Broadband Wireless Access Center (BWAC)  
Industry/University Cooperative Research Center  
Membership Agreement

This BWAC Industry/University Cooperative Research Center Membership Agreement ("Agreement") is made this __________ day of______, 201_ by and between Arizona Board of Regents on behalf of The University of Arizona, University of Virginia, Auburn University, Virginia Tech, and Notre Dame University (each hereinafter called "UNIVERSITY"), and __________________________________________ (hereinafter called "COMPANY").

WHEREAS, the parties to this Agreement intend to join together in a cooperative effort to support an Industry/University Cooperative Research Center for Wireless Broadband Access (BWAC) (hereinafter called "CENTER") at each UNIVERSITY to maintain a mechanism whereby the UNIVERSITY environment can be used to perform research on innovative wireless technologies and applications, the parties hereby agree to the following terms and conditions:

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

B. Any COMPANY, Federal Research and Development organization, or any Government-owned Contractor Operated laboratory may become a sponsor of the CENTER (hereinafter called “MEMBERS”), consistent with applicable state and federal laws and statutes.

C. COMPANY agrees to contribute at least $40,000 annually in support of the CENTER and thereby becomes a MEMBER for one year following the date of this Agreement. Payment of these membership fees shall be made to the UNIVERSITY through which the COMPANY exercises its membership in the 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 fee-paying Member for at least two years. However, COMPANY may terminate this Agreement by giving UNIVERSITY 90 days’ written notice prior to the termination date.

D. The organization and operation of CENTER must be in accordance with this document and the CENTER Bylaws, attached as Exhibit A. Additional CENTER Bylaws may be adopted at any Industrial Advisory Board meeting. When adopted, such additions will become part of this Agreement through an amendment to Exhibit A.

E. There will be an Industrial Advisory Board composed of one representative from each MEMBER. This board makes recommendations on (a) the research projects to be carried out by CENTER, (b) the apportionment of resources to these projects, and (c) adoption of and changes in the bylaws.

F. Each UNIVERSITY reserves the right to publish in scientific or engineering journals the results of any research performed by CENTER. COMPANY, however, shall have the opportunity to review any paper or presentation containing results of the research programs of the CENTER prior to publication of the paper, and shall have the right to request a delay in publication for a period not to exceed 90 days from the date of submission to COMPANY, for proprietary reasons, provided that COMPANY makes a written request and justification for such delay within thirty (30) days from the date the proposed publication is submitted to the COMPANY.

G. All Intellectual Property established in the course of research conducted within the CENTER shall belong to the UNIVERSITY(s) creating such invention. COMPANY and UNIVERSITIES agree that all background
knowledge and research created outside the scope of the CENTER shall remain the property of the respective COMPANY or UNIVERSITY(s). COMPANIES of the CENTER at the time of disclosure that wish to have an option to obtain rights to a field-specific license agree to pay for the costs of patent prosecution on a pro rata basis. UNIVERSITY agrees that all such COMPANIES shall have a non-commercial, research-use, nonexclusive license for internal use, and will have the opportunity to obtain through additional negotiations a commercial nonexclusive royalty-bearing field specific license; including the right to sublicense to subsidiaries and affiliates. If only one COMPANY seeks a license, that COMPANY may obtain through additional negotiations up to an exclusive fee-bearing license in all relevant fields, and with the right to sublicense. Such license will include retained rights for the owning UNIVERSITY as well as rights reserved to the U.S. Government. [Intellectual Property means any and all inventions, devices, processes (including without limitation processes of using devices or of manufacturing such devices), methods, compositions or products whether patentable or unpatentable developed as a result of conducting a CENTER Project.]

H. Copyright registration shall be obtained for software developed by CENTER. COMPANY shall be entitled to a nonexclusive, royalty-free license to all software developed by CENTER. COMPANY will have the right to enhance and to re-market enhanced or unenhanced software with royalties due to CENTER to be negotiated, based on the worth of the initial software,

I. Any royalties and fees received by UNIVERSITY under this Agreement, over and above expenses incurred, will be distributed as follows in accordance with the UNIVERSITY’s royalty distribution policy.

J. Neither party is assuming any liability for the actions or omissions of the other party. In no event shall UNIVERSITY and CENTER be held liable for or indemnify, defend, and hold COMPANY harmless for any product liability claim for any product produced by COMPANY, or any of its affiliates, any third party acting on behalf of COMPANY or under authorization from COMPANY, that includes CENTER Project results provided by UNIVERSITY and CENTER under this Agreement.

K. Nothing in this agreement shall be deemed to prevent CENTER and any MEMBER or COMPANY from entering into a separate sponsored research agreement. In the event of any inconsistency between the terms of the separate agreement, and this agreement, the terms of such separate agreement shall take precedence.

L. To the fullest extent under law, neither party will be liable for any consequential damages, lost profits, lost savings, loss of anticipated revenue, or any exemplary, punitive, special or indirect damages, even if advised of their possibility.

M. Neither COMPANY nor UNIVERSITY shall provide any information of a confidential or proprietary nature to the CENTER UNIVERSITIES or MEMBER companies. CENTER Projects are expected to address “new” research of a basic nature.

N. COMPANY agrees not to use the names of the CENTER or the CENTER UNIVERSITIES, or their seals or emblems, in any publicity or other release without the prior written consent of the CENTER UNIVERSITIES.

O. The CENTER UNIVERSITIES make no warranties, express or implied, as to any matter whatsoever, including, without limitation, the condition of the reports, research or any invention(s) or product(s), whether tangible or intangible, conceived, discovered, or developed under this Agreement or make any representation or warranty regarding actual or potential infringement of patents or copyrights of third parties.
A. Center Structure and Operations

BWAC is a multi-University I/UCRC consisting of the following universities: The University of Arizona (Lead University); University of Virginia; Virginia Tech; Auburn University; and Notre Dame University. Each university has specific research focal areas that are complementary to each other and which collectively maintain and/or improve broadband wireless access and applications.

The principal officer of each research site will be the Site Director, who reports to the appropriate Department or Dean. The overall Center Director shall be a faculty member (Dr. Tamal Bose) at the lead institution (The University of Arizona) responsible for overall operations of the Center, including the following functions:

- Coordination of the research programs among the sites;
- working with the IAB members to assure a flow of information from the research projects and to continue to strengthen contacts with the member companies;
- working with the Evaluator to assess the effectiveness of Center operations and to improve them where necessary;
- working with all member academic institutions in the planning and operation of IAB meetings;
- working with NSF program officials to report on and improve the functioning of the Center;
- working with the Site Directors to promote unified operations throughout the entire Center while maintaining the distinctiveness of each site;
- working with faculty to broaden the pool of participants; and
- broaden the base of the industrial membership through marketing efforts to inform and attract potential new member companies to the Center.

The Site director(s) shall be a faculty member at one of the other member academic institutions with responsibility for managing the Center program at the respective university. There shall be a Site Director for each member academic institution. The role and responsibilities of each Site Director are generally the same as those of the Center director, but with a focus on the operations at one campus. A cooperative approach among all of the Site directors and the Center Director will be important for the successful operation and growth of the Center.

B. Industry Advisory Board (IAB)

There will be an industrial advisory board (IAB) consisting of one representative from each Center member company. The role and duties of the IAB are to identify research areas that are industrially relevant and to review projects and proposals responding most closely to industry needs. Moreover, the IAB has the responsibility to review progress of the individual projects (as well as of the Center as a whole) at semi-yearly board meetings. They are facilitated in this review by the Center evaluator, who uses assessment tools, such as LIFE forms, that have been found to be effective in the I/UCRC environment.
C. Project Managers

Each research project will be managed by a Project PI who is either a faculty member of a participating academic unit or a research scientist or engineer of a participating laboratory. The Project PIs have the responsibility of responding to the general research evaluations of the IAB with proposals that emphasize the industrial interest of the research needs in a cost-effective and deliverables-driven approach. They are responsible for regular reports of research progress to IAB (no less often than the biannual IAB meetings.

D. Center Evaluator

The Center Evaluator – Dr. Denis Gray from North Carolina State University will work with the IAB to evaluate the quality of the university and industry interaction. The independent evaluator has a reporting relationship to the National Science Foundation. Comments and suggestions about interactions can be transmitted in an anonymous manner from IAB members to the Center management by the Evaluator. This can help with the correction of issues that may emerge that could become important to the Industrial membership.

E. Finance

Funding for the Center will be provided by a variety of companies, agencies and the public and private sectors, as well as direct funding from the National Science Foundation. It is the dynamic relationship between the private sector and the Universities, and the integration of the Universities with industry and governmental agencies that will make BWAC unique. Center membership fees will be expended in compliance with NSF and University rules. Center finances will be reported to the IAB during the semiannual meetings.

F. Publications

Should the proposed publication be a student thesis or dissertation, UNIVERSITY and COMPANY hereby agree to use their best efforts to complete all reviews of material contained therein and any necessary patent application procedures evolving therefrom in such a manner as not to impede the students' completing their requirements for graduation or completion of a degree. Publication may not be delayed by more than ninety (90 days after the submission of the thesis or dissertation, by certified mail, to COMPANY.