

Industry/University Cooperative Research Center for
Assistive Technologies to Enhance Human Performance (iPerform)
Membership Agreement

This Membership Agreement (“Agreement”) is made this __ day of _____, _____ (the “Effective Date”) by and between _____ (hereinafter called "UNIVERSITY"), [insert status and address _____], and _____ (hereinafter called "COMPANY"), at [insert address _____] for the Center comprising and acting through the Assistive Technologies to Enhance Human Performance (iPerform), which is defined as all iPerform Research Sites funded by the Industry/University Cooperative Research Center Program of the National Science Foundation.

WHEREAS, The University of Texas at Dallas (UTD) and The University of Texas at Arlington (UTA) (hereinafter collectively called the “COLLABORATING UNIVERSITIES”) have entered into a cooperative effort to establish and support an Industry/University Cooperative Research Center for Assistive Technologies to Enhance Human Performance (hereinafter called "CENTER"), the parties to this Agreement intend to join together in a cooperative effort to support the CENTER at the COLLABORATING UNIVERSITIES to maintain a mechanism whereby the COLLABORATING UNIVERSITIES environment can be used to perform research on assistive technologies to develop software and hardware tools and systems. The parties hereby agree to the following terms and conditions:

A. CENTER will be operated by certain faculty, staff and students at the COLLABORATING UNIVERSITIES. For the first five years, the CENTER will be supported jointly by industrial firms, Federal laboratories, the National Science Foundation (NSF), the State, and the COLLABORATING UNIVERSITIES. It is possible that the COLLABORATING UNIVERSITIES may receive support from NSF for an additional ten (10) years.

B. Any COMPANY may become a sponsor of the CENTER, consistent with applicable state and federal laws and statutes. Any Federal Research and Development organization or any Government-owned Contractor Operated laboratory may become a sponsor of the CENTER on terms and conditions other than those in this Agreement upon approval by UNIVERSITY and two-thirds of the Industrial Advisory Board (IAB).

C. COMPANY agrees to the following level of membership and shall contribute: (check one)

___ Full Member: \$50,000 annual fee

___ Associate Member: \$25,000 annual fee

“MEMBER” or “MEMBERS” means one or more of any of the Full Members or Associate Members. However, a COMPANY that is an Associate Member has those rights granted in Section K, and a COMPANY that is a Full Member has the rights granted to Full Members under Sections H, I and J. IAB voting rights are as stated in Section D.

The term of this Agreement is [insert start date and year _____] – [insert end date and year: _____]. Payment of nonrefundable cash annual membership fees shall be made to the University as a lump sum due and payable as of the Effective Date, with all renewals due and payable on each annual anniversary day calculated from the dates listed above and confirmed here [insert dates]: _____. These membership fees will be increased by 6%, beginning with the 2016-2017 renewal, and every third year thereafter.

COMPANY [select one] ____ SHALL ____ SHALL NOT receive a billing invoice(s).

If an invoice is required, the invoice shall be sent to the address on page 1 care of COMPANY signatory via the email address for COMPANY stated here _____ UNLESS stated differently below: _____.

COMPANY will mail checks payable to The University of Texas at Arlington, referencing the Principal Investigator and Center for Assistive Technologies to Enhance Human Performance, to the following address:

[insert applicable address

_____]

[option: if COMPANY requests ACH or other payment, payment instructions shall be submitted to COMPANY upon execution of this Agreement.]

[option: If COMPANY and UNIVERSITY agree to COMPANY providing additional in-kind support for membership, COMPANY shall provide all such written documentation to describe the nature of the in-kind support and to substantiate the value of the in-kind support (1) as the Principal Investigator may need for the project, referencing the title of this project, Center for Assistive Technologies to Enhance Human Performance, and (2) as may be requested or required by UNIVERSITY, CENTER, the State, or NSF.]

Since research of the type to be performed 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 (2) years. However, COMPANY may terminate this Agreement by giving UNIVERSITY ninety (90) days prior written notice. Termination or cancellation of this Agreement shall not affect the rights and obligations of the parties accrued prior to termination. Fees paid by COMPANY as a Member are not refundable.

D. There will be an IAB composed of one (1) representative from each MEMBER. This board votes and 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 bylaws. Each Full Member will count as two (2) votes and each Associate Member will count as one (1) vote. The organization and operation of the CENTER will be specified by CENTER bylaws that will

be adopted during the first year of CENTER operation, by the IAB on or about the initial organizational meeting. The bylaws, when adopted, will become part of this Agreement and will be located at the following website: <http://iperform.uta.edu/index.html>.

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 ninety (90) days from the date of submission to COMPANY, provided that COMPANY makes a written request and justification for such delay within thirty (30) days from the date the proposed publication is submitted by certified mail or electronic mail with notification receipt to COMPANY. UNIVERSITY shall have the final authority to determine the scope and content of any publications provided such authority shall be exercised with reasonable regard not to publish COMPANY's confidential or proprietary information.

F. All patents, inventions, discoveries, technology, software and tangible materials conceived or first actually reduced to practice in the course of research conducted by the CENTER ("Intellectual Property") shall be owned by COLLABORATING UNIVERSITIES. UNIVERSITY, pursuant to chapter 18 of title 35 of the United States Code, commonly called the Bayh-Dole Act ("Act"), will have ownership of all inventions developed from this work conducted in accordance with this Agreement and the CENTER.

G. COMPANY shall retain all invention disclosures submitted to the COMPANY by any of the COLLABORATING UNIVERSITIES in confidence and use its best efforts to prevent their disclosure to third parties. The COMPANY shall be relieved of this obligation only when this information becomes publicly available through no fault of the COMPANY.

H. UNIVERSITY agrees that Full Members are entitled to a non-exclusive, royalty-free license to use Intellectual Property arising during such Full Member's participation in the CENTER. While designated as a Full Member, COMPANY will have the right to sublicense such use to its subsidiaries and affiliates. Full Members that wish to exercise rights to a non-exclusive royalty-free license shall pay associated patent expenses and/or other reasonable costs of protecting licensed Intellectual Property. Such patent or other reasonable costs shall be shared equally by all Full Members electing a nonexclusive license.

I. If COMPANY is the sole Full Member seeking a license, COMPANY has the option to negotiate an exclusive fee-bearing license from UNIVERSITY. The terms of such license shall be commercially reasonable and shall provide for diligent development of the Intellectual Property towards commercialization by the Full Member. Such Full Member shall have the right to sublicense to its subsidiaries and affiliates.

J. Copyright registration shall be obtained for software developed by CENTER. Each Full Member shall be entitled to a nonexclusive, royalty-free license to all software developed by CENTER during such Full Member's membership to the CENTER. Full Members will have the right to enhance and to re-market enhanced software with royalties due to CENTER to be

negotiated, based on the worth of the initial software, but not to exceed 25% of a fair sale price of the enhanced software product sold or licensed by such Full Member.

K. Associate Members are entitled to obtain a royalty-free, paid up, nonexclusive license to Intellectual Property and copyrighted software that are generated by CENTER research during their membership period for non-commercial, educational and research purposes. Associate Members that wish to exercise rights to a non-exclusive royalty-free license shall make proportionate payment of associated patent expenses and/or other reasonable costs of protecting licensed Intellectual Property, as applicable.

L. Any royalties and fees received by UNIVERSITY under this Agreement, over and above expenses incurred, will be distributed according to UNIVERSITY policy.

M. Neither party is assuming any liability for the actions or omissions of the other party, except as stated herein. To the extent allowed by law, each party will 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 of a party's agents or employees.

N. Limitation of Remedies. The obligations of UNIVERSITY are set forth in this Agreement and are in substitution for all other warranties, obligations and liabilities. There are no warranties, expressed or implied, arising by law or otherwise, including but not limited to, any implied warranty arising from course of performance, course of dealing or usage of trade. In no event shall UNIVERSITY be liable for any indirect, incidental or consequential damages.

O. Non-Waiver. UNIVERSITY is an agency of the State of Texas and nothing in this Agreement waives or relinquishes the right of UNIVERSITY to claim any exemptions, privileges, and immunities as may be provided by law.

P. Neither UNIVERSITY, on behalf of CENTER, nor COMPANY shall have any right to assign this Agreement without the prior written consent of the other party. This Agreement and all of the terms and provisions hereof will be binding upon, and will inure to the benefit of the parties hereto and their respective successors and permitted assigns.

Q. Choice of Law. This Agreement shall be governed by the laws of the State of Texas without reference to any conflicts of law provisions that would apply under the laws of another state.

R. Amendments. It is understood that this Agreement may be modified only under terms mutually agreed upon in a duly executed amendment to this Agreement.

IN WITNESS WHEREOF, the UNIVERSITY and COMPANY have caused this Membership Agreement to be executed by their respective duly authorized officers:

UNIVERSITY

COMPANY

Name _____
Title _____
Date: _____

Name _____
Title _____
Date: _____