

**Centers and Institutes Management Guide
To accompany Regulation 10.10.4**

Updated 09/02/2009

This guide is specifically intended to provide practical detailed instructions for the creation and management of NC State University centers and institutes (hereinafter referred to as “CI”) described in the Regulation 10.10.4 dated January 9, 2007 (hereinafter referred to as “Regulation”)

ARTICLE I. RESPONSIBILITIES

1. Vice Chancellor for Research and Graduate Studies

Responsibilities of the Vice Chancellor for Research and Graduate Studies will include, but are not limited to:

- Forwarding all approved requests to plan and establish a CI to the Chancellor and the NC State Board Of Trustees (BOT).
- In collaboration with Sponsored Programs and Regulatory Compliance Services (hereinafter “SPARCS”) providing a clear set of procedures, facilitating and evaluating all requests to plan and establish CI.
- Appointing CI directors – this is done in consultation with appropriate administrators (such as college Deans, Department Heads and/or Executive Officers
- Evaluating and acting upon periodic reports and audits of all CI.
- Appointing external professional evaluation panels.
- If necessary, working with responsible administrators to take remedial action when a CI is found not to be in compliance with established procedures or not performing in the manner required of it by its charter, bylaws, or contracts with sponsoring agencies.

The Vice Chancellor for Research and Graduate Studies has delegated day-to-day oversight to SPARCS and has appointed the Associate Vice Chancellor for Research Administration as the Director of Centers and Institutes.

2. Responsibilities of SPARCS will include, but are not limited to:

- Assisting Directors and cognizant colleges in understanding and following the requirements of this guide, providing sample documents in order to facilitate submission of a proposal for planning and establishment.
- Coordinating the process of review of proposals for planning and establishment via proper University groups and committees.
- Summarizing all comments, suggestions and concerns received during review and coordinating with the Director and college the process for resolving such issues.

- Preparing Draft letters to the Chancellor on behalf of the Vice Chancellor for Research and Graduate Studies to request authorization to plan and/or establish a CI.
- Maintaining updated lists and directories of established CIs and those CIs approved for planning.
- Facilitating various aspects of management of existing CIs
- Collecting individual biannual reports from CIs and incorporating them in all-campus report.
 - Periodically meeting with CIs directors and college and/or unit executive officers as a group.
 - Meeting individually with each CI director when need arises to address items of mutual concern, with the objective of enhancing coordination and communication.

3. Responsible Administrators

Generally, administrative oversight of a CI will rest solely with a single NC State college dean or other responsible administrator (such as a Dean, Vice Chancellor, Provost, Chancellor, collectively referred to as “RA”). Normally, the RA will be from the unit (College, Executive Office, hereinafter referred to a “Unit”) that provides the greatest resources. Oversight responsibilities may be delegated. It will be the responsibility of the RA to establish the internal procedure by which their unit will review a proposal or any other action related to a CI. It will be assumed that the responses returned to the Director of SPARCS or Coordinator of CI by the designee will be in accordance with this procedure and will reflect the views of the RA.

All actions taken by SPARCS and or the Vice Chancellor for Research and Graduate Studies will be made only upon the final recommendation of the RA.

Graduate education is a very important function of a CI, and during the planning process the Vice Chancellor for Research and Graduate Studies may ask the Dean of the Graduate School to evaluate the graduate education provisions of a CI proposal. Also, because so many of the resources (e.g., faculty released time, space, etc.) are of special concern to departmental interests, deans must include department heads in all phases of the planning process, in the management of a CI, and when a CI is being considered for disestablishment.

When a substantial number of faculty from more than one college or unit are involved, or where two or more deans provide near equivalent amounts of resources, they may decide to administer the CI jointly. This may involve setting up a deans executive council (or a committee of similar title) and naming one of the deans to act as the RA for the CI. Disagreement about who should be named RA, or with any other issue related to the creation of a joint CI, will be arbitrated by the Vice Chancellor for Research and Graduate Studies.

The RA will have the responsibility for ensuring that CI financial accounts are properly maintained and providing general administrative oversight of the CI. The RA also will keep the other participating dean(s) and department head(s) apprised of the activities of the CI, and will obtain agreement from them for important CI issues (e.g., review of CI planning and establishment documents, nomination of the director, revising Bylaws, etc.). All requests to plan or establish a CI will be coordinated through the RA's office, but no formal requests for authorization to plan or to establish a CI will be forwarded to the Chancellor and NC State BOT by the Vice Chancellor without the endorsement of all participating RAs.

Specifically, the RA's responsibilities include, but are not limited to:

During the planning period and in preparation of a request to establish a CI:

- Ensuring that all requirements for creating a CI that are listed in this guide (see Article II) are met and that the proposed CI does not duplicate existing CIs or academic programs on campus or within the UNC System (resources include the following links):
 - NCSU Centers and Institutes
 - <http://www.ncsu.edu/sparcs/centers/>

 - UNC System wide Centers and Institutes
 - http://www.northcarolina.edu/content.php/apps/research_cil/curListing.htm

After authorization to establish has been granted:

- Nominating the CI director to the Vice Chancellor for Research and Graduate Studies via the Director of SPARCS.
- Providing oversight and guidance to ensure that the CI is in fact set up according to the final approved establishment proposal.
- Review and endorse changes to bylaws and/or standard membership agreement of a membership CI.
- Interacting closely with the unit's Director and Advisory Committee(s) to ensure that the goals and objectives are being met, that all required periodic reports and evaluations are performed and submitted to SPARCS and to appropriate funding agencies in a timely fashion.
- Ensuring RA representation at all on-site advisory committee meetings.
- Initiating and/or participating in periodic evaluations of proposed or established CIs, and recommending to the Vice Chancellor for Research and Graduate Studies that the planning process of a proposed unit be discontinued, or that an established unit be disestablished.

4. Center/Institute Director

The specific duties of the Director may not be the same for all CIs and may vary according to the goals and objectives of the CI or the requirements of its various sponsored projects, but will be fully explained in the charter and, in the case of membership CIs, in its bylaws.

Directors normally will be chosen from the program through which the CI has evolved and are usually heavily involved in the planning process. In most circumstances, the logical candidate will be one of the Principal Investigators whose continued leadership would best contribute to the success of the CI.

The Director must provide leadership to the CI and has first line responsibility for:

- All CI personnel.
- Assuring that the CI conducts research, public service and educational activities consistent with its mission and goals.
- Assuring that all required reports are submitted.
- Assuring that the terms and conditions of all CI agreements are followed.

4. Center/Institute Advisory Committee(s)

Advisory Committee (AC) is advisory in nature and makes recommendations to the CI Director and/or RA. No two CI have exactly the same number or kind of AC(s). Each membership CI must have an Industrial Advisory Board (IAB) plus an AC that provides oversight from the University's perspective.

Listed below are brief generic descriptions of four advisory groups that may be useful in establishing and managing a CI:

(1). External Advisory Board (EAB)

The EAB is selected from organizations with goals relevant to those of the CI. It measures the CI's accomplishments against its goals and provides long-range guidance for the CI's major direction and strategy.

(2). Industrial Advisory Board (IAB)

This is the most important board of a Membership CI and normally includes a representative from each of its members. IAB elects its chairperson from among its members, monitors the CI's financial status, helps in the recruiting of new members, makes recommendations about goals and directions in CI activities, sets up annual plans for the most effective spending of membership funds, and approves changes to Bylaws and standard Membership Agreements.

(3). Academic Advisory Committee (AAC)

The Academic Advisory Committee is normally chaired by the RA and made up of the deans of each of the colleges and/or unit(s) (or their designees) with a vested interest in the CI. It is the responsibility of this committee to provide academic oversight for the CI and to ensure that its activities are consistent with the mission and policies of the University.

(4). Technical Committee (TC)

The Technical Committee gives advice to the director and IAB concerning internal projects to be funded from Membership funds or from block funds set aside for that purpose in a funded research project. Members of this committee are selected by the director from among highly competent professionals in the field, and normally have to be approved by the AAC, IAB, and the RA.

The chairmen of each AC is responsible to reflect the AC deliberations in detailed “minutes” of each AC meeting, which should be distributed to the Vice Chancellor, SPARCS and all participating RAs. SPARCS and representatives of the participating college(s) and/or unit(s) should be informed about and invited to all on-site AC meetings and sponsoring-agency site visits.

ARTICLE II. CREATING NC STATE CENTERS AND INSTITUTES

Even though the planning authorization normally lasts for two (2) years, once the criteria to establish have been met, the request for Authorization to Establish may be made at any time by the RA. If the two (2) year authorization period has expired, it is the responsibility of the RA to request and justify in writing to SPARCS that the period be extended. Normally, only one additional year will be requested. Also, a proposed CI should not be included in the NCSU Telephone Directory, and letterhead and business cards should not be used before the CI is formally approved for establishment by BOT. However, a CI may be represented as an official NC State University CI “in planning” and having an interim or founding director.

1. Criteria to be satisfied before a CI can be considered for planning:

- a. A CI’s mission, goals, and objectives must be consistent with the general mission of, and provide a direct benefit to, the University.
- b. A CI must support a substantial educational component, especially at the graduate level.
- c. A CI must have an identifiable group of faculty (primarily multidisciplinary) brought together to do research or perform public service in a common area of interest.
- d. While there may be some areas of overlap, a proposed CI must not duplicate the research or public service function of existing CIs or the programs of existing departments, colleges and/or units within the UNC System.
- e. A CI must have a solid financial base, with identifiable funding for at least five years.

- f. If required, a CI must be able to identify sources of cost matching or cost sharing funds.
- g. A CI should attain goals not otherwise achievable by the efforts of individual faculty (space, equipment, etc.) or sponsors, have an integrating impact (where the whole is greater than the sum of the parts), and have a clear benefit to society.

2. Requesting authorization to plan

Faculty interested in creating a CI will discuss, in general terms, all of the items listed in Article II.1 above with their appropriate department head(s), dean(s) or other RAs.

If more than one college or unit is substantially involved in the proposed CI, the RAs of those units will identify the primary RA and notify SPARCS and the Vice Chancellor in writing. Primary RA may consult with SPARCS about the planning process and requirements at any time during the planning period.

In consultation with appropriate department heads, the faculty involved in the proposed CI will prepare a letter (in the format shown in Appendix A). The letter should include detailed statements about all of the items required in the regulation's article 5.1.1 incorporated herewith:

- a. Relationship of the CI to the mission of NC STATE.
- b. Goals and objectives.
- c. Value added beyond the existing structure of NC STATE or through existing CIs.
- d. Similar units that exist elsewhere in the UNC System and the state, and any proposed relationships with them.
- e. Organizational structure, including the units involved and the composition of the advisory committee(s).
- f. Faculty and staff involved (including the name of the proposed director).
- g. Instructional programs to be accomplished.
- h. Sources, amounts, and duration of funds required and available for at least five (5) years.
- i. Required matching or cost sharing fund sources and commitments.
- j. Space and capital equipment requirements.
- k. Support and mentoring plans regarding the promotion and tenure of participating junior faculty

This letter must be forwarded with the RA's endorsement to SPARCS.

Review and comments are expected to be submitted from appropriate oversight bodies within 14 days. All comments and recommendations will be forwarded to the CI's prospective director for consideration, resolution of requested edits and possible revision of the proposal. Following the review period and any subsequent revision(s) to the proposal, the Vice Chancellor (after consultation with the Provost) will forward the proposal to the Chancellor requesting authorization to plan.

Upon receipt of Chancellor's authorization to plan CI may create its website and use the proposed name of the unit as long as it is clearly stated that this is "Center in Planning", for example "The Center for Arts and Crafts, In Planning"

The RA will be responsible for evaluating the continued potential of the CI during the planning period and, in consultation with all participating department heads and deans, deciding if the proposed CI should be established (using the criteria listed below).

3. Criteria to be satisfied before requesting establishment of a CI previously approved for planning:

- a. Have CI faculty been identified?
- b. Has anticipated funding been committed for at least five (5) years?
- c. Do the goals and objectives of the proposed CI conflict with those of other established or planned Centers and Institutes? If so, can the proposed CI be absorbed into one of those Centers and Institutes, or should all of the Centers and Institutes be consolidated into one CI?
- d. Have resources required for matching funds or capital equipment been identified?
- e. Are the capital resources required for establishment of the CI available?

4. Requesting Authorization to Establish

As long as the criteria in section II.3 above are met, the lead faculty may submit a request to establish the CI at any time during the two-year planning period. The faculty involved will prepare a written proposal that must include all of the items given in regulation's article 5.1.2 and incorporated herewith:

- a. The name of the proposed CI.
- b. The specific mission, objectives, and goals of the proposed CI.
- c. The CI's relationship to or potential impact upon the existing academic departments, colleges and/or schools, and other Centers and Institutes in the UNC System.
- d. The name of the proposed director, and a detailed description of any proposed advisory committees or directive boards.
- e. Budget estimates for the first (1st) year of operation, projections for the following four (4) years, and anticipated sources of funding.
- f. A statement identifying the current space and capital equipment that have been secured for the operation of the CI and realistic projections of future needs.
- g. A statement regarding the efficacy of plans implemented to assure proper recognition of participating junior faculty where relevant.
- h. A statement about anticipated effects of the proposed unit on the instructional programs of NC STATE, and the provisions for advanced or graduate training or degree programs.

- i. A description of the proposed CI's administrative structure, including an organizational chart showing the relationship of the proposed CI to the existing organizations of NC STATE and the internal organization of the proposed CI.
- j. Any additional information that may bear directly upon the proposal.

The RA will forward these documents (with endorsement) to SPARCS.

Review and comments are expected to be submitted from appropriate oversight bodies within 14 days. All comments and recommendations will be forwarded to the Center/Institute prospective Director for consideration, resolution of requested edits and possible revision of the proposal.

Following the review period and any subsequent revision(s) to the proposal, the Vice Chancellor (after consultation with the Provost) will forward the proposal to the Chancellor and the NC State Board of Trustees with a formal request for Authorization to Establish the CI.

If the decision is to discontinue planning, the Vice Chancellor for Research and Graduate Studies will notify the Provost, the RA(s) for the center, and Chancellor, in writing, of the decision.

ARTICLE III. MEMBERSHIP CI

Membership CIs derive most of their research funds from annual fees paid by corporate or other private and governmental entities and deposited into a common pool account. Membership CIs may have more than one class of membership (Full Member, Associate Member, etc.), each with a different set of fixed fees, responsibilities, and rights. Each membership CI must have a common set of Bylaws and a standard Membership Agreement (see Appendices C and D) that clearly define these issues and the types of projects that may, or may not, be funded by CI.

Usually, members are entitled to defined voting rights - depending on membership class - on the Industrial Advisory Board (IAB), or other such advisory committee (with duties as described earlier), and share equally in the results of any research funded from core and enhancement (defined later) funds. Normally, Membership CIs will, in addition to the IAB, have an Academic Advisory Committee (or a committee of similar name) that has the responsibility of seeing that University policies are being followed, particularly with respect to training and education of graduate and undergraduate students.

To insure that CI participating faculty obtain critical recognition from their deans and department heads for CI-related research, public service or instruction activities, all proposals submitted for internal funding by the Membership Center/Institute, and the resulting awards and rejections will follow normal University procedures for processing such activity (e.g. Use of PINS and processing through SPARCS).

1. Internal Projects

Members of Membership CIs share equally in the results and intellectual property generated from all core projects funded by membership fees and of any enhancement projects funded by members in addition to their membership fees. Three types of Membership CI projects are described below:

a. Core Projects

Core projects are funded from the core fund of membership fees paid by Center/Institute members, and require IAB approval. Core projects to be funded for the next year normally are approved at the annual meeting of the IAB.

When, between IAB meetings, members decide to fund a project that was not considered or selected as a core project at the previous annual meeting, the new project must have IAB approval. The approval of new projects may be obtained by e-mail balloting between IAB meetings, and if approved, the new project would become an additional core project.

IAB approval should clearly indicate that Core projects selected for funding were voted for by the majority of IAB members.

b. Enhancement Projects

When one or several members want to provide additional funds specifically to enhance or accelerate a currently-funded core project they may do so as an enhancement project. SPARCS provides assistance with preparing Enhancement Project Agreements (see Appendix F – Sample Center Enhancement Project).

Limited exclusive rights to any intellectual property resulting from core or enhancement funding (as detailed in the Membership Agreement) may be requested by a member, but approval must be obtained from the IAB and the University. IAB can vote to grant restrictive rights to IP to less than ALL Center/Institute Members ONCE they know about the IP they are forgoing - this can only happen at or near the end of a project. Except for those instances involving limited exclusive rights, enhancement projects do not require additional approval of the IAB, though the director generally will keep the IAB informed.

2. External Projects

CI may apply for and conduct sponsored projects funded by a member that is outside of the membership fee pooled resources and IAB authorized core or enhancement projects. Such agreements are executed using a separate sponsored project agreement, the terms of which are negotiated as with any other sponsored project agreement. The IAB should be appraised of the existence of such agreements on a periodic basis but the results of external projects need not be shared with other members.

3. Bylaws and Membership Agreement

Model Bylaws and a Membership Agreement are given in Appendices C and D and are to be used when preparing these documents for a Membership CI.

Bylaws and Membership Agreements are coupled, and the terms and conditions in the Membership Agreement must be consistent with provisions in the Bylaws. All original and revised Membership Agreements and Bylaws must be approved by the RA and SPARCS and forwarded to the Vice Chancellor for final approval. Agreements should contain a clause that the member agrees to remain a member for multiple years [usually three (3)], but membership fees are normally paid on an annual basis.

A Membership agreement must be routed, using PINS, through the appropriate department(s) and college(s) and/or unit(s) to SPARCS for assignment of an NCSU contract number and the signatures of the University before being sent to the member company. Once signed and returned by a member company, an award notice will be prepared by SPARCS, and fees may be deposited with the Office of Contracts and Grants. The original agreement does not have to be executed each year, with new start-and stop-dates, and/or membership fees -it may be modified each year, stipulating changes as an amendment to the original agreement. These modifications also require signatures of the University and member company (see [Appendix E](#) for the format of a [standard Amendment to Membership Agreement](#)).

4. Intellectual Property

All copyrights, patent disclosures, and patent applications generated by a CI will be treated in the same manner as those from individual investigators and will be prepared and forwarded to the Office of Technology Transfer (OTT) in accordance with standard NC STATE intellectual property procedures. When patent, option, and/or licensing terms are to be developed in official CI documents (e.g., research agreements, member or industry affiliate agreements, etc.), such terms shall be presented to OTT for review. Computer software will be treated in accordance with established University policy. Intellectual property provisions must be included in the Bylaws and Membership Agreement (see Appendices C and D for details).

ARTICLE IV. MANAGING ESTABLISHED NC STATE CENTERS AND INSTITUTES

Management of an established CI is an oversight function that includes monitoring and reviewing CI activities and plans through periodic contact (site visits, Advisory Committee meetings, internal and external professional evaluations, etc.) and reporting (biannual CI written reports), modifying CI activities and plans as required, or when warranted, disestablishing a CI. These elements are detailed below:

1. CI Reports

Each CI is required to submit biannual report to SPARCS with copies to their RA(s). The Report will be submitted every other March starting in 2008 for inclusion in the University's biannual report to the Board of Trustees. The biennial report should address the CI's productivity in or progress towards:

- a. Current funding of the CI and its ability to meet resource needs
 1. meeting matching obligations.
 2. effectiveness of leveraging dedicated resources such as start-up funding, direct institutional investment, etc.
 3. successful current sources and prospective future sources of funding.
 4. sufficiency of space and administrative support.
 5. anticipated unmet resource needs.
- b. Support, training, and graduation rates of students compared with the CI's goals
- c. Faculty, graduate and undergraduate participation, interest and coalescence around CI activity.
- d. Basic scholarly productivity
 1. publications,
 2. patents,
 3. grants and contracts,
 4. student and faculty awards,
 5. recognition and mentoring of CI efforts of faculty, especially un-tenured faculty.
- e. Financial and programmatic wherewithal, sustainability and effectiveness.
- f. Established metrics for client satisfaction and continued benefits.

Additional items or categories not included in the formatted report, that would be useful for the college and/or school reports, should be forwarded to the Coordinator for consideration.

2. Periodic CI Evaluations

Centers and Institutes must be evaluated on a regular basis, if possible at least once every five (5) years. This evaluation will be made by a professional review panel assembled by the Vice Chancellor for Research and Graduate Studies, or by an internal review panel assembled by the RA (s) and approved by the Vice Chancellor for Research and Graduate Studies upon consultation with other appropriate executive officers. Additional or more frequent audits or evaluations may be necessary if mandated by the Charter, Bylaws, or funding agency.

3. Criteria for the Professional Evaluation of an Established CI

- a. Is current funding of the CI sufficient to continue its operation?
- b. Are support, training, and graduation rates of students consistent with the CI's stated goals and objectives?
- c. Is faculty participation sufficient to continue CI operations?

- d. Is the quality of scholarly activity by faculty, professional staff, and students reflected in its output (publications, patents, copyrights, etc.)?
- e. Do current operations of the CI agree with the most recent Charter, goals, and objectives of the CI? (Does it duplicate the efforts of other Centers and Institutes?)
- f. Does the financial audit and professional evaluation demonstrate that the CI is being managed properly? (Were any serious problems discovered?)
- g. Are required matching funds, start-up funds, or capital equipment still appropriate and available? (If the CI was originally funded with finite-term [three (3) year, five (5) year, etc.] start-up funds from the University or other granting agencies, has it been able to attract sufficient outside funds to continue without additional institutional support?)
- h. Is space required for operation of the CI available?
- i. Are the CI clients being served?
- j. Does CI provide support in promotion and tenure of participating junior faculty?

4. Outcomes of CI Review

Upon completion of the evaluation, the RA(s) shall make a recommendation to the Vice Chancellor for Research and Graduate Studies regarding the continuation of the CI. The Vice Chancellor for Research and Graduate Studies (after consultation with the Provost and other appropriate executive officers) shall make a recommendation to the Chancellor for action by the Board of Trustees. There are three possible courses of action:

(1) Continue the CI. If the review demonstrates that the CI continues to meet the established criteria, then the decision to reappoint the director and to make changes (if any) in the title, mission, goals, objectives or organization of the CI will be made.

(2) Combine with Existing Centers and Institutes. If the review demonstrates that two or more Centers and Institutes have similar specific missions and goals, then it may be decided to consolidate these Centers and Institutes into a single unit. This will require a new Charter (and Bylaws and Membership Agreement if appropriate).

(3) Disestablish the CI. If there is a loss of funding or key faculty, or the CI is otherwise deemed to no longer be viable, or the mission, goals, or objectives of an established CI are superseded by a new CI, the decision may be made to disestablish a CI. A CI recommended for disestablishment normally will have one (1) year in which to close down operations. This decision should not be made without the involvement of the department head(s), who may have to make decision concerning positions, space, and/or support. The CI will be formally disestablished by the Chancellor. The NC State BOT will be notified about CI disestablishment.

5. Information and Schedule for Evaluations

SPARCS will work with the RA and director to set up either external or internal panel review schedule, and to solicit summary information about the CI to be given to the panel.

For either review, the summary should include:

- a. List of current CI faculty.
- b. List of courses or other training offered (as appropriate) by the CI.
- c. Narrative description of the goals, objectives, and accomplishments of the CI.
- d. For the last five (5) years:
 - i. Detailed list of all CI external grants and contracts (and for Membership Centers, a complete list of all Members).
 - ii. Complete list of refereed and non-refereed publications for research done in or through the CI. Complete list of graduate students who have done their thesis and/or dissertation research at the CI, showing all those who received financial support from the CI, and their current status (showing their degree, and graduation date or their anticipated graduation date).
 - iii. Financial Statement

This summary will be sent to the panel at least one (1) month prior to their arrival.

An External panel will normally meet with the Vice Chancellor for Research and Graduate Studies, the RA(s) and SPARCS to discuss the parameters of the review and the format of the final report, receive their charge, and ask background questions about the University, College(s) or Unit, the CI, or the review process they are about to begin. An Internal review will normally proceed in the same manner, but the panel will meet with the RA and other appropriate executive officers.

Review should include touring the facilities of the CI under evaluation, meeting individually with the director, each key faculty and staff member and the RA, and with groups of students and clients (as appropriate).

The panel will meet in executive session afterwards to discuss their observations and discuss how they will work together to produce the final report.

When the Vice Chancellor (or RA for internal review) has received the final report, he/she will send copies to the RA and the director and will schedule a meeting in which SPARCS and the RA (and other executive officers as appropriate) will discuss the review and future actions.

6.Changes to the Name, Mission, or Personnel of CI

During the normal operation of a Center or Institute, it is expected that there will be evolutionary changes to the Center's charter and personnel. All such changes must be promptly reported by the Center Director in writing to the RA and SPARCS for review.

For changes in personnel, such as the Center Director, SPARCS will report the change to the participating deans and Vice Chancellor for Research and Graduate Studies.

Any changes to the name and/or mission of the Center or Institute must be reviewed and approved by the RA, SPARCS, appropriate oversight bodies, Vice Chancellor for Research and Graduate Studies and by the Board of Trustees. The Center Director must submit a memo to the RA and SPARCS justifying the need for the proposed changes and illustrating how the change will better reflect and enhance the current activities of the Center or Institute. A request for a change in name may not be used to make major changes to the fundamental mission(s) of the Center or Institute as stated in its request to establish the Center or Institute. If the focus of a Center or Institute is no longer appropriate, the Center or Institute must be disestablished as provided above in Article IV, Paragraph 4(3).

Prior to requesting a change in name, extraordinary care must be taken by the CI to ensure that the name does not connote an overlap of functional mission with other CIs on campus or in the UNC system. Justification for a name change must address any such similarities.

ARTICLE V. FINANCIAL MANAGEMENT OF CI

1. Each CI should have a separate OUC (Organizational Unit Code) in order to maintain clear accounting and facilitate financial reporting. Please follow instructions of NCSU Budget Office in regards of requesting a new OUC: http://www.fis.ncsu.edu/budget/data/project_ouc_form.html
2. All external funding to CIs via membership agreements as well as regular grants and contracts must be processed in accordance with routine SPARCS procedures for proposal submission.
3. Annual period for paying membership dues must be clearly identified in the membership agreement based on calendar (January 1 – December 31) or fiscal (July 1 – June 30) year and must be the same for all members. Members joining at times other than those outlined in the standard membership agreement will be charged for prorated dues for the incomplete first year. Billing is done 30 days prior to the start date of each membership year. It is advisable that the CI's Director encourages industrial members to pay their annual dues at the beginning of each year of membership in lump sum. If any special payment arrangements for one particular member need to be established it has to be discussed with SPARCS on case-by-case basis.
4. Annual dues of Membership CI need to be deposited in the pool ("various industries") account. This prime account is used as a "holding" account for membership funding. Annual membership payments should be appropriated to fund individual projects, the administrative budget and future encumbrances (e.g. planned procurement of large-scale instrumentation for the benefit of membership projects, etc). A clear breakdown of how membership receipts will be allocated should be noted in the annual minutes of the CI's IAB meeting.

Each CI should make a decision at their annual meeting about the percentage of membership dues (up to 16.5%) that will be used during the upcoming year for administrative purposes and notify the Contracts and Grants Office of this decision in writing (preferably by e-mail). This ratio cannot be changed more often than yearly. C&G will then establish a sub-account for the administration of the center. This administrative sub-account will map to the membership pool account and will receive the IAB-approved administrative funding from the membership pool account free of overhead. Remaining funds in the pool account can be distributed to support research or other CI projects (core, subawards) via moving them into subaccounts carrying an overhead charge of 9.5% applied to Total Direct Costs (TDC) but exclusive of the amount of each subcontract above \$25,000. C&G will reconcile the membership pool account against member payments on the monthly basis. No expenditures should be transacted against the membership pool account. All expenditures must be transacted against project sub-accounts. Any expenditures noted on the membership pool account during the monthly C&G reconciliation must be moved to a project account.

5. Additional funds provided by one or several members for enhancement projects will be set up in separate accounts. Any residual funds left upon completion of an enhancement project will be moved back into a pool membership dues account and be available for re-distribution following the scenario described above in Article V, Paragraph 4 .
6. Any residual membership funds that left in the pool account upon formal closing/disestablishment of a membership Center/Institute will be transferred (net of the 9.5% overhead) to the appropriate college/school/unit for resolution of outstanding institutional commitments and its future use will be determined by the Responsible Administrators.
7. Additional information/guidelines concerning the day to day management of center/consortium's funds can be found on the Contracts and Grants website
8. Upon the approval of the Associate Vice Chancellor for Research Administration, and a unanimous vote of the membership, up to 10% of annual membership dues may be moved to an unrestricted university account (ledger 7) for graduate student endowment (“student endowment account”) and/or for center membership marketing purposes (“marketing account”)only.

Center’s IAB must clearly define the scope and nature of the graduate student endowment and how much to move to that account as well as how much, if any, should be moved to a marketing account . Collectively these amounts must not exceed 10% of the total membership revenue in a given year with exceptions considered by the VCRGS office for amounts above 10% in the initial year of student endowment establishment.

The direction of a certain portion of membership dues to an endowment for graduate students to work on center thrusts has a direct impact on research output and represents a very beneficial use of membership fees. Direction of funds towards marketing has only the potential for additional or sustained support and though important should be avoided when possible.

No other fund type is allowable (e.g., you may not transfer such funds to a ledger 6 account).

9. External CI Projects are subject to the Federally-negotiated F&A rate agreement.

List of Appendices:

- A. Sample draft Letter – Request for authorization to plan/establish a CI
- B. Sample Center/Institute Charter
- C. Sample Standard Membership Center/Institute Bylaws
- D. Sample Standard Membership Center/Institute Agreement
- E. Sample Amendment to Center/Institute Membership Agreement
- F. Sample Standard Enhancement Project Agreement

Appendix A - Request for authorization to plan/establish a CI

Format of Letter Requesting Authorization to Plan a Center/Institute

This format is given as a guide for college and/or school deans in drafting the text of the letter that the Vice Chancellor sends to the BOT formally requesting that a Center/Institute be given Authorization to Plan.

The letter should contain a general statement about why a new Center/Institute is being created. This should include comments about new entity relationship to the mission of NC State or UNC, its importance to the nation or the state, and the events leading up to proposing its formation (such as a foundation grant, major federal program funding, etc)

Goals and Objectives

List the goals and objectives of the proposed Center/Institute and whether it is being proposed as a research or a public service center (e.g., if its primary function is research, even if it includes educational or public service functions, then it would be a research center).

Organization

Write a clear statement about the organizational structure within NC State, including which college(s) and/or school will have administrative oversight and the makeup and functions of all proposed advisory committees or boards. Also include the name of the proposed Director and a short summary of his/her qualifications.

Need for the Center/Institute

Include a strong and clear statement about the need for the Center/Institute, how it will affect the instructional programs at NC State, and the specific provisions for advanced and graduate training.

Similar Units

Include a statement about similar units at NC State, UNC, or existing Centers/Institutes and why the goals and objectives of the proposed entity cannot be achieved within those existing structures. If there are similar, but not conflicting units, include a statement about the relationship of the proposed Center/Institute to those units.

Financial Support

Give detailed accounting of expected sources and amounts of funds necessary for support of the unit, should it be established. Commitments for funding for at least five (5) years should be identified, and needs to be fairly certain (by contrast, the funding requirements

to establish a Center/Institute must be very certain). This should include the identification of required matching or cost sharing funds.

Space and Capital Equipment Requirements

Provide statements detailing the requirements for space and capital equipment, if any. This provision, nearly as much as the funding support requirements, is weighted heavily in the decision to request authority to plan the proposed unit.

Support and mentoring plans regarding the promotion and tenure of participating junior faculty.

Appendix B – Sample Center/Institute Charter

TITLE OF CENTER or INSTITUTE NORTH CAROLINA STATE UNIVERSITY CHARTER

Goals and Objectives

Describe the main mission and goal of the Center/Institute, including what, why, where, and for whom, and whether it is a Research or a Public Service unit. If the title or the type of Center/Institute - Research vs. Public Service - is different from that given when Authorization to Plan was approved, please explain. Include information about the genesis of the Center/Institute (e.g., block grant, Membership Center, etc.), any amplifying information that will describe the importance and/or uniqueness of the proposed Center. It is in this section that you will fully describe what the Center is and what it will do.

List specific objectives for this Center/Institute (for example, they could start as shown below):

- a. Support industrially relevant fundamental research
- b. Use pooled funds to stimulate mutually profitable
- c. Provide focal point for

Relationships

You must provide enough information to convince the Vice Chancellor and BOT that this Center/Institute does not unnecessarily duplicate other existing units and academic programs at NC State or other UNC institutions. Include a statement about similar units at NC State and UNC, and why the mission and objectives of the proposed Center/Institute cannot be achieved within those existing structures. If there are existing Centers/Institutes, academic departments, or colleges and/or schools that have similar but non-duplicating missions and objectives, describe how the proposed entity will interact with and/or complement these units.

The Director and Advisory Committee

- a. **Director.** Name the proposed director, and discuss qualifications and college/school/ department affiliations and duties.
- b. **Advisory Committee(s).** Describe in detail all the Advisory Committees (ACs) that will be associated with the Center/Institute, including the AC's name(s), composition, duties, and meeting schedule.

Budget Estimates

Provide budget estimates for the first (1st) year of operation, projections for the following four (4) years, and anticipated sources of funding (foundation, corporate memberships, Industry-University Cooperative Research funds, block grants, etc.). A reasonable expectation for at least five (5) years of funding must be demonstrated.

Space Needs

Describe in detail the immediate space needs, realistic projections of future space needs, and whether these needs are critical to the establishment of the Center/Institute. Describe in detail any space commitments from university or college/school/department administrators, and identify monies, if any, from the expected funds, or the university, that have been committed to provide space.

Other Needs

Describe in detail the immediate and future needs for capital equipment and library resources, and whether monetary commitments have been made by the university or college/school administrators for capital equipment matching funds. If there are no other needs identified, include a statement to that effect (e.g. "There are no immediate needs for additional capital equipment or library resources." And/or "No additional monetary commitments for the Center are needed, or have been made."). Do not just state there are no other needs.

Effects on Instructional Programs

Describe in detail the anticipated effects of the proposed Center/Institute on the instructional programs of the NC State. One of the main reasons for forming a Center/Institute is to provide additional opportunities for graduate training and support, so a discussion of the provisions for graduate training and support must be included in detail.

Organizational Structure

Describe in detail the proposed Center/Institute's organizational structure and the relationship of the director, associate directors (if any), and AC(s) to the department(s), college(s) and/or school, and to the responsible administrator(s) who will have oversight responsibilities for the Center/institute. Include an organizational chart showing direct and advisory linkages.

Additional Information

Include any additional information that may bear directly upon the proposal or that did not easily fit into any of the other categories. If there is no additional information, do not include this category in the proposal.

Appendix C

Sample Bylaws:

The example of Bylaws given below is typical of the type used for University-Industry Center/Institute. This sample document has been reviewed and approved by NCSU Office of Legal Affairs (OLA) and Office of Technology Transfer (OTT). For convenience, CENTER is used throughout to refer to either Center or Institute.

TITLE OF CENTER

NORTH CAROLINA STATE UNIVERSITY

BYLAWS

The [Name] **Research Center** has been established and is administered by the North Carolina State University to [brief description of technology] (the “Research Area”) and to promote research, education, and training in the Research Area. The Center has developed **core research, non-core research, and technology transfer** activities.

Core research programs are developed jointly by the Center faculty/staff and the [Name] member companies. **Core** research programs focus on areas such as [amend to make consistent with the mission of the Center] the development of the modification of basic studies that lead to a better understanding of technologies applied research directed at the development of instrumentation and test methods

Core research programs are supported by funds from the State of North Carolina and fees from member companies. Research results are placed in the public domain, through presentations and publications, poster presentations, software, and patent disclosures, only after the review of the Industrial Advisory Board (IAB) of the Center. The policies governing publication and ownership of intellectual property are discussed under the Policies Article below.

Members may choose to provide additional funding for certain projects approved by the IAB. These projects are considered Enhancement projects and require signing a short Enhancement project Agreement between each sponsoring member and NCSU (Appendix A). Enhancement Project results are subject to the same policies as those governing Core research..

A **non-core** research program focuses on one or more of the above objectives but is carried out for an individual company. Non-core projects of special interest can also be

developed for a group of members or affiliate members. These projects carry indirect costs at the university-determined rates. The terms of these specific research contracts with NC State will govern the intellectual property ownership and licensing rights in the intellectual property arising from these agreements. The results of these non-core projects will be available to the Center members only on the same basis as to any non-member, unless the sponsoring company and the University agree otherwise.

The Center carries out an active program of **technology transfer** supported by funds from the **State of North Carolina** and **industrial members**. This program seeks to disseminate technology developed by the Center along with existing knowledge of the management of materials and processes. Such programs are provided in the form of:

- training and assistance in the implementation of Center developed technology
- courses taught at plant sites
- workshops at the Center
- industrial internships
- focused seminars, symposia, and conferences
- one-on-one consulting.

To carry out its research mission, the Center may seek out talent at North Carolina State University as well as other universities.

A. ORGANIZATIONAL STRUCTURE

The organizational structure of Center consists of an administrative office, the University Policy Committee (UPC), the Industrial Advisory Board (IAB) and a Center Analyst (see Figure 1).

Diagram Organizational Structure Here [Note that the structure may differ depending on the size and purpose of the Center]

Figure 1.

The [Name] administrative office is headed by a Director (or Co-Directors), Associate Directors and an Administrative Assistant. [These offices may be changed to suit the needs of the Center] [Name] is also assisted by the Business Manager, College of [college]. The research functions of the Center are managed jointly by the Director and the Associate Directors who are supported by faculty members (from participating universities) affiliated with the Center (henceforth called Fellows), Research Associates, Laboratory Research Specialists, and Laboratory Managers and/or Technicians.

1. Director/Co-Directors

The Director (Co-Directors) of the Center report to the Vice Chancellor for Graduate Studies and Research.

The Director/Co-Directors works closely with the Center Fellows, the IAB and the University Policy Committee to identify key areas of research in support of the technology of the industry and to establish short-range and long-range goals in pursuit of the mission of the Center. In like manner, they work with the Associate Director, the Center staff, the Center faculty, the IAB and the university Office of Technology Transfer to select and implement technology transfer activities of the Center. The Director/Co-Directors coordinate membership development, non-routine research, and technology transfer activities with members of the IAB and the Associate Director as well as other staff.

Specific responsibilities of the Director/Co-Directors include:

- Coordination of the core, Enhancement and non-core research projects.
- Selection and granting of research projects based on recommendations of the IAB
- Budgeting and administration of the Center funds
- Interaction with industry participants through IAB and other formal and informal mechanisms
- Interaction with the university through the University Policy Committee
- Promotion of the research and technology transfer mission of the Center
- Seeking new participants in Center
- Making the necessary policy decisions with regard to operation of the Center and implementation of the Center-related university policies
- Coordinating the annual report and meetings supportive of the mission of the Center
- Coordinating information services related to the Center activities
- Overseeing the Center operation

The Director/Co-Directors has/have administrative authority in the operation of the Center, including fiscal management, policy decisions, selection of research projects and appointment of the technical and administrative staff. The Director/Co-Directors receives recommendations and advice from the IAB Executive Committee, IAB and UPC.

Directors/Co-Directors will be appointed by the Chancellor of the University (NCSU) upon recommendation of Dean of the College of [] and Head of the relevant departments in the College of []. The appointees have to be acceptable to the IAB. The Chancellor will then report this administrative appointment to the President of the University of North Carolina.

The Director/Co-Directors recommended/appointed shall be individuals with demonstrated knowledge of the field of [] technology, an established record of research and scholarship in the field, demonstrated administrative skills, and an acknowledged position of leadership in the industry.

The Associate Director(s) are appointed by the Director/Co-Directors, in consultation with the University Policy Committee and the Industrial Advisory Board. Other research and administrative staff of the Center will be appointed by the Director/Co-Directors in consultation with the Associate Director(s).

For each revision of the long-range plan of the University, the Director/Co-Directors will submit a report on the Center's plans to the Dean of the College of [], according to University policies.

2. University Policy Committee (UPC)

The UPC, chaired by the Vice Chancellor for Graduate Studies and Research (NCSU), or his/her designee, is comprised of the Dean of the College of [] and relevant department Heads of the concerned academic units involved in the Center.

The UPC will help ensure that the Center abides by all University policies and State laws. In particular, the University Policy Committee will assist in ensuring that the operations of the Center are consistent with faculty rights responsibilities, and professional development as documented in the Faculty Handbook. Similarly, the Committee will assure the equitable treatment of undergraduate and graduate students, and other staff associated with the Center.

3. Membership

All companies, regardless of their geographical location/origin, engaged in [the industry], or who are raw material and auxiliary suppliers to the [] industry, or U.S. government organizations which have an interest in [industry], are entitled to be members of the Center. The IAB will review the membership categories and associated privileges from time to time and advise judicious changes, in accordance with bylaws, when necessary. Multiple-tier membership is available as defined in the Membership Agreement. Any exception to the criteria above must be approved by the IAB Executive committee.

a. Full Members

Companies meeting the criteria listed above who want to become FULL MEMBERS, will be recommended to the IAB Executive Committee who will confirm the admittance of all MEMBERS.

Full MEMBERS of the Center pay an annual fee to support generic research carried out in the Center. The fee guidelines are determined by the IAB annually. The MEMBERS have representation, with voting rights, on the IAB. They are entitled to participate in the patenting of any inventions conceived by the Center faculty, staff and students during the conduct of Core Research of the Center, as set forth in Article B.2. Their representatives are entitled to attend meetings of the Center where results of the Core Research program are reported. They receive semi-annual progress reports and an annual report of the Center. Their staff is entitled to attend workshops, training seminars and research symposia organized by the Center at reduced rates as determined by IAB policies. They are entitled to use the research and production facilities of the Center for their R&D activities, based on availability, and at reduced fees mutually agreed upon by the IAB and the Center administration.

The fee structure, the voting rights and the associated privileges are approved by the IAB Executive Committee and may change from time to time.

b. Affiliate Members

The IAB assists in recruiting small to medium size companies as AFFILIATES. The AFFILIATES pay an annual fee, determined by the IAB, to support generic research carried out in the Center. Their representatives attend the Center meetings where research progress is reported and receive reports. They are not entitled to participate in the patenting of any inventions made by the Center nor in the licensing of such inventions for commercial purposes, other than in accordance with Article B.2. (f).

The AFFILIATES do not have representation on the IAB. They are entitled to use the research and production facilities of the Center for their R&D activities, based on availability, and at reduced fees mutually agreed upon by the IAB and the Center administration. Their staff is entitled to attend workshops, training seminars and research symposia, organized by the Center, at reduced rates as determined by the IAB policies.

Multiple-tier membership, as approved by the IAB, is available. The fee structure and the associated privileges are approved by the IAB Executive Committee and may change from time to time.

c. Associate Members

The ASSOCIATES are non-commercial organizations, such as government laboratories, R and D organizations and educational institutions, interested in being supportive of and associated with the Center. The ASSOCIATES pay an annual fee, determined by the IAB, to support generic research carried out in the Center. Their representatives attend the Center meetings where research progress is reported and receive reports. They are not entitled to participate in the patenting of any inventions made by the Center nor in the licensing of such inventions for commercial purposes, other than in accordance with Article B.2. (f) which shall apply to ASSOCIATES as well.

The ASSOCIATES do not have representation on the IAB. They are entitled to use the research and production facilities of the Center for their R&D activities, based on availability. Their staff is entitled to attend workshops, training seminars and research symposia, organized by the Center, at reduced rates as determined by the IAB Executive Committee.

4. Industrial Advisory Board

Each FULL MEMBER is represented on the IAB by one individual (together with a designated alternate) and has one vote. The IAB reviews proposed and existing Center programs and recommends alternatives or additions; it also reviews budgets and policies pertaining to any aspect of the Center. In particular the IAB

- Receives annual reports of the Center
- Reviews operating and research budgets
- Makes policy recommendations
- Assures proper balance between Core and Non-Core Research programs in the Center
- Advises on criteria for admittance as MEMBERS, AFFILIATES, or ASSOCIATES
- Reviews all Core-Research proposals and recommends priorities to the Director/Co-Directors
- Attends the semi-annual meetings of the Center and receives progress reports.
- The IAB Chair shall serve a 2 year term.
- The IAB Vice-Chair shall serve a two year term followed by a 2 year term as IAB Chair.
- Seven additional members shall be elected for 5 year terms.
- Elections shall occur at the Fall Semi-Annual meeting or as required to fill vacancies.

5. Industrial Interns

FULL MEMBERS (not AFFILIATES) are encouraged to send their selected technical staff to the Center on sabbatical leaves to permit appropriate research and technology transfer activities of the Center.

6. Center Analyst

The CENTER may select/appoint a Center Analyst with the approval of IAB and the University Policy Committee. This individual shall report to the IAB and be responsible for implementation of the Center Assessment Program. He/she shall serve as both an external analyst and as an internal advisor/consultant.

The Center Assessment Program consists of a series of evaluation studies the purpose of which is to identify factors that contribute to and/or inhibit attainment of Center goals and outcomes, whether scientific or economic. Included among the four basic types of studies are 1) comparative analysis of the Center's development history; 2) organizational description of the Center; and 3) intermediate as well as long-term studies of organizational effectiveness. The primary input for organizational effectiveness, however, comes from the IAB.

B. POLICIES

1. Amendment Policy

These Bylaws may be amended by a two-thirds vote of IAB voting members present.

2. Patent Policy Regarding Core Research

(a) Title to any invention or discovery made or conceived in the performance of the Core Research program by a University employee shall remain with the University, provided, however, that the University shall grant to Center FULL MEMBERS (not AFFILIATES) a non-exclusive royalty-free irrevocable license for internal use of such invention or discovery. If an invention or discovery is made by an employee of FULL MEMBER'S or AFFILIATE'S organization as a direct result of such employee's participation in the Core Research of the Center, the title to the invention shall remain with the FULL MEMBER or AFFILIATE. The FULL MEMBER, however, will grant to the University a non-exclusive royalty-free license for the use of the invention or discovery, that is patented or otherwise made public and if it is relevant to the Core Research of the Center, for research purposes for as long as the Center is in existence. Any invention or discovery made or conceived in the performance of the Center Core Research program, jointly by employees of the University and employees of FULL MEMBER or AFFILIATE shall be deemed a joint invention with all parties sharing equally in the rights thereto.

(b) University inventions shall be promptly disclosed to FULL MEMBERS by the University. FULL MEMBERS shall provide notice in writing to the University to acquire license rights and to support patent filings within thirty (30) days from receipt of the University's invention disclosure. FULL MEMBERS agreeing to share in the cost of patenting such inventions shall have certain rights and options as further discussed below in Articles B.2. (c) and B.2. (d).

(c) FULL MEMBERS participating in the cost of filing, prosecuting and maintaining a patent application shall have an option to acquire a royalty-bearing license to make, use and sell products or processes for commercial purposes, said license to be exclusive among those FULL MEMBER(s) (hereinafter a "Limited Exclusive License"). Those FULL MEMBER(s) who have said option shall be required to exercise the option unanimously in order to acquire the Limited Exclusive License. In addition, the option must be exercised within six (6) months of the filing of an U.S. patent application. If the FULL MEMBERS participating in the cost of filing patents do not unanimously elect to exercise the option, or if they do not do so within six (6) months of the filing of a patent application, then the option for a Limited Exclusive License shall terminate, and rights to such patents or patent applications shall be in accordance with other Articles of these bylaws.

(d) If no Limited Exclusive License (as described above in Article B.2. (c)) is granted, then those FULL MEMBERS who participated in the cost of filing, prosecuting and maintaining a patent application, shall have a non-exclusive, royalty free, irrevocable license to make, use and sell products based on the patent applications for commercial purposes.

(e) If no Limited Exclusive License (as described above in Article B.2. (c)) is granted, then those FULL MEMBERS that did not participate in the cost of filing,

prosecution and maintenance of the patents, but who subsequently wish to use the patented invention for commercial purposes, shall be allowed to negotiate a royalty-bearing, non-exclusive license, provided they (FULL MEMBERS who did not pay the costs) also pay the Center their share of the unpaid membership dues from the day of conception of the invention, if any, and the costs of filing, prosecution and maintenance of the patents in equivalent dollars.

(f) If no Limited Exclusive License (as described above in Article B.2. (c)) is granted, then AFFILIATES who wish to use the patented invention for commercial purposes shall be allowed to negotiate a royalty-bearing, non-exclusive license, provided they (AFFILIATES) pay their share of the costs of patenting and maintenance as well as the difference between membership fees and those charged to the AFFILIATES as if they were FULL MEMBERS in good standing beginning in the year the invention was conceived, in equivalent dollars.

(g) The University shall file for and prosecute patent applications on behalf of the Center if patent protection is desired pursuant to Articles B.2. (a) and B.2. (b) hereof. The FULL MEMBERS (not AFFILIATES) desiring the filing, prosecution and maintenance of a patent shall equally share the cost of doing so and shall have the right to advise the University regarding the manner of filing and prosecution of the patent and its subsequent maintenance, as long as such advice does not conflict with the University policies and practices.

(h) All policies that apply to the filing, prosecution, maintenance and licensing of patents in USA also apply to filing, prosecution, maintenance and licensing of patents in any other country on a country by country basis.

(i) Member acknowledges and agrees that NC State shall grant the U.S. Government a non-exclusive, nontransferable, paid-up, worldwide license to practice or have practiced any Center Intellectual Property developed or resulting from federally funded research. (Bayh-Dole Act Compliance)

3. Confidentiality Policy

(a) Members and Center will limit disclosure of proprietary information to the amount necessary to carry out Center research. However, in the normal and routine operation of the Center as detailed in the Membership Agreement and these By-Laws, there may be the need for a party to disclose information that is confidential and proprietary to the discloser. All such information shall be disclosed by the disclosing party in writing and designated as "Confidential" at the time of disclosure, or, if disclosed orally, shall be identified as confidential at the time of disclosure and confirmed in writing as being "Confidential" within thirty (30) days of such disclosure. ("Confidential Information")

(b) Subject to Article 4, the Center and Members shall, for a period of three (3) years following the date of such disclosure, use the Confidential Information only for purposes

of Center research and exercise the same degree of care to prevent inadvertent or unauthorized disclosure that it applies to its own trade secrets and/or confidential and proprietary information. However, neither Center nor Member shall be liable for disclosure of such Confidential Information which:

- i. is, or becomes, available to the public other than by breach of any obligation herein assumed by the recipient; or
- ii. is furnished to a third party by discloser without restriction of the third party's right to disseminate the Confidential Information; or
- iii. is disclosed with the discloser's written permission; or
- iv. Is already known to the recipient other than from any previous unexpired confidentiality obligation with discloser as evidenced by tangible records; or
- v. Is independently developed by the recipient as evidenced by tangible records; or
- vi. Is disclosed to the recipient by a third party having the right to make such disclosure.

(c) If a Member has joint or exclusive title to an invention developed in Core Research as described in Article 2(a) above, Member may request permission from the Center to use Confidential Information in filing a patent application. Such permission will not unreasonably be withheld.

(d) The obligations described in Article 3 (b) above shall continue with respect to any Confidential Information disclosed hereunder for a period of three (3) years from the date of disclosure thereof, regardless of whether FULL MEMBER and/or AFFILIATE remains a FULL MEMBER and/or AFFILIATE of the Center during said period.

4. Export Control

It is not anticipated that Members will exchange any information, data, software, or materials that are Export Controlled under the Export Administration Regulations (EAR), Title 15, sections 730-774 of the Code of Federal Regulations (CFR) or the International Traffic in Arms Regulations (ITAR), 22 CFR sections 120-130. Member agrees to provide the Center at least ten (10) business days in advance with **written** notice of its intention to deliver any information, data, software, technology or materials that are Export Controlled. Member and Center each agree to take such measures as may be necessary to ensure that any Export Controlled information, data, software or materials provided to Center shall not be exported from the United States or re-exported to any other country without first complying with applicable Export Control laws and regulations.

5. Publication Policy

For the purposes of this Article 4, “Publication” shall be deemed to mean any written, oral, or other public divulgence of research results, including the public use or sale of an invention based on the research results, to the extent that any such event could bar the availability of patent protection in foreign jurisdictions or trigger the one-year grace period in the U.S. within which a U.S. patent application must be filed.

Publication of research results in scientific journals is encouraged. In order to prevent untimely publication of patentable research, a publication-delay mechanism has been established. Notification of intent to publish must be sent to each member of the Industrial Advisory Board. Any member of the board can request a delay in publication to determine whether the paper contains patentable material. If it is determined that patentable material is contained in the proposed publication, such material will be either deleted or publication will be suspended for a maximum of six months from the date of disclosure to the IAB. in order to permit the filing of an application for intellectual property protection.. The IAB member must request this delay in publication within thirty (30) days of receipt of the notice of pending publication. Failure to respond by a given IAB member shall be construed as approval of the publication by that member.

Under no circumstances will a student’s thesis, for which funds are derived from the Center, be delayed in degree confirmation; provided, however, that student theses shall be subject to a six-month delay provision following their approval before they are made publicly available in University libraries; and provided, further, that the University may be released from this six-month delay period if the IAB members unanimously acknowledge that the thesis does not disclose patentable subject matter, or if a U.S. patent application is placed on file which covers the subject matter of the thesis.

6. Software Copyright Policy

Copyright to the software developed by the Center will belong to NCSU. During the term of their membership, the FULL MEMBERS (not AFFILIATES) will be granted a non-exclusive, royalty-free, end-user license for internal use only to all software resulting from research funded by the FULL MEMBER. The FULL MEMBERS will have the right to sub-license the software to their subsidiaries and affiliates also for internal use only. In case the software is used as part of a commercial product, the FULL MEMBER shall pay royalty to the University at a mutually negotiated rate, even if the software has been modified and/or augmented by the FULL MEMBER company personnel. The University may grant others a non-exclusive, end-user license for internal use only to such software upon payment of a fair and reasonable license fee.

7. Communications Policy

FULL MEMBERS and AFFILIATES receive a semi-annual technical report of research progress. The Center also publishes the [Name] Annual Report in which Center accomplishments, financial status and prospects for the future are reviewed. Center investigators transmit project manuscripts, preprints and theses in accordance with the above publication and patent policies. Reports are distributed at the scheduled meeting.

Two meetings per year of IAB are held. The meetings deal with technical and administrative topics. The Center hosts one annual meeting for all members at the NCSU campus, to present an executive summary of the year's accomplishments. Scientific results from the Center are discussed in presentations and demonstrated visually. Involvement of graduate students, postdoctoral fellows and research associates is utilized as appropriate.

8. Compliance with United States antitrust and competition laws

The Center includes among its members parties who are business competitors. It is the policy of the Center to comply with United States antitrust and competition laws that apply to each of its members and to encourage its members to do so as well. Accordingly, in connection with any meeting or activity sponsored by the Center, no members shall reach any agreement or exchange any information concerning cost or pricing information, sales or marketing strategies, terms and conditions of purchase or sale, the allocation of customers or territories. All members shall avoid even the appearance of such agreements or exchanges of information. If discussions prohibited by this rule take place in any such meeting or activity, all members should cease participation immediately. In order to minimize the likelihood of such an occurrence, all meetings and activities sponsored by the Center shall be conducted in accordance with a published agenda and shall be documented in appropriate meeting minutes.

9. "Phase-out" Policy

If the focus, performance or mission of a Center or Institute is no longer appropriate, it will be disestablished by the NCSU Chancellor.

Subject to the availability of funds, the "phase-out" period for the research Center will be sufficient to permit an orderly termination or transfer of contractual obligations and will allow ample time to find alternate employment for full-time staff. Normally, the "phase-out" period will be no more than one year after the end of the academic year in which the decision is made to discontinue the unit.

3. INDUSTRY-UNIVERSITY INTERACTIONS

1. Non-Core Research Projects

Some members may also create (sponsor) new projects of their choice. These projects are called Non-Core Research projects, and carry indirect costs at the university-determined rates. The terms of these specific research contracts with NC State will govern the intellectual property ownership and licensing rights in the intellectual property arising from these agreements. The results of these non-core projects will be available to the Center membership only on the same basis as to any non-member, unless the sponsoring company and the University agree otherwise.

2. Industry Personnel as Visiting Scientists

Industry personnel from FULL MEMBERS (not AFFILIATES) can have the opportunity to participate directly in Center research as visiting scientists. Lengths of assignments and responsibilities will be determined on an individual basis.

Appendix D - Sample Membership Agreement

The example of a Membership Agreement given below is typical of the type used for University-Industry Center/Institute. This sample document has been reviewed and approved by NCSU Office of Legal Affairs (OLA) and Office of Technology Transfer (OTT). For convenience, CENTER is used throughout to refer to either Center/Institute.

For convenience, CENTER is used throughout to refer to either Center or Institute.

**TITLE OF CENTER
NORTH CAROLINA STATE UNIVERSITY
MEMBERSHIP AGREEMENT**

This Agreement is made by and between **North Carolina State University** at Raleigh, North Carolina (hereinafter called "UNIVERSITY") and **[Insert Company name and full address]** (hereinafter called "COMPANY")

WHEREAS, the parties to this Agreement intend to join together in a cooperative effort to support a **[Name]** Cooperative Research Center (hereinafter called "CENTER") at UNIVERSITY to maintain a mechanism whereby the UNIVERSITY environment can be used to develop a better understanding of **[Research Area]**, stimulate industrial innovation, and provide UNIVERSITY with strengthened educational capability in these fields.

Now, therefore, for the mutual benefits and considerations each to the other, the parties hereto agree to the following terms and conditions:

- A. CENTER will be operated by certain faculty and students at UNIVERSITY. The CENTER is currently supported jointly by the industrial sponsors including COMPANY, the state of North Carolina, and the UNIVERSITY.

- B. COMPANY agrees to pay the nonrefundable membership dues listed below annually for the period **[Insert start date and end date – January 1 to December 31 or July 1 to June 30]**, unless terminated in accordance with the clause below, in support of the CENTER, thereby becoming a **MEMBER in the category indicated below** entitled to the privileges spelled out in the bylaws of the Center. Annual dues may be changed in accordance with the Bylaws and by amendment to this agreement.

<input type="checkbox"/>	Full Member	
<input type="checkbox"/>		
<input type="checkbox"/>	Affiliate Member	
<input type="checkbox"/>		

University shall submit an initial invoice to the Company for the payment of the first year dues (prorated for the incomplete year if applicable) within thirty (30) days after this Agreement is fully executed. For subsequent years, University shall invoice the Company on or before December 1 (June 1) of the current year of membership. Invoices will be due and payable in lump sum thirty (30) days after the Company's receipt thereof. Check should be made payable to North Carolina State University and mailed to North Carolina State University, Office of Contracts and Grants, 2701 Sullivan Drive, Admin. Services III, Box 7214, Raleigh, NC 27695-7214. Because research of the type to be done by the CENTER takes time and research results may not be obvious immediately, the COMPANY joins the CENTER with the intention of remaining a dues paying member for at least 3 (three years), but there is no obligation to continue membership or make contributions beyond the first year. The COMPANY may terminate this agreement by giving UNIVERSITY 90 day written notice prior to the annual contract renewal date. Membership in the CENTER shall become effective upon full execution of this agreement and first payment of dues by the COMPANY.

- C. All inventions made by the UNIVERSITY in the course of research in Core Research program will be promptly disclosed to the members of the CENTER. All such inventions and any patents derived therefrom shall belong to UNIVERSITY. With respect to each invention, whether patentable or unpatentable, conceived in the course of research conducted by UNIVERSITY personnel, UNIVERSITY hereby grants to the **FULL MEMBER (not AFFILIATE MEMBER)** a royalty-free, irrevocable, non-exclusive license to use such inventions for internal purposes. In accordance with the Bylaws, **FULL MEMBER and AFFILIATE MEMBER** companies will have certain rights to acquire a license to practice such inventions, whether patentable or unpatentable, and to make, use, and sell embodiments of the inventions in commerce. UNIVERSITY agrees to provide an executed specific license for any patent rights which may exist as a result of such inventions and as a result of the application of relevant sections of the Bylaws, if requested by **FULL MEMBER (not AFFILIATE MEMBER)**. **FULL MEMBER (not AFFILIATE MEMBER)** has the right to sublicense its license rights to its subsidiaries and affiliates.

Any royalty bearing, non-exclusive or exclusive license granted to **FULL MEMBER (not AFFILIATE MEMBER)** in accordance with the bylaws to make, use and sell (commercialize) the invention shall not affect the non-exclusive royalty free internal use license of any other **FULL MEMBER (not AFFILIATE MEMBER)**. All **FULL MEMBERS (not AFFILIATE MEMBERS)** desiring patent protection will share equally in the cost of patenting in the U.S. and in any other country in which the company plans to practice the patent, again, in accordance with the Bylaws.

FULL MEMBERS and AFFILIATE MEMBERS shall use the patented and non-patented technologies developed by CENTER, in the course of its Core Research program, in accordance with the policies set forth in the Bylaws of CENTER.

- D. The organization and operation of CENTER will be as specified in the Bylaws.
- E. The Center acknowledges that it is a part of the North Carolina State University, which is the legal entity entering into this agreement with Company. The Center further acknowledges and agrees that the University shall be responsible for personal injury or property damage caused by the acts and omissions of its employees to the extent of the State of North Carolina's waiver of immunity under the North Carolina Tort Claims Act, N.C. Gen. Stat. 143-291 et seq.
- F. This Agreement is acknowledged to have been made and must be construed and interpreted in accordance with the laws of the State of North Carolina, United States of America, without regard for its conflicts of laws provisions.
- G. This Agreement, together with the Bylaws, which are appended hereto as Appendix A, embodies the entire understanding of the parties, superseding any prior or contemporaneous representations, either oral or written regarding this matter. Only written modifications, signed by both parties, will affect changes to this Agreement.

For the COMPANY

For the UNIVERSITY

Title _____

Title _____

Date _____

Date _____

Appendix E - Sample Amendment to Membership Agreement

This sample document can be used to change the end date, the amount of membership fees, or terms and conditions of a Membership Agreement already signed. For convenience, CENTER is used throughout to refer to either Center or Institute.

**AMENDMENT # Insert Number Here
TO MEMBERSHIP AGREEMENT
NCSU FILE # Insert 8 digits RADAR Number here**

The Membership Agreement effective **Insert effective date of original agreement here (that would be the date when original document has been fully executed)**, by and between North Carolina State University at Raleigh, North Carolina (hereinafter called "UNIVERSITY") and **Insert Company Name** with business address **Insert address here** (hereinafter called "COMPANY") is hereby modified as following:

Article B. Membership Dues shall be changed to read:

Insert new amount of annual dues

COMPANY agrees to pay the above-listed dues annually for the period **January 1, 200_ to December 31, 20__** in support of the CENTER.

Except as modified above, all other terms and conditions of the Membership Agreement remain unchanged.

IN WITNESS THEREOF, the parties hereto have caused this Membership Agreement Amendment to be signed by the respective officers duly authorized as of the date and year written.

For the COMPANY

For the UNIVERSITY

Title _____

Title _____

Date _____

Date _____

Appendix F - Sample Enhancement Project Agreement

This sample document can be used when one or several Center members want to provide additional funds specifically to enhance or accelerate a currently-funded core project. For convenience, CENTER is used throughout to refer to either Center or Institute.

TITLE OF CENTER

ENHANCEMENT PROJECT AGREEMENT

NCSU FILE # **Insert 8 digits RADAR Number here**

This Agreement is entered into by and between **North Carolina State University** at Raleigh, North Carolina (hereinafter called "UNIVERSITY") and **Insert Company name and full address** (hereinafter called "SPONSOR").

Whereas SPONSOR is a MEMBER of **Insert Name of the Center** at UNIVERSITY and the Enhancement Project contemplated by this Agreement is of mutual interest and benefit to the UNIVERSITY and SPONSOR, and will further the instructional, research, and public service objectives of the UNIVERSITY in a manner consistent with its status as a public educational institution.

The UNIVERSITY will use its best efforts to perform activities as described in its Enhancement Project entitled **Insert title of the project** which is attached hereto as Appendix "A" and hereby made a part of this Agreement.

The activities of this project shall be conducted during the period beginning **Insert start date** through **Insert end date**.

SPONSOR agrees to support the UNIVERSITY's costs incurred conducting the activities as stated in Appendix "A", in the amount of \$ **Insert amount**. This amount shall not be exceeded by the UNIVERSITY without the written authorization of the SPONSOR. Payment shall be made upon receipt of the UNIVERSITY's invoice in accordance with the following schedule:

50% of the total costs upon execution of this Agreement
50% upon receipt of the Final Technical Report

(above are the typical terms though they can be negotiated and changed based on the mutual agreement on case-by-case basis)

Performance under this Agreement may be terminated by SPONSOR at any time upon 60 days written notice to UNIVERSITY. Upon receipt of notification, UNIVERSITY must proceed in an orderly fashion to limit or terminate any outstanding commitments and/or to conclude the project. UNIVERSITY must be reimbursed by SPONSOR for all costs

and noncancelable commitments incurred in performance of the work prior to receipt of termination notice. UNIVERSITY may terminate performance if circumstances beyond its control preclude the continuation of the Research. If UNIVERSITY terminates, UNIVERSITY must reimburse SPONSOR all unexpended funds, except for those funds needed to pay for noncancelable commitments.

Any residual funds left upon completion of an enhancement project will be moved back into a pool membership dues account.

The terms and conditions set forth in the **Insert title of the Center** Membership Agreement and Bylaws shall govern this project.

In witness whereof, the parties hereto have executed this Agreement effective as of the last hereinafter written.

SPONSOR

UNIVERSITY

Title _____

Title _____

Date _____

Date _____

Appendix G – Sample Financial Report

TITLE OF CENTER or INSTITUTE

Director of Center/Institute:

OUC/NCSU Account Number(s):

Report period:

Total Amount of Funding received, broken down by sources (federal, state, industrial etc):

Total Expenditures, broken down by main budget categories:

Remaining Balance as of the end of the report period:

(if Center/Institute has multiple accounts please provide data for each account separately)