

CARNEGIE MELLON UNIVERSITY
MEMBERSHIP BENEFITS AND OBLIGATIONS
Laboratory for International Data Privacy

1.0 Purpose of the LAB

The purpose of the Laboratory for International Data Privacy (LAB) is to conduct research, technology transitions, training, and education focused on improving technological and policy foundations for the maintenance of the privacy of individuals, the confidentiality of organizations, and the protection of sensitive information, given the requirement that information be released publicly or semi-publicly and in so doing, to provide a set of rights and benefits for the use of LAB members (MEMBERS) specific to MEMBER's stated Research Program (as described below).

2.0 Descriptions and Definitions

- 2.1 "**Targeted Research Project**" is a regular long-term research project conducted by LAB at the request of MEMBER for which work will be performed at cost. A prototypical two-year project involving a single faculty member and a single graduate student will typically cost in the range of \$200k/year. We expect successful Turnaround Projects may lead to such long-term Targeted Research Projects.
- 2.2 "**Turnaround Project**" is a quick turnaround study conducted by LAB at the request of MEMBER and approved by LAB that is intended to provide MEMBER with useful short-term input on problems that MEMBER considers important, while enabling both MEMBER and the LAB to evaluate the potential of this topic for a longer-term Targeted Research Project. A prototypical Turnaround Project usually involves about one month of a single faculty member's and/or graduate student's time.
- 2.3 "**Research Program**" shall mean an area of interest or problem statement explicitly identified by MEMBER and accepted by the LAB for which related research is currently underway at the LAB.
- 2.4 "**Core Technology**" is existing intellectual property, including but not limited to patents, patent applications, copyrights, know-how, and/or trade secrets, owned by CARNEGIE MELLON UNIVERSITY and/or made available through the LAB.
- 2.5 "**Program Technology**" is data, notes, internal publications, works in progress, software, prototypes, and other technology currently under development at the LAB that is related to MEMBER's stated Research Program that is made available to MEMBER, as determined appropriate by the Director of the LAB.

2.6 "**Member**" is a corporate, government or other entity accepted by the Director of the LAB for participation in the LAB within the scope of specific MEMBER benefits and obligations.

3.0 Research Program

3.1. The LAB conducts a program of research and development in the following focus areas (hereinafter referred to as "Research Program"). MEMBERS can elect to receive rights to Program Technology by paying a participation fee for that Research Program. The specific focus areas of the LAB are:

- a. conducting research on computational techniques and integrated policies for sharing information in such a way that privacy and confidentiality are maintained while the data remain practically useful;
- b. conducting research that characterizes the nature and extent of data privacy problems as society becomes increasingly technically-empowered;
- c. assessing the impact of proposed practices, policies and regulations on data privacy problems;
- d. working on proposed or existing data collections and/or policies to explore related data privacy problems and solutions; and,
- e. transferring resulting technology and learned information into real-world applications and practice.

3.2. MEMBERS who are interested in participating in a Research Program must provide a written description of an area of interest or problem statement of concern to MEMBER that is related to a focus area of the LAB (as described above).

4.0 MEMBER's Participation

4.1 MEMBERS solely by virtue of their status as MEMBERS agree to all the terms and conditions as presented in this statement of Membership Benefits and Obligations.

4.2 MEMBERS have the following Rights Of Participation in Lab activities:

- a. MEMBER may request only one Turnaround Project. The LAB will review the request for possible implementation based on, but not limited to, the scope, appropriateness (as determined by LAB goals), feasibility, and the resources required of the requested Turnaround Project. MEMBER is not entitled to a Turnaround Project. Approval of a Turnaround Project is at the sole discretion of the Director of the LAB. The LAB will not implement Turnaround Projects requested by non-MEMBERS.
- b. The opportunity to receive and invest in Program Technology specific to MEMBER's Research Program, as deemed appropriate by the Director of the LAB.
- c. The opportunity to interact with faculty, staff and students that participate in selected LAB projects through seminars and symposia conducted by the LAB, as deemed appropriate by the Director of the LAB.

- d. MEMBER will have preferred status with respect to enrollment in LAB professional development and training projects, as deemed appropriate by the Director.
- e. Access to CARNEGIE MELLON UNIVERSITY and other university students through the LAB's student development program and career opportunity activities, as deemed appropriate by the Director.
- f. MEMBER may negotiate nonexclusive licenses with CARNEGIE MELLON UNIVERSITY for Core Technology at preferential royalty rates.
- g. MEMBER is entitled to a no-charge use license for Program Technology where MEMBER specifically identified and separately contributed financially to the Program Technology as a MEMBER participating in the related Research Program. The no-charge use license is limited to a maximum of three (3) years unless otherwise agreed to in writing by MEMBER and Carnegie Mellon University Technology Transfer Office.

5.0 Consulting Agreements

5.1 MEMBER may independently negotiate other individual, specific consulting agreements on LAB matters with CARNEGIE MELLON UNIVERSITY personnel.

6.0 Membership Fees

6.1.A one (1) year membership for corporate, personal, non-profit and government entities is fifty thousand dollars U. S. currency (\$50,000.00).

6.2. MEMBER must make payment in full within thirty (30) days of being accepted as a MEMBER by the Director of the LAB. Failure to make full payment within the thirty (30) days will automatically terminate MEMBER status.

6.3. Payment is to be sent by check, as follows:

Make check payable to Carnegie Mellon University and send to:

Walt Schearer
Associate Director, ISRI
Carnegie Mellon University
5000 Forbes Avenue
Smith Hall 230
Pittsburgh, PA 15213-3890

7.0 Intellectual Property; Licensing Rights; Patenting

7.1. Any intellectual property developed by the LAB, including but not limited to patents, patent applications, copyrights, know-how, and/or trade secrets, (hereby defined as "Intellectual Property") shall be owned by CARNEGIE MELLON UNIVERSITY regardless of whether MEMBER and/or MEMBER'S employees have participated in the creation thereof.

7.2 Disclosure of Intellectual Property. If and when Intellectual Property as Core Technology or Program Technology is created which could lend itself to

patenting and/or licensing, the Director of the LAB will disclose the Intellectual Property to the Carnegie Mellon Technology Transfer Office (“TTO”) in accordance with Carnegie Mellon policies and practices, thereby creating a “Disclosure”.

- 7.3. Licensing options. MEMBER is entitled to a no-charge, non-exclusive, non-transferable, royalty-free use license for Program Technology where MEMBER specifically identified and separately contributed financially to the Program Technology as a MEMBER participating in the related Research Program.
- a. Limited to three (3) years. The use license is limited to a maximum of three (3) years unless otherwise agreed to in writing by MEMBER and Carnegie Mellon University Technology Transfer Office.
 - b. Internal Use Only. The use license is to be used exclusively for MEMBER’S internal operations and internal research use (“Internal Use License”) unless otherwise agreed to in writing by MEMBER and Carnegie Mellon University Technology Transfer Office.
 - c. Nonexclusive License for Program Technologies. MEMBER may also request a non-exclusive, non-transferable, limited term, royalty-bearing license at a **preferential rate** in the United States and/or any other country for which CARNEGIE MELLON UNIVERSITY chooses to obtain Intellectual Property protection. This non-exclusive license will be to make, have made, use, lease, sell, or otherwise dispose of products and/or services that embody some or all of the Intellectual Property covered by the hereinbefore described "Disclosure". Such non-exclusive license is subject to negotiation of and agreement between CARNEGIE MELLON UNIVERSITY and MEMBER on written standard university terms and conditions.
 - d. Sublicenses. MEMBER can enter into sublicense agreements for the Intellectual Property for Core or Program Technology with MEMBER’S direct customers, if a sublicense is required, only under the following conditions:
 - (1) for such customers to use the Intellectual Property and/or;
 - (2) with entities to make products for MEMBER’S use or sale.
 - (3) MEMBER may enter into other sublicense agreements only with specific written CARNEGIE MELLON UNIVERSITY agreement.
 - e. Grant-back of Improvements. MEMBER hereby agrees that "Improvements" by MEMBER to Intellectual Property licensed to MEMBER (“Improvements”) shall be made available on a perpetual royalty-free basis to CARNEGIE MELLON UNIVERSITY for research, educational and/or academic purposes.

8.0 Confidential Information

- 8.1. Depending on MEMBER's specific Research Program, MEMBER may be required, as determined by the Director of the LAB, to sign Confidentiality Agreements with regard to confidential information related to the LAB.
- 8.2. All documents, materials and know-how which may be furnished to CARNEGIE MELLON UNIVERSITY by MEMBER pursuant to the activities hereunder shall be, if suitably and specifically marked as Confidential, deemed MEMBER's Proprietary Information and therefore considered as Confidential and shall not be used by CARNEGIE MELLON UNIVERSITY other than for the activities under this Agreement. CARNEGIE MELLON UNIVERSITY shall use the same degree of care as it uses in protecting and preserving its own proprietary/confidential information of like kind to avoid disclosure or dissemination thereof.
- 8.3. Information which is disclosed orally or otherwise than in tangible form by MEMBER shall be considered MEMBER's Proprietary Information if:
 - (a) the information is identified as Confidential at the time of disclosure and,
 - (b) a written summary is provided to CARNEGIE MELLON UNIVERSITY within ten (10) days thereafter or,
 - (c) the information is identified as Confidential in a writing provided to CARNEGIE MELLON UNIVERSITY prior to or at the time of disclosure by MEMBER
- 8.4. Members agree that the standard of care for the safeguarding and protection of Proprietary or Confidential Information shall be that of a reasonable person under the existing circumstances. Neither Carnegie Mellon University nor the LAB will be liable for the inadvertent or accidental disclosure of such information under circumstances where the said standard of care was in effect at the time of occurrence. Under no circumstances shall the standard of care be less than the same degree of care Carnegie Mellon University normally takes to preserve its own such data or information.
- 8.5 The Proprietary Information designation and any confidentiality obligation shall not apply to information if the information –
 - (a) is known to Carnegie Mellon University for which it has documentary records which establish knowledge prior to this disclosure;
 - (b) subsequently becomes public knowledge and/or published through no fault of Carnegie Mellon University;
 - (c) is independently developed by employees of Carnegie Mellon University who have no access thereto; or
 - (d) is or was brought to Carnegie Mellon University's attention by a third party who has a legal right to do so.
- 8.6 It is understood that if Carnegie Mellon University submits any confidential information it owns to MEMBER then MEMBER will be obligated to treat and

protect Carnegie Mellon University's confidential information with a level and standard of care equal to or greater than that employed by Carnegie Mellon University in the protection of Carnegie Mellon University's own information.

8.7 Confidentiality obligations shall remain in force for a period of five (5) years after termination of MEMBER'S membership in the LAB.

9.0 Publications

All reports and papers of research and other activities conducted by the LAB may be published by Carnegie Mellon University in accordance with its publications policies. Any such reports or papers shall credit MEMBER as a contributor if such reference is desired by MEMBER.

10.0 Use of the Name of CARNEGIE MELLON UNIVERSITY, the LAB or MEMBER

Neither Carnegie Mellon University, including but not limited to the LAB, nor MEMBER may use the name of the other party or any persons or its staff in sales promotion work or advertising, or in any other form of publicity, without the written permission of the other party.

11.0 Excusable Delay

11.1 MEMBER shall not be liable for delay in performance and/or production due to fire, flood, strike, or other labor difficulty, act of God, acts or omissions of the other party, riot, fuel or energy shortage, or due to any other cause beyond the party's reasonable control.

11.2 CARNEGIE MELLON UNIVERSITY shall not be liable for delay in performance and/or production due to fire, flood, strike, or other labor difficulty, act of God, act of any governmental authority, acts or omissions of the other party, riot, fuel or energy shortage, or due to any other cause beyond the party's reasonable control.

11.3 In the event of delays in performance due to any such cause, the dates for performance will be postponed by a period of time equal to the delay period.

12.0 Warranty

ANY INFORMATION, MATERIALS OR SERVICES, INTELLECTUAL PROPERTY OR OTHER PROPERTY OR RIGHTS GRANTED OR PROVIDED BY CARNEGIE MELLON UNIVERSITY PURSUANT TO RESEARCH PROJECTS AND/OR LAB MEMBERSHIP (HEREINAFTER THE "DELIVERABLES") ARE ON AN "AS IS" BASIS. CARNEGIE MELLON UNIVERSITY MAKES NO WARRANTIES OF ANY KIND, EITHER EXPRESSED OR IMPLIED AS TO ANY MATTER INCLUDING, BUT NOT LIMITED TO, WARRANTY OF FITNESS FOR PURPOSE, OR MERCHANTABILITY, EXCLUSIVITY OR RESULTS OBTAINED FROM MEMBER'S USE OF ANY INTELLECTUAL PROPERTY DEVELOPED

UNDER THIS AGREEMENT, NOR SHALL EITHER PARTY HERETO BE LIABLE TO THE OTHER FOR INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES SUCH AS LOSS OF PROFITS OR INABILITY TO USE SAID INTELLECTUAL PROPERTY OR ANY APPLICATIONS AND DERIVATIONS THEREOF. CARNEGIE MELLON UNIVERSITY DOES NOT MAKE ANY WARRANTY OF ANY KIND WITH RESPECT TO FREEDOM FROM A PATENT, TRADEMARK, OR THEFT OF TRADE SECRETS AND DOES NOT ASSUME ANY LIABILITY HEREUNDER FOR ANY INFRINGEMENT OF ANY PATENT, TRADEMARK, OR COPYRIGHT ARISING FROM THE USE OF THE DELIVERABLES, INFORMATION, INTELLECTUAL PROPERTY OR OTHER PROPERTY OR RIGHTS GRANTED OR PROVIDED TO IT HEREUNDER. MEMBER AGREES THAT IT WILL NOT MAKE ANY WARRANTY ON BEHALF OF CARNEGIE MELLON UNIVERSITY, EXPRESSED OR IMPLIED, TO ANY PERSON CONCERNING THE APPLICATION OF OR THE RESULTS TO BE OBTAINED WITH THE DELIVERABLES UNDER THIS AGREEMENT

13.0 Indemnification

MEMBER hereby agrees to defend, indemnify and hold harmless CARNEGIE MELLON UNIVERSITY, its trustees, officers, employees and agents from all claims or demands made against them (and any related losses, expenses or attorneys' costs) arising out of or relating to MEMBER'S and/or its sublicensee's use of or conduct regarding the deliverables, information, intellectual property or other property or rights granted or provided to it by CARNEGIE MELLON UNIVERSITY under LAB membership, including, but not limited to, any claims of product liability, personal injury (including, but not limited to, death), damage to property or violation of any laws or regulations, including but not limited to claims of active or passive negligence.

14.0 Notice and Other Addresses

Any notice to the LAB must be in writing signed by the party giving it, and shall be served either personally or by registered or certified mail addressed as follows:

Carnegie Mellon University
Laboratory for International Data Privacy
4619 Wean Hall, Attention: Sherice Livingston
5000 Forbes Avenue
Pittsburgh, PA 15213

15.0 Academic Collaboration; Government Sponsored Research

15.1 MEMBER and CARNEGIE MELLON UNIVERSITY may enter into research projects with third parties which are similar to Research Program activities, or from independently developing (either through third parties or through the use of its own personnel), or from acquiring from third parties, technologies, or products which are similar to and competitive with intellectual property resulting from Research Programs.

15.2 CARNEGIE MELLON UNIVERSITY may collaborate with other academic institutions and/or LAB Members when researchers at such institutions can assist LAB projects. Intellectual Property will be protected, when practicable, in these collaborations.

16.0 Benefit, Entire Agreement

16.1 Benefits and obligations of LAB membership, as state above and below, are binding upon and shall inure to the benefit of the parties (LAB and MEMBER) hereto, their representatives, successors and assigns. No failure or successive failures on the part of either party, its successors or assigns, to enforce any covenant or agreement, and no waiver or successive waivers on its or their part of any condition of LAB Membership, shall operate as a discharge of such covenant, agreement, or condition, or render the same invalid, or impair the right of either party, its successors and assigns, to enforce the same in the event of any subsequent breach or breaches by the other party, its successors or assigns.

16.2 If any portion of LAB membership shall be finally determined by any court or government agency of the competent jurisdiction to violate applicable law or otherwise not to conform to requirements of law then the remainder of the LAB membership shall not be affected thereby; provided, however, that if any provision hereof is invalid or unenforceable, then a suitable and equitable provision shall be substituted therefore in order to carry out, so far as may be valid and enforceable, the intent and purpose of LAB membership including the invalid or unenforceable provision.

16.3 This statement of LAB Membership Benefits and Obligations supersedes all previous statements relating to the subject matter hereof.

17.0 Disputes

This statement of LAB Membership Benefits and Obligations shall be governed by the laws of the Commonwealth of Pennsylvania excluding its choice of law principles. Any dispute or claim arising out of or relating to This statement of LAB Membership Benefits and Obligations will be settled by arbitration in Pittsburgh, Pennsylvania in accordance with the rules of the American Arbitration Association and judgment upon award rendered.