# LEARNING FACTORY CAPSTONE DESIGN PROJECT NONDISCLOSURE AGREEMENT

**Effective Date:**_____
**Agreement No.:** _____

THIS LEARNING FACTORY CAPSTONE DESIGN PROJECT NONDISCLOSURE AGREEEMENT ("**Agreement**") is entered into as of the date set forth above ("**Effective Date**") by and between _____ ("**Sponsor**"); The Pennsylvania State University, a state-related institution and instrumentality of the Commonwealth of Pennsylvania subject to the Pennsylvania nonprofit corporation laws (the "**University**"), and certain student participants as individuals as more specifically set forth below ("**Student**"). Sponsor, University, and Student may be each referred to herein solely as a "**Party**" or collectively as the "**Parties**" as the case may be.

WHEREAS, the Sponsor, who may be referred to as the "**Disclosing Party**", wishes to disclose Confidential Information relating to_____ and further described in Appendix A, to the University and Student, who may be referred to collectively as the "**Receiving Party**", solely for the limited purpose of graduate or undergraduate training and educational programs developed within the College of Engineering at University that are associated with the Learning Factory Capstone Design Project ("**Capstone Design Project**").

NOW THEREFORE, in consideration of the foregoing premises and mutual promises, covenants, and undertakings set forth below and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. "**Confidential Information**" means non-public proprietary information that may include, by way of example but without limitation, data, know-how, formulae, processes, designs, sketches, photographs, plans, drawings, specifications, samples, reports, studies, findings, inventions, and ideas.

2. Prior to disclosure, Disclosing Party shall notify the Receiving Party of its intent to disclose Confidential Information; and Receiving Party shall have the right to decline receipt of said Confidential Information. Confidential Information shall be disclosed in documentary or tangible form marked "Confidential" or "Proprietary." In the event Confidential Information is orally or visually disclosed, the Receiving Party shall not be bound by the obligations set forth herein unless the same is reduced to writing, marked as "Confidential" or "Proprietary" and forwarded to the Receiving Party within thirty (30) days of such oral or visual disclosure, referencing the place and date of disclosure and the names of the representatives of the Receiving Party to whom such disclosure was made, including therein a description of the Confidential Information disclosed. Each Party agrees to keep the Confidential Information of the other Party in strict confidence and shall only use the Confidential Information of the other Party to the extent required for the Capstone Design Project. The Receiving Party shall exercise reasonable care to prevent its disclosure of Confidential Information to any third party. Each Party shall disclose Confidential Information of the other Party only to its recipient's officers, directors, and personnel (if any) (i) who have a need to know such Confidential Information in the course of the performance of their duties under this Agreement, (ii) who are informed of the confidential nature of the Confidential Information, and (iii) who (a) agree in writing to comply with the terms of this Agreement as if a party hereto or (b) are otherwise bound by obligations of confidentiality and non-use of Confidential Information at least as stringent as those set forth in this Agreement. No Party shall be liable to the other Parties for any cost, expense, claims, or loss arising out of actions or omissions of the other Parties in connection with performance of this Agreement. No other rights or licenses to use the Confidential Information of a Disclosing Party are implied or granted under this Agreement. The obligations of each Party specified in this Paragraph 2 shall not apply, and such Party shall have no further obligations, with respect to any Confidential Information of the other Party that the Receiving Party can reasonably demonstrate: (a) is now, or hereafter becomes, through no act or failure to act on the part of the Receiving Party, generally known

or available to the public; (b) is known by the Receiving Party at the time of receiving such information otherwise than as a result of the Receiving Party's breach of any legal obligation, as demonstrated by its written records; (c) becomes known to the Receiving Party through disclosure, as a matter of right and without restriction on disclosure, by a third party who is under no obligation of non-disclosure to the Disclosing Party; (d) is independently developed by a Party without the reference to or reliance upon the Confidential Information of the Disclosing Party, as demonstrated by such Party's written records; or (e) is the subject of a written permission to disclose provided by the Disclosing Party.

3. Sponsor acknowledges that University and Student shall have the right to publish any results of the Capstone Design Project that do not disclose Confidential Information, including for example class presentations to other students and external reviewers for purposes of receiving progress feedback as well as undergraduate or graduate theses. University and Student agree not to publish or otherwise disclose Confidential Information. Sponsor shall be provided a copy of any proposed publication or presentation one (1) week before submission of such proposed publication or presentation. At Sponsor's request, Confidential Information provided by Sponsor shall be deleted.

4. Receiving Party acknowledges and agrees that Confidential Information disclosed under this Agreement is confidential and proprietary to Disclosing Party and that title and ownership of Confidential Information shall remain with the Disclosing Party. University and Student agree to make available to Sponsor project results, including written reports and/or prototypes. Sponsor has the right to take ownership of inventions or discoveries conceived and reduced to practice by University in performance of the Capstone Design Project; however Student retains ownership of intellectual property created in in performance of the Capstone Design Project in accordance with University policy. Sponsor may request and Student may elect to assign their rights to such intellectual property to Sponsor. Sponsor acknowledges and agrees that ultimately it is the Sponsor's responsibility to obtain such an assignment from the Student.

5. This Agreement shall continue in full force and effect for one (1) year from the Effective Date; provided that, after any termination or expiration, the obligations of confidentiality and non-use shall continue in full force and effect for two (2) years from the Effective Date.

6. This Agreement may be terminated by any Party by giving thirty (30) days prior written notice to the other Parties. Upon termination or expiration of this Agreement, the Receiving Party shall return or destroy, as determined by the Disclosing Party, all Confidential Information furnished hereunder; provided that, the Receiving Party may retain one copy of Confidential Information for the purpose of determining its continuing obligations under this Agreement. Termination of this Agreement by only Party (e.g., a Student) shall not affect the rights and obligations of remaining Parties (e.g., other Student(s)).

7. Any other notice or communication pursuant to this Agreement shall be in writing and sent by certified/registered mail or overnight courier to the Contractual Point of Contact for a Party. Each Technical Point of Contact designated a Party for receiving and disclosing Confidential Information shall make all arrangements for their party and be informed of all communications relating to this Agreement.

| | |
|---|---|
| Sponsor: | |
| Primary Office Address: | |
| Technical Point of Contact ("POC"): | |
| Technical POC Phone: | |
| Technical POC Email: | |
| Contractual Point of Contact ("POC": | |
| Contractual POC Phone: | |
| Contractual POC Email: | |

| | |
|---|---|
| University | **The Pennsylvania State University** |
| Primary Office Address: | 110 Technology Center, University Park, PA 16802 |
| Technical Point of Contact ("POC"): | Matthew Parkinson, Director, The Learning Factory |
| Technical POC Phone: | 814-865-0016 |
| Technical POC Email: | parkinson@psu.edu |
| Contractual Point of Contact ("POC"): | John W. Hanold, Assoc. V. President for Research, Director, OSP |
| Contractual POC Phone: | (814) 865-1372 |
| Contractual POC Email: | nda-osp@psu.edu |

8. This Agreement embodies the entire understanding of the Parties relating to the subject matter hereof and shall supersede all previous communications, representations, among the Parties.

9. This Agreement may be modified or amended only by a written agreement embodying the full terms of the amendment signed by authorized representatives of all Parties

10. All Parties must comply with all applicable U.S. export control laws and regulations. For purposes of this Agreement, there shall be no export controlled information disclosed by any Party.

11. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania without giving effect to any choice of law or conflict of law provision or rule that would cause the application of the laws of any jurisdiction other than the Commonwealth of Pennsylvania.

12. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Scanned copies of signatures or electronic images of signatures shall be considered original signature unless prohibited by applicable law.

IN WITNESS WHEREOF, the Parties, intending to be legally bound hereby, have each caused a duly authorized representative to execute this Agreement on the day and year set forth below

[COMPANY] ("Sponsor")

Signature: _____

Name (Printed): _____

Title: _____

Date: _____

THE PENNSYLVANIA STATE UNIVERSITY ("UNIVERSITY")

Signature: _____

Name (Printed): _____

Title: _____

Date: _____

**STUDENT PARTICIPANT(S) OF UNIVERSITY**

Note: Student Participants must be at least 18 years of age to become a party to this Agreement.

Signature: _____
Name (Printed): _____
Address: _____
Address: _____
Date: _____

Signature: _____
Name (Printed): _____
Address: _____
Address: _____
Date: _____

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Name (Printed): _____
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Signature: _____
Name (Printed): _____
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Address: _____
Date: _____

Acknowledgement by Technical POC and Course Instructor of Agreement terms and obligations:

By: _____
Name: Matthew Parkinson
Title: Director, The Learning Factory
Date: _____

By: _____
Name: _____
Title: Course Instructor
Date: _____

Attach additional signature pages as necessary

**APPENDIX A**

**Description of the Project**