

AGREEMENT  
with the  
The University of Maryland Foundation, Inc. and the  
University of Maryland College Park  
for MEMBERSHIP in the  
Center for Industrial Artificial Intelligence  
UNIVERSITY OF MARYLAND

This Membership Agreement, effective on [insert date] (“Effective Date”), is entered into by and between \_\_\_\_\_ a corporation registered under the laws of the State of XXX and having an address of \_\_\_\_\_; The University of Maryland Foundation, Inc. d/b/a the University System of Maryland Foundation, Inc., a private non-profit corporation chartered under the laws of the State of Maryland and located at the Wilson H. Elkins Building, 3300 Metzerott Road, Adelphi, Maryland 20783 (“Foundation”), solely in its capacity as fiscal administrator, and the University of Maryland, a public agency and instrumentality of the State of Maryland, located at College Park, Maryland 20742 (“University”), on behalf of the Center for Industrial Artificial Intelligence (“Center”), each a “Party” and together the “Parties.”

**Whereas**, Center is establishing an industry/University Cooperative Research Center for Industrial Artificial Intelligence; and

**Whereas**, Center will require funding to conduct research projects (hereinafter “Center Projects”) which the Members herein contemplated will provide; and

**Whereas**, Center receives financial support by and through the State of Maryland, the University, membership payments, sponsored research contracts, and gifts; and

**Whereas**, by agreement with the University, the Foundation serves as an agent of the University and as the financial administrator of the Center Membership and is a party to this Agreement solely for purposes of Section 2.1; and

**Whereas**, Center shall conduct research, perform technology evaluation, provide the academic and industrial community with enhanced education capability in the field of intelligent artificial intelligence systems engineering and facilitate information exchange and technology transfer. Topics will vary as the field develops and as suggested by an Industrial Advisory Board (hereinafter “IAB”) composed of representatives of each Member.

**Whereas**, Member wishes to join the Center by paying the applicable membership fee(s), or having those fees paid by a Non-Party Payer pursuant to Section 3.5, and thereby obtain the benefits of the selected membership and the University desires to grant the requested membership; and

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

**Now, therefore**, for the mutual benefits and considerations described herein, University and Member agree to the following terms and conditions:

**1. Definitions.**

- 1.1. "Additional Designated Users" mean individual(s) identified in the Membership Form that a Member authorizes to access and use Materials even though the individual is not part of Member's workforce at the Designated Site. Additional Designated Users are required to comply with the terms of this Agreement.
- 1.2. "Consortium" means one or more Members who have the objective of participating in a common Center activity or pooling their resources to achieve a common Center goal.
- 1.3. "Designated Contact" means the Member employee, identified in the Membership Form (Exhibit 1), who the Member designates to serve as its primary contact with Center on all matters related to this Agreement
- 1.4. "Designated Site" means the physical location where Member intends to access Materials and other Member benefits.
- 1.5. "Designated Users" means individual(s) identified in the Membership Form that a Member authorizes to access and use Materials at Member's Designated Site. Designated Users are required to comply with the terms of this Agreement.
- 1.6. "Materials" means software, documentation, manuals, reports, papers, and similar information that Center makes available to Members under the terms of this Agreement.
- 1.7. "Member Research" means studies conducted within and for a specific Center Member or Consortium and supported by its membership fees. Results of the Member Research are distributed to Members through Center websites when economically and technically feasible.
- 1.8. "Non-Party Payer" means an entity not a party to this Agreement, not a Designated User, and is not entitled to Member benefits, but that pays membership fees on behalf of a Member pursuant to Section 3.5.
- 1.9. "Software" means websites, applications, or other standalone code or deployed systems of the computer software and related manuals, modifications and/or updates that Center makes available to Member under the terms of this Agreement.
- 1.10. "Supplemental Center Research Fee" means an additional fee, beyond the standard membership fee, paid by a Member to fund a Supplemental Research Project.
- 1.11. "Supplemental Research Project" means additional Member Research that Center undertakes at the request of at least one Member who funds the Project by paying the Supplemental Center Research Fee.
- 1.12. "University Confidential and Proprietary Information" means Materials furnished to Member and any other information, regardless of how furnished, that a reasonable person would consider to be confidential.

## **2. Administration of Center Membership.**

- 2.1. Pursuant to an agreement with the University, the Foundation is authorized to receive and account for membership payments and to make disbursements, pay expenses and administer the finances of Center Memberships for the benefit of the University. For the avoidance of doubt, the Foundation has no authority to disburse, invest or otherwise dispose of membership fees without express direction of the University.
- 2.2. The University and Center are responsible for the non-financial administrative, technical, and research functions of Center .
- 2.3. The Directors of Center, along with their designated coordinators, have the authority to determine the goals and priorities of Center and shall be responsible for adhering to the laws of the State of Maryland, University policies, and the terms and conditions of any sponsored agreements.

### **3. Memberships Fees and Benefits.**

- 3.1. Member selects membership at the level designated in Exhibit 2, Membership Selection & Fees, and agrees to pay the corresponding membership fee presented therein. Membership benefits are described in Exhibit 2.
- 3.2. Membership payments are dedicated to Center and its program of research, development, and support and do not include any overhead charges; provided, that University may use membership payments to compensate Foundation for the services it provides to the Center.
- 3.3. All payments are due within 30 days of Member's receipt of an invoice. All payments due hereunder shall be made payable to the University System of Maryland Foundation, Inc., and sent to:

Industrial AI Center  
University of Maryland  
2181 Martin Hall Bldg  
College Park, MD 20742

- 3.4. Membership fees are due in as set forth in the payment schedule attached hereto and incorporated herein as Exhibit 3 and are non-refundable. The initial membership payment is due simultaneously with Member's submission of this executed Membership Agreement. In each subsequent year of membership, the annual membership payment shall be due on or before the 30<sup>th</sup> day of the month in which Member executed this Membership Agreement.
- 3.5. Membership payments can be made by the Member itself or by a Non-Party Payer on behalf of the Member. If a Non-Party Payer submits payment on behalf of Member, the Non-Party Payer must note on its payment that the payment is submitted on behalf of a specific, named Member. Non-Party Payers do not gain membership benefits unless (a) a Member designates the Non-Party Payer as a Designated User in its membership agreement; or (b) the Non-Party Payer enters into a separate membership agreement to become a Member in its own right.
- 3.6. The University reserves the right to require payment of a one-time initiation or integration fee under special circumstances (e.g. if the amount of effort to integrate new agency data goes

beyond the typical amount of work required for most agencies, or the size/volume of data is larger than typical for most agencies).

- 3.7.** The rights and benefits of membership shall commence upon University's receipt of this executed Membership Agreement and the applicable membership fee payment and initiation or integration fee, if applicable.
- 3.8.** Member may, at its election, request that Center or a consortium of members undertake a particular research project that is not included as standard Member Research by submitting a written request that describes the scope and objectives of the proposed Supplemental Research Project. If the Director of Center determines that the proposed Supplemental Research Project is consistent with the goals of Center and accepts the proposal, the Director and Member will agree upon a scope of work for the Supplemental Research Project and the Parties will execute a Supplemental Research Addendum to this Membership Agreement, which addendum will include the Scope of Work. The results of the Supplemental Research Project shall constitute Materials as defined in Section 1 and will be subject to the provisions of this Membership Agreement that apply to Materials.

#### **4. License.**

- 4.1.** The University grants Member a nonexclusive, royalty-free, nontransferable right and license to access and use Materials of the selected membership level during the Member's term of membership for Member's internal use as specified in this Membership Agreement.
- 4.2.** The license granted under Section 4.1 is subject to the following terms and conditions:
  - 4.2.1.** Member is authorized to use in or apply to Member products the results of analysis Member conducts using the Materials.
  - 4.2.2.** Member shall not (a) sell, license, sublicense, or otherwise distribute Materials, in whole or in part, to third parties; (b) publicly post or display Materials, in whole or in part; or (c) use or cause Materials to be used, in whole or in part, to provide services to third parties, without first obtaining a commercial license from University.
  - 4.2.3.** Member may view, download, and print Materials as necessary for authorized use and backup.
  - 4.2.4.** Member shall not modify, hide, or interfere with any proprietary and restrictive legends and notices that may be incorporated in Materials furnished to Member.
  - 4.2.5.** Member shall ensure that all Designated Users (including Additional Designated Users) comply with the terms of this Agreement, including but not limited to this Section 4. Member shall require all Designated Users who are not Member employees to sign the Designated User Acknowledgement Form, attached hereto and incorporated herein as Exhibit 4 and keep such Acknowledgements on file for review by the University at its request.

#### **5. Support and Operation of Software.**

- 5.1.** University support for Software shall be limited to providing reasonable efforts to design and implement programming changes to correct verifiable and reproducible errors about which the University has received notice in the most current released version of Software.

- 5.2. University shall not be responsible for correcting any error attributable to Member's misuse or improper use of Software or for maintaining computer program code which has been modified or enhanced from the version delivered or made available under this Agreement.
- 5.3. Network use of Software is authorized as long as adequate precautions are taken to avoid unauthorized use by third parties and persons not identified as Designated Users.
- 5.4. Member may report problems and request assistance on use of Software or such other E-mail address as University may designate on the Center website

## **6. Ownership of Materials and Use of Trademarks.**

- 6.1. University shall own all rights, title, and interest in and to Materials.
- 6.2. Member's rights in Materials are limited to those rights expressly granted under this Agreement. Member shall have no title to or ownership interest in Materials and shall not cause any claims, liens, or encumbrances to attach to Materials.
- 6.3. Member shall own their original data files as well as designs, analyses, reports, visualizations, and similar works that it develops as a result of its use of Materials.
- 6.4. Neither Party shall use the name or trademarks of the other Party or names of employees of the other party for commercial purposes without the prior written approval of the other Party. Notwithstanding the preceding statement, each Party is free to publicize the fact and nature of this Agreement.
- 6.5. The provisions of this Section 6 shall survive termination or expiration of this Membership Agreement.

## **7. Proprietary and Confidential Information and Publications.**

- 7.1. Member shall take reasonable steps to protect against the unauthorized disclosure and use of University Proprietary and Confidential Information, using at least the same degree of care to protect University Proprietary and Confidential Information that it uses to protect similar information of its own. Specifically, Member shall:
  - 7.1.1. Not disclose Proprietary and Confidential Information to any third party without the prior written permission of the Disclosing Party; and
  - 7.1.2. Limit disclosure of Proprietary and Confidential Information to the Member's officers, employees, agents, and representatives (including Designated Users) who have a need to access Proprietary and Confidential Information and advise and obtain the agreement of such persons to comply with the confidentiality obligations under this Section 7.
  - 7.1.3. The obligations set forth for Proprietary and Confidential Information in this Section 7 shall last for a period of five (5) years from the termination or expiration of this Agreement or until the University Proprietary and Confidential Information ceases to be confidential, whichever occurs first.

- 7.2.** University will not accept Proprietary and Confidential Information from Member unless and until the Parties execute the University Nondisclosure Agreement, available at <https://ora.umd.edu/resources/model-agreement>. The nondisclosure agreement will be incorporated as part of this Agreement. Confidential and Proprietary Information is defined in that nondisclosure agreement.

## **8. Export Control Laws.**

- 8.1.** The Parties are subject to and agree to abide by United States laws and regulations (e.g., the Arms Export Control Act, the Export Administration Act) that govern the export of specific technical data and technologies, including software, prototypes and other intellectual property, to foreign countries and foreign nationals ("Export Control Laws").
- 8.2.** Disclosure of Export Controlled Information is NOT permitted under this agreement unless Member has received written approval from the University's Export Compliance Office and agrees to follow any protocol provided by the Export Compliance Office for transmitting Export Controlled Information to the University. If it becomes necessary to disclose Export Controlled Information to the University, Member must first contact the University's Export Compliance Office ([export@umd.edu](mailto:export@umd.edu)) and provide a description of information to be sent. The University will incur no liability if it elects not to accept Export Controlled Information.

## **9. Disclaimer and Limitation of Warranty.**

- 9.1.** MATERIALS ARE MADE AVAILABLE ON AN "AS IS" BASIS. THE FOUNDATION AND UNIVERSITY DISCLAIM ANY AND ALL PROMISES, REPRESENTATIONS AND WARRANTIES – WHETHER EXPRESS OR IMPLIED, ORAL OR IN WRITING, IN FACT OR ARISING BY OPERATION OF LAW – WITH RESPECT TO ANY MATERIALS AND SERVICES PROVIDED HEREUNDER, INCLUDING THEIR CONDITION, CONFORMITY TO ANY REPRESENTATION OR DESCRIPTION, THE EXISTENCE OF ANY LATENT OR PATENT DEFECTS THEREIN, AND/OR THEIR MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE.
- 9.2.** WITHOUT LIMITING THE FOREGOING, IN NO EVENT SHALL MEMBER, THE FOUNDATION, THE STATE OF MARYLAND OR THE UNIVERSITY BE LIABLE TO EACH OTHER FOR ANY BUSINESS EXPENSE OR INTERRUPTION; LOSS OF PROFITS, AND/OR ANY INCIDENTAL, SPECIAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES OF ANY KIND, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH CLAIMS OR DEMANDS, HOWEVER CAUSED, ARISING IN CONNECTION WITH OR OUT OF THE FURNISHING, USE OR PERFORMANCE OF MATERIALS OR SERVICES PROVIDED HEREUNDER. THIS LIMITATION UPON DAMAGES AND CLAIMS IS INTENDED TO APPLY WITHOUT REGARD TO WHETHER OTHER PROVISIONS OF THIS AGREEMENT HAVE BEEN BREACHED OR HAVE PROVEN INEFFECTIVE.
- 9.3.** The Foundation has no liability or responsibility under this Agreement to a Member or to any person claiming by or through a Member.
- 9.4.** The provisions of this Section 9 shall survive termination or expiration of this Membership Agreement.

## **10. Term, Termination, and Renewal.**

- 10.1.** The initial term of this Agreement shall commence upon the University's timely receipt of the signed membership agreement and Membership Fee specified in Exhibit 2. Thereafter, this Agreement shall renew automatically upon payment of the Annual Membership Fee for successive one-year terms commencing on the membership cycle of the selected membership defined in Exhibit 2.
- 10.2.** If Member elects not to renew this Agreement after the initial term or any subsequent term, it shall notify the University, in writing, thirty (30) days prior to the start of the next membership cycle.
- 10.3.** University may terminate this Membership Agreement, in whole or in part, effective upon the expiration of any Membership term by 90 day written notice to Member.
- 10.4.** University may terminate this Agreement upon issuance of written notice to Member of its breach of any provision in Sections 3, 4 or 6 through 8 inclusive of this Agreement and Member's failure to rectify the breach in a satisfactory manner within thirty (30) days of its receipt of such notice. Termination shall become effective on the 31<sup>st</sup> day after Member's receipt of notice of breach if Member has not cured its breach by the end of the cure period. Member shall comply with any directive in the notice of breach to suspend all use of Materials during the thirty (30) day cure period.
- 10.5.** This Membership Agreement may be terminated at any time upon mutual written agreement of University and Member.
- 10.6.** Upon the termination or expiration of this Agreement for any reason, Member shall, at University's request, return to University or certify the destruction of all Materials in Member's possession, including copies and portions thereof and updates and enhancements thereto in any form, including electronic versions contained on storage devices, if applicable. Termination or expiration of this Agreement shall not affect Member's right to continue use of data files, designs, and similar works that it created with the use of Materials prior to the date of expiration or termination.

## **11. Miscellaneous.**

- 11.1.** The Parties are and shall remain independent contractors and nothing herein shall be construed to create a partnership, agency, joint venture, or teaming agreement between or among the Parties. Nothing herein shall be construed as implying that the employees of one Party are employees of another Party.
- 11.2.** This Agreement shall be binding upon and inure to the benefit of the Parties. This Agreement shall not be assigned or transferred by Member, in whole or in part, except by way of sale of substantially all of Member's assets by merger or consolidation, to any third party without the prior written consent of University, which consent shall not be unreasonably withheld; any attempted assignment in violation of this section shall be void.

- 11.3.** Notwithstanding anything to the contrary herein, each Party shall abide by the other's applicable policies, rules, and regulations with respect to use of another Party's facilities hereunder, provided the visiting Party received notice of such policies, rules, and regulations.
- 11.4.** Any notice required to be given hereunder shall be in writing and shall be deemed effective if delivered (a) in person, (b) by first class mail, postage prepaid, (c) by overnight courier, or (d) by email with delivery and read receipt plus documentation of transmission followed by first class mail, postage prepaid to each Party at the address/number provided below or such other address as may be designated in writing. Notices shall be effective upon receipt.
- 11.4.1.** Member: See Exhibit 1
- 11.4.2.** Foundation: The University Maryland Foundation, Inc.  
Wilson H. Elkins Building  
3300 Metzerott Road  
Adelphi, MD 20783  
Fax: 301-445-2738  
ATTN: [UNIT] Lab Membership
- 11.4.3.** University: Dr. Jay Lee  
IAI Center  
University of Maryland  
2181 Martin Hall Bldg 088  
College Park, MD 20742  
Phone: 301-405-5205  
Email: leejay@umd.edu
- 11.5.** Member designates the person identified in Exhibit 1 to this Agreement as Member's contact with the University on technical matters.
- 11.6.** This Membership Agreement shall be governed by and construed in accordance with the laws of the State of Maryland excluding its conflict of laws rules and further excluding the Maryland Computer Information Transactions Act, Md Code Ann. [Commercial Law] Sections 21-101 through 21-816 (2000). In accordance with that Act, the Parties hereby mutually agree to opt out of the application of the Maryland Computer Information Transactions Act to this Agreement. *Notwithstanding the foregoing, if Member is a governmental entity, the Parties agree to remain silent on choice of law.*
- 11.7.** Any disputes arising between the Parties arising under this Agreement shall in the first instance be attempted to be settled in good faith negotiations between the respective Parties.
- 11.8.** Nothing in this Agreement shall act as or constitute a waiver by the University of its governmental immunity or its rights under the 11<sup>th</sup> Amendment to the U.S. Constitution.
- 11.9.** In the event any portion of this Agreement shall be deemed by a court of competent jurisdiction to be overly broad in scope, duration or area of applicability, the court shall have the power, and is hereby authorized and directed, to modify and enforce the same as modified. Subject to the foregoing, in the event any provision of this Agreement shall be held



to be invalid, illegal or unenforceable for any reason, such invalidity or illegality shall attach only to such provision and shall not affect or render invalid or unenforceable the remaining provisions of this Agreement.

- 11.10.** No failure or delay by a Party in exercising any of its rights or remedies hereunder will operate as a waiver thereof, nor will any single or partial exercise of any such right or remedy preclude any other or further exercise thereof or the exercise of any other right or remedy.
- 11.11.** Headings and section numbers in this Agreement are used only for convenience.
- 11.12.** Modifications to this Membership Agreement shall become effective only upon written agreement of the Parties.
- 11.13.** This Membership Agreement, together with Exhibits 1, 2, 3, and 4, constitutes the entire Agreement between the Parties with respect to the subject matter hereof and supersedes all prior agreements and understandings, whether oral or written.

**[SIGNATURE PAGE FOLLOWS]**

**SIGNATURE PAGE: [UNIT] Lab Membership Agreement**

AGREED TO BY:		APPROVED AND AGREED TO BY:	
<b>Company:</b>		<b>The University of Maryland Foundation, Inc.</b>	
Typed Name:		Typed Name:	<b><u>Thomas Gilbert</u></b>
Title:		Title:	Chief Financial Officer
Date:		Date:	
Signature:		Signature:	
		<b>University of Maryland</b>	
		Typed Name:	
		Title:	Office of Research Administration
		Date:	
		Signature:	
ACKNOWLEDGED BY:			
Typed Name:	Dr. Balakumar Balachandran	Typed Name:	<b><u>Ms. Ming Wan</u></b>
Title:	Chair, Department of Mechanical Engineering	Title:	Director of Research Management for Dean Graham, School of Engineering
Date:		Date:	
Signature:		Signature:	

**Exhibit 1**  
**Membership Form**

**DESIGNATED CONTACT(S), who receive and administer for Member all regular [UNIT] communications.** Please identify at least one person to serve as the **Designated Contact**.

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Email: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**DESIGNATED SITE IDENTIFICATION.** Please identify designed site. All Member employees at the Designated Site may be considered Designated Users without being listed below. Member employees at the Designated Site are not required to provide a separate Designated User Acknowledgement Form.

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

**ADDITIONAL DESIGNATED USER(S).** Member is responsible for ensuring that all Designated Users comply with the terms of this Agreement. For Designated Users who are not Member personnel, Member is responsible for obtaining Designated User's Acknowledgement Form, attached as Exhibit 4, and providing the form to the University at the University's request.

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Email: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Email: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## **Exhibit 2**

### **Membership Selection, Annual Membership Fees**

The following sections outline Membership options and related fees, which may be amended from time to time in the University's sole discretion.

#### **Selection of Membership Option**

Member opts to select the following Membership option (select one):

- ☐ Full Membership --\$50,000 annually
- ☐ Affiliate Membership-- \$15,000 annually

**TOTAL BASE MEMBERSHIP FEE FOR MEMBERSHIP PERIOD: \$XXX**

#### **Member shall be granted the following benefits**

- 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 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.
- f. Feasibility study of 1-3 months to verify that the case can be turned into a project.
- g. Invitation for researchers to host company personnel for extended training and collaboration.

#### **Description of Membership Options**

##### **A. [A Full Member]**

A Full Member agrees to pay an annual fee of \$50,000.

##### **B. [An Affiliate Member]**

An Affiliate Member agrees to pay \$15,000 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).

**Exhibit 3**  
**Payment Schedule**

**Total Payment Due for Membership Period: \$xxx**

[insert schedule as noted in Section 3.4]

**Exhibit 4**  
**Designated User Acknowledgement Form**

**TO:** [Designated User – individual name plus organizational name]

**FROM:** [Member Name]

**COPY:** [UNIT]

**DATE:** [date]

**RE:** Obligations under [UNIT] Membership Agreement

You have been added to [Member Name]’s [UNIT] Lab membership agreement (the “Agreement”) as a Designated User. As a Designated User, you are required to comply with all terms and conditions of the Agreement. Member is responsible for providing you with a copy of the Agreement, but your failure to obtain such a copy does not absolve you of the responsibility to comply with the Agreement terms.

By signing below, you agree that you understand your obligations as a Designated User and will abide by the terms of the Agreement.

\_\_\_\_\_  
[Printed Name]  
[Title]  
[Organization]

\_\_\_\_\_  
Date