

**A NSF Joint Industry/University Cooperative Research Center (I/UCRC)
CyBer Physical System for the Hospital Operating Room (CyBHOR)**

Lead Node: Houston Methodist Research Institute, Houston TX

**Partner Node: University of Florida in partnership with the Shands Hospital
and the Malcom Randall VA Medical Center in Gainesville, FL**

MEMBERSHIP AGREEMENT

This Agreement is made as of the first of January, 2016 by and between The Methodist Hospital Research Institute dba Houston Methodist Research Institute (hereinafter called "UNIVERSITY") and _____ (hereinafter called "COMPANY") for the Center comprising and acting through the Center for Cyber physical system for the hospital operating room (CyBHOR), which is defined as all CyBHOR research sites funded by the Industry/University Cooperative Research Center Program of the National Science Foundation.

WHEREAS, the parties to this Agreement intend to join together in a cooperative effort to support an Industry/University Cooperative Research Center for a Cyber physical system for the hospital operating room (hereinafter called "CENTER") at the UNIVERSITY to maintain a mechanism whereby the UNIVERSITY environment can be used to perform research to (i) maintain a mechanism whereby the various CENTER universities' environments can be used to perform fundamental and applied research for the purposes of developing, testing, and validating innovative technologies that benefits the medical industry and (ii) provide CENTER universities with strengthened educational capability in these fields. The parties hereby agree to the following terms and conditions:

A. CENTER will be operated by certain faculty, staff and students at the UNIVERSITY. For the first five years, the CENTER will be supported jointly by industrial companies, federal laboratories, the National Science Foundation (NSF), the state, and the UNIVERSITY. It is possible that the UNIVERSITY may receive support from NSF for an additional ten years.

B. Any COMPANY, federal research and development organization, or any government-owned contractor operated laboratory may become a sponsor of the CENTER, consistent with applicable state and federal laws and statutes.

C. COMPANY agrees to contribute \$50,000 USD annually in support of the CENTER and thereby becomes a member. Payment of these membership fees is nonrefundable and shall be made as a lump sum payable to UNIVERSITY with the first payment being due within thirty (30) days of the execution of the Agreement. Subsequent payments shall be due January 1st of subsequent years and payable within 30 days of COMPANY'S receipt of UNIVERSITY'S invoice for the current year's annual membership fee. Checks from COMPANY should be mailed to:

Attn: Gary Lingle
The Methodist Hospital Research Institute
6565 Fannin, MGJ4-024
Houston, Texas 77030
Ref: Garbey - IUCRC

Because research of the type to be done by the CENTER takes time and research results may not be obvious immediately, COMPANY should join CENTER with the intention of remaining a fee paying member for at least two years. However, COMPANY may terminate this Agreement by giving UNIVERSITY 90 days written notice prior to the termination date.

D. In accordance with the CENTER bylaws (incorporated herein by reference), there will be an industrial advisory board (IAB) composed of one representative from each member. This board makes recommendations on (a) the research projects to be carried out by CENTER, (b) the apportionment of resources to these research projects, and (c) changes in the CENTER bylaws. For project selection purposes, each Full Member (as defined in the CENTER bylaws) will be assigned voting units proportional to the dollar amount of their membership fee contribution.

The IAB will review and make recommendations to the UNIVERSITY on policy matters concerning all research projects to be carried out by the CENTER. The IAB will meet at least twice annually on at least one month's prior notice to all members.

E. UNIVERSITY reserves the right to publish in scientific or engineering journals the results of any research performed by CENTER. COMPANY, however, shall have the opportunity to review any paper or presentation containing results of the research program of CENTER prior to publication of the paper, and shall have the right to request a delay in publication for a period not to exceed 90 day(s) from the date of submission to COMPANY, for proprietary reasons, provided that COMPANY makes a written request and justification for such delay within 60 days from the date the proposed publication. Requests for delay must be received within the 60-day timeline and should be sent by certified mail to:

Dr. Marc Garbey
Director of CyBHOR
The Methodist Hospital Research Institute
6550 Fannin St., Suite 1661
Houston, TX 77030
mgarbey2@houstonmethodist.org

F. All patents derived from inventions conceived or first actually reduced to practice in the course of research conducted by the CENTER shall belong to UNIVERSITY. UNIVERSITY, pursuant to chapter 18 of title 35 of the United States Code, commonly called the Bayh-Dole Act, will have ownership of all patents developed from this work, subject to "march-in" rights as set forth in this Act.

G. UNIVERSITY agrees that all such CENTER sponsors that were sponsors at the time of disclosure of a patentable invention first conceived in the course of research conducted by the CENTER are entitled to a nonexclusive royalty-free license in that invention . COMPANY will have the right to sublicense its subsidiaries and affiliates. COMPANIES that wish to exercise these rights to a royalty-free license agree to pay for the costs of all patent applications.

H. If only one COMPANY seeks a license, that COMPANY may obtain an exclusive fee-bearing license. COMPANY has the right to sublicense its subsidiaries and affiliates.

I. UNIVERSITY may seek copyright registration for software developed by CENTER. COMPANY shall be entitled to a nonexclusive, royalty-free license for internal use of all software developed by CENTER. COMPANY will have the right to enhance and to re-market enhanced or unenhanced software with royalties due to CENTER to be negotiated, based on a fair sale price of the enhanced software product sold or licensed by COMPANY.

J. Any commercialization revenues received by CENTER UNIVERSITIES under this Agreement, over and above expenses incurred, will be distributed subject to UNIVERSITY's parent company, The Methodist Hospital, policies.

K. Neither party is assuming any liability for the actions or omissions of the other party. Each party will indemnify and hold the other party harmless against all claims, liability, injury, damage or cost based upon injury or death to persons, or loss of, damage to, or loss of use of property that arises out of the performance of this Agreement to the extent that such claims, liability, damage, cost or expense results from the negligence, willful misconduct, or violation of applicable law of a party's agents or employees.

L. All notices under this Agreement shall be given in writing and shall be considered given when mailed by pre-paid registered or certified mail, return receipt requested, or delivered by hand or recognized courier to the following address (or such other address as a party may specify by notice hereunder):

If to the Company, to:

[insert Company contact info]

If to University, to:

The Methodist Hospital Research Institute
Attn: Office of Grants & Contracts
6565 Fannin, MGJ4-023
Houston, TX 77030

With a copy to:

Dr. Marc Garbey
Director of CyBHOR

The Methodist Hospital Research Institute
6550 Fannin St., Suite 1661
Houston, TX 77030
mgarbey2@houstonmethodist.org

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives as of the date first written above.

The Methodist Hospital Research Institute

COMPANY

Edward A. Jones
Chief Operating Officer

Date

Date