

# **NATIONAL ARMAMENTS CONSORTIUM MEMBER AGREEMENT**

This National Armaments Consortium (NAC) Member Agreement (the “Agreement”) made as of the 6<sup>th</sup> day of December 2019 (the “Effective Date”) supersedes the NAC Member Agreement made as of the 6th day of August, 2018, by, between, and among the following parties:

**See Exhibit A: List of Active NAC Member Organizations.**

Hereinafter referred to as “NAC Member Organization” or, collectively as “NAC Member Organizations”; the NAC Member Organizations may also be referred to herein individually as a “Party” or collectively as “Parties.”

## **WITNESSETH**

**WHEREAS**, The NAC’s Mission is to foster collaboration between Government, Industry and Academia to deliver dominant solutions to complex National Armament challenges;

**WHEREAS**, “Armaments” is defined as the ammunition, armaments, munitions, weapons, systems, and related military materiel such as equipment and components that enables the military to achieve combat and mission effectiveness in all warfare environments: air, land, sea, undersea and space;

**WHEREAS**, the Government has expressed an interest in collaborating, with a focus on leveraging the combined capability of traditional and nontraditional defense contractors and academia, in research, development and maturation of prototype projects and production in the armaments critical fields that include but are not limited to Warheads/Lethal Mechanisms; Energetic Materials; Ammunition; Rockets, Missiles and Bombs; Joint Insensitive Munitions; Fuzes; Weapon Systems; Demilitarization; Enabling Technologies; Sensors and Sensor Systems; Directed Energy Warfare Systems, Protection and Survivability, and other relevant subject, technology, and capability domains as may be required in order to fully support the needs of the U.S. Government, herein referred to as the "Field";

**WHEREAS**, the Government and the NAC have formed, and will continue to form, partnerships to leverage their joint research and development capabilities and investments to advance and expand the nation's military technological superiority in the “Field”, which are planned, proposed, funded and executed under prototype Other Transaction Agreements as authorized by 10 USC 2371b to govern the execution of selected NAC Member Organization research and development projects;

**WHEREAS**, the NAC Member Organizations are entering into this Agreement in order to provide for (i) the continuation of a previous consortium member agreement governing the NAC organization and its operations, (ii) their respective rights and obligations as Member Organizations of the NAC, and (iii) other matters pertaining to the NAC and its Member Organizations.

**NOW, THEREFORE**, in consideration of the foregoing and the mutual covenants and promises contained in this Agreement the Parties agree as follows:

## **ARTICLE I DEFINITIONS**

When used in this Agreement, the following terms, whether used in the singular or plural, shall have the meanings set forth herein.

**1.1** "Affiliate" means, with respect to a specified NAC Member Organization that is a signatory to this Agreement, any corporation, company, partnership, joint venture and/or firm that now or hereafter controls, is controlled by or is under common control with such specified party. For purposes of this definition, "control" shall mean (i) in the case of corporate entities, direct or indirect ownership of at least 50% of the stock or shares entitled to vote for the election of directors; and (ii) in the case of non-corporate entities, direct or indirect ownership of at least 50% of the equity interest with the power to direct the management and policies of such non- corporate entities.

**1.2** "Agreement" means this Consortium Member Agreement (CMA) that governs the rights and obligations of the NAC Member Organizations as they relate to the organization and operation of NAC.

**1.3** "Base Agreement" means the agreement between the NAC CMF and the NAC Member Organization, which serves as the baseline agreement for all future Project funding agreements. The Base Agreement flows down applicable terms and conditions from the Other Transaction Agreement between the Government and NAC.

**1.4** "Consortium Management Firm (CMF)" refers to the organization acting on behalf of the NAC to execute and administer the efforts under the Other Transaction Agreements and as defined in a specific Management Services Agreement entered into between the NAC and the CMF. The Management Services Agreement shall remain in full force and effect throughout the term of this Agreement unless earlier terminated by the NAC in accordance with the terms and conditions of the Consortium Management Services Agreement.

**1.5** "Material Change" means any change to the terms or conditions of this Agreement that affects the obligations of the parties. To be material, the change must affect a part of the Agreement and the rights of the parties to it.

**1.6** "National Armaments Consortium" or "NAC" refers to the consortium formed by industry and academia, which is comprised of Traditional and Nontraditional Defense Contractors, including small and large businesses, for profit and non-profit entities, and academic research institutions.

**1.7** "NAC Executive Committee" refers to the governing body of the NAC, comprised

of Traditional and Nontraditional Defense Contractors, including small and large businesses, for profit and non-profit entities, and academic research institutions.

**1.8** “NAC Member Organization” means the Traditional and Nontraditional Defense Contractors, including small and large businesses, for profit and non-profit entities, and academic research institutions that are or become signatories to the Consortium Member Agreement.

**1.9** “Other Transaction Agreement” or “OTA” is the term commonly used to refer to the 10 U.S.C. § 2371b authority to enter into transactions other than contracts, grants or cooperative agreements. The Department of Defense (DOD) currently has authority to make awards that are directly relevant to enhancing the mission effectiveness of military personnel and the supporting platforms, systems, components, or materials proposed to be acquired or developed by the Department of Defense, or to improvement of platforms, systems, components, or materials in use by the armed forces. OTAs are acquisition instruments that are generally not subject to the federal laws and regulations governing procurement contracts. As such, they are not required to comply with the Federal Acquisition Regulation (FAR), its supplements (i.e. DFARS) or laws that are limited in applicability to procurement contracts.

**1.10** “Project Agreement” is the general term referring to the agreement between the CMF, on behalf of the NAC, and the NAC Member that contains all the contractual information regarding the scope of work, project specific terms and conditions, and payment information for the project that was approved for award under an OTA between the Government and the NAC.

**1.11** “Party” or “Parties” means an individual NAC Member Organization, and the NAC Member Organizations collectively that are signatories to this Agreement, respectively.

**1.12** “Quorum” means two-thirds (2/3) of the NAC Executive Committee members.

## **ARTICLE II: THE CONSORTIUM**

**2.1** **Background.** The NAC was established in 2000, to facilitate research, development and prototyping activities, in cooperation with the Department of Defense (DOD). Subsequently, the Government and the NAC Member Organizations, through the management structure defined herein, initiated research, development and prototyping activities that advance the state-of-the-art and enhance the technology, scientific and engineering skills in the Field that are needed to develop and transition new technologies into weapon systems and system upgrades to enhance the warfighting capabilities.

**2.2** **Establishment of Consortium.** As of the Effective Date of this revised Agreement, the Parties hereby agree to the continuation of the NAC. The NAC shall operate with the following principle objectives: (i) to develop armament technologies in the Field that advance the state-of-the-art; (ii) to improve U.S. industry, government and academia capabilities to sustain U.S. military supremacy in the research, development, engineering, prototyping and production of

components, subsystems and systems in the Field; and (iii) to insert these technologies into developmental and legacy systems as quickly and efficiently as possible.

**2.3 Consortium Name.** The NAC Executive Committee may vote to change the name of the Consortium as long as the new name reflects, as a minimum, the scope of activities required in support of armaments systems technology development requirements.

**2.4 Consortium Members.** As of the Effective Date of this revised Agreement and subject to other conditions of membership as further defined herein, the NAC Member Organizations are those entities listed herein on Exhibit A. Additional NAC Member Organizations will be added in accordance with the provisions contained herein. The NAC, through its CMF, will notify the Government of the addition or deletion of NAC Member Organizations as their status changes. All NAC Member Organizations, regardless of when they become a signatory to this Agreement, have the same rights and obligations hereunder.

### **ARTICLE III CONSORTIUM MANAGEMENT AND ADMINISTRATION**

**3.1 Organization and Administration.** The NAC shall use a CMF to administer the day-to-day affairs of the NAC and to act as a single point contractor for the NAC. The NAC shall use a number of positions, committees and subcommittees to coordinate the activities of the NAC in conjunction with or independent of the Government.

**3.2 NAC Membership.** The NAC has implemented an open membership policy to encourage widespread participation by Traditional and Nontraditional Defense Contractors, including small and large businesses, for profit and non-profit entities, and academic research institutions. The membership application and approval process described herein may occur at any time during the year. Membership applications can be found on the NAC-DOTC website. Membership applications must be fully completed to be considered for membership.

**3.2.1 NAC Membership Requirements.** Membership in the NAC shall only be granted to:

- a) U.S. firms or institutions organized or existing under the laws of the United States, its territories, or possessions. For the purposes of this Agreement, any agency or instrumentality of a foreign government and firms, institutions or business organizations that are owned or substantially controlled by foreign governments, firms, institutions or individuals, shall not be granted membership. The NAC Executive Committee may grant an exception to this requirement on a case-by-case basis, with the concurrence of the relevant Government Program Office.
- b) U.S. firms or institutions that have an active Military Critical Technical Data Agreement (Form DD 2345) with the U.S./ Canada Joint Certification Office,

Defense Logistics Information Service, Federal Center, 74 Washington Ave., North Battle Creek, MI USA 49037-3084. Failure to maintain such Agreement will limit access to participation in NAC activities.

- c) U.S. firms or institutions that are not barred from contracting with or receiving funds from the United States Government;
- d) U.S. firms or institutions that clearly demonstrate in their membership application that they have an interest in and are capable of assisting with or making technical contributions to the advancement in the Field;
- e) U.S. firms or institutions that will contribute their respective talents and resources to the NAC for activities such as periodic meeting attendance, committee and subcommittee participation, and other activities as may be appropriate;
- f) U.S. firms or institutions that remain active in the consortium by attending the NAC General Membership meeting or other NAC sponsored events and webinars or utilize the NAC collaboration tools and collaborate with other NAC members.
- g) U.S. firms or institutions that provide the cost and technical data as required in response to solicitations and in the receipt of awards.
- h) U.S. firms or institutions that abide by the terms of the Base Agreement.

**3.2.2 NAC Member Organization Affiliates.** Regardless of the number of affiliates, a NAC Member Organization with one or more affiliates participating in the NAC is considered to be one (1) NAC Member Organization.

**3.3 NAC Membership Dues, Award Assessments, and Other Obligations.** Dues and award assessments will be made to support the administration and management of NAC affairs. These assessments are payable to the CMF upon receipt of an invoice and may be adjusted from time-to-time by the NAC Executive Committee in order to maintain a sufficient cash reserve to support the NAC annual operating budget and planning forecast of NAC activities.

**3.3.1 Dues.** NAC Member Organizations will pay dues in the amount of \$500 per year every October 1<sup>st</sup>. New members will pay pro-rated dues payable upon initial acceptance of membership and then \$500 per year every October 1<sup>st</sup> thereafter. The pro-rated dues structure, based upon the date of initial application acceptance, is as follows:

- a) October thru December - \$500
- b) January thru March - \$375
- c) April thru June - \$250
- d) July thru September - \$125

**3.3.2 Assessments.** Each NAC Member Organization receiving a Project Agreement under an OTA executed between the Government and the NAC is subject to an award assessment. This award assessment shall not exceed one percent (1%) of the authorized funded agreement value. This assessment percentage will be evaluated by the NAC Executive Committee on a periodic basis and may be adjusted by Executive Committee Resolution from time-to-time in order to maintain a reasonable NAC operating reserve.

**3.3.3 Other Obligations.** In the event a NAC Member Organization voluntarily withdraws or is involuntarily withdrawn from the NAC and later expresses a desire to rejoin the NAC, such NAC Member Organization shall reapply for membership in accordance the established process and procedures. Consideration for reinstatement will not be undertaken until an agreement is reached as to the payment of past dues and assessments.

**3.3.4 Outstanding Financial Obligations of a NAC Member Organization.** Financial obligations incurred by a NAC Member Organization to NAC pursuant to any revisions of this Agreement, including award assessments and/or annual membership dues, shall continue until all outstanding obligations are satisfied.

**3.4 NAC “Member in Good Standing”.** To be a “Member in Good Standing”, the following criteria must be met:

- a) Current (no greater than 90 days past due) on membership dues;
- b) Current (no greater than 90 days past due) on award assessments;
- c) Not more than 180 days late on Final Report submissions.

The NAC Executive Director may grant an exception to the criteria listed in paragraphs a) through c) above on a case-by-case basis with prior notification to the NAC Executive Committee.

Only NAC Members in Good Standing will be permitted to respond to solicitations for project awards.

**3.5 General Membership Meetings.** General Membership meetings of the NAC will be conducted at least one (1) time each year or more frequently as appropriate.

**3.6 NAC Committees.**

**3.6.1 NAC Executive Committee.** An Executive Committee of representatives from the NAC Member Organizations shall govern the affairs of the NAC. A Member Company, inclusive of its Affiliates, shall be represented by only one person on the Executive Committee at any time.

**3.6.1.1 NAC Executive Committee Composition.** The NAC Executive Committee shall be composed of an appropriate number of Member Organization representatives. In addition, the Executive Committee includes the NAC Executive Director and NAC Director of Customer Affairs as Ex-Officio, non-voting members of the NAC Executive Committee. The NAC Executive Director and NAC Director of Customer Affairs shall not be afforded voting rights;

shall not be counted when establishing the presence of a quorum: and, shall not participate in executive sessions of the NAC Executive Committee. The representatives of the NAC Executive Committee shall be comprised, at a minimum, of one (1) representative from academia, either from an institution of higher education or from an organization affiliated with an institution of higher education, four (4) representatives from organizations classified as small businesses, and four (4) representatives from organizations classified as large business. The remaining representatives to the committee shall be representative of NAC Member Organizations classified as academia, small or large businesses.

**3.6.1.2 NAC Executive Committee Terms.** The terms of the NAC Executive Committee members shall be for three (3) years and until the successor is selected. The term of an Executive Committee member shall commence on October 1 of the year in which they were selected and expire on September 30 three (3) years later. Executive Committee members may be relieved of their positions in accordance with established policies and procedures by a three-quarters (3/4) vote of the NAC Executive Committee members that are eligible to vote.

**3.6.1.3 NAC Executive Committee Member Qualifications.** NAC Executive Committee members should hold senior management positions in their respective organizations. Such members should have a working knowledge of the NAC. They should also possess research, development, test and evaluation (RDT&E) and program management experience; they should have some influence in the development and execution of their organization's research and development activities related to the Field. NAC Executive Committee members must be U.S. citizens.

**3.6.1.4 NAC Executive Committee Vacancies.** If during their term, an Executive Committee member is no longer willing or able to serve on the NAC Executive Committee, the Executive Committee member's organization withdraws from the NAC, or the Executive Committee member is removed by the Executive Committee, the vacated position will remain unfilled until the start of the next fiscal year. The new NAC Executive Committee member will serve for the remainder of the term for the vacancy for which they are filling. Upon filling the vacancy, the NAC Executive Director will notify all NAC Member Organizations of the newly selected NAC Executive Committee member's name and contact information.

**3.6.1.5 NAC Executive Committee Responsibilities.** The role of the NAC Executive Committee is to oversee and protect the collective best interest of the NAC Member Organizations. The Executive Committee is responsible for governing the NAC, reviewing and approving policies and procedures, and setting the strategic direction for the organization. The Executive Committee shall use Resolutions to effect changes in policies, procedures, and operations provided such Resolutions do not constitute a material change to this Agreement.

**3.6.1.6 Selection of NAC Executive Committee Members.** The process to replace the NAC Executive Committee members whose terms are expiring, or if a position becomes vacant, will be conducted in accordance with established policy and procedure as maintained by the NAC Governance and Nominating Committee. The process shall be presided over by the NAC Executive Director. Nominations for the Executive Committee members will be solicited by the NAC Executive Director sixty (60) days prior to each annual selection cycle, citing incumbent

Executive Committee members whose terms are expiring and any special organizational requirements for nominees. Incumbent Executive Committee members may be nominated and selected to successive terms, provided the organizational status of the organization they represent remains unchanged. Any NAC Member Organization may nominate an individual to sit on the NAC Executive Committee. All nominees must be employed by a “Member in Good Standing” organization as defined in paragraph 3.4. Further, the nominee’s organization must have been a Member in “Good Standing” for a period of one (1) year prior to the nominee application deadline.

**3.6.1.7 NAC Executive Committee Meetings.** The Executive Committee will meet no less frequently than four (4) times each calendar year and shall meet at such other times as may be deemed appropriate by the NAC Executive Committee. NAC Executive Committee meetings shall be scheduled in such a way as to maximize participation and limit travel expenses. To this end, the NAC Chair shall send a notice of the meeting and call for agenda items to NAC Executive Committee members ten (10) days prior to the scheduled meetings of the committee.

Active participation in NAC Executive Committee meetings by members of the NAC Executive Committee is expected. In those cases where a member of the NAC Executive Committee is not able to attend a meeting of the NAC Executive Committee, a substitute may be provided but the substitute is not empowered to vote. A substitute can only be provided for two (2) consecutive, regular meetings.

The meetings of the NAC Executive Committee are open to attendance by all Consortium Members Organizations; however, only those organizations on the agenda may participate during the portion of the meeting dealing with their specific agenda items. With prior approval of the NAC Executive Committee, any member of the committee may invite non-voting employees, consultants or scientific advisors to attend the meeting of the NAC Executive Committee.

**3.6.1.8 NAC Executive Committee Decisions.** All decisions of the NAC Executive Committee shall require two-thirds vote of the committee unless otherwise specified in the CMA.

**3.6.1.9 NAC Executive Committee Officers.** The NAC Executive Committee will have a minimum of two Officers elected by two-thirds vote of the Executive Committee. Officers may be relieved of their positions as Officers by a three-quarters (3/4) vote of the NAC Executive Committee members that are eligible to vote in accordance with established policies and procedures.

**3.6.1.10 NAC Executive Committee Chair.** A representative from the NAC Executive Committee will serve as the Chair of the NAC Executive Committee. The NAC Executive Committee Chair shall be selected by two-thirds vote of the NAC Executive Committee and shall serve a three-year term and until their successor is selected. After the selection of the Executive Committee Chair, the Executive Committee will provide the name to the NAC Executive Director for communication to all NAC Member Organizations. The role of the NAC Executive Committee Chair is to guide the NAC governance process, facilitate meetings of the Executive Committee, and act as the official spokesperson for the Executive Committee. The Chair is responsible for signing contracts and agreements on behalf of NAC after approval by the Executive Committee.

**3.6.1.11 NAC Treasurer.** The NAC Treasurer shall serve at the pleasure of and under the

direction of the NAC Executive Committee. The role of the Treasurer is to oversee the financial health and sustainability of the organization. The Treasurer is responsible for authorizing disbursement of funds in strict compliance with established policies, procedures and applicable law. The term of the Treasurer on the Executive Committee shall run concurrent with the person's term and until the successor is selected. The Treasurer may sign contracts and agreements on behalf of NAC after approval by the Executive Committee when the NAC Executive Committee Chair is unable to do so.

**3.6.2 Committee Structure.** From time-to-time the Executive Committee at its discretion shall establish various standing and ad hoc committees to assist with the governance and management of the NAC.

**3.6.2.1 Standing Committees.** The NAC Executive Committee will establish standing committees to support Executive Committee activities. At a minimum, a Governance and Nominating Committee will be established to oversee ethics and compliance with independent reporting power to the membership and a Finance and Audit Committee will be established to assist the Executive Committee in fulfilling its oversight responsibilities relating to fiscal management. Each standing committee will be chaired by a member of the Executive Committee. Committees may include other Executive Committee members or representatives from NAC Member Organizations. The role of the Standing Committee Chairs are to lead meetings of the Standing Committees and to guide the assigned activities. The Standing Committee Chairs are responsible for reporting Committee activity to the Executive Committee as called for under its charter. Other Standing Committees may be established by the NAC Executive Committee as deemed appropriate.

**3.6.2.2 Ad Hoc Committees and Task Forces.** From time-to-time Ad Hoc Committees and Task Forces may be established to support the effective operations of the NAC. Participants in these Ad Hoc Committees will consist of representatives from NAC Member Organizations and others as required to perform their mission(s). Establishment of these Ad Hoc Committees and Task Forces shall be by Resolution of the NAC Executive Committee. Ad Hoc Committees and Task Forces will have sunset clauses.

### **3.7 NAC Expense Reimbursement.**

**3.7.1 NAC Executive Committee Expense Reimbursement.** NAC Executive Committee members are obligated to attend the NAC Executive Committee meetings on behalf of the NAC Member Organizations. In order to minimize the out of pocket expenses of NAC Executive Committee members, the CMF will reimburse NAC Executive Committee members who attend NAC Executive Committee meetings for normal and reasonable travel expenses. The CMF shall issue payment upon receipt of an approved expense report from the NAC Treasurer.

**3.7.2 NAC Member Travel Expenses.** On occasion, one or more NAC members are required to travel to accomplish the goals and objectives of the NAC. In these instances, NAC members may, with NAC Executive Committee approval, be reimbursed for normal and reasonable travel expenses when traveling for NAC business. These expenses will be reimbursed upon the member submitting to the NAC Treasurer a request for reimbursement with supporting documentation of fair and reasonable costs.

**3.8 NAC Executive Director and NAC Director of Customer Affairs.** The NAC Executive Director and the NAC Director of Customer Affairs will be a non-government employee that is an independent contractor and an employee of a NAC Member Organization in “Good Standing”.

**3.8.1 Selection.** When necessary, the NAC Executive Committee will solicit applications for the NAC Executive Director and/or the Director of Customer affairs. The NAC Applicants are required to briefly describe their qualifications for the position. Subsequently, the Governance and Nominating Committee will prepare a slate of qualified candidates and forward it to the NAC Executive Committee for approval no less than forty-five (45) days prior to the incumbent term expiration. The NAC Executive Committee will select by a two-thirds majority vote the individual to serve in the available position.

**3.8.2 Term/Qualifications.** Each position shall serve a three (3) year term, concurrent with the Government Fiscal Year that may also be extended at the discretion and with the approval of the NAC Executive Committee. Nominees for the position of NAC Executive Director should have a good understanding of the specifics of this Agreement and the OTA and should have experience in operations management and business development in defense related programs, including armament systems. Nominees for the position of NAC Director of Customer Affairs should have experience with the Department of Defense acquisition system, with particular emphasis on Science & Technology and RDT&E at all levels; preparation and presentation informational briefings to senior leaders; development of business development tools.

**3.8.3 Vacancy.** If for any reason the NAC Executive Director or NAC Director of Customer Affairs is no longer willing or able to serve, the NAC Executive Committee will coordinate the selection of a replacement in accordance with the procedures described in paragraph 3.8.1 within forty-five (45) days of notice of vacancy. The newly selected Director will complete the term of the former Director and have an option to sign a follow-on 3-year contract.

**3.8.4 Responsibilities.** The NAC Executive Director shall serve as the principle point of contact for business with the NAC and is responsible for the management of the day-to-day operations and administration of the organization according to the policies, procedures, and strategic direction set by the Executive Committee. The NAC Executive Director shall act as the primary liaison and negotiator for the NAC Member Organizations under this Agreement and any amendments hereto. In addition, the NAC Executive Director shall undertake such other duties or responsibilities as are assigned by this Agreement, the OTA, and the Statement of Objectives associated with the Executive Director Management Services Agreement. The NAC Director of Customer Affairs is responsible for managing relationships between the NAC, its Member Organizations, and various Government Departments and Agencies including the Departments of Defense, Energy, and Homeland Security; Defense Science and Technology Officials and Agencies; Service Program Executive and Program Management Offices; Research, Development and Engineering Laboratories; and, Congressional Liaison Offices according to the policies, procedures, and strategic direction set by the Executive Committee.

**3.8.5 Expenses.** Expenses incurred by the NAC Executive Director and the Director of

Customer Affairs will be reimbursed by the NAC through the CMF. The NAC Executive Director and the Director of Customer Affairs shall submit invoices to the CMF. The NAC Chair and Treasurer will review, modify, and/or approve the invoice and provide guidance to the CMF for reimbursement and payment.

**3.9 Organizational Conflict of Interest.** In accordance with established policies and procedures, all NAC Executive Committee members, consultants, advisors and other affected individuals and organizations providing services to the NAC are prohibited from interfering with the performance of their duties to the NAC, and are required to ensure that there is no personal or professional gain at the expense of the NAC. NAC Executive Committee members, consultants, advisors and other affected individuals and organizations providing services to the NAC are required to disclose all material conflicts of interest in accordance with the policy established by the NAC Executive Committee.

**3.10 Consortium Management Firm.** The CMF is an independent, neutral organization hired by the NAC Executive Committee and acting on behalf of the NAC Executive Committee to administer the day-to-day affairs of the NAC and to act as the NAC single point-contractor. The CMF shall serve the best interests of the NAC Member Organizations under the terms and conditions of a separate management services agreement with oversight and direction of the NAC Executive Committee.

**3.10.1 Consortium Management Firm Responsibilities.** The CMF shall be responsible for:

- a) Providing the NAC Executive Committee managerial and administrative support;
- b) Administering the OTA, which was entered into with the Government by the NAC Executive Committee in care of the current CMF;
- c) Assisting the Government in soliciting and selecting projects for advancing the “Field”;
- d) Entering into and managing Base Agreements, Project Agreements, and other similar instruments with individual NAC Member Organizations; and such other administrative functions assigned by the NAC Executive Committee and/or the OTA. The CMF is prohibited from participating in any Project Agreement in association with OTAs between the Government and the NAC.

## **ARTICLE IV TERM AND DISSOLUTION**

**4.1 Term.** Member Organizations may terminate membership at any time by written notice to the NAC CMF. The NAC Executive Committee may terminate a Member Organization’s membership by written notice to a Member Organization should such member fail to comply with the Member Obligations set out in this CMA in Article III. In the

event of the termination, Member Organization's rights and obligations pursuant to any Project Agreements, including but not limited to, continued funding and technology contribution commitments shall continue in accordance with the specific terms of the Project Agreements. Further, financial obligations to the consortium, to include project assessments, shall remain in full force and effect until all outstanding obligations to the consortium are satisfied according to the CMA.

**4.2 Dissolution.** The NAC may be dissolved only with authorization by its Executive Committee given at a special meeting called for that purpose and with subsequent approval by a two-thirds (2/3) vote of the voting members of the Executive Committee. Upon dissolution or other termination of the NAC, all remaining assets of the NAC, after payment in full of all its debts, obligations, and necessary final expenses, or after the making of adequate provision thereof, shall be distributed to such tax-exempt organizations (with purposes similar to those of the NAC) as shall be chosen by the then existing Executive Committee of the NAC. In the event the then existing Executive Committee of NAC cannot achieve a two-thirds (2/3) vote on the tax- exempt organization(s), the funds shall be distributed to the U.S. Treasury.

## **ARTICLE V GENERAL PROVISIONS**

**5.1 Independent Contractor Status.** The relationship of the Member Organizations established by the CMA is that of independent contractors. Nothing contained in the CMA shall be construed to (i) give any of the Member Organizations hereto the power to direct or control the day-to-day activities of another Member hereto, (ii) constitute the Member Organizations as partners, joint ventures, co-owners or otherwise as participants in a joint or common undertaking, or (iii) allow any of the Member Organizations hereto to create, discharge or assume any obligation on behalf of another Member hereto for any purpose whatsoever. Each Member Organization retains the right to engage independent research and activities that may compete with, or be contrary to, the goals of the NAC.

**5.2 Intellectual Property.** Intellectual Property Rights between Members and the Government will be governed by the terms and conditions of the Base Agreement and individual Project Agreements. The Consortium, other Member Organizations, and the CMF will not receive any rights to Member Organization's Intellectual Property under this CMA.

**5.3 Amendments.** No amendment or modification of the CMA shall be valid unless agreed to in writing by two-thirds (2/3) vote of the NAC Executive Committee membership prior to being released to the membership.

**5.4 Compliance with U.S. Export Control Laws.** The Parties shall comply with all applicable export control laws and regulations of the United States, including the Arms Export Control Act ("AECA"), the International Traffic in Arms Regulations ("ITAR"), the Export Administration Regulations ("EAR"), and other U.S. government directives related to export control.

**5.5 Compliance with Antitrust Laws.** NAC Member Organizations shall comply with all applicable U.S. antitrust laws. Further, the CMF will use best efforts to guard against the disclosure of competitively sensitive information and, together with the NAC Executive Committee, institute antitrust compliance policies and procedures for the NAC.

**5.6 Governing Law.** This Agreement shall be governed by the laws of the State of New York, to the extent it does not conflict with the public academic research institution’s state law, without giving effect to its choice of law principles. In order to bring forth a dispute under this Agreement, the Party must first provide formal notification to the Executive Committee of the cause for the dispute. At which time, the Executive Committee and the Party will have 30 days to resolve the dispute until any further action is taken by either party.

**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the day, month and year first above written.

Name: \_\_\_\_\_(NAC Member Organization Name)

By: \_\_\_\_\_(NAC Member Organization Representative)

Title: \_\_\_\_\_(Representative’s Title)

Signature: \_\_\_\_\_

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

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## **Exhibit A: List of Active NAC Member Organizations**

Exhibit A, List of Active NAC Member Organizations, is maintained by the CMF and is available on the NAC Members Only website.