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Medical CBRN Defense Consortium

Articles of Collaboration

TABLE OF CONTENTS

PURPOSE	2
DEFINITIONS	2
ARTICLE 1: OBJECTIVES	3
MEMBERSHIP	4
ARTICLE 2: CONSORTIUM MANAGEMENT	5
FORMATION COMMITTEE	5
EXECUTIVE COMMITTEE.....	5
CONSORTIUM MANAGEMENT FIRM.....	7
EXECUTIVE DIRECTOR.....	7
ARTICLE 3: EFFECTIVE DATE	8
ARTICLE 4: TERM	8
RENEWAL	8
SURVIVAL	8
WITHDRAWAL	8
ARTICLE 5: AUDIT	9
ARTICLE 6: REPRESENTATIONS AND CERTIFICATIONS	9
ARTICLE 7: LIABILITY AND INSURANCE	9
ARTICLE 8: LIMITATION ON DISCLOSURE	9
ARTICLE 9: INDEPENDENT CONTRACTOR STATUS	9
ARTICLE 10: FILING WITH U.S. ATTORNEY GENERAL AND FEDERAL TRADE COMMISSION	10
ARTICLE 11: NOTICES	10
ARTICLE 12: DISPUTES	10
DISPUTE RESOLUTION REPRESENTATIVES	10
ALTERNATIVE DISPUTE RESOLUTION	10
ARBITRATION PROCEDURE	11
ARTICLE 13: ASSIGNMENT	11
ARTICLE 14: GOVERNING LAW	11
ARTICLE 15: ENTIRE AGREEMENT	11
ARTICLE 16: INVALIDITY OF PROVISIONS	12
ARTICLE 17: TAX STATUS	12
ARTICLE 18: GENERAL PROVISIONS	12
EXHIBIT A: CHARTER MEMBERSHIP LISTING	14

Medical CBRN Defense Consortium Articles of Collaboration

PURPOSE

These Articles of Collaboration ("Articles") are entered into, as of March 14, 2016, to establish the Medical CBRN Defense Consortium.

WHEREAS, the Medical CBRN Defense Consortium Members recognize that Government and industry share a common challenge to support the Department of Defense's (DoD) medical pharmaceutical and diagnostic requirements as related to enhancing the mission effectiveness of military personnel;

WHEREAS, the Medical CBRN Defense Consortium Members wish to ensure quick and efficient development of products in four major areas: detection, prevention, treatment and chemical;

WHEREAS, the Medical CBRN Defense Consortium desires to enter into a Section 815 Other Transactions Agreement ("OTA") with the U.S. Government ("Government") to provide U.S. military forces and the nation safe, effective, and innovative medical solutions to counter Chemical Biological Radiological and Nuclear (CBRN) threats;

WHEREAS, the Medical CBRN Defense Consortium Members concurrently wish to sustain and expand their collective technical superiority by collaborating to provide quick and efficient delivery of CBRN technologies to address rising security challenges that will help support the Chemical & Biological Defense mission through a partnership with the Government and Medical CBRN Defense Consortium Members;

WHEREAS, the Medical CBRN Defense Consortium Members wish to provide a unified and compelling message regarding the strategic importance of CBRN technologies;

WHEREAS, the Medical CBRN Defense Consortium Members wish to define programs and obtain program funding to accelerate the development of mission critical technologies in the areas of concern from applied research into advanced development that will result in championing, identifying, and fielding solutions for the Joint Project Manager for Medical Countermeasure Systems (JPM-MCS) and other agencies in the United States Government and DoD chemical and biological defense enterprise;

WHEREAS, the OTA provides, among other things, for the grant of certain rights and obligations arising out of the research programs and projects conducted by the Government and the Medical CBRN Defense Consortium Members pursuant to these Articles;

WHEREAS, the Medical CBRN Defense Consortium Members are entering into these Articles in order to provide for (i) a consortium to conduct research, development, and demonstration of prototype projects and programs, (ii) their respective rights and obligations as a Member of the consortium, and (iii) administrative matters pertaining to the conduct of activities as Members of this consortium;

WHEREAS, each Medical CBRN Defense Consortium Member reserves their right to review and accept any government agency or department agreement specific terms prior to any active participation in any Medical CBRN Defense Consortium project described herein;

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and promises contained in these Articles, the Medical CBRN Defense Consortium Members agree as follows:

DEFINITIONS

HEREINAFTER the following definitions apply:

Affiliate means, with respect to a specified Member that is a signatory to these Articles, any corporation, company, partnership, joint venture and/or firm which now or hereafter controls, is controlled by or is under 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; 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.

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

Consortium Management Firm refers to the organization acting solely on behalf of the Medical CBRN Defense Consortium (not as an agent of any individual Member) to negotiate, execute and administer the Medical CBRN Defense Consortium's efforts under an OTA, for this program as defined in the specific Management Services Agreement entered into between the Medical CBRN Defense Consortium and the Consortium Management Firm. The Medical CBRN Defense Consortium intends to enter into a Management Services Agreement with Advanced Technology International (ATI) to perform this role (i.e., to be the Consortium Management Firm). The Management Services Agreement would require the Consortium Management Firm, among other things, to serve as a third party to help mitigate the risk of potential antitrust violations among the Members of the Medical CBRN Defense Consortium.

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 Medical CBRN Defense Consortium and commencing discussions with the Government regarding establishing an Other Transaction Agreement (OTA).

Medical CBRN Defense Consortium means the Medical CBRN Defense Consortium, which is made up of consortium Members from industry, academia, non-profit organizations, and not-for-profit organizations pursuant to these Articles.

Member or Members means respectively an individual Medical CBRN Defense Consortium Member organization or the Medical CBRN Defense Consortium Member organizations collectively that are signatories to the Medical CBRN Defense Consortium Articles of Collaboration.

Non-traditional Defense Contractor means an entity that is not currently performing and has not performed, for at least the one-year period preceding the solicitation of sources by the Department of Defense for the procurement or transaction, any contract or subcontract for the Department of Defense that is subject to the full coverage under the cost accounting standards prescribed pursuant to section 1502 of title 41 and the regulations implementing such section.

Other Transaction Agreement or OTA means the agreement which is entered into by the Government and the Medical CBRN Defense Consortium in care of its Consortium Management Firm.

Technology Base Agreement means the agreement between the Medical CBRN Defense Consortium Management Firm and the Medical CBRN Defense Consortium Member organization which serves as the baseline agreement for all future Technology Project Agreements. The Technology Base Agreement, among other things, flows down applicable terms and conditions from the OTA between the Government and the Medical CBRN Defense Consortium.

Technology Project Agreements refer to agreements issued by the Consortium Management Firm, under the terms of the Technology Base Agreement, for a specific CBRN technology project.

ARTICLE 1: OBJECTIVES

As of the Effective Date of these Articles, the Members hereby agree to create the Medical CBRN Defense Consortium. The Medical CBRN Defense Consortium is the result of an invitation by the Government to form a consortium comprised of traditional and non-traditional defense contractors, small and large businesses, for-profit and not-for-profit entities, academic organizations, and their affiliated organizations to enter into an OTA to develop and mature technologies and support policy development to enable advanced approaches to CBRN threats (including prototype projects). The OTA is entered into under the authority of the Department of Defense under 10 U.S.C. § 2371b, Section 815 of the 2016 National Defense Authorization Act, P.L 114-92.

Medical CBRN Defense Consortium Articles of Collaboration

The Medical CBRN Defense Consortium shall operate with the following principal goals as stated in the government's Joint Project Manager for Medical Countermeasure Systems Other Transaction Agreement Request for Letters of Intent dated 10 November 2015: (i) accelerate the development of mission critical technologies in the areas of concern from applied research into advanced development; (ii) deliver therapeutic medical countermeasure prototypes targeting viral, bacterial and biological toxin targets of interest to the DoD; (iii) deliver enabling technologies that will support the development of regulatory review of medical countermeasure prototypes; (iv) develop prototype candidates for the prophylaxis, treatment and diagnosis of radiological and nuclear threats including acute radiation syndrome; (v) develop soldier-carried auto-injector delivery devices for single drug administration; (vi) develop vaccine-manufacturing platforms that offer early stage manufacturing flexibility and diversity; (vii) pharmaceutical development addressing the FDA Animal Rule, as appropriate; (viii) utilize adjuvants and excipients supporting the ability to develop up to 300,000 equipment doses within 60 days at clinical quality; (ix) support a family of systems diagnostic approach that increases the speed, accuracy, and confidence of agent identification and disease diagnosis; (x) support the Critical Reagents Program, the principal DoD resource of standardized biological reference materials, reagents, and assays, as necessary; (xi) DoD Advanced Development and Manufacturing capabilities; and (xii) pursue collaborative research with non-traditional technology providers. Through the Medical CBRN Defense Consortium established by these Articles, Members may propose and perform research and development activities, in cooperation with the Government, to address the Government's long range CBRN technology objectives.

Membership

As of the Effective Date of these Articles, the Members are those Charter Members listed in Exhibit A. The Consortium Management Firm will maintain a current membership list and will make it available on a Medical CBRN Defense Consortium website as additional members join the consortium. The intent of the Members is that the Medical CBRN Defense Consortium will be open to and include Members from industry, academic research institutions, and non-profit and not-for-profit organizations. The Members adopt a non-exclusive, open membership policy. The Members will include additional Members in accordance with the provisions contained in the Medical CBRN Defense Consortium Articles of Collaboration. The Medical CBRN Defense Consortium, through its Consortium Management Firm, will notify the Government of the addition or deletion of Members. Any Members, regardless of when they join the Medical CBRN Defense Consortium, shall enjoy the same rights and incur the same obligations as any other Member hereunder. Membership in the Medical CBRN Defense Consortium will become effective upon approval of the membership application.

Membership Dues. Medical CBRN Defense Consortium Members will pay annual dues every October 1st in the amounts as follows: \$1,500 for large businesses and \$500 for all others (small businesses, academic institutions, and not-for-profits). On a case-by-case basis, the Executive Committee may consider a request to waive all or part of the dues for very small, innovative organizations, particularly those that qualify as non-traditional defense contractors. New Members will pay pro-rated dues payable upon initial acceptance of membership and then \$1500 or \$500 respectively per year every October 1st thereafter. The pro-rated dues structure, based upon the date of initial application acceptance, is as follows:

Large Business:		All others:	
a) October through March -	\$1500	a) October through March -	\$500
b) April through September -	\$750	b) April through September -	\$250

Small Business Administration (SBA) size standards will be used to determine business size. Small business size standards define the largest that a business concern, including all of its affiliates, may be and yet qualify as a small business concern for SBA and most other federal programs.

Project Award Assessment. In addition to any initial and annual dues that all Members of the Medical CBRN Defense Consortium are required to pay, all recipients of Technology Project Agreement funding shall pay

Medical CBRN Defense Consortium Articles of Collaboration

the sum of 1.0% of all Government funds awarded under such Technology Project Agreement to the Medical CBRN Defense Consortium via the designated Consortium Management Firm. These funds are collected to supplement the revenue generated from dues to provide sufficient resources for conducting the required business affairs of the Medical CBRN Defense Consortium. This “per project award” assessment percentage may be adjusted over time in response to changes in membership numbers, or in the volume of Government funds that flow through the OTA between the Medical CBRN Defense Consortium and the Government.

Member in Good Standing. To be a “member in good standing” the following criteria must be met:

- a) Current (no greater than 60 days past due) on membership dues
- b) Current (no greater than 60 days past due) on award assessment

Only members in good standing will be permitted to respond to solicitations for project awards.

Minimum Requirements. The Parties agree that membership in the Medical CBRN Defense Consortium 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 providing U.S. military forces and the nation safe, effective, and innovative medical solutions to counter CBRN threats; are capable of making a technical contribution to the advancement of CBRN technologies, and are willing to support the Medical CBRN Defense Consortium’s goals and objectives;
- c) Will contribute their respective talents and resources to the Medical CBRN Defense Consortium for activities such as periodic meeting attendance, committee and subcommittee participation, and other consultation and/or service as may be appropriate;
- d) 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.

Membership 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 these Articles, 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.

ARTICLE 2: CONSORTIUM MANAGEMENT

Formation Committee

During the start-up period of the Medical CBRN Defense Consortium a Formation Committee will convene to guide the initial rapid ramp-up of the Consortium. Representatives from the Charter Member companies (Exhibit A) will comprise the Formation Committee and will elect a Chair and Vice-Chair. A Formation Committee Charter will govern the responsibilities of the committee. At some point in the first six (6) to twelve (12) months after start-up of the consortium, when a suitable base of members representing all categories has joined, the Formation Committee will dissolve and transition to a leadership structure by Executive Committee as described below.

Executive Committee

The affairs of the Medical CBRN Defense Consortium shall be governed by an Executive Committee of nine (9) elected representatives from Member organizations, each to serve for a term of two (2) years. The Executive Committee shall be composed of four (4) Members from large businesses or non-profit, four (4) Members from small businesses, and one (1) Member from academia. The Executive Committee Officers shall include a Chair, a Vice-Chair, and a Treasurer, to be selected by the Executive Committee. Six (6) of the initial roster of Executive Committee Members will have a one-time three (3) year term to provide

continuity during Medical CBRN Defense Consortium startup, after which the Executive Committee will establish an annual rotation cycle of approximately one-third of the 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 transferred to the Consortium Management Firm. Any person serving on the Executive Committee may be relieved of his/her position at any time for cause by a two-thirds (2/3) vote of the Medical CBRN Defense Consortium Executive Committee Members who are eligible to vote. All decisions of the Executive Committee shall require two-thirds (2/3) vote of the committee.

Election of the Executive Committee. Elections to replace the Executive Committee members whose terms are expiring, or if a position is vacant, will be conducted electronically, generally one time per year. Elections shall be presided over by the Consortium Management Firm. Nominations for the Executive Committee members will be solicited by the Consortium Management Firm 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 member may nominate an individual to the Executive Committee. All nominees must be employed by a "Member in Good Standing" organization as defined in the Articles of Collaboration. A Member Organization making such nomination shall briefly describe the qualifications of the nominee for this position. The Executive Committee 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 for which they are filling.

Voting Procedure. The voting shall be by electronic ballot, by one authorized representative from the Member Organization voting. Ballots will be provided to Member Organizations electronically and must be completed and returned within 30 days. Only one ballot will be provided to each Member 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 Consortium Management Firm will be responsible for determining the valid ballot. Tabulation of ballots will be conducted by the Consortium Management Firm 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 results of the election will be announced via email to the Membership.

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 be authorized to sign the OTA and subsequent modifications to the OTA, on behalf of the Medical CBRN Defense Consortium. The Chair shall not serve more than two successive terms. The Chair of the Executive Committee shall sign the management services agreement with the selected Consortium Management Firm as authorized by the Executive Committee. The Chair may also delegate to the Consortium Management Firm the authority to sign the OTA.

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

Medical CBRN Defense Consortium Articles of Collaboration

the supervision of the Executive Committee. The Vice-Chair is authorized to sign the OTA and subsequent modifications to the OTA, on behalf of the Medical CBRN Defense Consortium, in the absence of the Chair.

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 Consortium Management Firm for payment. The Treasurer shall approve disbursement of Medical CBRN Defense Consortium funds by the Consortium Management Firm, 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 Consortium Management Firm's transactions and of the financial condition of the Medical CBRN Defense Consortium.

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

Consortium Management Firm

The Members agree to use Advanced Technology International as the Consortium Management Firm to administer the affairs of the Medical CBRN Defense Consortium under the direction of the Executive Committee. The Consortium Management Firm is prohibited from participating in technical project work of the Medical CBRN Defense Consortium. The Chair of the Executive Committee is authorized to communicate with the Consortium Management Firm on behalf of the Executive Committee.

The Consortium Management Firm shall:

- Act as the administrative point of contact for the Medical CBRN Defense Consortium under these Articles and any amendments hereto;
- Assist the Formation Committee/Executive Committee in negotiating with the Government on issues involving the OTA;
- Provide "single point contracting" functions as needed to execute the OTA;
- Guard against the disclosure of competitively sensitive information and, together with the Executive Committee, institute policies and procedures to prevent potential violations of antitrust law;
- 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;
- Be responsible for obtaining signatures of the Members on any amendments to these Articles;
- Request nominations, prepare a slate of candidates for any open committee positions, provide notice of committee membership and membership changes to the Members and the Government, provide notice of the Executive Committee meetings and a request for agenda items to the Members, and provide notice of Member additions and deletions to the Government; and
- Invoice, collect, and track membership dues/ projects assessments from Member Companies. Provide quarterly financial reports to the Consortium Executive Committee.

Executive Director

The Consortium Executive Director shall be the single point of contact to the Members, the Government or their respective designees and shall serve on the Medical CBRN Defense Consortium Executive Committee as a non-voting Member. The Consortium Management Firm will recommend an Executive Director candidate to the Formation Committee/Executive Committee for approval. Upon approval of the recommend candidate by the Formation Committee/Executive Committee the Consortium Management Firm will enter into a subcontract with the recommended/approved Executive Director to support the Consortium.

ARTICLE 3: EFFECTIVE DATE

These Articles shall first become effective on March 14, 2016, which corresponds to the date that the Medical CBRN Defense Consortium Charter Members listed in Exhibit A voted to approve these Articles.

ARTICLE 4: TERM

These Articles shall continue for a period of ten (10) years from the Effective Date of these Articles. These Articles shall continue in full force and effect for the life of the Medical CBRN Defense Consortium. Articles which 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 these Articles may be extended through an amendment of these Articles.

Renewal

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

Survival

Notwithstanding the above provisions, the Member's rights and obligations with respect to Chemical & Biological Defense Technology Project Agreements and/or specific intellectual property agreements by and between the Government and the Member(s) shall survive any expiration or termination of these Articles.

Withdrawal

Termination of Membership. Membership in the Medical CBRN Defense Consortium shall automatically terminate under the following conditions:

- By written agreement of the Members,
- After the Government's failure to extend the OTA or issue a new OTA to the Medical CBRN Defense Consortium (and within ninety (90) days after the expiration or termination of the relevant OTA).

Voluntary Withdrawal. Provided that a Member has satisfied its obligations under the OTA and Technology Base Agreement, the Member may voluntarily withdraw from the Medical CBRN Defense Consortium at any time by notice of withdrawal given to the Executive Committee.

Involuntary Withdrawal. If a Member materially breaches any material warranty, term or condition of these Articles (including failure to pay annual dues or project award assessments) and fails to remedy such material breach within ninety (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 obligations to the consortium are satisfied according to these Articles.

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 these Articles.

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

Dissolution. The Medical CBRN Defense Consortium may be dissolved by a two-thirds (2/3) vote of the Executive Committee. Upon dissolution or other termination of the Medical CBRN Defense Consortium, all remaining assets of the Medical CBRN Defense Consortium, after payment in full of all its debts, obligations,

Medical CBRN Defense Consortium Articles of Collaboration

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 Medical CBRN Defense Consortium) as shall be chosen by the then existing Executive Committee of the Medical CBRN Defense Consortium. In the event the then existing Executive Committee of Medical CBRN Defense Consortium 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 5: AUDIT

The Consortium Management Firm shall be the single point of contact for supporting audits required by the OTA. The terms of the OTA shall be the exclusive criteria for audit access to a Member's business.

ARTICLE 6: REPRESENTATIONS AND CERTIFICATIONS

Each Member represents and certifies that:

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

ARTICLE 7: LIABILITY AND INSURANCE

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, but is only responsible for those tasks accepted by it and to which it agrees in any subsequent funding agreement. 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 these Articles. In performing any obligation created under these Articles, the Members agree that each Member is acting as an independent party and not as an agent of any other Member.

Insurance. Each Member agrees to obtain and maintain appropriate public liability and casualty insurance or adequate levels of self-insurance, to insure against any liability caused by that Member's obligations under these Articles and the Medical CBRN Defense Consortium Membership Agreement.

ARTICLE 8: LIMITATION ON DISCLOSURE

Except as expressly provided for in these Articles, no one Member has the obligation to disclose to another Member any market data or plans except as such information is made publicly available. The Members will not exchange competitively sensitive information with one another, including, without limitation, proprietary cost or pricing data. The Members will not exchange competitively sensitive information regarding projected sales or profitability.

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

ARTICLE 9: INDEPENDENT CONTRACTOR STATUS

The relationship of the Members established by these Articles is that of independent contractors, and nothing contained in these Articles 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

Medical CBRN Defense Consortium Articles of Collaboration

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 Medical CBRN Defense Consortium.

ARTICLE 10: FILING WITH U.S. ATTORNEY GENERAL AND FEDERAL TRADE COMMISSION

Members agree that notification of the establishment of the Medical CBRN Defense Consortium (and subsequent addition or deletion of Members) shall be filed with the U.S. Attorney General and the Federal Trade Commission by the Consortium Management Firm on behalf of the Members in accordance with the provision of the National Cooperative Research Act of 1984 within 90 days of execution of these Articles. The costs of this filing shall be borne by the Medical CBRN Defense Consortium.

ARTICLE 11: NOTICES

Any notice or other communication required or permitted under these Articles 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 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 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.

ARTICLE 12: DISPUTES

The Members recognize that disputes pertaining to certain matters may from time to time arise during the term of these Articles, 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 these Articles 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 these Articles. 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 which 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. Said designated officers are as follows:

- For the Member(s): Designated Senior Executive(s)
- For the Medical CBRN Defense Consortium: a Panel appointed by the Executive Committee or delegation by the Executive Committee to the Consortium Management Firm

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 claims arising out of or relating to the validity, construction, enforceability or performance of these Articles, including disputes relating to alleged breach or to termination of these Articles, shall be settled by binding Alternative Dispute Resolution ("ADR") in the manner described below:

Medical CBRN Defense Consortium Articles of Collaboration

- **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.
- **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.
- **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 these Articles 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 these Articles.

ARTICLE 13: ASSIGNMENT

Neither these Articles nor any rights hereunder, in whole or in part, shall be assignable or otherwise transferable without the prior written consent of the Medical CBRN Defense Consortium 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 these Articles 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 these Articles and the Medical CBRN Defense Consortium Membership Agreement, the Member will be considered to have voluntarily withdrawn from the Medical CBRN Defense Consortium in accordance with Article 4 herein.

ARTICLE 14: GOVERNING LAW

This Agreement shall be interpreted by application of New York law without regard to its conflicts of law provisions. Where Member is a non- New York 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 15: ENTIRE AGREEMENT

These Articles, 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 16: INVALIDITY OF PROVISIONS

If any provision of these Articles 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 these Articles will remain in full force and effect.

ARTICLE 17: TAX STATUS

The Medical CBRN Defense Consortium will not realize any revenue as an entity, and the Consortium Management Firm's non-profit status will preclude any tax liability for the Medical CBRN Defense Consortium.

ARTICLE 18: GENERAL PROVISIONS

Order of Precedence. Should there be any conflict between the terms and conditions of these Articles and the ~~OTAMCDC Base Agreement~~, the ~~OTA-MCDC Base Agreement~~ shall take precedence.

Amendments. No amendment or modification of these Articles shall be valid unless agreed to in writing by two-thirds (2/3) vote of the Medical CBRN Defense Consortium Executive Committee membership. The Executive Committee may, at its discretion, refer certain proposed amendments to the full Medical CBRN Defense Consortium membership for validation by a majority vote of the membership. All proposed amendments to these Articles shall be distributed to the Executive Committee Members at least thirty (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 these Articles 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 these Articles.

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

Obligations of the Members. The Members agree to work together to accomplish the objectives of the Medical CBRN Defense Consortium by carrying out their responsibilities as set forth in any Chemical & Biological Defense Consortium Project Agreement issued through the Medical CBRN Defense Consortium.

Compliance with U. S. Export Laws. The Members 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. No Member shall export or re-export any information, data, technical know-how, products, goods or related services ("Controlled Items") under these Articles in violation of the AECA, ITAR or EAR. No Member shall disseminate any Controlled Item to a foreign person (as defined in the ITAR), or to persons and affiliated entities of foreign governments, foreign government agencies or foreign organizations, under these Articles in violation of the AECA, ITAR or EAR. No Member shall disseminate any Controlled Item to any person or affiliated entity of a person or entity named on the U.S. Department of Treasury Denied Parties List, the U. S. Department of Commerce Unverified List or U. S. Department of Commerce Entity List or any other U.S. government list of persons or entities under these Articles to which dissemination of Controlled Items shall not be made.

Use of Names. Neither any Member nor the Medical CBRN Defense Consortium (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 Consortium Management Firm can include Member's name in all published Membership lists.

Medical CBRN Defense Consortium Articles of Collaboration

IN WITNESS WHEREOF, the Members have caused these Articles 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 MEMBERSHIP LISTING

AbViro LLC

Battelle

bbPharmaceuticals

Integrated BioTherapeutics, Inc.

Nanotherapeutics

Southwest Research Institute

University of Pittsburgh Center for Military Medicine Research