

NATIONAL ARMAMENTS CONSORTIUM MEMBER AGREEMENT

This National Armaments Consortium (NAC) Member Agreement (the “Agreement”) made as of the 22nd day of January 2015 (the “Effective Date”) supersedes the National Warheads and Energetics Consortium (NWEC) Member Agreement made as of the 18th day of December, 2009, 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 National Armaments Consortium (NAC) has entered into a Section 845 Other Transaction Agreement (the “OT Agreement”) with the U.S. Army for the funding of certain research and development initiatives in the areas including, but not limited to the armament technologies of: Protection and Survivability, Demilitarization, Ammunition, Weapon Systems, Energetic Materials, Warheads/Lethal Mechanisms, Fuzes & Sensors, Enabling Technology, Joint Insensitive Munitions, and Rockets, Missiles and Bombs, (the “Field”) to be conducted, in partnership with the Government and other NAC Member Organizations, for the U.S. Army DoD Ordnance Technology Consortium herein after referred to as the “DOTC”;

WHEREAS, the Parties wish to ensure quick and efficient delivery of innovative armament technologies in the Field to enhance Warfighter capabilities;

WHEREAS, the Parties wish to leverage their resources in the research, development, engineering, prototyping, test and evaluation of armament technology in the Field;

WHEREAS, the Parties wish to participate in the development, maintenance and execution of an Annual Technology Plan that clearly defines performance goals and maximizes the collective capabilities of Government, industry and academia and focus those capabilities toward attainment of sound technical solutions consistent with these goals;

WHEREAS, the Parties wish to provide a unified and coordinated message to the Executive and Legislative branches of the U.S. Government, and to the Department of Defense (DoD) emphasizing the strategically important role that the advancement of armament technologies plays in current and future weapon system development;

WHEREAS, the Parties wish to define programs and obtain program funding that will be focused on the research, development, engineering, prototyping, test and evaluation, and

transitioning to production of key technologies that will improve the capability of developmental and legacy weapon systems;

WHEREAS, the OT Agreement provides, among other things, for the grant of certain rights and obligations as defined in the Ordnance Technology Base Agreement arising out of the conduct of Ordnance Technology Initiatives by the NAC Member Organizations pursuant to this Agreement;

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 "Annual Technology Plan" means the Government approved annual research and development plan as jointly developed by the Government and the NAC taking into consideration the technology offerings of the NAC Member Organization and others within the Government. The Annual Technology Plan shall also define the Government's technology needs and requirements in the Field as well as the identification and availability of funding to support the research, development, engineering, prototyping, test and evaluation.

1.4 “Cash Contribution” means the financial resources of a NAC Member Organization expended during the conduct of an Ordnance Technology Initiative. The cash contribution can be derived from NAC Member Organization funding or outside sources, or may also come from non-federal contract or grant revenues, or from profit or fee on a federal procurement contract. Source of funds from a NAC Member Organization funding may include corporate retained earnings, current or prospective Independent Research and Development (IR&D) funds or any other indirect cost pool allocation. New or concurrent IR&D funds can be utilized as a cash contribution provided those funds identified by the NAC Member Organization are to be spent on the conduct of an Ordnance Technology Initiative Statement of Work. Prior IR&D will not be considered as part of any cash or in kind contributions nor will fee be considered on the contractor’s cost sharing portion. Cash contributions include the funds an NAC Member Organization will spend for labor (including benefits and direct overhead), materials, new equipment (prorated if appropriate) and subcontractor efforts expended on an Ordnance Technology Initiative.

1.5 “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.

1.6 “DoD Ordnance Technology Consortium (DOTC)” means the enterprise established by the DoD Under Secretary of Defense for Acquisition, Technology, and Logistics as the Department of Defense’s focal point for armament technology development in the Field. The DOTC Enterprise includes the NAC, the DoD Military Departments and Agencies, as well as Department of Energy (DoE) National Laboratories and others as appropriate; all brought together to leverage their respective competencies and resources to increase the Warfighter’s capabilities.

1.7 “DOTC Executive Committee” means the DOTC Executive Committee consisting of representatives from various Government departments and agencies who are active participants in technology development in the Field, as well as the elected members of the NAC Executive Committee. The DOTC Executive Committee consists of an appropriate number of Government representatives and elected officials from the NAC membership who also serve as the NAC Executive Committee.

1.8 “DOTC Program Director” means the Government Technical Administrator for the program responsible for the day-to-day management of the DOTC activities, synchronization of requirements and conduct of joint and co-funded Ordnance Technology Initiatives as defined by the Annual Technology Plan. The DOTC Program Director provides technical and program management oversight of the administrative aspects of the DOTC’s activities between the Government Agreement Officer Representative (AOR), the U.S. Army Contracting Command – New Jersey, Emerging Technologies Center (ACC-NJ-ET) Acquisition Center, and the NAC CMF.

1.9 “Development” means the systematic use, under whatever name, of scientific and technical knowledge in the research, development, test or evaluation of existing or potential new technologies, products or services (or of improvements in existing technologies, products or services) for the purpose of meeting specific performance requirements or objectives. Development includes, but is not necessarily limited to, research, design, development, prototyping, testing and evaluation.

1.10 “Effective Date” means the date on which this Agreement is signed and executed by the NAC Member Organizations.

1.11 “Field” means the following areas which include, but are not limited to, the armament technologies of: Protection and Survivability, Demilitarization, Ammunition, Weapon Systems, Energetic Materials, Warheads/Lethal Mechanisms, Fuzes & Sensors, Enabling Technologies, Joint Insensitive Munitions, and Rockets, Missiles and Bombs.

1.12 “Government” means the U. S. Government and its departments and agencies.

1.13 “Government Fiscal Year” means the period beginning on October 1 and ending September 30 of the following calendar year.

1.14 “Independent Research and Development (IR&D)” means a NAC Member Organization’s funded independent research and development falling within the four following areas: (1) basic research, (2) applied research, (3) development, and (4) systems engineering and other concept formulation studies. The term does not include the efforts sponsored by a grant or required in the performance of a contract or an Other Transaction Agreement.

1.15 “In Kind Contribution” means the nonfinancial resources expended by the NAC Member Organizations in the conduct of an Ordnance Technology Initiative, such as wear and tear on in-place capital assets like machinery or the prorated value of space used for the conduct of an Ordnance Technology Initiative, and the reasonable fair market value (appropriately prorated) of equipment, materials, and other property used in the conduct of an Ordnance Technology Initiative.

1.16 “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.

1.17 “Milestone” means a scheduled event signifying the completion of a major deliverable or a set of related deliverables. A milestone that has been completed will be approved for payment to the NAC Member Organization through the CMF. This approved payable milestone will represent a predetermined dollar amount in relation to performance of a particular Ordnance Technology Initiative.

1.18 “Nontraditional Defense Contractor” means a business unit that has not, for a period of at least one year prior to the issue date of the Request for Ordnance Technology Initiatives, entered into or performed on: (1) any contract that is subject to full coverage under

the cost accounting standards prescribed pursuant to section 26 of the Office of Federal Procurement Policy Act (41 U.S.C. 422) and the regulations implementing such section; or (2) any other contract in excess of \$500,000 to carry out prototype initiatives or to perform basic, applied, or advanced research initiatives for a Federal agency, that is subject to the Federal Acquisition Regulation (FAR). A nontraditional defense contractors can be at the prime level, team members, subcontractors, lower tier vendors, or "intra-company" business units; provided the business unit makes a significant contribution to the prototype initiative (i.e., is a key participant). Examples of what might be considered a significant contribution includes supplying new key technology or products, accomplishing a significant amount of the effort, or in some other way causing a material reduction in the cost or schedule or increase in the performance. The ACC-NJ-ET will follow the specific guidance from the Office of the Secretary of Defense concerning the use of non-traditional defense contractors. Non-traditional defense contractors will be required to provide a DUNS number.

1.19 “National Armaments Consortium” or “NAC” means the National Armaments Consortium (NAC), which is made up of consortium members from industry, academia, non-profit organizations, and not-for-profit organizations that are signatories to this Agreement.

1.20 “NAC Executive Committee” means the Executive Committee consisting of the duly elected representatives from the general membership of the NAC. The committee shall have as its membership a proportional amount of representation from academia and small and large businesses that will accurately represent the general membership population. As of October 1, 2014, the committee membership consists of eleven (11) members from the Member Organizations; however, this may change from time to time to ensure proportional representation by all Member Organizations.

1.21 “NAC Member Organization” means the Nontraditional and Traditional Defense Contractors, including small and large businesses, for profit and not for profit entities, and Academic Research Institutions that are or become signatories to the Consortium Member Agreement.

1.22 “Ordnance Technology Initiative” means an activity proposed by an NAC Member Organization and selected by the Government for award under the Other Transaction Agreement through the Ordnance Technology Base Agreement and Ordnance Technology Initiative Agreement. An Ordnance Technology Initiative will be executed by NAC Member Organizations either individually or teamed with another party for the agreed upon period of performance.

1.23 “Ordnance Technology Base Agreement” means the agreement between the NAC CMF and the NAC Member Organization or a team of NAC Member Organizations that will serve as the baseline agreement for all future Ordnance Technology Initiative funding agreements, flowing down applicable terms and conditions from the Other Transaction Agreement between the Government and NAC.

- 1.24** “Ordnance Technology Initiative Agreement” means the agreement between the CMF and the NAC Member Organization or a team of NAC Member Organizations whose Ordnance Technology Initiative proposal was evaluated and competitively selected by the Government for funding, in accordance with an established and agreed upon scope of work, terms and conditions, period of performance, and payment under the Government funded Ordnance Technology Initiative.
- 1.25** “Ordnance Technology Initiative Proposal” means a proposal from an NAC Member Organization in response to a Request for Ordnance Technology Initiatives solicitation issued by the CMF and evaluated by the Government for award.
- 1.26** "Ordnance Technology Initiative Agreement Recipient" means the NAC Member Organization or team of NAC Member Organizations issued an Ordnance Technology Initiative Agreement by the CMF.
- 1.27** “Other Transaction Agreement” or “OT Agreement” means the Section 845 Other Transaction Agreement between the Government and the NAC in care of the CMF Agreement Number W15QKN-09-9-1001, W15QKN-12-9-0001, W15QKN-14-9-1001 and subsequent OT Agreements as may be issued from time to time.
- 1.28** “Party” or “Parties” means an individual NAC Member Organization, and the NAC Member Organizations collectively that are signatories to this Agreement.
- 1.29** “Quorum” means two-thirds (2/3) of the NAC Executive Committee members.
- 1.30** “Technical Direction Letter (TDL)” means the Government document issued to the NAC through its CMF reflecting the Government's decision to select and fund all or part of a proposed Ordnance Technology Initiative submitted by an NAC Member Organization in response to the Request for Ordnance Technology Initiatives.
- 1.31** “U.S. Army Contracting Command – New Jersey, Emerging Technologies Center (ACC-NJ-ET)” means the contracting activity designated by Office of the Secretary of Defense (OSD) as the lead Government organization responsible for executing the OT Agreement between the NAC and the Government.
- 1.32** “Whitepaper” means a document submitted by a NAC Member Organization in response to a Request for Ordnance Technology Initiatives describing their proposed effort. The Government will evaluate whitepapers and provide feedback to Offerors to use in deciding whether to submit a full proposal. In order to submit a full proposal in response to a Request for Ordnance Technology Initiatives, NAC Member Organizations must submit a whitepaper, unless otherwise directed in the solicitation.

ARTICLE II THE CONSORTIUM

2.1 Background. In 2000, the Government expressed a desire for industry and academia to self-form into a consortium to facilitate research, development and prototyping activities, in cooperation with the U.S. Army laboratories at ARDEC, ARL, and other potential Department of Defense (DoD) Components, in the areas of warheads and energetics. 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 as the industrial/academic component of the DoD Ordnance Technology Consortium (DOTC) 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 legacy and developmental platforms as quickly and efficiently as possible. Through the NAC established by this Agreement, NAC Member Organizations may propose and perform research, development, engineering, prototyping activities, in cooperation with the government components of the DOTC and other Members Organizations, to address the Government's long range science and technology objectives in the Field.

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 DOTC 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. The intent of the Parties is that the NAC will be open to and include members from industry, academic institutions, and non-profit and not-for-profit organizations. The Parties hereby adopt a non-exclusive, open membership policy. The consortium membership will include additional NAC Member Organizations in accordance with the provisions contained herein and in the OT Agreement. The NAC, through its NAC 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.

2.5 Relationship of Members. This Agreement between NAC Member Organizations, in conjunction with the OT Agreement signed between the Government and the NAC, shall govern the relationships and interaction between NAC Member Organizations. This

Agreement contains (i) terms applying to the conduct of NAC business during the term of this Agreement and (ii) a description of the NAC management structure.

2.6 Purpose of Consortium. The following are the specific goals and objectives of the collaborative effort between the NAC Member Organizations and the Government component of the DOTC:

- (a) Establish sound technical and programmatic performance goals based on the needs of the user,
- (b) Develop information which will allow the Government to create and maintain an Annual Technology Plan that defines performance goals and maximizes the utilization of the government, industry and academia team members' capabilities,
- (c) Provide a unified voice to effectively articulate the strategically important role the technologies covered by this Agreement play in current and future weapon system platforms,
- (d) Create programs and secure funding focused on the development of key armament system technologies and armament systems improvements,
- (e) Effectively develop critical technologies that can be transitioned to the Warfighter, and
- (f) Execute a flexible, integrated Annual Technology Plan.

ARTICLE III CONSORTIUM MANAGEMENT AND ADMINISTRATION

3.1 Organization and Administration. The NAC shall utilize a number of positions, committees and subcommittees to coordinate the activities of NAC in conjunction with or independent of the Government component(s) of the DOTC. The Parties agree to hire a NAC Executive Director and NAC Director of Customer Affairs on a part-time basis to administer the affairs of the NAC under the administrative oversight and direction of the NAC Executive Committee. The Parties agree to hire a CMF to administer the day-to-day affairs of the NAC and to act as a single point contracting agent for the NAC.

3.2 NAC Membership. The NAC has implemented an open membership policy to encourage widespread participation of traditional and non-traditional defense contractors, non-profit and not for profit organizations and academic institutions. The membership application and approval process described herein may occur at any time during the year. Membership applications from interested parties may be submitted 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 by the NAC Executive Committee. All prospective

NAC Members, upon approval of their membership application by the NAC Executive Committee, shall become a party to this Agreement by executing a counterpart hereof.

3.2.1 NAC Membership Requirements. The requirements for membership in the NAC are as follows:

3.2.1.1 Minimum Requirements as Directed by the Government. At the direction of the Government, membership in the NAC shall only be granted to 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 DOTC Program Office. Per DoD 5220.22-M, National Industrial Security Program, a foreign-owned company must have an approved plan for negating or mitigating the risk of foreign ownership, control or influence from the Defense Security Service (DSS). Until an approval is received from DSS, the NAC membership application may be considered provisionally accepted with access limitations applied by the NAC Executive Committee. Furthermore, all NAC Member Organizations must maintain 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 the Members Only portion of the NAC-DOTC Website.

3.2.1.2 Minimum Requirements as Directed by the Consortium. The Parties agree that membership in the NAC shall only be granted to firms or institutions that:

- a) Are not barred from contracting with or receiving funds from the United States Government;
- b) Can clearly demonstrate in their membership application that they have an interest in research and development of technology in the Field, are capable of making a technical contribution to the advancement in the Field, and are willing to support the NAC's goals and objectives;
- c) Will contribute their respective talents and resources to the NAC for activities such as periodic meeting attendance, committee and subcommittee participation, and other consultation and/or service as may be appropriate;
- d) Are willing to provide publicly available information in their membership application denoting their current research and development capabilities that may be applicable to the Field and to describe the general nature of their organizations' business as it may apply to research and development in the field.

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/DOTC activities. Dues and award assessments will not be used to support lobbying as defined by current federal laws and regulations.

3.3.1 Dues. NAC Member Organizations will pay dues in the amount of \$500 per year every October 1st. New members will pay pro-rated dues payable upon initial acceptance of membership and then \$500 per year every October 1st 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) June thru October - \$125

3.3.2 Assessments. Each NAC Member Organization receiving an Ordnance Technology Initiative Award, or incremental funding for an existing award, is subject to an award assessment. This award assessment shall not exceed one percent (1%) of the authorized contract 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 by the NAC Executive Committee will not be undertaken until such time as agreement is reached between the NAC Member Organization and the NAC Executive Committee as to the payment of past dues and assessments.

3.3.4 Outstanding Financial Obligations of an 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.

3.3.5 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) Attend the NAC General Membership meeting and/or at least one other NAC or DOTC-sponsored event, like a DOTC Collaboration Day, within the previous 12-month period;
- d) Not more than 180 days late on Final Report submissions for DOTC initiatives.

The NAC Executive Director may grant an exception to the criteria listed in paragraphs a through d above on a case-by-case basis with prior notification to the NAC Executive Committee. However, only one waiver will be permitted for attendance at NAC or DOTC-sponsored events (criterion c) above. A second waiver after the first 12-month period will not be granted.

Only NAC Members in Good Standing will be permitted to submit whitepapers in response to a Request for Ordnance Technology Initiatives (ROTI), or will be awarded an Ordnance Technology Initiative.

3.4 General Membership Meetings and Meeting Attendance. General Membership meetings of the NAC will be conducted at least one (1) time each year or more frequently as appropriate. Meeting venues shall generally be determined by the NAC Executive Committee considering potential opportunities for engaging the maximum number of DOTC customers in a joint event, such as a DOTC Collaboration Day. NAC Member Organizations may volunteer their facilities to periodically host NAC General Membership meetings. The NAC annual General Membership meeting will include, but may not necessarily be limited to overviews on the state of the NAC and the DOTC Enterprise, and an Annual Technology Plan overview from the DOTC Program Director and other NAC business as deemed appropriate.

3.5 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 from interfering with the performance of their duties to the NAC, and 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.

3.6 NAC Committees.

3.6.1 NAC Executive Committee. An Executive Committee of elected representatives from the NAC Member Organizations shall govern the affairs of the NAC. Executive Committee members may be relieved of their positions in accordance with established policies and procedures by a super-majority that shall consist of three-quarters (3/4) vote of the NAC Executive Committee members that are eligible to vote. While Committee members are selected

by the membership, the membership as a whole is not privy to the conduct or actions of a Committee member in the performance of their duties on the Executive Committee therefore relief of a Committee member of their position will be determined by the Executive Committee.

3.6.1.1 NAC Executive Committee Composition. The NAC Executive Committee shall be composed of an appropriate number of Member Organization representatives not to exceed twelve (12). At least one (1) of the elected representatives of the NAC Executive Committee shall be from academia, either from an institution of higher education or from an organization affiliated with an institution of higher education. The remaining elected representatives to the committee shall be representatives of NAC Member Organizations classified as either small or large businesses. The ratio of small to large business representation on the committee shall be balanced to reflect the distribution of small to large business in the general population of the NAC. The distribution of seats will be evaluated periodically and adjusted as necessary to appropriately represent the consortium membership. For example, as of October 1, 2014, there are five (5) small businesses; five (5) large businesses; and, one academic institution represented on the committee.

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 elected. The term of an Executive Committee member shall commence on October 1 of the year in which they were elected and expire on September 30 three (3) years later. The terms of elected members shall be staggered such that a minimum of three (3) Executive Committee positions will be offered for election on or before the first day of July. Elections shall be completed on or before the first day of September of the year in which their terms begin.

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 and DOTC organizations, the DoD Planning, Programming, Budgeting and Execution System (PPBES), the DoD materiel acquisition process, the DoD's capabilities development and integration process, and the Congressional budget process. NAC Executive Committee members 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 Independent Research and Development (IR&D) and Cooperative Research and Development (CRADA) programs related to projects in 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, or if an Executive Committee member's organization withdraws from the NAC, the vacated position will remain unfilled until the next general election process. Upon successful completion of the election process, 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. The name of the selected member will be

provided to the DOTC Program Office and DOTC Executive Committee to update their contact information and DOTC Executive Committee roster.

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 to do not constitute a material change to this Agreement.

3.6.1.6 Election of NAC Executive Committee. Elections to replace the NAC Executive Committee members whose terms are expiring, or if a position is vacant, will be conducted electronically, generally one time per year during the summer months. Elections 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 election 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 re-elected 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 3.3.5. 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. A NAC Member Organization making such nomination shall briefly describe the qualifications of the nominee for this position. The NAC Executive Committee will review all nominee applications against the qualifications cited in paragraph 3.6.1.3, and develop an Approved Slate of NAC Executive Committee candidates. From the Approved Slate, the NAC Executive Committee will establish a Recommended Slate, for use as provided below.

3.6.1.7 Voting Procedure.

- The voting shall be by electronic ballot, by one authorized representative from the NAC Member Organization voting. The results of the election will be announced via email to the Membership.
- Ballots will be provided to NAC Member Organizations electronically and must be completed and returned within 30 days. Only one ballot will be provided to each NAC Member Organization.
- Each NAC Member Organization that is a “Member in Good Standing” may cast a single ballot, selecting only the number of candidates in each category as specified on the ballot.
- Tabulation of ballots will be conducted by the CMF immediately following the close of balloting.

- The nominees in each category with the highest number of votes shall be elected to serve on the NAC Executive Committee provided at least 51% of the Member Organizations in good standing have voted. If less than 51% of the Member Organizations in good standing have voted, then the nominees on the Recommended Slate shall be elected to serve on the NAC Executive Committee.
- If there is a tie for the final opening in any category (Large Business, Small Business, Academia), another vote will be taken that includes only those candidates who tied in the particular category. Those with more votes than the tied candidates will be considered elected. Those receiving fewer votes will be eliminated from the subsequent ballot. The winner of the second balloting is the one who receives a simple majority vote. If there is a second tie vote, the selection of one of the two candidates will be delegated to the NAC Executive Committee who will meet as soon as possible for the purpose of breaking the tie.
- In cases where more than one ballot is received from an NAC Member Organization, the NAC Executive Director will be responsible for determining the valid ballot.

3.6.1.7.1 Special Elections. When deemed appropriate by consensus of the NAC Executive Committee, a special election may be held. In these cases, the NAC Executive Director will send a call for nominations to all NAC Member Organizations. Once all nominations are received, voting will generally follow the procedures provided above.

3.6.1.8 NAC Executive Committee Meetings. The Executive Committee will meet face-to-face 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. For example, meetings of the NAC Executive Committee may be held before or after the DOTC Executive Committee meetings. 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 elected 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 shall 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.

3.6.1.9 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.

3.6.2 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 super-majority that shall consist of three-quarters (3/4) vote of the NAC Executive Committee members that are eligible to vote in accordance with established policies and procedures.

3.6.2.1 NAC Executive Committee Chair. A NAC Executive Committee representative who will also serve as the industry/academia Co-Chair of the DOTC Executive Committee will chair 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 the successor is elected. The NAC Executive Committee Chair can serve no more than two consecutive terms, contingent upon the individual's eligibility to serve on the committee. 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 spokesman for the Executive Committee. The Chair is responsible for signing contracts and agreements on behalf of NAC after approval by the Executive Committee.

3.6.2.2 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 elected. 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.

3.6.3 NAC Expense Reimbursement.

3.6.3.1 NAC Executive Committee Expense Reimbursement. NAC Executive Committee members are obligated to attend the semi-annual DOTC Executive Committee and 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 DOTC or 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.

3.6.3.2 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.

3.6.4 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.

3.6.4.1 Standing Committees. The NAC Executive Committee will establish standing committees to support Executive Committee activities. At a minimum, a standing committee will be established to oversee ethics and compliance with independent reporting power to the membership. 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 Committee Chair is to lead meetings of the Committee and to guide the assigned activities of the group. The Committee Chair is responsible for reporting Committee activity to the Executive Committee as called for under its charter.

3.6.4.2 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.

3.6.5 NAC Advisory Board. The NAC Executive Committee may establish and maintain a NAC Advisory Board that shall consist of persons invited to serve by the NAC Executive Committee. Such Advisory Board members shall possess specific expertise considered of value to the NAC Executive Committee. The membership of the Advisory Board shall be limited to five (5) members and the NAC Executive Committee shall review membership of the Advisory Board annually. The Advisory Board activities shall be at the direction of the NAC Executive Committee. Travel expenses of Advisory Board members, if required in the performance of their assigned duties, as determined in advance by the NAC Treasurer, shall be limited to actual travel expenses incurred.

3.7 NAC Executive Director. The NAC Executive Director will be a non-government employee that is an independent contractor or an employee of a NAC Member Organization in “Good Standing”.

3.7.1 Selection of the Executive Director. Three (3) months prior to the expiration of the NAC Executive Director’s term, the NAC Executive Committee will solicit applications for the NAC Executive Director’s position. Applicants are required to briefly describe their qualifications for this position. Subsequently, a nominations committee will prepare a slate of qualified candidates and forward it to the NAC Executive Committee no less than forty-five (45) days prior to the incumbent term expiration. The NAC Executive Director will then be selected by a two-thirds majority vote of the NAC Executive Committee.

3.7.2 NAC Executive Director Term/Qualifications. The NAC Executive Director shall serve a three (3) year term that may also be extended at the discretion and with the approval of the NAC Executive Committee. The term of the NAC Executive Director shall be concurrent with the Government Fiscal Year. Nominees for the position of NAC Executive Director should have a good understanding of the specifics of this Agreement and the OT Agreement and should have experience in operations management and business development in defense related programs, including armament systems.

3.7.3 NAC Executive Director Vacancy. If for any reason the NAC Executive Director is no longer willing or able to serve as the NAC Executive Director, the NAC Executive Committee will coordinate the selection of a replacement in accordance with the procedures described in paragraph 3.7.1 within forty-five (45) days of notice of vacancy. The newly selected NAC Executive Director will complete the term of the former NAC Executive Director and have an option to sign a follow-on 3-year contract.

3.7.4 Responsibilities of the NAC Executive Director. 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 OT Agreement, the Statement of Work associated with the Executive Director Management Services Agreement.

3.7.5 NAC Executive Director Expenses. Expenses incurred by the NAC Executive Director will be reimbursed by the NAC through the CMF. The Executive Director 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.

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

3.8.1 Selection of the Director of Customer Affairs. Three (3) months prior to the expiration of the NAC Director of Customer Affairs’ term, the NAC CMF will solicit applications for the NAC Director of Customer Affairs position. Applicants are required to briefly describe their qualifications for this position. Subsequently, a nominations committee will prepare a slate of qualified candidates and forward it to the NAC Executive Committee no less than forty-five (45) days prior to the incumbent term expiration. The NAC Director of Customer Affairs will then be selected by a two-thirds majority vote of the NAC Executive Committee.

3.8.2 NAC Director of Customer Affairs Term/Qualifications. The Director of Customer Affairs shall serve a three (3) year term that may also be extended at the discretion and

with the approval of the NAC Executive Committee. The term of the NAC Director of Customer Affairs shall be concurrent with the Government Fiscal Year. 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 NAC Director of Customer Affairs Vacancy. If for any reason the NAC Director of Customer Affairs is no longer willing or able to serve as the NAC Director of Customer Affairs, the NAC Executive Committee will direct the CMF to 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 NAC Director of Customer Affairs will complete the term of the former NAC Director of Customer Affairs and have an option to sign a follow-on 3-year contract.

3.8.4 Responsibilities of the NAC Director of Customer Affairs. 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; 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 NAC Director of Customer Affairs Expenses. Expenses incurred by the NAC Director of Customer Affairs will be reimbursed by the NAC through the CMF. The NAC Member Organization providing 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 Consortium Management Firm. The CMF is an independent, neutral organization hired by the NAC Executive Committee to administer the day-to-day affairs of the NAC and to act as the NAC single point-contracting agent. The CMF shall serve the best interests of the NAC Member Organizations under the terms and conditions of a separate five-year management services agreement with oversight and direction of the NAC Executive Committee.

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

- a) Providing the NAC Executive Committee managerial and administrative support;
- b) Administering the OT Agreement, 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 Ordnance Technology Base Agreements and Ordnance Technology Initiative Agreements with individual NAC Member Organizations; and Such other administrative functions assigned by the NAC Executive Committee and/or the OT Agreement. The CMF is prohibited from participating in any Ordnance Technology Initiative work solicited in the annual Request for Ordnance Technology Initiatives.

ARTICLE IV ORDNANCE TECHNOLOGY PROGRAM AND PLANNING PROCESS

4.1 Annual Technology Program

4.1.1 Ordnance Technology Initiative Solicitations, Proposals, Agreements. Using the co-developed Annual Technology Plan as defined by the DOTC Standard Operating Procedures, the Government will review and approve an annual Request for Ordnance Technology Initiatives, which shall be developed by the CMF. Upon approval by the Government the CMF will issue the Request for Ordnance Technology Initiatives to the NAC General membership calling for the submittal of whitepapers that detail Ordnance Technology Initiatives in the technology need areas defined in the Annual Technology Plan. Upon receipt of the whitepapers the CMF will review them for form, format and content and forward them to the Government for Government review. The Government will evaluate the whitepapers and respond with specific feedback. When the individual NAC Member Organizations receive the government feedback a decision will be made by the NAC Member Organization as to whether or not they will submit a proposal for the Ordnance Technology Initiative. If a positive decision is reached by the NAC Member Organization, the NAC Member Organization will prepare and submit a proposal. The CMF will perform an initial proposal screening for completeness and format compliance based upon the Request for Ordnance Technology Initiatives solicitation requirements and forward compliant proposals to the Government for evaluation and source selection. The Government will be responsible for technical evaluation and selection of Ordnance Technology Initiatives from the proposals submitted. The CMF will assess the reasonableness and completeness of the cost estimates and then provide a formal assessment to the Government. The Government Contracting Center will review this assessment and make the final determination regarding whether the negotiated initiative value is fair and reasonable. Then the Government will issue a Technical Direction Letter (TDL) authorizing the NAC through its CMF to enter into Ordnance Technology Initiative Agreements with NAC Member Organization for the Ordnance Technology Initiative proposed and accepted by the Government. The NAC through its CMF will then enter into an Ordnance Technology Initiative Agreements with the successful NAC Member Organization and flow down the applicable terms and conditions of the Ordnance Technology Base Agreement. The CMF, in conjunction with the DOTC Program Office and the designated AOR, shall then monitor performance jointly and perform daily administration of the Ordnance Technology Initiative Agreements for the period of performance of the Ordnance Technology Initiative. The DOTC Program Director/Technology Manager

and/or designated AOR for the specific Ordnance Technology Initiative will be responsible for the acceptance of the technical work performed.

4.1.2 Participation of Non-Traditional Contractors / Solicitation of Cost Share. In accordance with the provisions contained in 10 USC 2371 governing the use of Other Transaction Agreements, each NAC Member Organization must have at least one non-traditional defense contractor participating to a significant extent in the performance of an awarded Ordnance Technology Initiative or provide a cost share of no less than one third of the value of the Ordnance Technology Initiative awarded to the Member Organization.

Definitions and detailed requirements for non-traditional defense contractors and cost share will be provided in the annual Request for Ordnance Technology Initiatives solicitation and the Proposal Preparation Guide.

4.1.3 Diligent Efforts. Both the Government and the NAC Member Organization conducting Ordnance Technology Initiatives shall use all reasonable efforts and proceed diligently to perform the Ordnance Technology Initiatives, including, without limitation, by

- a) Using their good faith efforts to allocate a sufficient number of personnel per year,
- b) Using personnel with sufficient skills and experience, and
- c) Using adequate equipment and facilities, to carry out their obligations under the Ordnance Technology Initiative Agreement(s).

The Parties agree to conduct activity under the Annual Technology Plan including the Ordnance Technology Initiatives, in a good technical manner, and in compliance with applicable laws, rules and regulations, and all other requirements to attempt to achieve the objectives efficiently and expeditiously. The Parties further agree that the primary goal of this Program is to conduct demonstrations of the technology developed from the Ordnance Technology Initiatives. Accordingly, all Parties shall use diligent efforts to conduct such research and development efforts as are outlined in the relevant Ordnance Technology Initiatives with the goal of conducting such technology demonstrations as soon as practicable. The Parties further agree to use diligent efforts to meet the schedules established in the applicable Ordnance Technology Initiative Agreements for achieving specific objectives and milestones contained therein.

ARTICLE V WITHDRAWAL

5.1 Voluntary Withdrawal. A NAC Member Organization may voluntarily withdraw from this Agreement at any time and for any or no reason by notice of withdrawal given by such NAC Member Organization to the Executive Committee, the NAC Executive Director and the CMF in accordance with paragraph 11.7.

5.2 Involuntary Withdrawal. If a NAC Member Organization materially breaches any material warranty, term or condition of this Agreement and fails to remedy such material breach within ninety (90) days after receipt of notice of such material breach from another NAC Member Organization and/or the NAC Executive Committee, the NAC Executive Committee shall have the right to cause the involuntary withdrawal of such NAC Member Organization; such withdrawal to be effective immediately upon delivery of a notice from the NAC Executive Committee to such NAC Member Organization indicating their election to cause such involuntary withdrawal to occur.

5.3 Effect of Withdrawal.

5.3.1 Rights of a NAC Member. Except for the rights and obligations with respect to confidential information and/or specific intellectual property agreements between or amongst the NAC Member Organizations, from and after the effective date of withdrawal of a NAC Member Organization, such organization shall cease to have any rights as an NAC Member Organization under this Agreement.

5.3.2 Continued Funding and Technology Contribution Commitment. In the event of the withdrawal of a NAC Member Organization pursuant to this Article V, such organization's rights and obligations pursuant to any Ordnance Technology Initiative Agreements, including, but not limited to, continued funding and technology contribution commitments shall continue in accordance with the specific terms of the Ordnance Technology Initiative Agreement.

5.3.3 Outstanding Financial Obligations of a NAC Member Organization. In the event of the withdrawal of a NAC Member Organization pursuant to this Article V, such organization's financial obligations to the NAC pursuant to receipt of any Ordnance Technology Initiative Awards, specifically award assessments (paragraph 3.3.2) and/or pursuant to annual membership dues (paragraph 3.3.1) shall continue until all outstanding obligations are satisfied according to Article III of this Agreement.

**ARTICLE VI
TERM, RENEWAL, AND TERMINATION**

6.1 Term. The term of this Agreement shall be for a period of ten (10) years from the Effective Date of this Agreement.

6.2 Renewal. No more than ninety (90) days prior to the expiration date of this Agreement, the Parties agree to enter into good faith negotiations to establish an extension to this Agreement, or a follow-on Agreement as the case may be.

6.3 Termination of Agreement. Except for the rights, obligations and commitments of the individual or collective NAC Member Organizations with respect to Article VI, cash or in-kind contributions required by a specific Other Transaction Agreement, and/or specific intellectual property agreements between or amongst the NAC Member Organizations and/or the Government, unless extended by mutual written agreement of the Parties, this Agreement shall automatically terminate only by written notice of a specific Party and/or by the Parties collectively.

6.4 Material Breach or Default by a NAC Member Organization. If a NAC Member Organization materially breaches any material warranty, term or condition of this Agreement, any other NAC Member Organization may provide notice of such material breach to the NAC Executive Committee. The NAC Member Organization representatives to the NAC Executive Committee shall review the facts of the willful material breach or default and determine whether the NAC Member Organization alleged to have materially breached any material term or condition of this Agreement has, in fact, committed such a material breach. Upon such decision, the NAC Executive Committee shall notify the offending NAC Member Organization in accordance with the provisions of paragraph 11.7. If the organization fails to remedy such material breach within ninety (90) days after receipt of such notice of such material breach from the NAC Executive Committee (it being further agreed that the NAC Executive Committee may also provide such notice to all other Parties to this Agreement), the NAC Executive Committee may, at its option, and in addition to any other remedies that the NAC may have in law or equity, terminate this Agreement with respect to such NAC Member Organization by sending a notice of termination to such NAC Member Organization. If the NAC Executive Committee representatives are unable to reach agreement, the facts of the willful material breach or default shall be submitted for resolution pursuant to Article IX.

6.5 Survival. Notwithstanding the above provisions, the NAC Member Organization's rights and obligations with respect to the Ordnance Technology Initiative Agreement and/or specific intellectual property agreements by and, between the Government and the NAC Member Organization shall survive any expiration or termination of this Agreement.

ARTICLE VII REPRESENTATIONS AND WARRANTIES

7.1 Representations and Warranties of All Parties. Each Party represents and warrants that:

- a) It is free to enter into this Agreement;
- b) In so doing, it will not violate any other agreement to which it is a party; and
- c) It has taken all action necessary and required to authorize the execution and delivery of this Agreement and the performance of its obligations under this Agreement.

7.2 Limitations. EXCEPT AS EXPRESSLY PROVIDED IN THIS ARTICLE VII, NO PARTY TO THIS AGREEMENT MAKES ANY WARRANTY, EXPRESS OR IMPLIED, EITHER IN FACT OR BY OPERATION OF LAW, BY STATUTE OR OTHERWISE, RELATING TO (i) ANY RESEARCH CONDUCTED UNDER THIS AGREEMENT OR (ii) ANY INVENTION CONCEIVED AND/OR REDUCED TO PRACTICE UNDER THIS AGREEMENT OR (iii) ANY OTHER INTELLECTUAL PROPERTY DEVELOPED UNDER THIS AGREEMENT, AND EACH PARTY TO THIS AGREEMENT SPECIFICALLY DISCLAIMS ANY IMPLIED WARRANTY OF MERCHANTABILITY OR WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE.

ARTICLE VIII LIMITATION AND CROSS-WAIVER OF LIABILITY

8.1 Waiver of Liability. NAC Member Organizations waive all claims against any of the entities or persons listed **Exhibit A** of this Agreement, (and those NAC Member Organizations that join subsequent to the effective date of this Agreement) based on alleged damages relating to and arising out of activities under this Agreement and the injured NAC Member Organization suffers such damages by virtue of its involvement under this Agreement. Notwithstanding the foregoing, this waiver shall not apply to claims or damages arising from or related to confidential information, rights in data and copyrights, inventions, and/or publication and data rights as set forth in the OT Agreement.

8.2 Limitation of Liability. IN NO EVENT WILL ANY PARTY HERETO BE LIABLE FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL OR INDIRECT DAMAGES ARISING IN ANY WAY OUT OF THIS AGREEMENT, HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY. THIS LIMITATION WILL APPLY EVEN IF THE OTHER PARTY OR PARTIES HERETO HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

8.3 Inapplicability. Notwithstanding the other provisions of this clause, this waiver of liability shall not be applicable to:

- a) Claims between a NAC Member Organization and its related entities or claims between the Government's related entities (however, claims between the Government and the NAC Member Organizations, or vice versa, are not included within this exception);
- b) Claims made by a natural person, his/her estate, survivors or subrogates for injury or death of such natural person;
- c) Claims for damage caused by intentional, willful or gross misconduct; and
- d) Intellectual property claims.

Nothing in this Article VIII shall be construed to create the basis of a claim or suit where none would otherwise exist.

ARTICLE IX DISPUTE RESOLUTION

9.1 Dispute Resolution Process. The Parties recognize that disputes as to certain matters may from time to time arise during the term of this Agreement, which relate to a Party's rights and/or obligations hereunder or there under. It is the objective of the Parties to establish procedures to facilitate the resolution of disputes arising under this Agreement in an expedient manner by mutual cooperation and without resort to litigation. To accomplish this objective, the Parties agree to follow the procedures set forth in this Article IX if and when a dispute arises under this Agreement.

9.2 Dispute Resolution Representatives. In the event of disputes between the Parties, including disputes among the NAC Member Organizations' representatives of the NAC Executive Committee which such representatives are unable to resolve, a Party seeking to resolve such dispute will, by written notice to the other, have such dispute referred to their respective executive officers designated below or their successors, for attempted resolution by good faith negotiations within fourteen (14) days after such notice is received. The Parties executive officers are as follows:

- | | |
|--------------------------------------|--|
| a) For the NAC Member Organizations: | Designated Senior Executive |
| b) For the Consortium: | Designated Senior Executive that is the Industry Co - Chairperson of the DOTC Executive Committee |

In the event the designated officers are not able to resolve such dispute, either Party may at any time after the fourteen (14) day period invoke the provisions of paragraph 9.3 hereinafter.

9.3 Alternative Dispute Resolution. Following settlement efforts pursuant to paragraph 9.2, any dispute, controversy or claim arising out of or relating to the validity, construction, enforceability or performance of this Agreement, including disputes relating to alleged breach or to termination of this Agreement, while excluding disputes that are expressly prohibited herein from being resolved by this mechanism, shall be settled by binding Alternative Dispute Resolution ("ADR") in the manner described below:

9.3.1 ADR Request. If a Party intends to begin an ADR to resolve a dispute, such Party shall provide written notice (the "ADR Request") to the other Party informing such other Party of such intention and the issues to be resolved. From the date of the ADR Request and until such time as any matter has been finally settled by ADR, the running of the time periods

contained in Articles VII and X of the OT Agreement under which a Party must cure a breach of this Agreement shall be suspended as to the subject matter of the dispute.

9.3.2 Additional Issues. Within ten (10) business days after the receipt of the ADR Request, the other Party may, by written notice to the Party initiating ADR, add additional issues to be resolved.

9.3.3 No ADR of Patent Issues. Disputes regarding the scope, validity and enforceability of patents shall not be subject to paragraph 9.4 and shall be submitted to a court of competent jurisdiction.

9.4 Arbitration Procedure. Any dispute or claim arising out of or in connection with, this Agreement shall be finally settled by binding arbitration in accordance with the then current rules and procedures of the American Arbitration Association. However, if a Party can provide evidence that it is prohibited to enter into binding arbitration, the dispute resolution procedures will be negotiated on a case-by-case basis. The arbitration shall be conducted by three (3) arbitrators with experience with the issue under consideration, one (1) each to be appointed by the Parties in Dispute and a third being nominated by the two (2) arbitrators so selected or, if they cannot agree on a third arbitrator, by the President of the American Arbitration Association. Such arbitration will take place in New York, New York, unless otherwise determined by a requisite majority of the Executive Committee. The arbitrators shall apply the law of the State of New York to the merits of any dispute or claim, without reference to rules of conflicts of laws. For public academic research institutions who become party to a dispute under this article, the arbitrators shall apply the law of the State of New York, to the extent it does not conflict with the public academic research institution's state law. Judgment on any award rendered by the arbitrators may be entered in any court having jurisdiction thereof. The Parties agree that, any provision of applicable law notwithstanding, they will not request, and the arbitrators shall have no authority to award punitive or exemplary damages against any Party. Nothing in this Article IX shall limit a Party's right to seek injunctive relief with respect to a breach or threatened breach of this Agreement.

9.5 Governing Law. This Agreement shall be governed by, construed, and interpreted in accordance with 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 reference to principles of conflicts of laws.

ARTICLE X FILING WITH US ATTORNEY GENERAL AND FEDERAL TRADE COMMISSION

10.1 Except for the disclosure of basic information regarding the NAC, (i.e., membership, purpose and a general description of the technical work) formal written approval by the NAC Executive Committee is required for any specific publicity or advertising relative to

this Agreement. However, the Parties agree that notification of the establishment of this research and development consortium shall be filed by the selected CMF on behalf of the Parties with the U.S. Attorney General and the Federal Trade Commission in accordance with the provision of the National Cooperative Research Act of 1984 within 90 days of execution of these Articles and after adequate review by all Parties. The costs of this filing shall be borne by the NAC.

ARTICLE XI GENERAL PROVISIONS

11.1 Independent Contractors. The relationship of the Parties established by this Agreement is that of independent contractors and nothing contained in this Agreement shall be construed to (i) give any of the Parties hereto the power to direct or control the day-to-day activities of another Party hereto, (ii) constitute the Parties as partners, joint ventures, co owners or otherwise as participants in a joint or common undertaking or (iii) allow any of the Parties hereto to create, discharge or assume any obligation on behalf of another Party hereto for any purpose whatsoever.

11.2 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. Accordingly, any NAC Member Organization will not export, directly, or indirectly, any products and/or technology, Confidential Information, Trade Secrets, or Classified and Unclassified Technical Data to any country for which the United States Government or any agency thereof at the time of export requires an export license or other government approval, without first obtaining the written consent to do so from the Department of State or other agency of the United States Government when required by applicable statute or regulation.

11.3 Parties Bound. This Agreement, including the indemnification provisions, shall be binding upon and inure to the benefit of the Parties hereto, their respective successors, assigns, legal representatives and heirs.

11.4 Assignment. This Agreement may not be assigned or transferred by any of the Parties hereto without the prior written consent of the NAC Executive Committee; provided, however, that a NAC Member Organization may assign its rights and delegate its obligations (i) to any affiliate of such NAC Member Organization (although, in the event of any such assignment and delegation, the assigning NAC Member Organization shall remain primarily liable for its obligations hereunder) and (ii) to a purchaser of all or substantially all of the business of such NAC Member Organization to which this Agreement relates by merger, sale of assets or otherwise. If the NAC Member Organization, after the assignment or purchase, cannot meet the requirements for NAC membership as called out in the Consortium Member Agreement, the NAC Member Organization will be considered to have voluntarily withdrawn from the Consortium in accordance with Article V herein.

11.5 Affiliates. The Parties hereto acknowledge and agree that NAC Member Organizations may elect to carry out certain activities required or permitted pursuant to this Agreement by or through their affiliates. To the extent an Affiliate performs in the place of an NAC Member Organization, this Agreement shall be binding on the affiliates of NAC Member Organizations in accordance with the terms of this Agreement as if such affiliates were parties to this Agreement.

11.6 Further Assurances. At any time or from time to time after the Effective Date, a NAC Member Organization shall, at the request of the NAC Executive Committee or any NAC Member Organization, (i) execute, and deliver or cause to be delivered, all such assignments, consents, documents or further instruments of transfer or license, and (ii) take or cause to be taken all such other actions, as any Consortium Member may reasonably deem necessary or desirable in order for the NAC Member Organization to obtain benefits of this Agreement and the transactions contemplated hereby to which the NAC Member Organization may be entitled.

11.7 Notices. Any notice or other communication required or permitted under this Agreement shall be in writing and (i) personally delivered, (ii) mailed, postage prepaid, first class, certified mail, return receipt requested, (iii) sent, shipping prepaid, return receipt requested by national overnight courier service, or (iv) sent by electronic mail to the appropriate Party or Parties at the addresses as set forth in Exhibit A or at such other addresses as may be given from time to time in accordance with the terms of this provision. Any notice or other communication given by personal delivery shall be deemed given on the date personally delivered; any notice or other communication given by mail shall be deemed given five (5) days after the date deposited in the United States mail; and any notice or other communication given by national overnight courier service shall be deemed given on the next business day after being sent.

11.8 Amendment. This Agreement may only be amended by a written instrument executed by the Parties.

11.9 Waiver. No waiver of any rights shall be effective unless assented to in writing by the Party to be charged, and the waiver of any breach or default shall not constitute a waiver of any other right hereunder or any subsequent breach or default.

11.10 Section Headings. The headings of the several sections of this Agreement are intended for convenience of reference only and are not intended to be a part of, or to affect the meaning or interpretation of this Agreement.

11.11 Severability. In the event that any provision of this Agreement becomes or is declared by a court of competent jurisdiction to be illegal, unenforceable or void, this Agreement shall continue in full force and effect without said provision; provided that no such severance of any provision shall be effective if the result of such materially changes intended purposes of this Agreement to the Parties.

11.12 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same

instrument. All Consortium Members shall receive a copy of this executed Consortium Member Agreement and any amendments thereto with the NAC Executive Committee, or its designee, retaining the originals.

11.13 Public Announcements. Any announcements, press releases or similar publicity (collectively, "Announcements") with respect to the execution of this Agreement shall be submitted to and agreed upon by the NAC Executive Committee in advance of such Announcement. NAC Member Organizations shall approve any Announcements that include that NAC Member Organization.

11.14 Disclosure. Except as specifically authorized in accordance with paragraph 11.13, the Parties agree that the existence and terms of this Agreement shall be maintained in confidence by all Parties, except that any Party may disclose the terms hereof to the extent required by law (including without limitation pursuant to the requirements of U.S. securities laws), provided that such disclosure under this paragraph 11.14 shall, to the extent legally permissible, be in the form of the redacted version of this Agreement to be agreed upon by the NAC Executive Committee.

11.15 No Third Party Beneficiary Rights. The Parties agree and acknowledge that the Government is not intended to be, and shall not constitute, a third party beneficiary of this Agreement, which is intended exclusively as an agreement among, and for the benefit of, the NAC Member Organizations.

11.16 Force Majeure. No failure or omission by the NAC Member Organizations in the performance of any obligation of this Agreement shall be deemed a breach of this Agreement or create any liability if the same shall arise from any cause or causes beyond the control of the Parties, including, but not limited to, the following: acts of God; acts or omissions of any government; any rules, regulations or orders issued by any governmental authority or by any officer, department, agency or instrumentality thereof; fire; storm; flood; earthquake; accident; war; rebellion; insurrection; riot; and invasion and provided that such failure or omission resulting from one of the above causes is cured as soon as is practicable after the occurrence of one or more of the above-mentioned causes.

11.17 Order of Precedence. In the event of any inconsistency among the terms of this Agreement and the terms set forth in any open OT Agreement or any award issued pursuant to an open OT Agreement, the inconsistency shall be resolved by giving precedence in the following order: (1) the affected OT Agreement and any Attachments thereto, (2) Ordnance Technology Initiative Agreements issued to NAC Member Organizations, and (3) this Consortium Member Agreement.

11.18 Entire Agreement. This Agreement, and all Exhibits referred to herein, embody the entire understandings of the Parties with respect to the subject matter hereof and shall supersede all previous communications, representations or understandings, either oral or written between the Parties relating to the subject matter hereof.

11.19 Earmarked Funding. It is the intent of the parties that efforts undertaken by the NAC, individual NAC Member Organizations, or groups of NAC Member Organizations functioning under the auspicious of the NAC, are to be conducted for the furtherance of collective goals and objectives of the NAC and not in the furtherance of individual NAC Member Organization's interest. However, if as a result of the yearly Government budget and appropriations process, specific armament and armament-related funding is earmarked for specific NAC Member Organizations, institutions and/or geographic regions, it is understood that the other NAC Member Organizations, or groups of NAC Member Organizations shall not challenge or interfere with said processes.

11.20 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.

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: _____

Exhibit A: List of Active NAC Member Organizations

(This exhibit will be updated periodically to reflect changing membership status. The CMF will maintain a current membership list and will make it available on the NAC Members Only website.)