

Center for Geomechanics and Mitigation of Geohazards Membership Agreement

This Agreement is made.....this day of by and between the California Institute of Technology (hereinafter called "Caltech") and ... (hereinafter called "Company") for membership in the Center for Geomechanics and Mitigation of Geohazards ("CENTER"), which is defined as a single Research Site 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 Geomechanics and Mitigation of Geohazards at Caltech to maintain a mechanism whereby the Caltech environment can be used to perform research to advance the goals of the CENTER, The parties hereby agree to the following terms and conditions:

- A. CENTER will be operated by certain faculty, staff and students at Caltech. For the first five years, the CENTER will be supported jointly by industrial firms, Federal laboratories, the National Science Foundation (NSF), the State, and Caltech. It is possible that Caltech 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 elects to be a: Full Member In-Kind Member Observer Member

COMPANY agrees to contribute \$50,000 annually in support of the CENTER and thereby becomes a Full Member. Payment for Full Membership shall be made to Caltech as a lump sum upon signature of this Agreement and upon the anniversary date of each year of sponsorship. Checks from COMPANY should be mailed to and made payable to Caltech in accordance with the instructions provided by CENTER.

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 paying member for at least three years. However, COMPANY may terminate this Agreement after the first year by giving Caltech 60 days written notice prior to the termination date.

- D. There will be an Industrial Advisory Board ("IAB") composed of member representative(s). 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 bylaws.
- E. Caltech 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 to request a delay in publication for a time-limited period from the date of submission to COMPANY, provided that COMPANY makes a written request and justification for such delay.

- 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 Caltech pursuant to chapter 18 of title 35 of the United States Code, commonly called the Bayh-Dole Act. Caltech will have ownership of all patents developed from this work, subject to "march-in" rights as set forth in this Act.
- G. CENTER sponsors are entitled to a nonexclusive royalty-free license in accordance with Caltech Policy. COMPANIES that wish to exercise rights to a royalty-free license agree to pay patent application and maintenance costs.
- H. If only one COMPANY seeks a license, that COMPANY may request negotiation of an exclusive fee-bearing license through one of its agents, with the right to sublicense its subsidiaries and affiliates.
- I. Copyright registration shall be obtained for software developed by CENTER in accordance with Caltech policy. COMPANY shall be entitled to a nonexclusive, royalty-free license to all software developed by CENTER in accordance with Caltech policy to include. Further license opportunities and royalties due to CENTER to be negotiated by appropriate licensing agents of Caltech and COMPANY.
- J. Any royalties and licensing fees received by Caltech under this Agreement, over and above expenses incurred, will be distributed in accordance with Caltech royalty sharing schedule to inventor, Caltech and to the CENTER operating account or to Caltech in the event that CENTER is no longer in operation.
- 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 third party 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 provided that Caltech's aggregate liability to COMPANY shall not exceed the contribution that COMPANY has made to the CENTER.

CALTECH makes no warranties as to the results of the CENTER, including the non-infringement, ownership, merchantability, utility or fitness for any purpose the results of the CENTER.

This Agreement will be construed and interpreted in accordance with the laws of the United States of America without regard to principles of conflicts of laws.

CALTECH and COMPANY agree to abide by all applicable laws, rules, regulations, and ordinances in their participation in the CENTER efforts, including all applicable export/import laws and regulations.

This Agreement embodies the entire understanding of the parties, superseding any prior or contemporaneous representations, either oral or written regarding this Membership Agreement. Only written modifications, signed by both parties, will be valid changes to this Agreement.

This Agreement may be executed by the parties via electronic or facsimile counterparts.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in two or more counterparts, each as an original and all together as one instrument.

COMPANY

CALTECH

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____