trustees, officers, employees and agents, and the Project Team members, from, any direct, indirect, incidental, consequential, special or other economic damages, suffered by Sponsor in connection with this Agreement, the Project or any related Intellectual Property, including, but not limited to, any use or commercialization thereof.

6.3 Indemnification. Sponsor shall indemnify, hold harmless and defend Dartmouth and its trustees, officers, employees, agents and representatives, and the Project Team members from and against any and all damages, losses, liabilities, costs and expenses arising from any demand, cause of action or claim of any third party of any nature directly or indirectly arising as a result of Sponsor's use or commercialization of the Project Results or Deliverables or Intellectual Property. The parties shall cooperate in the defense and settlement of any such claim and Sponsor shall not settle the matter without Dartmouth's consent, which shall not be unreasonably withheld or delayed.

6.4 Export Control Matters. Sponsor represents and warrants to Dartmouth the Project does not, and will not, involve any data or technology, whether existing or to be developed, that is subject to any license requirements under the export control laws of the United States. Sponsor acknowledges that Dartmouth is an

academic institution with an open campus and does not impose restrictions upon the ability of its foreign national students to participate in academic or other institution-sponsored activities available to the members of its student body.

SECTION 7. TERMINATION; ACTIONS UPON TERMINATION; SURVIVAL OF OBLIGATIONS

7.1 Termination. This Agreement may be terminated prior to the expiration of the Project Period by written agreement of the parties, effective upon the date set forth in such agreement, or by either Sponsor or Dartmouth in the event the other party fails to cure any material breach of this Agreement within 30 days after receipt of written notice of such breach from the terminating party, effective upon delivery of written notice from the terminating party.

7.2 Survival of Obligations. Notwithstanding anything in this Agreement to the contrary, the provisions of Sections 3, 4, 5 and 6 shall survive any expiration or termination of this Agreement, and each party shall remain obligated under any other provisions that expressly or by their nature survive any expiration or termination of this Agreement.

SECTION 8. NOTICES

Any notice under this Agreement shall be in writing and shall be deemed to have been delivered to a party (i) upon receipt if delivered personally, by reputable courier, or by electronic transmission, or (ii) on the 5th business day following deposit to the U.S.mail, and shall be addressed as follows:

If to Sponsor:	**If to Dartmouth:**
	Dartmouth College Technology Transfer Office 11 Rope Ferry Rd. Hanover, NH 03755
Attention: Email:	Attention: Director Email: technology.transfer@dartmouth.edu

Any questions of a technical nature on the Agreement terms shall be directed to Emily Monroe at the following Email: Emily Monroe

SECTION 9. MISCELLANEOUS

9.1 Entire Agreement. This Agreement, constitutes the entire agreement between the parties, and supersedes any prior or contemporaneous understandings and agreements with respect to the subject matter hereof

9.5 Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the United States and the laws of the State of New Hampshire (without regard to the conflicts or choice of law principles thereof).

IN WITNESS WHEREOF, *the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.*

[_____]	***Trustees of Dartmouth College***
*By:*_____	*By:*_____
_____	Cheryl Junker
Title:_____	Associate Director for IP Transactions, Technology Transfer