**UH Center Name Research Consortium**

**Membership Agreement**

THIS AGREEMENT is between the UNIVERSITY OF HOUSTON (UH), on behalf of ***UH CENTER NAME***, at the UNIVERSITY OF HOUSTON which is a public institution of higher education located in Houston, Texas, USA, under the governance of the Board of Regents of the University of Houston System ("University"), and **MEMBER NAME**, located in **MEMBER CITY, MEMBER STATE**. Membership shall commence on **MONTH** **DAY,** **YEAR** and end on **MONTH DAY, YEAR**. Membership is renewable annually thereafter by payment of the yearly membership fee as specified in Sections 1.2 and 2.1 of this Agreement.

1. CONSORTIUM RESEARCH PROGRAM

 1.1 Purpose

A group of companies (hereafter called the Consortium) is interested in making possible and accelerating research in **FIELD OF STUDY**, processing and interpretation using physical and numerical models. The Consortium intends to carry out research in cooperation with the University of Houston’s UH CENTER NAME.

 1.2 Funding

Each Member of the Consortium shall pay an annual membership fee to the **UH CENTER NAME**. The **UH CENTER NAME** will use all of the funds derived from such membership fees to support the Consortium Research Program which includes, but shall not be limited to, **UH CENTER NAME** technical support and partial support of **UH CENTER NAME** personnel, indirect costs, and administrative expenses.

 1.3 Consortium Research Program

The scope of the research and development activities conducted by the Consortium is included in Exhibit A, titled “Scope of Work,” which is incorporated herein by reference and made a part of this Agreement. The Scope of Work more fully describes the Consortium Research Program. The Scope of Work may be subsequently altered by mutual consent of all Members and the **UH CENTER NAME**; such consent will not be unreasonably withheld. Budget approval will be made by the University of Houston Division of Research.

2. MEMBER OBLIGATIONS

 2.1 Membership Fee

Members shall, upon joining, pay UH an initial fee of **$$$$$**. Subsequent yearly membership renewals will be at the annual fee of **$$$$$**.

 2.2 Rights After Termination

Upon termination of its membership in the Consortium (including membership termination by non-payment of the annual fee), the Member shall assume immediately the status of any other non-member organization, and the Member's rights and privileges shall terminate except as specified in this Agreement.

3. MEMBER BENEFITS

 3.1 Intellectual Property—Rights in Technology

Members have the right to review and use Research Results and to review and license Technologies, as set out in this Agreement, developed within the Consortium before it is offered to non-members. **UH CENTER NAME** and its Consortium members must disclose all intellectual properties to UH according to the University of Houston System Board of Regents Policy. All Technologies developed under this Consortium Research Program shall be owned by the UH and shall be managed by the UH Office of Intellectual Property Management (OIPM) according to University of Houston Board of Regents Policy. Intellectual Property issues and approvals will be coordinated by the UH OIPM.

3.1(a) Research Results

Research Results are defined as studies, reports and the results of experimentation, leading to best practices; This includes, but is not limited to, how something can and should be done; how to design a product to best meet the needs of potential users; and what the functionality of software ought to be. Members will be provided early access to non-proprietary research results that are achieved as a result of this agreement. Model building, data acquisition, data processing, and source code of computer algorithms developed under this Agreement will be made available to Members. Members will be provided three copies of M.S. and Ph.D. theses that result from research conducted under this Agreement. Tape copies of physical model data resulting from this Agreement’s research will be available to Members at their own expense. An **UH CENTER NAME** newsletter will be published periodically updating Members on activities undertaken under this Agreement.

 3.1(b) Intellectual Property

Intellectual Property or Technologies are defined as discoveries, innovations, or inventions, whether patentable or not, and including computer software, recognized in law as intelligent creations to which rights of ownership accrue, including, but not limited to, patents, know-how, and trade secrets. This Agreement covers only Technology which results from the Consortium Research Program, and does not pertain to Technology developed by **UH CENTER NAME** under individual projects funded outside of the Consortium. However, it is recognized that Technology developed within the Consortium Research Program may rely upon Technologies previously developed by **UH CENTER NAME** or one or more of the Members through previous research prior to the creation of the Consortium.

If the previously developed Technology is owned by **UH CENTER NAME**, Members will be entitled to a non-exclusive license to that Technology for use within the Consortium’s Research Program and as necessary for use of the Technology created by work under the Consortium Research Agreement as provided under Section 3.1(d). Should the Technology have other restrictions for use, those restrictions shall take precedence over this Agreement.

If the previously developed Technology is owned by one or more of the Members, the **UH CENTER NAME**, with approval of the Member(s), will be granted a non-exclusive, non-royalty-bearing license to use the Technology in the Consortium’s Research Program.

 3.1€ Disclosure

UH will disclose to all Members all Technology created in the course of the Consortium Research Program no later than the time the invention is disclosed to the UH Intellectual Property Committee, subject to the confidentiality provisions of Section 4 of this Agreement.

 3.1(d) Licensing of Technology

Rights of First Refusal: Disclosure by UH of a Technology created by work under the Consortium Research Agreement is a triggering event for the actions described below. After UH has disclosed the creation of Technology to all Members, the following timetables will apply.

After disclosure, as described in Section 3.1€, each Member and its affiliates shall have and is hereby granted the right to a non-exclusive, royalty-free, worldwide license to use but not commercialize or sublicense the Technology (see Section 3.2, Restrictions on Use of Research Results and Technology). Upon termination of membership in the Consortium or termination of the Consortium, the Member and its affiliates shall retain the aforementioned license to Technology created prior to such termination and may negotiate a new, non-exclusive, royalty bearing licensing agreement with UH for Technology created after such termination.

 3.1(e) Royalty Rates

Royalty rates on each commercial development of the Technology resulting from the Consortium Research Program shall be negotiated by UH.

 3.1(f) Government-Funded Research

**UH CENTER NAME** research may include support from grants or other funds derived from the United States government. In such instances, the government retains certain licensing rights as required by law, and this is recognized by the Parties to this Agreement.

 3.1(g) Existing **UH CENTER NAME** Agreements

Certain license agreements exist between **UH CENTER NAME** and individual parties with respect to patents, copyrights, know-how, and other intellectual property arising out of that existing relationship. The parties agree that all rights granted or to be granted under such licenses shall not be affected by the provisions of this Agreement, whether within or outside the scope of the Consortium Research Program, with respect to Technology which existed on the effective date of this Agreement.

 3.2 Restrictions on Use of Research Results and Technology

Consortium Members are free to use the results of the research conducted and Technology developed under this Consortium Agreement within their own entities, company, and their parent companies (if any); within companies which they or their parent company wholly own, or control; or in which they or their parent company own or control fifty percent (50%) or more of the outstanding shares or stocks entitled to vote for the election of directors now or hereafter. Members may make copies and prepare derivative works from the Consortium research results and technology. In utilizing the Research Results and Technology developed, Members must comply with Section 4, Confidentiality.

 3.3 Equipment and Facilities

Membership in the Consortium facilitates access to the equipment and facilities of **UH CENTER NAME** for research and training. **UH CENTER NAME** has the sole right to approve or disapprove the Member’s use of such equipment and facilities in order to ensure that the goals and objectives of the Consortium’s Research Program are best met. **UH CENTER NAME** and the Consortium will agree on reasonable usage of **UH CENTER NAME** facilities and equipment. The Member may be charged for costs resulting from facilities usage that exceeds the amount established as reasonable by the Consortium.

 3.4 Research Consortium Steering Committee

The **UH CENTER NAME** Steering Committee will consist of one voting representative from each Member of the Consortium, supplemented by other non-voting technical experts (selected by the Steering Committee) as necessary. The Steering Committee will determine technical strategies and research topics to accomplish purposes consistent with the Consortium’s goals. The Steering Committee will meet at times and places that it will determine. Member representatives on the Steering Committee serve at the pleasure of the Member and may be replaced at any time. The Steering Committee will, by majority vote, elect a Chairperson and, if it chooses, establish an organizational structure.

 3.5 Membership Meetings

**UH CENTER NAME** will host a minimum of one yearly meeting of the entire membership at which time developments, prototypes, and research topics will be reviewed and discussed. Both a printed copy and a CD-ROM copy of progress will be provided to Consortium members. Members will be given six weeks’ notice of the meeting. Travel to the meetings will be at the expense of each Member company.

 3.6 Technical Reviews

**UH CENTER NAME** may, if requested, hold technical reviews for Members at their request and at the Member’s site if the review has no impact on the Consortium’s Research Program. **UH CENTER NAME** travel expenses will be borne by the Member requesting the review.

 3.7 Publications

Results of research conducted by **UH CENTER NAME** under this Agreement will only be made available to Members for a period of six months. Due to extensive lead times required by professional journals, **UH CENTER NAME** reserved the right to submit papers for publication prior to the end of this period. Since **UH CENTER NAME** recognizes the value of the research undertaken, it agrees that it will hereby, prior to publication, provide to Members abstracts of all manuscripts pertaining to the Consortium’s Research Program at the time they are submitted for publication. Members may select from the abstracts those for which they want full text in advance of publication. Once Members receive complete manuscripts, subsequent manuscript revisions will be transmitted to the Member. Any M.S. and Ph.D. theses that are as a result of work done in this Consortium will be available to the general public.

 3.8 Graduate Students

**UH CENTER NAME** assists Members in securing access to graduate students, who as part of their education and training, are involved in research at UH/**UH CENTER NAME**. Such students may be considered as possible candidates for future employment by Members.

4. CONFIDENTIALITY

Confidential Information means all Research Results, Technologies or business information which is proprietary to the Consortium or to any Member, regardless of its nature or the manner in which each Member protects it, including, but not limited to, patentable technology (prior to the issuance of patents), trade secrets and know-how, or which is covered by a confidential disclosure agreement executed by the Members. Any confidential disclosure agreement must have the approval of the UH Office of Intellectual Property Management. Except for information excluded below, the Members agree to use the same efforts to protect the confidential nature of the Confidential Information as each uses for its own proprietary information, but no less than a reasonable standard of care. Such obligation of confidentiality shall last for a period of seven (7) years from the commencement of membership and shall expire thereafter without notice.

Each Member shall take all reasonable measures necessary to prevent the use of the Research Results and Technologies developed during the term of this Agreement (including any extensions) and for a period of three (3) years thereafter for any purpose other than the performance of their obligations or the exercise of their rights under this Agreement except (1) as authorized by mutual agreement between the Members as may be necessary in collaboration with (a) UH/**UH CENTER NAME** contracts and subcontracts, (b) licenses to Members or third-parties, and/or (c) reviews of the progress of the research. Further, nothing herein shall prevent **UH CENTER NAME** from publishing the results of research which is partially or wholly funded at public expense or conducted with the use of public facilities, or is required to be made public to maintain a party’s Not-For-Profit (501C) Status. The **UH CENTER NAME** shall furnish Members with a copy of any proposed publications thirty (30) days in advance of the proposed submission. The Consortium may request the **UH CENTER NAME** to delay such submission for a maximum of an additional sixty (60) days in order to protect the potential patentability of any invention described therein. Such delay shall not, however, be imposed on the filing of any student thesis or dissertation.

Nothing herein shall prevent **UH CENTER NAME** or Members from using, disclosing or authorizing the disclosure of any Information which is (a) in the public domain by reason of acts not attributable to the Party desiring to use, disclose or authorized the disclosure of such information; or (b) is already known to the Party; or (c) is received by a party from a third-party without similar restriction and without breach of any obligation owed to any Party; or (d) is independently developed by the Party without similar restriction and without breach of any obligation owed to any Party; or € is furnished by other Party to a third-party without similar restrictions on the third-party’s rights and without breach of any duty under this Agreement; or (f) is legally required to be disclosed to any governmental agency, at which time all members will be notified.

5. DISCLAIMER OF WARRANTIES and LIMITATION OF LIABILITY

NO PARTY MAKES ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, AS TO ANY MATTER NOT SET FORTH IN THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE WITH RESPECT TO CONFIDENTIAL INFORMATION, INVENTIONS, TECHNOLOGY, MASK WORKS, SOFTWARE, TECHNICAL DATA, OR THAT THE USE OF ANY OF THE FOREGOING WILL NOT INFRINGE ANY PATENT, COPYRIGHT, MASK WORK OR OTHER PROPRIETARY RIGHT. NO PARTY SHALL BE HELD TO ANY LIABILITY WITH RESPECT TO ANY CLAIM ARISING FROM OR ON ACCOUNT OF A MEMBER’S USE OF ANY OF THE FOREGOING REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT OR TORT, INCLUDING NEGLIGENCE. TO THE EXTENT THAT A PARTY GRANTS A SUB-LICENSE OR OTHERWISE TRANSFERS ANY TECHNOLOGY, INVENTION, SOFTWARE, MASK WORK OR TECHNICAL DATA, THAT PARTY THEREBY INDEMNIFIES AND HOLDS HARMLESS THE OTHER PARTIES WITH RESPECT TO ANY CLAIM ARISING OUT OF THE SUB-LICENSE OR TRANSFER. IN NO EVENT WILL ANY PARTY BE LIABLE TO ANOTHER PARTY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES OF ANY NATURE WHATSOEVER.

INSOFAR AS ANY CONFIDENTIAL INFORMATION, INVENTION, MASK WORKS OR TECHNICAL DATA COVERED BY THIS AGREEMENT SHALL HAVE ORIGINATED, IN WHOLE OR IN PART, FROM A MEMBER OR OTHER ORGANIZATIONS SIMILARLY AFFILIATED AS MEMBER, THEIR STAFF, FACULTY, STUDENTS, EMPLOYEES AND USED, SUB-LICENSED OR TRANSFERRED BY MEMBER, THE PARTIES HEREBY AGREE THAT THIS DISCLAIMER AND LIMITATION OF LIABILITY SHALL EXTEND TO THE PARTICIPATING INSTITUTIONS AND OTHER ORGANIZATIONS SIMILARLY AFFILIATED AS MEMBERS.

6. GENERAL

 6.1 Franchise Tax Certification

Member certifies that, upon the effective date of this agreement, either (1) it is not delinquent in payment of State of Texas corporate franchise taxes, or (2) it is not subject to the payment of such taxes. Member agrees that any false statement with respect to franchise tax status shall be a material breach hereof, and **UH CENTER NAME** shall be entitled to terminate this agreement upon written notice thereof to member.

 6.2 Government Rights

Notwithstanding any other provision in this Agreement to the contrary, this Agreement and any License or other right granted or to be granted pursuant hereto are subject to the rights of the United States or of the State of Texas under applicable statutes or regulations, and such rights shall survive unaffected the granting of any rights or licenses under this Agreement.

 6.3 Governing Language

In the event that a translation of this agreement is prepared and signed by the parties for the convenience of the sponsor, this English language version shall be the official version and shall govern if there is a conflict between the two.

 6.4 Resolution of Disputes

Any dispute or controversy arising over the sections on Ownership, Royalty Rates, and Joint Ownership of this Agreement, and only such sections, and their construction, shall be conducted in Houston, Texas. Best efforts will be made to achieve a successful resolution; however, all mediation is considered non-binding until approved by the Attorney General of the State of Texas, or an appropriate designee.

 6.5 Severability

Should a court of competent jurisdiction later consider any provision of the Agreement to be invalid, illegal, or unenforceable, it shall be considered severed from this Agreement. All other provisions, rights and obligations shall continue without regard to the severed provisions, provided that the remaining provisions of this Agreement are in accordance with the intention of the Parties.

 6.6 Effect of Headings

The headings of the various sections and paragraphs of this Agreement are used solely for the convenience of the parties and do not form a part hereof and are not intended to affect the interpretation or meaning of this Agreement.

 6.7 Compliance with Laws

All parties shall comply with all applicable laws and governmental rules and regulations of the United States and the State of Texas that directly affect such parties conduct in the performance of this Agreement. This Agreement, any license or other right granted or to be granted thereunder shall be subject to revision to conform with any determination by the government of either the United States or the State of Texas under such laws, rules, or regulations, including, but not limited to, the granting of licenses, the duration of licenses, the amount of royalties thereunder, and the export of Technology beyond the borders of the United States. Members shall provide **UH CENTER NAME** with any information or report required to comply with any such determination, laws, rules, or regulations. Any inconsistency between this Agreement and the pertinent provisions of any such determination, law, rule, or regulation shall be resolved by conforming this Agreement to such determination, law, rule, or regulation.

6.8 Assignment

This Agreement shall not be assigned by the Member except as part of a sale of all of the Member’s business and, in such event, only in its entirety and upon prior written notice to and approval from **UH CENTER NAME**. Thereafter, the term Member, when used in this Agreement, shall mean the approved assignee of the Member.

 6.9 Use of Names

Parties shall not use in any advertising, promotional, or sales literature the name (or any adaptation of the name) of other Parties without their prior written consent.

 6.10 Notices

Any notice other than routine correspondence that is required or permitted to be given by this Agreement shall be given by certified mail, addressed as follows:

To **UH CENTER NAME**:

Director, **UH CENTER NAME**

University of Houston

Houston, Texas 77204

With a Copy to:

Office of the Vice President for Research

University of Houston

Houston, Texas 77204-2163

To Member:

**COMPANY NAME**

**COMPANY CONTACT**

**COMPANY ADDRESS**

6.11 Termination

The Consortium may be terminated at any time by mutual consent of the membership. In such event any rights accrued in property, copyrights or other intellectual property shall be disposed of as provided in Sections 2 and 3. Any excess fees will remain with the UH-**UH CENTER NAME** to be used at its sole discretion. Members may terminate their membership in writing, giving a thirty (30) day notice. No membership fees or portions thereof shall be returned.

6.12 Survival of Certain Obligations

The termination of this Agreement shall not relieve any Party of any obligation hereunder to maintain confidentiality, keep records, make payment of any sums due, or to make payment of fees otherwise required by this Agreement.

6.13 Applicable Law

The interpretation and applications of the provisions of the Agreement shall be governed by the laws of the State of Texas, provided that all questions concerning the construction or effect of patent applications and patents shall be decided in accordance with the laws of the country in which the particular patent applications or patent conceived has been filed or granted as the case may be.

This Agreement is signed by the University of Houston and COMPANY NAME and reviewed and approved by the **UH CENTER NAME** to indicate acceptance of membership in the **UH CENTER NAME** Research Consortium.

Dated this \_\_\_\_\_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_.

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| **University of Houston** |  | **COMPANY NAME** |
| Name:  |  | Name: |
| Title:  |  | Title:  |

Reviewed and accepted:

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|  |  |  |
| UH CENTER NAME |  |  |
| Name:  |  |  |
| Title: Director, UH CENTER NAME |  |  |