

**INDUSTRY/UNIVERSITY COOPERATIVE RESEARCH CENTER MEMBERSHIP AGREEMENT
FOR
INTELLIGENT MAINTENANCE SYSTEMS (IMS) CENTER**

This Industry/University Cooperative Research Center Agreement (hereinafter "Agreement") is entered into by and between Member, a for profit corporation organized under the laws of the state of State, having a business office at Address (hereinafter "Member") and the **University of Cincinnati**, a state institution of higher education organized under Section 3361 of the Ohio Revised Code on behalf of the College of Engineering, University Hall, Suite 530, 51 Goodman Drive, Cincinnati, Ohio 45221-0222 (hereinafter "University").

WHEREAS the University of Cincinnati is establishing an Industry/University Cooperative Research Center for Intelligent Maintenance Systems (hereinafter "Center"); and

WHEREAS Center will require funding to conduct research projects (hereinafter "Center Projects") which the Members herein contemplated will provide; and

WHEREAS Center is funded, in part, by the National Science Foundation and is subject to certain requirements of federal law; and

WHEREAS Member will receive access to technologies developed at the Center in exchange for financial support through membership;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

1. Center shall conduct research, perform technology evaluation, provide the academic and industrial community with enhanced education capability in the field of intelligent maintenance systems engineering and facilitate information exchange and technology transfer. Topics will vary as the field develops and as suggested by an Industrial Advisory Board composed of representatives of each Member (hereinafter "Industrial Advisory Board" or "IAB"). Members will fund Center Projects under this Agreement from annual membership fees as set forth in paragraph 5.
2. The University of Cincinnati shall appoint a Center Director.
3. The University of Cincinnati may enter into agreements with other universities to participate as additional Research Sites.
4. To support the Center, University agrees to waive indirect charges allocated to the membership fees of Center Members.
5. Membership may be accomplished by joining the Center in one of two categories as specified herein. A Full Member agrees to pay an annual fee of \$40,000. An Affiliate Member agrees to pay \$12,000 per year. An Affiliate Member is a small business entity as defined by the rules governing the United States Small Business Administration (currently 500 employees or less). Payment of the membership fee shall be made to the University of Cincinnati as a lump sum no later than the anniversary of the effective date of the Member's membership for each year of sponsorship. The effective date of membership shall be the date the membership fee or this executed membership agreement is received by the University, whichever is later. Membership fees shall be made payable to the University of Cincinnati and mailed to Director, Intelligent Maintenance Systems Center, College of Engineering, University of Cincinnati, P.O. Box 0018 Cincinnati, Ohio 45221-0018. Member may terminate this Agreement at any time by giving

University ninety (90) days written notice prior to the membership anniversary date. Member shall not be entitled to refund of unexpended funds if it elects not to continue its membership. Affiliate Members shall have all rights and obligations of Full Members as provided in this Agreement except that Affiliate Members shall not have voting rights on the IAB.

6. Member shall be granted the following benefits in consideration of its membership fee.
 - a. Access to publications of the Center Projects at an early stage for timely review of new developments prior to their wide dissemination.
 - b. Through its representation on the IAB, an opportunity to advise on selection of Center Projects proposed by the faculty and to advise on research topics of industrial relevance. Although Affiliate Members have representation on the IAB, only Full Members may vote. The IAB may establish bylaws with the review and approval of the University, an executive committee, and other subcommittees.
 - c. Invitation to special presentations and workshops hosted by the Center.
 - d. The right to use internally all reports, data, and information contained therein resulting from Center Projects for research and evaluation purposes, which reports shall be issued by the Center at least annually.
 - e. Options to nonexclusive, nontransferable, royalty-free licenses as set forth in paragraphs 8 and 9 to inventions conceived and reduced to practice under Center Projects during the period of membership as well as to copyrighted software developed under Center Projects during the period of membership, provided Member is a member in good standing on the date of disclosure of such invention or software to University.
7. University or Center retains ownership of intellectual property developed under Center projects. All patents for inventions conceived or reduced to practice in the course of the research conducted by the Center shall belong to the University or the appropriate Research Site.
8. University shall inform Member within thirty (30) days of receipt of an invention disclosure. Member shall have an option to a nonexclusive, nontransferable, worldwide royalty free license on any patentable invention conceived and reduced to practice under Center Projects during the period of Member's membership. The option shall be for a period of six (6) months from the time the invention is disclosed to Member. This option period may be extended for a defined period by mutual agreement of the University and the IAB. In exercising such option, Member shall pay a pro rata share of patent filing, prosecution, and maintenance costs associated with protecting the invention in those countries in which patent protection is sought. The term of the license shall be the life of patent protection that is obtained. Under the license, Member shall have the right to make, have made, use, sell, distribute the products, compositions, apparatus, processes, and know-how, and practice the methods, and sublicense its subsidiaries to exercise the same rights obtained by the Member with this license. If only one Member exercises its option, that Member may obtain an exclusive royalty-bearing license at a commercially reasonable rate. Any other disposition of intellectual property of the University shall be determined by mutual agreement of the University and the IAB.
9. Member shall have an option to a nonexclusive, nontransferable, royalty free site license to use copyrighted software arising from Center Projects for each site agreed upon by the Member and the Center. Member shall have the right to modify and use copyrighted software arising from Center Projects. Member shall have the right to negotiate a royalty bearing license to market modified or unmodified software at a commercially reasonable rate.
10. If and when a Member wishes to share proprietary materials or information with the University or Center or any of its employees or Members on a confidential basis, the Member will notify the

University or Center before any confidential disclosures are made so that an agreement may be made with regard to how the material will be used. Nothing in this Membership Agreement shall be construed to imply a license for other Members to use protected background technology of another Member for commercial purposes without an express license to do so.

11. University reserves the right for its employees and students to publish and use in University research and instruction all data and results of the research conducted under this Agreement. University agrees to provide draft publications and presentations to Member which shall have the opportunity to review any public disclosure containing results of Center Projects conducted hereunder and to request delay of publication to allow for patent considerations. Member must inform the Center in writing of its desire to have a public disclosure delayed within sixty (60) days of receipt of draft. By mutual agreement, public disclosure may be delayed not more than an additional ninety (90) days to secure patent protection for the inventions disclosed therein.
12. University may terminate this Agreement upon ninety (90) days advance written notice to Member. In the event of such termination the University shall refund to Member an amount equal to the total unexpended funds (from those supplied by all Members) prorated according to the number of Members and according to the date and level of contribution.
13. Member agrees not to use the name of University, its seal or emblem, in any publicity or other release without the prior written consent of University. Likewise, the University agrees not to use the name or any trademark of Member without the prior written consent of Member, except that this Agreement constitutes such express permission for the Center to identify the Center Members as appropriate and necessary in funding applications or Center reports.
14. University and Center make no representations or warranties, expressed or implied, as to any matter whatsoever, including, without limitation, results of the research or any invention(s) or product(s), whether tangible or intangible, conceived, discovered, or developed under this Agreement; or the ownership, merchantability, or fitness for a particular purpose of the research or any such invention or product. The University warrants, however, that software it provides to Member will be the same as that used in the Center. University shall not be liable for any direct, consequential, or other damages suffered by any Member or any others resulting from the use of the research or any such invention or product.
15. University and Center make no representations or warranties regarding actual or potential infringement of patents or copyrights of third parties, and Member acknowledges that the avoidance of such infringement in the design, use, manufacture, and sale of products and processes related to Center Projects shall remain the sole responsibility of the Member.
16. Throughout the term of this Agreement, each party shall maintain, at its own cost and expense, commercial insurance or a program of self-insurance, covering worker's compensation benefits in accordance with the law of the state of hire, employer's liability, automobile liability and comprehensive or commercial general liability insurance to include its Center activities.
17. Member agrees to indemnify and hold harmless University and Center, their employees, representatives, and agents against any liability, damages, loss or expense, including reasonable attorney fees and expenses of litigation, arising out of the actions of Member, its employees or any third party acting on behalf of or under authorization from Member in the performance of this Agreement, except for the negligent acts of University and Center, their employees, representatives, and agents.
18. Without limiting the foregoing, Member agrees to hold harmless, indemnify, and defend University and Center, their employees, representatives, and agents from all liabilities, demands, damages, expenses and losses, including reasonable attorney fees and expenses of litigation, arising out of the use by Member, or by any party acting on behalf of or under authorization from Member of University or Center technical development or out of any use, sale or other disposition by

Member, or by any party acting on behalf of or under authorization from Member, of products made or developed as a result of information or materials received from University or Center. The provisions of this paragraph shall survive termination of this Agreement.

19. Notices and communications hereunder shall be deemed made if given by registered or certified envelope, postage prepaid, and addressed to the party to receive such notice, invoice, or communication at the address given below, or such other address as may hereafter be designated by notice in writing:

University of Cincinnati

Member

David Gearing, Director Business Affairs
Sponsored Research Services
University Hall, Suite 430
51 Goodman Drive
University of Cincinnati
P.O. Box 210222
Cincinnati, Ohio 45221-0222

Member Contact Name

Phone: 513-556-5969
Fax: 513-556-4346
E-mail: david.gearing@uc.edu

Phone:
Fax:
E-mail:

20. No party is authorized or empowered to act as agent for another for any purpose and shall not on behalf of another enter into any contract, warranty, or representation as to any matter. No party shall be bound by the acts or conduct of another.
21. This Agreement states the entire contract between the parties with respect to the subject matter of this Agreement and supersedes any previous or contemporaneous written or oral representations, statements, negotiations or agreements. Member acknowledges that it has not been induced to enter into this Agreement by any oral or written statements or representations not expressly provided in this Agreement. This Agreement may be modified only by written agreement executed by both parties.

IN WITNESS WHEREOF, the parties have accepted and executed this Agreement through their duly authorized representatives as of the date entered below.

University of Cincinnati

Member

By _____

By _____

Name _____

Name _____

Title _____

Title _____

Date _____

Date _____