

**THE SONOCO INSTITUTE OF PACKAGING DESIGN  
AND GRAPHICS AT CLEMSON UNIVERSITY**  
Membership Conditions and Agreement

This agreement is made this        day of        , 20        , by and between Clemson University (hereinafter, 'INSTITUTION') represented by its Sonoco Institute of Packaging Design and Graphics (hereinafter, 'SONOCO INSTITUTE'), and        , including its affiliates (hereinafter, 'MEMBER').

**PREMISES**

WHEREAS, SONOCO INSTITUTE has recognized, technical expertise in and is engaged in education, research, and service related to the packaging design and graphics industries; and

WHEREAS, MEMBER has technical and commercial interests related to the packaging design and graphics industries as well as certain technical expertise; and

WHEREAS, membership and participation in an organization established and sponsored by INSTITUTION may benefit MEMBER, SONOCO INSTITUTE, and the industry in general; and

WHEREAS, the anticipated roles, programs, and activities of SONOCO INSTITUTE are fully compatible with the educational, research, and service missions and goals of INSTITUTION;

NOW, THEREFORE, the parties recognize and accept the following facts and conditions, and in consideration of these facts and conditions, and in anticipation of benefits there from, the adequacy of which is acknowledged by each party, SONOCO INSTITUTE and MEMBER agree as follows.

**I. OPERATION:**

The Sonoco Institute will operate under the direction of the Associate Dean for Research (ADR) for the College of Business. The engagement of Clemson faculty / staff / students and industry will be facilitated by an Institute Director and other support staff of the Sonoco Institute.

**II. MEMBERSHIP:**

Eligibility for membership in the Sonoco Institute shall be open to any individual, agency, or organization that makes a financial commitment based on the categories or levels of membership as herein described.

a. Types of Membership: Categories or levels of membership are based on total financial support of the Institute by member and are defined and recognized as follows:

- i. Basic Member is an entity that commits a minimum of thirty-thousand U.S. dollars (\$30,000) for a three (3) year term; payable in three (3) equal, annual installments.
- ii. Executive Member is an entity that commits a minimum of sixty-thousand U.S. dollars (\$60,000) for a three (3) year term; payable in three (3) equal, annual installments.

b. Terms of Membership: Membership shall be on a calendar year basis of January 1 through December 31, annually. Except for signs and obligations of any executed license agreement and obligations of confidentiality, all annual rights and responsibilities of membership expire annually on June 30. Any Member may move to the Executive Member category of membership at any time during a given calendar year by payment of the full membership fee for that category. After the initial three (3) year term ("Initial Term") this Agreement shall be

automatically renewed for an additional three (3) year term thereafter (each a “Renewal Term”) until and unless either party provides the other Party with one (1) year prior written notice to the end of the Initial Term or the Renewal Term.

- c. Payments for Membership: Clemson University acts as the fiscal agent for the Sonoco Institute. Membership fees will not be prorated; fees paid will be applied to the current, triennial term as described above. All Members shall enjoy a one (1) month grace period within which to pay any renewal fees. Any entity may pay membership fees for more than one year. Payment of membership fees should be made to Clemson University and mailed to the Sonoco Institute at 311 Harris A. Smith Building, Clemson, SC 29634-0320.
- d. Voluntary Termination of Membership: MEMBER may terminate performance under this Agreement at any time upon advanced written notice to the SONOCO INSTITUTE one (1) year prior to the end of the Initial or Renewal Term. Membership fees will not be prorated; fees paid will be applied to the current, triennial term as described above.
- e. Rights and Privileges of Membership: Membership rights and privileges vary with the category of membership and include certain rights to negotiate licenses to intellectual property owned by Clemson University as defined in Section IV, Inventions, and Patents herein below.
  - i. Basic Member
    - 1. Appropriate public acknowledgment of membership/support of the Sonoco Institute;
    - 2. Notice of and admission to seminars by the Sonoco Institute faculty and visiting professionals;
    - 3. Opportunities to participate and present in the Sonoco Institute meetings and programs, including reduced meeting and program registration fees, if applicable;
    - 4. Assistance in scheduling interviews with students and related placement assistance; and
    - 5. Representative membership on the Sonoco Institute’s Steering Committee.
  - ii. Executive Member
    - 1. All rights and privileges of Basic Member; and
    - 2. Credit of 100 percent of membership fees for the Sonoco Institute services at published rates below those available to non-members. This credit can be used for machine time, labor rates and overhead, and typical consumables, but excludes customer specific materials (inks, paper...), travel, and other out-of-pocket expenses.
    - 3. Licensing privileges as described in Section IV herein below.
    - 4. Preferential rights to negotiate licenses for rights to specified intellectual property.
    - 5. Right to designate 10 percent of fee paid in excess of Membership fee for services by CEFPACK, for which a CEFPACK Supplement Amendment, attached hereto as Attachment A, is required.
    - 6. Preferential off-hours scheduling of Sonoco Institute services and equipment.

### **III. STEERING COMMITTEE:**

There will be a Steering Committee comprised primarily of one representative from each member of the Sonoco Institute; each Member setting the term of its representative. The Steering Committee (1) advises the Sonoco Institute personnel in relation to the technical services to be performed by the Institute; (2) each member, regardless of category, may designate a representative to serve on this committee; (3) votes will be based on weight by membership category in the ratio of 3:4 for

Members and Executive Members, respectively. The Committee shall select its officers and shall meet at least annually with the Board of Directors of the Sonoco Institute.

**IV. INVENTIONS AND PATENTS:**

As outlined in the Bylaws (attached hereto as Appendix A) Article VI and herein below:

- a. Confidential Information developed by the SONOCO INSTITUTE for a specific member using Sonoco Institute services, costs for which are either credited against that member's membership fees or invoiced directly to that member, is the sole property of that member. INSTITUTION may not exercise any intellectual property rights to which it might otherwise be entitled with respect to this information.
- b. For Intellectual Property developed exclusively by INSTITUTION and, based on disclosure, the Intellectual Property Committee recommends securing patent protection.
  - i. MEMBER has provided designated funds for research and desires an exclusive license.
    1. SONOCO INSTITUTE notifies the MEMBER of rights to negotiate license.
    2. Terms and conditions of license to be established by good faith negotiations between the Parties.
    3. If an exclusive license is negotiated, the MEMBER will have input as to filing foreign patent applications, with responsibilities to pay for same, and the MEMBER will pay all costs of prosecuting of U.S. patent.
    4. If MEMBER declines to exercise its option for an exclusive license, the SONOCO INSTITUTE will offer all members the option to negotiate a license.
    5. If all members decline option to license, technology will be listed as "available" by INSTITUTION or INSTITUTION may abandon patent prosecution at its option.
  - ii. MEMBER has provided designated funds for research and declines an exclusive license.
    1. SONOCO INSTITUTE notifies the MEMBER of rights to negotiate license.
    2. The MEMBER declines right to negotiate any license, or considers only non-exclusive license.
    3. SONOCO INSTITUTE notifies all members of option for non-exclusive license.
    4. If no member exercises option for non-exclusive license, INSTITUTION may offer exclusive license on competitive basis to any entity.
  - iii. If no member has provided designated funds for research, INSTITUTION shall retain ownership of resulting intellectual property and may license such intellectual property on a competitive basis to any entity.
- c. For Intellectual Property developed exclusively by INSTITUTION and, based on disclosure, the Intellectual Property Committee does not recommend prosecuting patent protection.
  - i. Inventors enjoy right of first refusal to prosecute patent following established INSTITUTION policy.
  - ii. INSTITUTION retains ownership.
  - iii. Subject to recovery of expenses by inventors, the member retains rights to license.

- d. Intellectual Property developed jointly by INSTITUTION and MEMBER.
  - i. The MEMBER has statutory inventor's non-exclusive rights.
  - ii. The MEMBER has rights to negotiate license to INSTITUTION's rights pursuant to Section IV (a), above.

**V. CONFIDENTIALITY AND NON-DISCLOSURE:**

The purpose of the Sonoco Institute is to facilitate exchange of information; however, from time-to-time, a member may wish to direct that certain information be treated as confidential.

- a. The Parties agree that during the course of this Agreement, a Party may disclose information which it considers confidential and/or proprietary information, not publicly announced or disclosed, required for the performance of a project funded by pooled membership dues ("Confidential Information").
- b. All disclosed information, whether written, oral, or otherwise, will be presumed to be non-confidential unless information disclosed in tangible form (written or otherwise) is clearly marked as "Confidential" or "Proprietary" prior to or at the time of disclosure. If initially disclosed orally or visually, Confidential Information shall be identified as confidential at the time of disclosure and summarized in writing within thirty (30) days of disclosure.
- c. Except with written consent of the disclosing Party, all properly identified Confidential Information disclosed under this Agreement will be maintained in confidence for a period of one (1) year from the date of termination or expiration of this Agreement and will be used solely in connection with the obligations undertaken in this Agreement.
- d. The Parties agree that the obligations imposed upon either Party will not apply to Confidential Information which:
  - is or becomes publicly known through no wrongful act of the receiving Party; or
  - was in the public domain at the time it was disclosed to the receiving Party; or
  - was known to the receiving Party at the time it was disclosed; or
  - is or was rightfully received from another without any breach of this Agreement; or
  - is independently developed by the receiving Party as evidenced by written records; or
  - is approved for release by prior written authorization of the discloser; or
  - is required by operation of law to be disclosed.

The Party seeking to establish such an exception has the burden of proving it with written documentation.

- e. Access to all Confidential Information will be restricted to those employees and persons in the receiving Party's organization having a need to know. Such employees or persons will be notified of the proprietary nature of such Confidential Information and will be required to acknowledge the need to treat such information in accordance with the terms of this Agreement.
- f. Receiving Party will maintain confidentiality of disclosed information and will use the same degree of care as it employs with its own Confidential Information, but in all events will use at least a reasonable degree of care. Disclosing Party's Confidential Information will not be disclosed to third parties without disclosing Party's written authorization.

**VI. BYLAWS:**

This Agreement is subject to the *Sonoco Institute of Packaging Design and Graphics at Clemson University Bylaws*, a draft of which is attached hereto as Appendix A. Once finalized, all Members will be provided the opportunity for review and comment; should Member be unable to agree to the terms set forth in the Bylaws, and the matter not resolved through negotiations between the Parties, Member reserves the right to terminate this Agreement.

**VII. NOTICES:**

With the exception of any payments by the MEMBER to the INSTITUTION as provided in this Agreement, all notices, demands, requests, offers, acceptances or other communications required to be given in connection with this Agreement shall be in writing and shall be directed to the persons at the address, facsimile, or email designated below. Either Party may change its contact information below by notice to the other Party.

If to INSTITUTION:

Clemson University Office of Sponsored Programs  
230 Kappa Street  
Clemson, SC 29634  
Attention: Centers and Institutes Specialist  
Telephone: 864-656-2424  
E-Mail: [cuosp@clemson.edu](mailto:cuosp@clemson.edu)  
Reference: Sonoco Institute

If to SONOCO INSTITUTE:

Sonoco Institute  
311 Harris A. Smith Building  
Clemson, SC 29634-0320

If to MEMBER:

**VIII. ENTIRE AGREEMENT/AMENDMENTS/SEVERABILITY:**

This Agreement constitutes the entire understanding between MEMBER and INSTITUTION with regard to the subject matter contained herein, and any previous discussion, negotiations, or agreements are superseded by this Agreement. If any provision of this Agreement is held unenforceable or void, the remaining provisions will be enforced in accordance with their terms. Should processing of this Agreement require issuance of a purchase order or other contractual document, all terms and conditions of said document are hereby deleted in their entirety. In the event of a conflict between or among the terms and provisions of the main body of this Agreement and any contractual document resulting from this Agreement, the main body of this Agreement will control. Any modification, alteration, or amendment to this Agreement must be in writing and signed by duly authorized representatives of each of the Parties hereto.

**IX. GOVERNING LAW:**

This Agreement shall be governed by the laws of the State of South Carolina, without regard for its conflict of law's provisions, provided that all questions concerning the construction or effect of patent applications and patents shall be decided in accordance with the laws of the country in which the particular patent application or patent concerned has been filed or granted, as the case may be.

**X. FORCE MAJEURE:**

Neither Party shall be held in breach of this Agreement for any reason for acts or omissions caused by any acts of God, actions by any governmental authority (whether valid or invalid), fires, floods, windstorms, explosions, riots, natural disasters, wars, sabotage, labor problems (including lockouts, strikes and slowdowns), inability to obtain power, material, labor, equipment or transportation, or

court injunction or order.

**XI. MATERIALS/EQUIPMENT:**

If MEMBER is providing equipment or materials to SONOCO INSTITUTE for performance of a project funded by pooled membership dues, MEMBER should list the equipment below and indicate whether the equipment is being provided as a loan (attach *Equipment Loan Agreement*) or gift (attach *Gift-In-Kind Form*) (if none, indicate "N/A"):

With respect of this Agreement, the parties agree that time is of the essence and further that this is the complete and entire agreement between them related to the subject hereof and that this document replaces all prior agreements written or oral. They further agree that this agreement may be modified only by the terms of a written, mutually signed amendment. If there is any inconsistency between the terms of this Agreement and those referenced herein, the terms of this Membership Conditions and Agreement will prevail.

For Sonoco Institute

\_\_\_\_\_ Date: \_\_\_\_\_

For Clemson University:

\_\_\_\_\_ Date: \_\_\_\_\_

For

\_\_\_\_\_ Date: \_\_\_\_\_