

# CONSORTIUM FOR EXECUTION OF RENDEZVOUS AND SERVICING OPERATIONS (CONFERS)

## Articles of Collaboration

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## **PURPOSE**

These Articles of Collaboration (“AoC”) are entered into, as of 18 May 2018, to establish the Consortium for Execution of Rendezvous and Servicing Operations (CONFERS).

CONFERS will establish an independent, self-sustaining industry forum to advocate for and promote on-orbit satellite maintenance, servicing, and rendezvous operations by collaborating to research, develop, and publish voluntary, consensus best practices, guidelines and technical and safety standards, and engaging with governments on policy and oversight of satellite servicing activities.

To fulfill its mission, CONFERS will recruit a broad array of members from satellite original equipment manufacturers, satellite operators, service providers, and insurers and underwriters, and will engage other stakeholders from industry, academia, and governments. The process will be fully collaborative and will include dedicated outreach activities to engage the global commercial satellite community.

## **DEFINITIONS**

HEREINAFTER the following definitions apply:

Affiliate means, with respect to a specified Member that is a signatory to the AoC, any corporation, company, partnership, joint venture, and/or firm that now or hereafter controls, is controlled by, or is under the common control of such specified Member. 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; or (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.

Charter Consortium Member(s) means those Consortium Members as set forth in Exhibit A that comprised the Formation Committee of the CONFERS, which developed these Articles.

CONFERS means the Consortium for Execution of Rendezvous and Servicing Operations, which is made up of Members from industry, academia, nonprofit organizations, and not-for-profit organizations pursuant to these Articles.

CONFERS Secretariat refers to the organizations acting on behalf of the CONFERS (not as an agent of any individual Member) to execute and administer the CONFERS program of work, as approved initially by the Defense Advanced Research Projects Agency (DARPA) and in the future by the CONFERS Executive Committee. At the time of CONFERS formation, the Secretariat is comprised of Advanced Technology International (ATI), Secure World Foundation (SWF), Space Infrastructure Foundation (SIF) and the University of Southern California Space Engineering Research Center (USC SERC).

CONFERS Technology refers to ideas, specifications, software, information, materials, technology, and/or other information or materials that are created, conceived, or developed, whether or not reduced to practice, under any phase or portion of the services and/or work performed hereunder.

Consortium Manager (“CM”) refers to the organization acting on behalf of the CONFERS (not as an agent of any individual Member) to negotiate, execute, and administer the CONFERS efforts. The CM’s purpose is to perform the specific Consortium Management duties as specified in the AoC between the Executive Committee and organization, as well as provide support to the operations of CONFERS, as determined by the Executive Committee.

Executive Committee manages and governs the Consortium. It determine all policy, business, financial, legal, and technical issues and to represent the Consortium and the Members in reporting progress, approving business arrangements and obligations of CONFERS.

Formation Committee means the committee that, prior to election of an Executive Committee, will represent the common, collective interests of those companies and organizations that have expressed their desire and intent to

form a Consortium, and to guide the efforts of the represented organizations in rapidly forming the CONFERS and commencing the standards development process. Until such time that the Executive Committee is elected and seated, the Formation Committee will serve as the Executive Committee as described in the AoC.

Member or Members means an individual CONFERS Member organization or the CONFERS Member organizations collectively that are signatories to the CONFERS AoC.

#### **ARTICLE 1: OBJECTIVES**

As of the Effective Date of these Articles, the Members hereby agree to create the CONFERS. Through collaboration with carefully chosen industry and Government space experts and stakeholders, both domestic and international, the Consortium aims to benefit the entire on-orbit servicing industry by building and promoting a common understanding between developers, operators, customers, investors, insurers, and Government policymakers. Members acknowledge and understand that in certain lines of business they are or may be direct competitors and that it is imperative to foster open competition in the development of on-orbit satellite maintenance, servicing and rendezvous operations, and related technology and standards.

The standards will be broad enough to allow individual companies to pursue their own implementations of these standards to suit their individual businesses, while assuring that the implementations reflect best practices for operational safety.

#### **Membership**

As of the Effective Date of the AoC, the Members are those Charter Members listed in Exhibit A. The CONFERS CM will maintain a current membership list and will make it available on a CONFERS website as additional members join the Consortium. The intent of the Members is that the CONFERS will be open to and include Members from industry, academic research institutions, and nonprofit and not-for-profit organizations having a direct and material interest in participating in the standards development process. The CONFERS will admit additional Members in accordance with the provisions contained in the AoC. Any Members, regardless of when they join the CONFERS, shall enjoy the same rights and incur the same obligations as any other Member hereunder to the extent consistent with their respective Membership Tier.

Membership may be granted to U.S., multi-national, and foreign firms or institutions. The CONFERS Executive Committee (or the CONFERS Formation Committee if the Executive Committee has not yet been seated) shall approve all applications for membership based on a majority vote of the Executive Committee Members. Because a candidate for CONFERS membership may elect to disclose sensitive business or financial information on that organization's membership application, the Executive Director and CM will screen all membership applications and will redact any sensitive material before forwarding the application to the Executive Committee for disposition. Membership in the CONFERS will become effective upon approval of the membership application. The CM will review the status of Members periodically to ensure they are in good standing as defined below.

#### **Membership Requirements**

The Parties agree that membership in the CONFERS shall be granted only to firms or institutions that:

- a) Have valuable insight into on-orbit servicing and will contribute their respective talents and resources to the CONFERS for activities such as periodic meeting attendance, committee and subcommittee participation, and other consultation and/or services as may be appropriate;
- b) Are not more than 50% owned/controlled by their respective government; and
- c) For U.S. companies, are not suspended or debarred from contracting with or receiving funds from the United States Government.

During the period of time when CONFERS is receiving funding from the U.S. Government, the CM will notify the Government of the addition or deletion of Members quarterly and upon request.

In addition, the CM will make appropriate filings under the National Cooperative Research and Production Act.

## Membership Tiers

The CONFERS will establish a tiered membership structure, with annual dues payments commensurate with the benefits accorded to each tier, as described in Table 1 immediately below.

*Table 1. CONFERS Membership Tiers and Respective Privileges and Requirements.*

Tier	Privileges	Requirements
Sustaining Member	<ul style="list-style-type: none"> <li>• Opportunity to serve on the CONFERS Executive Committee as one of five Sustaining Members elected by the other Sustaining Members to serve on the Executive Committee.</li> <li>• Participation in all Executive-level meetings and voting rights on all decisions except those reserved specifically for the Executive Committee.</li> <li>• Voting rights to forward draft standards to the Executive Committee for final approval following the annual General Assembly meeting.</li> <li>• Participation in CONFERS Working Groups and standards drafting workshops.</li> <li>• Access to member-only website and services.</li> </ul>	<ul style="list-style-type: none"> <li>• Established contracts to               <ul style="list-style-type: none"> <li>○ provide components, designs, or systems unique to on-orbit servicing;</li> <li>○ purchase commercial On Orbit Servicing / Rendezvous and Proximity Operations (OOS/RPO) services;</li> <li>○ provide commercial OOS/RPO services;</li> <li>○ insure commercial OOS/RPO services.</li> </ul> </li> <li style="text-align: center;">OR</li> <li>• Raised public or private capital or in-kind funds for establishing an OOS or RPO service.</li> </ul>
Contributing Member	<ul style="list-style-type: none"> <li>• Opportunity to serve on the CONFERS Executive Committee as one of two Contributing Members elected by the other Contributing Members to serve on the Executive Committee.</li> <li>• Voting rights to forward draft standards to the Executive Committee for final approval following the annual General Assembly meeting.</li> <li>• Participation in CONFERS Working Groups and standards drafting workshops.</li> <li>• Access to member-only website and services.</li> </ul>	<ul style="list-style-type: none"> <li>• Prior experience in the technical, financial, legal, or policy aspects of OOS or RPO.</li> </ul>
Observer	<ul style="list-style-type: none"> <li>• Participation in CONFERS Working Groups and standards drafting workshops.</li> <li>• Access to member-only website and services.</li> </ul>	<ul style="list-style-type: none"> <li>• Established non-governmental entity (private sector company, academic institution, nonprofit organization entity).</li> </ul>

### **Membership Dues**

The Executive Committee will develop and approve a dues structure commensurate with the activities and responsibilities required to achieve the goals of the Consortium. The intent of CONFERS will be to begin collecting dues as soon as practical, but no later than July 2019. . Dues will be set for subsequent years by recommendation from the Executive Committee, no later than 60 days prior to the end of the year. Members also may be asked to provide non-monetary contributions, such as hosting meetings or providing subject matter expertise, during the course of Consortium activities.

Members will begin paying dues by July 2019 in the amounts listed as follows: \$1,000 for Sustaining Member, \$500 for Contributing Member, and \$250 for Observer.

Dues will be set for subsequent years by recommendation of the Executive Committee, no later than 60 days prior to the end of the year. Members will pay non-refundable dues annually beginning 1 January in the amounts listed in the approved and updated AoC. New Members will pay pro-rated dues payable upon initial acceptance of membership and then annual dues thereafter. Using the pro-rated dues structure, based upon the date of initial application acceptance, Members joining after 1 July 2020 will pay 50% of the membership fee.

### **Affiliates**

Affiliates of approved CONFERS Members, as defined in the “Definition section on page 3of these Articles may apply and be approved for membership in the tier in Table 1, above, that aligns with the privileges and requirements pertaining to that Affiliate. Only the parent organization may pursue election to the Consortium Executive Committee, and only the parent organization may vote on issues presented to the full membership for a vote. The parent organization may choose to delegate to one of its Member Affiliates the parent’s participation on the Executive Committee and/or the parent’s vote on CONFERS activities submitted to the respective CONFERS approval authority for a vote. Such delegation shall be in writing and shall be submitted to the CONFERS Secretariat.

### **Obligations to be a Member in Good Standing**

To be a Member in good standing, organizations must be:

- a) Current (no greater than 60 days past due) on Membership Dues;
- b) Current (no greater than 60 days past due) on non-monetary commitments as may be required by the membership tier.

Only Sustaining and Contributing Members in good standing will be permitted to vote on matters presented to the CONFERS for action.

## **ARTICLE 2: CONSORTIUM GOVERNANCE**

### **Formation Committee**

During the Consortium start-up period, a Formation Committee will convene to guide the establishment and initial ramp-up of the Consortium. Representatives from the CONFERS Secretariat and the Charter Member companies (Exhibit A) will comprise the Formation Committee. Following ratification of these Articles of Collaboration, the Formation Committee will elect a Chair from its Charter Member companies. A Formation Committee Charter will govern the responsibilities of the committee. At some point in the first six to twelve months after start-up of the Consortium, when a base of Members representing all categories have joined, the Formation Committee will dissolve and transition to a leadership structure led by an Executive Committee as described below.

The Consortium will select, retain and pay for outside counsel to advise the Consortium and its Members on compliance with applicable antitrust laws. The retained counsel shall provide antitrust training for Members and Committees on a regular basis, no less frequently than annually. The retained counsel also shall prepare an antitrust briefing specific to the mission and objectives of the Consortium, which will be updated from time to time as conditions warrant. This briefing will be presented by the CM’s representative to the Executive Committee at all Member and Committee meetings.

### **Executive Committee**

Subject to the terms and conditions stated herein, the Consortium will be managed and governed by an Executive Committee, which is empowered to determine all policy, business, financial, legal, and technical issues and to represent the Consortium and the Members in reporting progress, approving business arrangements and obligations of CONFERS. Specifically, and without limitation, the Executive Committee is empowered to redirect the research or redefine the tasks and goals of the Members.

The affairs of the CONFERS shall be governed by an Executive Committee of seven elected representatives. These seats shall be elected from CONFERS Member organizations with participation rights in the Executive Committee in the numbers specified below, each to serve for a term of two years. Additionally, the CONFERS Secretariat shall provide two permanent Members on the Executive Committee, one representing the Consortium operations activities (Advanced Technology International, in this case) and one representing the technical operations activities (Secure World Foundation, in this case).

The Executive Committee shall be comprised of:

- a) five sustaining Members;
- b) two contributing Members;
- c) one representative from Advanced Technology International; and
- d) one representative from Secure World Foundation

Four of the initial roster of elected Executive Committee Members will have a one-time, three-year term to provide continuity during CONFERS startup, after which the Executive Committee will establish an annual rotation cycle of approximately one-half of the elected committee Members.

The Executive Committee will assume responsibility for implementing firewalls or such other measures to protect competitively sensitive information of the Members and to avoid and mitigate potential organizational conflicts of interest. The oversight of such duties may be delegated to the CONFERS CM. Any person serving on the Executive Committee may be relieved of his/her position at any time with or without cause by a super majority vote of the CONFERS Executive Committee members. All other decisions of the Executive Committee shall require a simple majority vote of the committee, unless a super-majority vote is required by the Executive Committee as outlined below.

#### **Executive Committee Quorum, Voting and Proxy Protocol**

The Executive Committee may conduct business at all meetings where five (5) or more of the nine (9) members are present, providing at least four (4) of the seven (7) elected members are present.

The Executive Committee shall dispose of business issues presented to it by a vote of all Executive Committee members present at the meeting where the issues are presented and discussed. Only those individuals actually present at the meeting may vote. Executive Committee meetings may be conducted by conference call, and voting shall be accomplished only by those members participating on the conference call. Voting on all issues presented to the Executive Committee for decision shall be deemed approved by a simple majority of all Executive Committee members participating in the vote. The Executive Committee shall have the authority to approve the following actions:

- a) Approve draft standards forwarded to the Executive Committee by the CONFERS sustaining and contributing Members;
- b) Approve admission of new Members to the Consortium;
- c) Approve the creation and dissolution of committees to assist the Consortium in conducting its business affairs; and
- d) Approve annual program plan for funding.

The Executive Committee may choose to require a super-majority vote to approve certain business issues presented to it for decision. For CONFERS, a super-majority is defined as 2/3 of the voting body. Those issues requiring a super-majority vote to approve shall be identified in advance of the meeting at which such vote will be conducted. Such issues may include, but will not be limited to:

- a) Revising the Articles of Collaboration; and
- b) Delegating authority of Executive Committee to the Chair of the Executive Committee.

Should a member of the Executive Committee be unavailable to participate in a scheduled Executive Committee meeting or conference call, that member may designate an individual from his or her organization to serve as that member's proxy for the meeting. Executive Committee members who wish to be represented by a proxy must inform the Chair and CM 24 hours in advance of the scheduled meeting regarding the need for a proxy.

### **Election of the Executive Committee**

Elections to replace the Executive Committee members whose terms are expiring or to fill a position that becomes vacant prior to the normal term expiration will be conducted once per year, typically in conjunction with the annual General Assembly membership meeting. The CONFERS Secretariat will preside over the elections. The Secretariat will solicit nominations for Executive Committee vacancies 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 membership tier of the organization they represent remains unchanged. Any Member in the Sustaining Member and Contributing Member tiers may nominate an individual from that tier to serve on the Executive Committee. All nominees must be employed by a "Member in Good Standing" organization as defined in the AoC. A Member Organization making such nomination shall briefly describe the qualifications of the nominee for this position. The Executive Committee, or some other committee the Executive Committee may assign, will review all nominee applications to determine if they meet nomination requirements. If, during their term, an Executive Committee member is no longer willing or able to serve on the Executive Committee, or if an Executive Committee member's organization withdraws from the Consortium, the vacated position will remain unfilled until the next general election process. Upon successful completion of the election process, the new Executive Committee member will serve for the remainder of the term for the vacancy that was created.

### **Voting Procedure**

The voting procedure for Executive Committee elections shall be by electronic ballot, by one authorized representative from the Member Organization voting. The CM will provide ballots to Member Organizations electronically, which must be completed and returned within 30 days. Each Member organization will be provided only one ballot for their organization. Each 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. In cases where more than one ballot is received from a Member Organization, the CM will be responsible for determining the valid ballot. The CM will tabulate ballots immediately following the close of balloting. The nominees in each category with the highest number of votes shall be elected to serve on the Executive Committee. The CM will announce the results of the election via email to the Membership.

### **Executive Committee Officers**

The Executive Committee Officers shall include a Chair, a Vice-Chair, and a Treasurer, to be selected by the Executive Committee, and a Program Manager and an Executive Director, provided by ATI and Secure World Foundation, respectively.

**Chair.** The Chair shall preside over all meetings of the Executive Committee, performing all duties customary to that office and supervising and controlling all of the affairs of the Executive Committee in accordance with policies and directives approved by the Executive Committee. The Chair shall not serve more than two successive terms.

**Vice-Chair.** The Vice-Chair shall act under the direction of the Chair and in the absence or disability of the Chair shall perform the duties and exercise the powers of the Chair. The Vice-Chair shall perform such other duties and have such other authority as the Executive Committee may from time-to-time prescribe by standing or special resolution, or as the Chair may from time-to-time provide, subject to the authority and the supervision of the Executive Committee.

**Treasurer.** The Treasurer shall act under the direction of the Chair as the financial representative responsible for making financial decisions and reviewing and approving all vouchers presented by the CM for payment beginning July 2019. The Treasurer shall approve disbursement of CONFERS funds by the CM and shall render to the Chair and the Executive Committee, at its regular meetings, or when the Executive Committee so requires, an account of the CM's transactions and of the financial condition of the CONFERS.

### **Subcommittees**

The Executive Committee shall have the authority to form subcommittees comprised of representatives from Member organizations to advise the CONFERS, and if applicable, collaborate with Government entities, on topics of special interest to the Members, including intellectual property, resolutions of organizational conflicts of interest, and procurement integrity.

### **CONFERS Secretariat**

The CONFERS Secretariat will coordinate all consortium management and technical operations undertaken in support of CONFERS objectives.

### **Consortium Manager**

Advanced Technology International is the CONFERS CM that will administer the business affairs under the direction of the Executive Committee, as delineated below:

- a) Act as the administrative point of contact for the CONFERS under the AoC and any amendments hereto;
- b) Assist the Formation Committee/Executive Committee in establishing the governance structure for CONFERS;
- c) Together with the Executive Committee, take appropriate steps to avoid organizational conflicts of interest among the Members and to mitigate such conflicts if they cannot be avoided;
- d) Be responsible for obtaining signatures of the Members on any amendments to these Articles;
- e) Request nominations, prepare a slate of candidates for any open committee positions, provide notice of committee membership and membership changes to the Members, provide notice of the Executive Committee meetings and a request for agenda items to the Members, and provide notice of Member additions and deletions;
- f) Manage the finances of CONFERS, to include invoicing, collecting, and tracking Membership Dues/personnel commitments from Member Organizations;
- g) Support Consortium outreach execution, to include maintaining public and members-only webpages and database and event planning;
- h) Provide quarterly financial reports to the CONFERS Executive Committee;
- i) Be responsible for the daily management of CONFERS;
- j) File with the U.S. Attorney General and the Federal Trade Commission changes in Membership in accordance with the provisions of the National Cooperative Research Act of 1984; and
- k) Have signature authority on behalf of CONFERS.

### **Executive Director**

The CONFERS Executive Director will organize and execute all technical project work of the CONFERS under direction of the Executive Committee. Secure World Foundation will provide the Executive Director, who will:

- a) Serve as the single point of contact to the Members, the CONFERS Executive Committee, and, when required, to governments or their respective designees, for all technical issues related to standards development;
- b) Supervise all supporting research into the standards to be developed, refined or depreciated;
- c) Coordinate all external engagements with CONFERS Members and stakeholders;
- d) Coordinate interaction with various Standards Development Organizations as necessary to publish consensus standards developed through the CONFERS process; and
- e) Direct and lead CONFERS management plan and OOS outreach strategy.

### **ARTICLE 3: CONSORTIUM MANAGEMENT**

#### **Management of Consortium Funds**

CONFERS shall operate on the funds provided by the Government under Contract No. HR011-18-C-0037, supplemented by funds derived from Membership Dues and other income streams CONFERS may develop over time. These funds will be deposited in an account that shall be administered by the CONFERS CM to achieve the objectives approved by the Executive Committee. As the amount of Government seed funding is reduced over time, the Executive Committee shall allocate sufficient CONFERS-generated funds to ensure the annual CONFERS program objectives can be fulfilled. Should additional CONFERS-generated funds, beyond those required to fulfill CONFERS objectives be available, the Executive Committee shall be authorized to disburse such funds for appropriate activities and services it deems consistent with achieving the objectives for which CONFERS was established. The CONFERS CM will keep accurate records as to any such disbursements made.

#### **Budget Approval Process**

Annually, beginning 60 days prior to the new year (1 January), the CONFERS CM will prepare and submit a Consortium Operations budget for the upcoming year to the Executive Committee for review and approval. This budget will address the entire scope of activities required to be accomplished in support of CONFERS objectives for that program year, the amount of Government funding that will be provided in that program year toward accomplishing those activities (if any), and the additional CONFERS-generated funding that is required. The Consortium Operations budget will describe and allocate the total amount of estimated funding needed to fully complete all the requirements for the year and will include the current CONFERS funding balance and projected CONFERS revenue for the coming year. The Executive Committee shall review and approve this budget, documenting such approval in the Executive Committee meeting minutes. Should any changes to the annual activities and/or the associated budget be required, the Executive Committee shall approve the changes before they can be implemented. The CONFERS CM and Secretariat shall not be obligated to perform tasks in an approved budget if the Consortium has insufficient funding.

#### **Payment**

Beginning in July 2019, CONFERS shall pay the CONFERS CM as compensation for the performance of the services based on the approved budget. Payments shall be approved by the CONFERS Treasurer monthly upon receipt and review of accurate invoices within 30 days of receipt of and verification of the accuracy of invoices.

#### **Financial and Status Reporting**

The CONFERS CM shall provide the Executive Committee regular status and financial reporting for work performed on the approved budget as well as overall CONFERS current and projected revenue.

### **ARTICLE 4: EFFECTIVE DATE**

The Articles, as of 19 June 2019, supersede the Articles that first became effective on 18 May 2018.

### **ARTICLE 5: TERM**

The Articles shall continue for a period of five years from the Effective Date of the Articles. The annual program year for CONFERS operational and financial activities is defined as 1 January through 31 December. The Articles shall continue in full force and effect for the life of the CONFERS. Articles that by their express terms or by

necessary implication apply for periods of time other than as specified in this Article shall be given effect for such period of time, notwithstanding this Article. If the Executive Committee agrees, the term of the AoC may be extended through an amendment of the AoC.

### **Renewal**

Prior to the expiration date of the AoC, the Executive Committee agree to enter into good faith negotiations to establish either an extension to the AoC, a follow-on agreement, or a consortium disestablishment plan.

### **Survival**

Notwithstanding the above provisions, the Member's rights and obligations with respect to specific intellectual property agreements by and between CONFERS and the Member(s) shall survive any expiration or termination of the AoC.

### **Withdrawal**

**Termination of Membership.** Membership in the CONFERS shall automatically terminate under the following conditions:

- a) By written agreement of the Members,
- b) Upon a CONFERS Executive Committee's decision to terminate operations when the objectives for which CONFERS was created have been satisfied.

### **Voluntary Withdrawal**

A Member may voluntarily withdraw from the CONFERS at any time by providing 30 days' written notice of withdrawal to the Executive Committee. If the Member later expresses a desire to rejoin the CONFERS, such CONFERS Member 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.

### **Involuntary Withdrawal**

If a Member materially breaches any material warranty, term, or condition of the AoC and fails to remedy such material breach within 90 days after receipt of notice of such material breach from another Member and/or the Executive Committee, the Executive Committee shall have the right to cause the involuntary withdrawal of such Member, such withdrawal to be effective immediately upon delivery of a notice from the Executive Committee to such Member indicating their election to cause such involuntary withdrawal to occur.

### **Outstanding Financial Obligations of a Member**

In the event of the withdrawal of a Member pursuant to this Article, such Member's financial obligations to the Consortium shall remain in full force and effect until all outstanding Membership Dues, if any, to the Consortium are satisfied.

### **Rights of a Member**

After the effective date of withdrawal of a Member, such Member shall cease to have any rights as a Member under the AoC.

### **Dissolution**

The CONFERS may be dissolved by a two-thirds (2/3) vote of the Executive Committee. Upon dissolution or other termination of the CONFERS, all remaining assets of the CONFERS, after payment in full of all its debts, obligations, and necessary final expenses, or after the making of adequate provision thereof, shall be distributed as follows:

- a) All unobligated Government funds shall be returned to the Government funding sponsor.

- b) All non-Government funds shall be disbursed to such tax-exempt organizations (with purposes similar to those of the CONFERS) as shall be chosen by the then existing Executive Committee of the CONFERS. In the event the then existing Executive Committee of CONFERS 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 6: AUDIT**

The CONFERS CM shall be the single point of contact for supporting audits required by the Government or other external authority. Such audits shall not include criteria for audit access to a Member organization's business.

#### **ARTICLE 7: REPRESENTATIONS AND CERTIFICATIONS**

Each Member represents and certifies that:

- a) It is free to enter into the AoC;
- 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 the AoC and the performance of its obligations under the AoC.

#### **ARTICLE 8: LIABILITY**

To the extent authorized under individual state law for a state-owned Member, each Member acknowledges that it shall be responsible for any loss, cost, damage, claim, or other charge that arises out of or is caused by the actions of that Member or its employees or agents to the extent of its negligence. No Member shall be liable for any loss, cost, damage, claim, or other charge that arises out of or is caused by the actions of any other Member or its employees or agents. Joint and several liabilities will not attach to the Members; no Member is responsible for the actions of any other Member. The Members agree that in no event will consequential, incidental, special, exemplary, or punitive damages be applicable or awarded with respect to any dispute that may arise between or among the Members in connection with the AoC. In performing any obligation created under the AoC, the Members agree that each Member is acting as an independent party and not as an agent of any other Member.

#### **ARTICLE 9: COMPLIANCE WITH ANTITRUST LAWS**

Each Member agrees in all cases to act in a manner consistent with their respective national antitrust laws and other laws and regulations. The CONFERS Executive Committee shall retain outside counsel to develop a CONFERS Antitrust Compliance Policy, which will be appended to this AoC, and to provide advice to Consortium Members regarding these matters.

In particular, Members shall not disclose to another Member any market data, plans, or proprietary information except as such information is: (i) made publicly available; and (ii) directly related to the Purpose set forth in these Article. Members will not offer, accept, or exchange competitively sensitive information, including, without limitation, overhead, cost or pricing data, and future sales or profitability projections.

#### **ARTICLE 10: INDEPENDENT CONTRACTOR STATUS**

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

#### **ARTICLE 11: AUTHORIZATION TO FILE WITH THE U.S. ATTORNEY GENERAL AND FEDERAL TRADE COMMISSION FILING**

Within 90 days of execution of the AoC, the CONFERS CM shall file notification with the Attorney General of the United States and the U.S. Federal Trade Commission in accordance with the National Cooperative Research and Production Act of 1993, as amended (“NCRPA”), or any successor statute. The CM shall file timely supplemental notifications as appropriate to disclose changes in membership or new or different Consortium activities.

Each Member agrees that, upon acceptance into CONFERS, the Member authorizes CONFERS to fulfill the reporting requirements and supplemental notifications as appropriate (including by identifying Members). Members agree to cooperate in all reasonable respects in connection with the filing process. The costs of this filing shall be borne by the CONFERS.

#### **ARTICLE 12: INTELLECTUAL PROPERTY**

Neither the Consortium nor Consortium Members will receive any rights to a Member’s intellectual property rights under the AoC, nor are Members compelled to share or otherwise license their intellectual property.

#### **ARTICLE 13: NOTICES AND PUBLICITY**

Any notice or other communication required or permitted under the AoC 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 Member or Members 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 four (4) 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.

Except for the disclosure of basic information regarding the CONFERS (i.e., membership, purpose and a general description of the technical work), the Executive Committee shall approve of any specific publicity or advertising relevant to the Consortium’s business activities.

#### **ARTICLE 14: DISPUTES**

The Members recognize that disputes pertaining to certain matters may from time to time arise during the term of the AoC, which relate to a Member’s rights and/or obligations hereunder or thereunder. It is the objective of the Members to establish procedures to facilitate the resolution of disputes arising under the AoC in an expedient manner by mutual cooperation and without resort to litigation. To accomplish this objective, the Members agree to follow the procedures set forth in this Article if and when a dispute arises under the AoC. However, if an organization can provide evidence that it is prohibited from entering into binding arbitration, the dispute resolution procedures will be negotiated on a case-by-case basis.

##### **Dispute Resolution Representatives**

In the event of disputes between the Members, including disputes among the Members’ representatives to the Executive Committee that such representatives are unable to resolve, a Member 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 designated officers are as follows:

- a) For the Member(s): Designated Senior Executive(s)
- b) For the CONFERS: a panel appointed by the Executive Committee or delegation by the Executive Committee to the CONFERS CM.

In the event the designated officers are not able to resolve such dispute, either Member may at any time after the fourteen (14) day period invoke the provisions of the Alternate Dispute Resolution provision below.

##### **Alternative Dispute Resolution**

Following settlement efforts pursuant to the procedures in this Article, any dispute, controversy, or claim arising out of or relating to the validity, construction, enforceability, or performance of the AoC, including disputes relating to alleged breach or to termination of the AoC, shall be settled by binding Alternative Dispute Resolution ("ADR") in the manner described below:

- a) ADR Request: If a Member intends to begin an ADR to resolve a dispute, such Member shall provide written notice (the "ADR Request") to the other Member informing such other Member of such intention and the issues to be resolved.
- b) Additional Issues: Within ten (10) business days after the receipt of the ADR Request, the other Member may, by written notice to the Member initiating ADR, add additional issues to be resolved.
- c) No ADR of Intellectual Property or Patent Issues: Disputes regarding the ownership of, and/or rights to intellectual property, including the scope, validity and enforceability of patents, shall not be subject to the ADR provision in this Article, but rather submitted to a court of competent jurisdiction.

#### **Arbitration Procedure**

Any dispute or claim arising out of or in connection with the AoC shall be finally settled by binding arbitration in accordance with the then current rules and procedures of the American Arbitration Association. The arbitration shall be conducted by three (3) arbitrators having experience with the issue under consideration, one (1) each to be appointed by the Members 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 at a location agreeable to the Members who are parties to the dispute. If no agreement as to venue is reached within fifteen (15) business days of written notice that a Member seeks arbitration of a dispute, a majority of the Executive Committee shall choose the place of arbitration.

The arbitrators shall apply the law of the state in which the dispute arose to the merits of any dispute or claim, without reference to rules of conflicts of laws. Judgment on any award rendered by the arbitrators may be entered in any court having jurisdiction thereof. The Members 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 Member. Nothing in this Article shall limit a Member's right to seek injunctive relief with respect to a breach or threatened breach of the AoC.

#### **ARTICLE 15: ASSIGNMENT**

Neither the AoC nor any rights hereunder, in whole or in part, shall be assignable or otherwise transferable without the prior written consent of the CONFERS Executive Committee, which consent shall not be unreasonably withheld. A Member may assign its rights and delegate its obligations: (i) to any affiliate of such Member (although, in the event of any such assignment and delegation, the assigning Member shall remain primarily liable for its obligations hereunder); and (ii) to a purchaser of all or substantially all of the business of such Member to which the AoC relates by merger, sale of assets, or otherwise. If the Member, after the assignment or purchase cannot meet the requirements for Consortium membership as called out in the AoC and the CONFERS Membership Agreement, the Member will be considered to have voluntarily withdrawn from the CONFERS in accordance with Article 4 herein.

#### **ARTICLE 16: GOVERNING LAW**

This Agreement shall be interpreted by application of Delaware law without regard to its conflicts of law provisions. Where a Member is a non-Delaware state governmental entity, this Section will be deemed to be deleted and replaced with the following, "Nothing in this Agreement is intended to cause Member to waive the legal immunities and defenses provided under its State enabling laws.

#### **ARTICLE 17: ENTIRE AGREEMENT**

The AoC, including all Exhibits referred to herein, constitute the entire agreement of the Members and supersede all prior and contemporaneous agreements, understandings, negotiations and discussions among the Members, whether oral or written, with respect to the subject matter hereof.

**ARTICLE 18: INVALIDITY OF PROVISIONS**

If any provision of the AoC is deemed to be invalid, illegal or unenforceable by any court of competent jurisdiction, such provision will be deemed amended to conform to applicable laws of such jurisdiction so as to be valid and enforceable or, if it cannot be so amended without materially altering the intention of the Members, it will be stricken and the remainder of the AoC will remain in full force and effect.

**ARTICLE 19: TAX STATUS**

The CONFERS has not been organized as a legal entity and will operate as an unincorporated collaboration for the benefit of its Members.

**ARTICLE 20: GENERAL PROVISIONS**

**Amendments.** No amendment or modification of the AoC shall be valid unless agreed to in writing by two-thirds (2/3) vote of the CONFERS Executive Committee membership. The Executive Committee may, at its discretion, refer certain proposed amendments to the full CONFERS membership for validation by a majority vote of the membership. All proposed amendments to the AoC shall be distributed to the Executive Committee Members at least 30 days prior to the proposed effective date.

**Waiver.** No waiver of any rights shall be effective unless agreed to in writing by the Member to be charged. Waiver by any Member of any breach or failure to comply with any provision of the AoC by another Member shall not be construed as or constitute a continuing waiver of such provision or a waiver of any other breach of or failure to comply with any other provision of the AoC.

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

**Compliance with Export Laws.** All Members shall comply with all applicable national and international export control laws and regulations to which they are subject. Members are responsible for their own violations, and any such violations do not reflect on other Members of CONFERS.

**Use of Names.** Neither any Member nor the CONFERS (including its affiliated entities) shall use the name, trademarks, other marks or logos of any other Member in any way, including but not limited to advertising, promotional, or sales literature, without prior written consent in each and every instance. However, the CONFERS CM can include Member’s name in all published membership lists.

IN WITNESS WHEREOF, the Members have caused the AoC to be executed by the duly authorized representatives on the respective dates entered below.

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

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

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

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

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

**EXHIBIT A: CHARTER MEMBER LISTING**

- Airbus
- Chandah Space Systems
- Intelsat
- Space Logistics, LLC
- Space Systems Loral
- AXA XL

## **EXHIBIT B: ANTITRUST POLICY**

### **OVERVIEW**

The Consortium for Execution of Rendezvous and Servicing Operations (“CONFERS”) is committed to complying fully with applicable antitrust and competition laws (the “Antitrust Laws”). Accordingly, all activities of CONFERS, including standards development work, shall comply with the Antitrust Laws, and CONFERS Members shall also comply with the Antitrust Laws in connection with all CONFERS-related activities. All meetings of CONFERS and all communications between members of CONFERS relating to CONFERS-related activities shall be conducted in accordance with the Antitrust Laws, as detailed further below.

#### **1. The Antitrust Laws**

The Antitrust Laws are designed to promote vigorous competition and to protect consumers. Violations of these laws can result in enormous reputational harm, criminal penalties (including fines and jail sentences), as well as civil penalties and treble damages. This antitrust compliance program seeks to minimize, and hopefully eliminate altogether, the prospect of antitrust liability for CONFERS and its members.

Certain violations of the Antitrust Laws result in “per se” liability, meaning no justification for the behavior is accepted as a defense. Offenses falling into this category are agreements among competitors relating to price and other terms and conditions of sale, market and customer allocations, certain group boycotts, and certain tying arrangements. Conduct of this sort necessarily poses the greatest risk under the Antitrust Laws.

#### **2. General Policy**

CONFERS assigns the highest priority to full compliance with both the letter and the spirit of the Antitrust Laws, and it is vital that meetings of CONFERS and its committees, as well as activities by the CONFERS Secretariat (collectively, “CONFERS Meetings”) be conducted in a manner consistent with this policy. If, during the course of a CONFERS Meeting, the leader of the meeting believes that a sensitive topic under the Antitrust Laws is being discussed or is about to be discussed, the leader will so advise the meeting and halt further discussion pending receipt of an analysis by a person trained in antitrust compliance. As attendees at a CONFERS Meeting, a Member or other participant likewise should not hesitate to voice any concerns in this regard.

It is important to bear in mind that those in attendance at a CONFERS Meeting may be competitors. CONFERS Members and other participants should avoid discussing certain subjects when they are together both at formal CONFERS Meetings and in informal contacts with others and should adhere strictly to the guidelines that follow. In general, the types of discussions that should be avoided are those that may suggest or tend to reflect agreements among competitors as to: price; other terms of sale that could impact price; allocation of customers, markets, or territories; bid-rigging; and boycotts or joint refusals to do business with others.

While many of the Antitrust Laws apply only to “concerted” action or “agreements,” an illegal agreement can be found even without a “handshake” or express words or writings indicating agreement. Tacit understandings, including responding to pressure, exerting pressure, or doing “what is expected,” can violate the law. An implied agreement also may be inferred from communications between competitors followed by unexplained parallel behavior. For example, if two competitors discuss prices, and later adopt prices that are similar, a conspiracy to fix prices may be inferred, even though the competitors never explicitly “agreed” to do anything. Comments made in an informal environment may be used as proof of an agreement, even though the parties’ subsequent actions actually were taken independently for sound business reasons. Thus, the safest practice, in CONFERS Meetings or elsewhere, is to avoid any communications (oral or written, formal or informal) with competitors about topics on which it would be illegal to agree.

The Antitrust Laws apply to organizations such as CONFERS just as they apply to any individual company or group of competitors. Members and other participants should always avoid conduct that would violate the Antitrust Laws. As such, with rare exceptions that should be invoked only upon the advice of legal counsel, there should never be discussion of the following topics at any CONFERS Meeting (whether as part of a structured formal meeting or as part of informal discussions among members at social functions or other events):

- any member's or participant's prices or pricing policies;
- any member's or participant's other terms of sale, warranties or contract provisions;
- division of customers, territories or locations;
- restrictions on or reductions of a member's or participant's business activities;
- any member's or participant's specific R&D, sales, or marketing plans;
- any member's or participant's confidential product, product development, or production strategies;
- whether to purchase from certain suppliers or sell to certain customers; prices paid to input sources;
- complaints about individual firms or other actions that might tend to hinder a competitor from competing fully in any market (with some exceptions in the public policy context); or
- data concerning fees, prices, production, sales, bids, costs, salaries, customer credit, or other business practices, unless the data in question is exchanged and disclosed pursuant to a well- considered CONFERS plan that has been approved by legal counsel.

All CONFERS Meeting attendees have an obligation to terminate any discussion or activity, seek the advice of legal counsel, or, if necessary, terminate any meeting if the discussion or activities reasonably might be construed to raise antitrust issues. In the unlikely extent that serious antitrust concerns are left unaddressed, a Member or other participant should announce his or her departure, explain why, and withdraw from the meeting.

### **3. CONFERS Meetings – Protocol**

No CONFERS Meeting shall occur unless in advance of the meeting an agenda has been created and distributed. Discussions of CONFERS Meetings will be limited to the topics set forth in the meeting agenda, which can be amended at the meeting by a majority vote. If any Member or participant has a question about the agenda, that member should consult with counsel before attending the meeting. At each CONFERS Meeting, at least one person in attendance must have been trained in antitrust compliance.

At the commencement of the first meeting of CONFERS, or any committee or subcommittee thereof, or of the CONFERS Secretariat held during a calendar year and during the opening session of any CONFERS conference held for the purpose of discussing, debating, proposing, revising, or otherwise working on one or more deliverables, the meeting leader shall read the following statement, in its entirety:

On behalf of CONFERS, I welcome you to this meeting. It is essential that we observe certain ground rules as we participate in this meeting. The Antitrust Laws prohibit the discussion of a number of matters in a meeting such as this. It is important that discussions at this meeting address only that information needed for legitimate functioning of CONFERS and the [insert committee or working group name here]. Relative to any company or companies represented by any of us, there can be no discussion of: prices; other terms and conditions of sale such as credit terms, markups, or profits; geographical areas in which a company or companies seek or may seek to do business; the persons or companies with whom a company or companies will or will not do business; production costs; or any future marketing plans. Any departure from these ground rules could result in severe civil and criminal penalties to you as individuals and/or to your companies. Federal sentencing guidelines mandate jail sentences for antitrust violations and call for criminal fines that may range into the millions of dollars. CONFERS is committed to complying with federal antitrust regulations. Before participating in this meeting, you are encouraged to familiarize yourself with CONFERS's Antitrust Compliance Policy, which is available in Exhibit B to the CONFERS Articles of Collaboration at [www.satelliteconfers.org](http://www.satelliteconfers.org). It is a condition of your participation in this meeting that you accept and agree to abide by the terms of the CONFERS Antitrust Compliance Policy. If you do not accept these terms, please leave the meeting at this time.

The fact that this statement was read shall be recorded in the applicable meeting minutes or conference proceedings.

At subsequent CONFERS Meetings or during ensuing meeting sessions, the meeting leader shall ask whether anyone present has not received or does not agree to this Antitrust Compliance Policy, and, after offering any

person responding in the affirmative an opportunity to withdraw from the meeting or conference, shall record the fact that the question was asked, along with the name and affiliation of any person responding in the affirmative, in the minutes of the meeting or the proceedings of the conference session.

#### **4. Exceptions**

Notwithstanding the provisions above, the antitrust notice need not be read at meetings of a subordinate body, such as a sub-committee or working group (“Subordinate Body”), if the following three conditions are met:

- a. The notice is printed prominently on the agenda of a meeting and the agenda is provided to all members of the Subordinate Body at least 24 hours in advance of the meeting's scheduled start time;
- b. The notice is verbally recognized by the chair or presiding officer of the Subordinate Body at the commencement of the meeting; and
- c. Non-consenting participants are given an opportunity to leave the meeting.

When this procedure is used by a Subordinate Body, that body shall record in its minutes the fact that the chair or presiding officer called attention to the notice and provided an opportunity for non-consenting participants to reject the policy and leave the meeting.

#### **5. Obligation to Report Violations**

If a Member believes that a discussion at a CONFERS meeting would violate the Antitrust Laws or the policy described above, then such Member shall:

- a. Declare and be identified as an objector to the discussion or activity in question;
- b. Immediately disassociate him or herself from the discussion and withdraw from the meeting; and
- c. Report her or his objection to the chair or presiding officer of the relevant CONFERS committee.

The fact that a Member or other participant stated an objection and withdrew from a meeting shall be recorded in the meeting minutes.

#### **6. Consultation Recommended**

CONFERS encourages all members or other participants to familiarize themselves with this Antitrust Compliance Policy and to consider discussing their participation in a CONFERS Meeting with someone trained in antitrust compliance.

#### **7. Communications to Members**

Upon approval by CONFERS, a copy of this policy shall be sent to all members and other participants, and, in the future, shall be included in the Member registration package for all new members. Further, this policy shall be posted on the CONFERS website at [www.satelliteconfers.org](http://www.satelliteconfers.org), and CONFERS shall establish mechanisms whereby all existing and new members must, as a condition of membership, acknowledge and agree to be bound by the terms of this policy.

Antitrust compliance training shall be offered at least once each year.

#### **8. Guidelines With Respect to Standards Activities**

Well-conceived and properly implemented standards development programs pose no significant risk of antitrust liability. However, poorly structured and improperly implemented programs addressing standards development and related activity can give rise to significant antitrust risks. Although not dispositive as to antitrust liability, procedural regularity in standards development and related activity is an important safeguard. Government oversight and involvement in standards development efforts can in certain circumstances limit or eliminate antitrust liability.

Standards development work and related activities, such as the creation of guidelines and best practice summaries, should be undertaken pursuant to written procedures that have been approved by counsel.

Among other things, those procedures should address issues such as who may participate in development work, how decisions will be made, when consensus is achieved, who may officially interpret CONFERS standards (if anyone), and who owns the resulting end product.

Set forth below are basic guidelines for members and other participants in CONFERS's standards development activities:

- a. Standardization programs must not be used as a vehicle to fix prices or lessen competition. Similarly, such activities must not be used as a means to effect the boycott/exclusion of competitors or to limit/control production.
- b. Fees charged in connection with participation in standards development should be reasonable in relation to the direct and indirect costs involved.
- c. Due process should be accorded to all parties materially interested in a standards program, including members, other manufacturers, academics, nonprofit organizations, users, and consumers. Procedural regularity and consistency is essential.
- d. The purpose of a standard should be legitimate, reasonable, and clearly shown. It must be socially desirable and in the public interest. Examples of such purposes are the safety of people and property, the interchangeability of parts, and the understanding of common terms of reference between vendors and purchasers.
- e. The requirements of a standard for a product or process shall be those which can reasonably be met by various segments of the industry and should be generally acceptable to users or consumers. Where safety is of primary concern, this factor must be weighed against the above consideration.
- f. Standards shall be written, if possible, in the broadest performance terms to encourage innovation and new technology. Standards employing design criteria should be avoided where possible.
- g. Certification programs should avoid the use of a single "pass/fail" system—graded systems that preserve consumer/user options are desirable.
- h. A standard should never be written in such a way that it can be used to mislead consumers of the product, service or process covered by the standard.
- i. The test methods required by a standard should be adequate to measure the characteristics in question. The necessary personnel and equipment to conduct the tests should be generally available and at a reasonable cost.
- j. Provisions involving business relations between buyer and seller, such as those normally found in a warranty, should not be included in a standard. This is not interpreted to exclude provisions concerning the determination of conformity with a standard when based on engineering and technical considerations.
- k. Certification and/or marking requirements or quality assurance provisions should not be unduly restrictive.
- l. CONFERS should not refuse to develop a standard simply because it may involve the use of a patented item. However, no standard should be written by CONFERS that requires the use of a patent claim to implement the standard unless such patent is available on a non-discriminatory basis, free of charge, or for a reasonable fee.
- m. No standard or guideline shall be published by CONFERS unless it has first been reviewed and approved by a person trained in antitrust compliance.