

## GIFT AGREEMENT

This gift agreement (this "Agreement") is made effective on September 9, 2019, (the "Effective Date") between the **Stout University Foundation**, a Wisconsin nonprofit corporation (the "Foundation"), **University of Wisconsin-Stout** (the "University"), an instrumentality of the state of Wisconsin, and **Menard, Inc.** (the "Donor"), a Wisconsin corporation. This Agreement is for the benefit of the Center for the Study of Institutions and Innovations (the "Center"), which is housed in the College of Arts, Communications, Humanities, and Social Sciences (the "College"). The Foundation, the University and the Donor are sometimes referred to in this Agreement individually as a "Party" and collectively as the "Parties." The Parties agree as follows:

1. **Promoting Academic Freedom.** Consistent with the Donor's principles of supporting open inquiry and a diversity of ideas in higher education, the Donor's gift is intended to help promote a republic of science at the University where ideas can be exchanged freely and useful knowledge will benefit the well-being of individuals and society. Thus, the Parties agree that the academic freedom of the University, the Center, and their faculty, students, and staff is critical to the success of the Center's research, scholarship, teaching, and service.
2. **The Foundation and the University's Proposal.** The Parties enter into this Agreement based on the Foundation and the University's proposal, which is hereby incorporated into and made part of this Agreement, and attached as Attachment A (the "Proposal"). The Proposal reflects the vision of and relies on the leadership of Dr. Tim Shiell, who was selected by the University, according to its normal procedures, to be the director of the Center (the "Center Director"). As stated in the Proposal and consistent with the Center Director's vision, the mission of the Center is to promote the study and discussion of civil liberties and related institutions (governmental, civic, business, social, scientific, religious, etc.) and innovations through scholarly inquiry, educational activities and community outreach (the "Center's Mission").
3. **The Center Programs.**
  - a. **Generally.** To support the Center's Mission, the University desires to create the following positions and activities to affiliate with the Center, collectively referred to as the "Center Programs." The Center Programs are described more fully in the Proposal and include "Faculty and Student Programs at up to 25 Colleges and Universities," the "Center Director Stipend," the "Administrative Assistant," "Academic Research," the "Advisory Board Stipend," and the "Student Assistants." The Foundation and the University shall each use any funds received under this Agreement to support the Center Programs in accordance with the terms of this Agreement. According to the University's normal procedures, the Center Director is responsible for directing the Center Programs, which includes allocating and administering the Center's budget, supervising Center staff, mentorship, and other duties to advance the Center's Mission as deemed appropriate by the Center Director.
  - b. **Selection According to the University's Normal Procedures.** The Parties mutually agree that the selection of the foregoing positions and fellowships by the University will follow the University's normal procedures for selecting such positions and fellows for the applicable academic units. As a matter of academic freedom for academic units at the University, individuals who hold positions with or are affiliated with the Center must be approved by the Center Director, in accordance with the Colleges' and University's normal procedures.
4. **The University's Support for the Center.** The University shall support the Center Programs to advance the University's mission. As part of this support, the University shall ensure that the faculty, students, and staff working with the Center have adequate space to achieve the Center's Mission. Therefore, the University shall provide the Center with sufficient contiguous office space including shared conference and meeting spaces.

5. **The Donor's Support for the Center Programs.**

a. **Contributed Amount.** Subject to the terms of this Agreement, the Donor will contribute funds to the Foundation solely to support the Center Programs to advance the Center's Mission (all or part of such funds are referred to as the "Contributed Amount(s)"). The maximum aggregate Contributed Amount is \$2,362,482. The budget allocation for each Center Program is set forth below:

<b>Center Programs</b>	<b>Contributed Amount</b>
Faculty and Student Programs at up to 25 Colleges and Universities	Up to \$1,675,000
Center Director Stipend	Up to \$315,000
Administrative Assistant	Up to \$73,500
Academic Research	Up to \$105,000
Advisory Board Stipend	Up to \$157,982
Student Assistants	Up to \$36,000
<b>Total Amount:</b>	<b>Up to \$ 2,362,482</b>

6. **Gift Process and Administration.**

a. **The Foundation Gift Request.** The Foundation shall submit an annual written request according to the schedule below to the Donor for the Donor's consideration (the "Foundation Gift Request"). The Foundation Grant Request will include an estimate of how the Contributed Amount requested will be used by the Foundation and the University and an explanation of how any previously provided Contributed Amount was used by the Foundation and the University. If the Donor approves the Foundation Gift Request, the Donor shall make a contribution up to the amount listed in the below schedule to the Foundation, and the Foundation shall accept such Contributed Amount on behalf of the University. If the Donor does not approve the Foundation Gift Request, the Donor is under no obligation to contribute any funds to the Foundation or the University.

b. **The Foundation Gift Request and Proposed Gift Award Schedule.**

<b>Foundation Gift Request Date</b>	<b>Donor Response and Proposed Contribution Date</b>	<b>Contributed Amount</b>
Submitted as the Proposal	Within sixty (60) days of the Parties signing this Agreement	Up to \$762,482
May 1, 2020	On or about July 1, 2020	Up to \$800,000
May 1, 2021	On or about July 1, 2021	Up to \$800,000
<b>Total Maximum Aggregate Contributed Amount:</b>		<b>Up to \$2,362,482</b>

c. **The Fund.** The Foundation shall place all of the Contributed Amount in a segregated and restricted fund on its books and records called the "CSII-Menard Fund" (the "Fund"). The Foundation and the University shall solely use the Fund to support the Center Programs as stated in this Agreement. The Foundation shall make the Fund available for contributions from other donors. If another donor makes a contribution to the Fund, the Foundation shall promptly notify the Donor of the amount donated and, if permitted by the other donor, the name of the other donor.

7. **Contributed Amount Used Solely for Charitable Purposes for the Center Programs.**

a. **Tax Status.** According to IRS records, the Foundation is an organization described within the meaning of Internal Revenue Code (the "Code") sections 501(c)(3) and 509(a)(1). The University has furnished

the Donor with records showing that it is an organization described in Code section 170(c)(1) or 511(a)(2)(B). The Foundation and the University shall immediately notify the Donor if their respective tax statuses change.

b. Public Purpose. The Foundation and the University shall use the Contributed Amount solely for the Center Programs, which is a public purpose described in section 170(c)(1) of the Code. The Foundation and the University shall not use the Contributed Amount to influence legislation or for political campaign or intervention purposes.

c. Center Programs. Except as provided in Section 9b, the Foundation and the University shall return to the Donor any Contributed Amount not spent for the Center Programs.

## 8. Naming Rights and Acknowledgment

a. Naming Rights Created by First Contributed Amount. Upon the Donor providing the first Contributed Amount as stated in Section 6(b), the University shall name the Center, "[Menard Center for the Study of Institutions and Innovation]" (the "Center Name"). The Center will be known by the Center Name from the date the Donor provides the first Contributed Amount referenced in Section 6(b) until the later of 10 years from the Effective Date or when the Foundation and the University have spent all of the Contributed Amount.

b. Center Name Publicity. Consistent with the Foundation's and the University's standard practices, the Foundation and the University shall ensure that the Center Name is displayed prominently at the facility where the Center is housed and include the full Center Name in references to the Center, such as acknowledgement in public materials, attribution at events, and other communications.

c. General Publicity. The Parties shall give each other a reasonable opportunity to review any significant public announcement related to the Agreement. The Foundation and the University shall refer to the Donor as "The Menard Family" in such announcements and in public materials, attribution at events, and other similar communications. The Parties shall not use each other's logos without the applicable Party's express written consent.

d. Breach of Section 8. The Parties agree that irreparable damage may occur to the Donor if the Foundation or the University breach any of the terms of this Section 8. The Parties further agree that if such a breach occurs the Donor may be entitled to specific performance of the terms of this Section and any other remedies available to the Donor at law or in equity.

## 9. General Terms.

a. Term. The term of this Agreement is from the Effective Date to the later of July 31, 2022, or until the Foundation and the University have spent all of the Contributed Amount, unless earlier terminated pursuant to this Agreement.

b. Termination. The Donor has the right to terminate this Agreement if: (i) the Foundation or the University breaches any term of this Agreement; (ii) the Center Programs are not advancing the Center's Mission; or (iii) such action is necessary to comply with any law applicable to the Foundation, the University, or the Donor. Such termination is effective upon the next academic semester from the date notice was provided by the Donor to the Foundation or the University. If the Agreement is terminated, the Foundation and the University shall return all unexpended and uncommitted Contributed Amounts to the Donor within fifteen days of the Donor's request. The Foundation and the University are not relying on the Donor's proposed funding under this Agreement to incur any obligation or take any action or inaction.

c. Public Records. The Foundation and the University shall notify the Donor upon receiving records requests for this Agreement or related information.

d. Entire Agreement. The terms contained in this Agreement supersede all prior oral or written agreements and understandings between the Parties related to the matters contained in this Agreement and constitute the entire agreement between the Parties with respect to the matters contained in this Agreement.

e. Order of Precedence. If there is a conflict between the terms of this Agreement and the terms in the Proposal, this Agreement controls.

f. Amendments. No amendment to this Agreement will be effective unless it is in writing and signed by the Parties.

g. Severability. The terms of this Agreement are severable. If any court of competent jurisdiction construes any term of this Agreement to be illegal, invalid, or unenforceable, the legality, validity, and enforceability of the remaining terms of this Agreement will not be affected.

h. No Waiver. No delay or failure by any Party to enforce any right or claim under this Agreement is a waiver of such right or claim. Any waiver by any Party of any term of this Agreement is not a further or continuing waiver of such term.

i. Third Party Rights. This Agreement does not confer any rights or remedies upon any third party other than the permitted assigns of the Parties.

j. No Assignment. The Foundation and the University shall not transfer or assign their respective interests in the Agreement or any amount to be contributed pursuant to this Agreement without the express written consent of the Donor.

k. Notice. All notices in connection with this Agreement must be in writing and are effective when delivered personally by hand or one business day after the day sent by overnight courier at the address below, or to another address provided by a Party to the other Parties.

If to the Foundation:

Stout University Foundation  
William Johnson  
320 South Broadway Street  
Menomonie, WI 54751

If to the University:

University of Wisconsin-Stout  
Patrick Guilfoile, Interim Chancellor  
325 Administration  
Menomonie, WI 54751

If to the Donor:

Menard, Inc.  
5101 Menard Drive  
Eau Claire WI 54703

l. Counterparts. This Agreement may be executed in several counterparts, each of which constitutes an original and all of which, when taken together, constitute one agreement or direction. Copies of signatures (whether facsimile or other electronic transmission) to this Agreement are deemed to be originals and may be relied upon to the same extent as the originals.

*[Signature Page Follows]*



The Parties have hereby executed this Agreement as dated below, but agree that this Agreement is effective as of the Effective Date.

**STOUT UNIVERSITY FOUNDATION**

By: 

Name: Kim Polzin

Title: President

Date: 10-31-19

**UNIVERSITY OF WISCONSIN-STOUT**

By: 

Name: Patrick Guilfoile

Title: Interim Chancellor

Date: 11/1/19

**MENARD, INC**

By: 

Name: J.R. Menard

Title: Executive Vice President & Treasurer

Date: 11-27-19

## ATTACHMENT A

### Stout University Foundation and University of Wisconsin-Stout Proposal to Support the Center for the Study of Institutions & Innovation

#### Mission

The Center for the Study of Institutions and Innovation (CSII) mission is to promote the study and discussion of civil liberties and related institutions (governmental, civic, business, social, scientific, religious, etc.) and innovations through scholarly inquiry, educational activities and community outreach.

#### Center Programs

##### **Faculty and Student Programs at up to 25 Colleges and Universities**

Support will be provided for annual symposiums bringing together faculty and students from across Wisconsin.

##### **Center Director Stipend**

The Center Director Stipend for Dr. Tim Shiell will allow him to devote a significant amount of his time and resources to work related to the Center.

##### **Administrative Assistant**

The administrative assistant will assist with the day to day operations of the Center, which may include maintaining and submitting records and coordinating special events, meetings and projects for the Center.

##### **Advisory Board Stipend**

Funds support events and activities related to the center's mission led by advisory board members at other Wisconsin campuses.

##### **Student Assistants**

Students will assist the Center Director with programmatic responsibilities, event planning, and student engagement.