

CONNEXIONS CONSORTIUM
MEMBERSHIP AGREEMENT

THIS MEMBERSHIP AGREEMENT (this "Agreement") is entered into as of ____, 2009, by and between Rice University ("Rice") through Connexions ("Connexions") and _____("Member").

WHEREAS, Connexions is a platform and repository for open education resources, enabling the creation, sharing and modification of open educational material accessible via the World Wide Web;

WHEREAS, Rice and Connexions desire to develop intellectual ties with organizations to facilitate the exchange of interests and ideas to advance educational technology;

WHEREAS, Rice and Connexions have established the Connexions Consortium (the "Consortium") in order to provide a means for such exchange; and

WHEREAS, Member desires to become a member of the Consortium.

NOW, THEREFORE, in consideration of the foregoing, the provisions contained herein and the mutual benefits to be derived herefrom, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Rice and Member hereby agree as follows:

1. Consortium Membership Levels. The Consortium offers two levels of membership: Tier One and Tier Two. Member's initial membership in the Consortium shall be at the [_____] level. A general description of the Consortium and the benefits associated with each level of membership are set forth on Exhibit A.
2. Membership Year and Fees.
 - a. The membership year will operate on an academic year basis, commencing on July 1st and ending on June 30th (each, a "Membership Year"). Member's initial membership in the Consortium will commence as of the date of this Agreement and expire at the end of the current Membership Year. Thereafter, Member shall notify Connexions within ninety (90) days prior to the end of its current Membership Year whether it wishes to renew its membership for an additional Membership Year. Member may renew at the same membership level and at the then current annual membership fee for such level or Member may change its membership level at the time of annual renewal upon payment of the then current annual membership fee for such new membership level. Annual membership fees for the current Membership Year are set forth on Exhibit A.

- b. Member's initial membership fee will be due and payable within thirty (30) days after the execution and delivery of this Agreement and will be prorated based on the number of months remaining in the current Membership Year. Thereafter, Member's annual Consortium membership fees will be due and payable thirty (30) days after the initial date of each subsequent Membership Year.
3. Board of Directors. The Consortium is managed by a board of directors elected by the Consortium members. Member may be entitled to representation on the Consortium board of directors in accordance with the membership level benefits set forth on Exhibit A.
4. Consortium Commitment. The Consortium is committed to providing a forum for the exchange of ideas and a medium through which technological advancement in education may be made. In order to facilitate these objectives, the Consortium hereby expresses its commitment to:
 - a. Organize working groups, where specifications and guidelines are developed for the Consortium;
 - b. Organize workshops and conferences, which frequently provide the catalyst for new technical work within the Consortium; and
 - c. Provide access to information on emerging technologies, software, events news and announcements relating to the Consortium and educational technology.
5. Member Commitment. As a Member of the Consortium, each Member hereby expresses its commitment to:
 - a. Participate fully in the Consortium activities;
 - b. Designate a contact person to communicate with the Consortium/Connexions staff;
 - c. Participate in the Consortium community by providing constructive and timely feedback;
 - d. Actively participate in directing and shaping the Consortium community to meet the needs of member institutions;
 - e. Act as an advocate for Connexions and the Consortium within its own organization and the larger community; and
 - f. Actively participate in Consortium conferences, working groups, conferences and other activities; provided that Member shall be responsible for its own travel and other expenses.
6. Disclaimer of Representations and Warranties. Notwithstanding anything in this Agreement to the contrary, Rice makes no representations or warranties of any kind, express or implied, concerning any materials or related intellectual property utilized by the Consortium or maintained in the Connexions content repository, including, but not limited to, representations and warranties relating

to non-infringement, merchantability and fitness for any particular purpose. This paragraph shall survive any expiration or termination of this Agreement.

7. Limitation on Liability. Under no circumstances and under no legal theory, whether in tort (including negligence), contract, or otherwise, shall Rice or Connexions, or their respective trustees, officers, employees and representatives, be liable to Member or to any third party for any direct, indirect, incidental, consequential, special, exemplary or punitive damages of any kind, directly or indirectly arising out of, or in connection with, this Agreement, Member's participation in the Consortium, or Member's use of the Connexions content repository. This paragraph shall survive any expiration or termination of this Agreement.
8. Indemnification. Notwithstanding anything in this Agreement to the contrary, Member shall indemnify, hold harmless and defend Rice, Connexions and the Consortium (including, but not limited to, their respective trustees, officers, employees, agents and representatives) for, from and against any and all demands, claims, causes of action, damages, losses, liabilities, costs and expenses (including, but not limited to, attorneys' fees and court costs), directly or indirectly arising out of or in connection with Member's, including its employees, agents or representatives, submission of any materials (including, without limitation, intellectual property) to the Consortium or the Connexions content repository or Member's violation of any of the terms or conditions of this Agreement. This paragraph shall survive any expiration or termination of this Agreement.
9. Intellectual Property. Each Member will, from time to time, have the opportunity to provide input regarding strategic direction, tools and software development for the Consortium. In such an event, Connexions will endeavor to review each submission made by the Member, however, Connexions does not undertake any obligation to implement or otherwise utilize such submission. Member acknowledges and agrees that any submission made to the Consortium will be under an appropriate version of open source Public License and available for review by other members of the Consortium.
10. Use of Name and Logos. During the Membership Year, Member shall be permitted to post the Consortium membership logo on its website and other marketing materials. Member shall not use Rice's or Connexions' name or logos in any manner or media (including, but not limited to, press releases, promotions, advertisements or solicitations) without the prior written approval of Rice.
11. Miscellaneous.
 - a. Power and Authority; Due Authorization; No Conflict; Enforceability. Each party represents and warrants to the other party that (i) such party has the power and authority to execute, deliver and perform its obligations under this Agreement, (ii) the execution, delivery and performance of this Agreement have been duly authorized by such party

and do not and shall not conflict with any agreement or instrument to which it is bound, and (iii) this Agreement constitutes the legal, valid and binding obligation of such party, enforceable against it in accordance with its terms.

- b. Entire Agreement; Severability; Further Assurances. This Agreement, including any exhibits attached hereto, constitutes the entire agreement between the parties, and supersedes all prior and contemporaneous agreements, understandings and negotiations, with respect to the subject matter hereof. In the event any provision of this Agreement is determined to be invalid or unenforceable, it is the desire and intention of the parties that such invalidity or unenforceability not invalidate or render unenforceable the remainder of the Agreement and that such provision be reformed and construed in such a manner that it will, to the maximum extent practicable, be deemed valid and enforceable, and the rights and obligations of the parties shall be construed and enforced accordingly. Each party shall execute and deliver such further documents and take such further actions as may be required or reasonably requested by the other party to effectuate the purposes of this Agreement.
- c. Assignment; Amendment; Waiver. This Agreement may be assigned by Rice, in its sole discretion, to an entity willing to undertake its obligations hereunder. Except as otherwise agreed to herein, this Agreement may not be amended or modified, by course of conduct or otherwise, except in a writing duly executed by each of the parties. Any waiver of any provision of this Agreement shall be in writing duly executed by the waiving party. The failure or delay by either party to seek redress for any breach or default under this Agreement, or to insist upon the strict performance of any provision of this Agreement, shall not constitute a waiver thereof or of any other provision of this Agreement, and such party shall have all remedies provided herein and at law and in equity with respect to such act and any subsequent act constituting the same.
- d. Governing Law; Jurisdiction and Venue; Attorneys' Fees. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Texas (without regard to the conflicts or choice of law principles thereof). The parties irrevocably consent to the jurisdiction of the State of Texas, and agree that any court of competent jurisdiction sitting in Harris County, Texas, shall be an appropriate and convenient place of venue to resolve any dispute with respect to this Agreement. In the event either party commences any proceeding against the other party with respect to this Agreement, the parties agree that the prevailing party (as determined by the authority before whom such proceeding is commenced) shall be entitled to recover reasonable attorneys' fees and costs as may be incurred in connection therewith in addition to any such other relief as may be granted.

- e. Construction of Agreement. The parties acknowledge and agree that both parties substantially participated in negotiating the provisions of this Agreement; and, therefore, the parties agree that this Agreement shall not be construed more favorably toward one party than the other party as a result of one party primarily drafting the Agreement. The section and other headings in this Agreement are for convenience of reference only and shall not be construed, expressly or by implication, so as to affect the meaning or interpretation of any of the provisions hereof.
- f. Independent Contractor Relationship. Nothing in this Agreement, nor any performance hereunder, is intended or shall be construed to create a partnership, joint venture or relationship of agency or employment between Rice and Member.
- g. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, Member and Rice have duly executed and delivered this Agreement as of the date first written above.

William Marsh Rice University,
on behalf of Connexions

By _____

Name: _____

Title: _____

By _____

Name: _____

Title: _____