



CONSORTIUM MEMBERSHIP AGREEMENT

Agreement among Members of the
SYSTEM OF SYSTEMS CONSORTIUM (SOSSEC)

Concerning

Continuous support to federal, state and local initiatives and support to the DOD and other Federal
Agencies.

Effective Date: 04/23/20 (amendment)

Registered with DOJ and FTC pursuant to the National Cooperative Research and
Product Act of 1993 (15 U.S.C. 4301) on 09/25/07.

*Approved by Robert J. Kent, Executive Director, SOSSEC Consortium

CONSORTIUM MEMBERSHIP AGREEMENT

Contents

PREAMBLE 3

ARTICLE I - DEFINITIONS 3

ARTICLE II - THE CONSORTIUM 4

ARTICLE III - CONSORTIUM MANAGEMENT AND ADMINISTRATION 5

ARTICLE IV - DATA RIGHTS AND RESPONSIBILITIES 7

ARTICLE V - EXPORT CONTROLS 7

ARTICLE VI - WITHDRAWAL OF CONSORTIUM MEMBERS 7

ARTICLE VII - TERM, RENEWAL, AND TERMINATION 8

ARTICLE VIII - REPRESENTATIONS AND WARRANTIES 8

ARTICLE IX - LIMITATION AND CROSS-WAIVER OF LIABILITY 8

ARTICLE X - DISPUTE RESOLUTION 9

ARTICLE XI - GENERAL PROVISIONS 10

PREAMBLE

This Consortium Membership Agreement (the “Agreement”) has been updated and this version is made effective as of the 8/22/2017 (the “Effective Date”) by, between, and among, the membership in the SOSSEC Consortium referred to as “Consortium Member” or, collectively as “Consortium Members”. The Consortium Members may also be referred to herein individually as a “Party” or collectively, as “Parties.”

WITNESSETH

WHEREAS, the Parties intend to enter into a Section 845 or 815 Other Transactions Agreement (the “OT Agreement”) and/or contracts with federal, state and local Sponsor(s) for the funding of certain research and development to be conducted, in partnership with these entities and other Consortium Members, for the SOSSEC Consortium herein after referred to as the “SOSSEC” in support to the mission of the Department of Defense and related other federal, state and local agencies.

WHEREAS, the Parties wish to ensure quick and efficient delivery of technology solutions to enhance the nation’s abilities to support National Security and the defense mission of the United States.

WHEREAS, the Parties wish to concurrently develop, sustain and expand their collective strategic technical superiority;

WHEREAS, the Parties wish to provide a unified and coordinated message to the collective Defense community as to the strategically important role of systems of systems for the support of military operations in a coordinated environment.

WHEREAS, the Parties wish to define programs and obtain program funding that is focused on the development, demonstration and transition of key technologies that will result in Defense/ systems improvements or the fielding of new systems or system upgrades.

ARTICLE I - DEFINITIONS

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

- 1.1. “Consortium Members” means the Consortium Members who become signatories to this Agreement after the Effective Date pursuant to the procedures set forth herein and in the specific OT Agreement between the Consortium Members and the sponsoring agency.
- 1.2. “Agreement” means this Consortium Member Agreement.
- 1.3. “Consensus” means an agreement in opinion by 2/3rds or more members.
- 1.4. “Consortium” means the System of Systems Consortium (SOSSEC) which is made up of Consortium Members from industry, academia, non-profit organizations, and not-for-profit entities pursuant to this Agreement.
- 1.5. “Consortium Member” or “Consortium Members” means the individual organizations that are or become signatories to this Agreement.
- 1.6. “Consortium Board of Directors” means those individuals elected to govern the affairs of the consortium.
- 1.7. “Consortium Administration Organizations” or the “OT Lead” means SOSSEC, Inc.
- 1.8. Deleted
- 1.9. “Notifications” means formal communication to Membership organizations, Consortium Board of Directors via emails, website, and meetings.
- 1.10. “Consortium Membership Agreement” means this Agreement governing the rights and obligations

of the Consortium Members as they relate to the organization and operation of the Consortium.

- 1.11. "Contract Year" means (a) with respect to the first Contract Year, the period commencing on the Effective Date and ending in twelve (12) months thereafter, and (b) each subsequent twelve (12) month period of this Agreement.
- 1.12. "Effective Date" means the date first written above and on which this Agreement is signed and executed.
- 1.13. "Project(s)" means those Project Proposals selected by the Sponsor(s) for award under an OT Agreement or contract. Project(s) will be conducted by a Consortium Member, Consortium Members and/or the Sponsor(s) either individually or among and between themselves for the agreed upon period of performance.
- 1.14. "Project Award" means the award instrument utilized by the Sponsor(s) to award a Project to a Consortium Member or Consortium Members pursuant to this Agreement.
- 1.15. "Project Proposal" means a proposal from a Consortium Member or Consortium Members, in response to the Sponsor(s)'s request for project proposal (RPP) that will be evaluated by the Sponsor(s) for award selection in a specific Contract Year.
- 1.16. Sponsor(s) means any governmental (e.g. federal, state, local agency) that enters into a working arrangement with the Consortium.
- 1.17. "SOSSEC, Inc. means a company formally incorporated in the state of Massachusetts on 05/21/08. SOSSEC, Inc., after acceptance of its appointment, is the exclusive agent of the SOSSEC Consortium. It will execute the consortium mission to include, inter alia, execution and administration of contracts, administration of the Consortium, oversight of technical programs, and representing the Consortium to the Sponsor(s).

ARTICLE II - THE CONSORTIUM

2.1. Background.

The Sponsor(s) has expressed a desire for industry and academia to form a consortium to facilitate research and development activities, in cooperation with the U.S. Department of Defense (DoD) Components, other federal agencies, state and local Sponsor(s) to support areas of military and related activities initiatives. The Sponsor(s) and the Consortium Members, through the company SOSSEC Inc. and through the management structure defined herein, will conduct research and development activities that advance the state-of-the-art as well as technology, scientific and engineering skills in the Field that are needed to develop and transition new technologies into applicable systems. All agent-related management functions contained in this agreement, as approved by the consortium, will be hereafter transferred to SOSSEC Inc. and execution by SOSSEC Inc. as the sole agent of the SOSSEC Consortium to the Sponsor(s).

2.2. Establishment of Consortium.

As of the Effective Date of this Agreement or its amendments, the Parties hereby establish the System of Systems (SOSSEC) Consortium. The SOSSEC Consortium is a Sponsor-oriented non-incorporated enterprise, whose participants are from industry, academia and non-profit organizations, and not-for-profit entities pursuant to this Agreement. The SOSSEC approach is to facilitate a transformation of how industry supports the military: by addressing issues of national interest that have not been effectively solved.

2.3. Consortium Members.

As of the Effective Date of this Agreement and its amendments, and subject to other conditions of membership as further defined herein, the current Consortium Members are those listed on the SOSSEC Consortium website (<https://sossecinc.com>). The intent of the Parties is that SOSSEC will consist of members from industry, academic institutions, and non-profit and not-for-profit organizations. The Parties adopt a non-exclusive, open membership policy. The Consortium Members will include Additional Consortium Members in accordance with the provisions contained herein and in the appropriate OT or

Contract Agreement. The Consortium, through SOSSEC Inc., will notify the Sponsor(s) of the addition or deletion of Consortium Members as needed but no less than annually. All Consortium Members, regardless of when they become a signatory to this Agreement, have the same rights and obligations hereunder.

2.4. Memorandum of Agreement.

This Agreement between Consortium Members in conjunction with the OT Agreement(s) as referenced herein, shall govern the relationships and interaction between Consortium Members and the SOSSEC Consortium.

ARTICLE III - CONSORTIUM MANAGEMENT AND ADMINISTRATION

3.1. Organization and Administration.

The Consortium may from time to time utilize a number of positions, committees and Integrated Product Teams (IPT) to coordinate the Consortium's activities with the Sponsor(s). The Parties have agreed to utilize SOSSEC Inc. to administer the affairs of the Consortium.

3.1.1. Additional Consortium Members.

To facilitate an open membership policy the membership application and approval process described herein may take place throughout the Sponsor(s) Fiscal Year. Membership applications are submitted through the SOSSEC Consortium website (<https://sossecinc.com>) may be submitted by interested parties from time to time throughout the year. Membership applications, which are not in the form identified and processed through the website, will not be processed and organizations submitting such non-conforming applications will be required to reapply. Valid membership applications will be promptly reviewed and approved or disapproved by SOSSEC Inc. All Additional Consortium Members may become a party to this Agreement by executing a counterpart hereof, as well as become a party to the OT Agreement.

3.1.2. Consortium Membership Requirements.

The requirements for membership in the Consortium are as follows:

3.1.2.1. Minimum Requirements Directed by the Sponsor(s).

At the direction of the Sponsor(s), membership in the Consortium may be granted to U.S. firms or institutions organized or existing under the laws of the United States, its territories, or possessions. Membership to any agency or instrumentality of a foreign Sponsor(s) and firms, institutions or business organizations which are owned or substantially controlled by foreign Sponsor(s)s, firms, institutions or individuals, may be granted on a case-by-case basis at the sole discretion of the U.S. Sponsor(s). When selected to perform on a prototype project, members are solely responsible for complying with all agreement articles flowed down via a Project Level Agreement to the performing member company(ies). Additionally, all members are solely responsible for complying with the following:

48 CFR 52.204-21 "Basic Safeguarding of Covered Contractor Information Systems

- a. FAR 52.204-21 - Basic Safeguarding of Covered Contractor Information and Systems (May 2016)
- b. DDFARS 252.204-7012 "Safeguarding Covered Defense Information and Cyber Incident Reporting"
- c. National Institute of Standards and Technology (NIST) Special Publication (SP) 800-171 Rev (at the approved revision level at time of project award) "Protecting Controlled Unclassified Information in Nonfederal Systems and Organizations"
- d. DDFARS 252.204-7012 "Safeguarding Covered Defense Information and Cyber Incident Reporting"
- e. NIST SP 800-171B "Protecting Controlled Unclassified Information in Nonfederal Systems and Organizations: Enhanced Security Requirements for Critical Programs and High Value Assets" (at the approved revision level at time of project award)

SOSSEC, Inc will only share protected information with members that have provided assurance and proper supporting documentation (eg DD 2345) that they are capable of handling it. As part of this, each member must confirm that is has a System Security Plan (SSP) in place.

3.1.2.2. Requirements Directed by the Consortium.

The Parties agree that membership in the Consortium shall only be granted to firms or institutions that meet the following criteria:

a) Membership Criteria

SOSSEC members must meet the following criteria:

Industry/Academia

- Membership under this agreement is restricted to the CAGE code of the applying entity. A separate affiliate, division or subdivision with a different CAGE code must join separately under the different CAGE code.
- The organization has a related technology that is supportive of SOSSEC Consortium goals and areas of interest?
- The organization willing to make these technologies available for demonstrations and the formulation of potential solution sets?
- Are not barred from contracting with or receiving funds from, the United States Sponsor(s),
- Will contribute their respective talents and resources to the Consortium such as periodic meeting attendance and participation, committee and/or subcommittee service, or other consultation and/or service as may be appropriate,
- Are willing to provide otherwise publicly available information in their membership application denoting their current research and development capabilities that may be applicable SOSSEC related system technologies and to describe the general nature of their organizations' business as it may apply to these technologies,
- Will make every effort to attend, at a minimum, the Consortium General Membership meetings to be conducted at least once per year or as appropriate
- Will pay a yearly administrative dues to offset the administrative expenses of the Consortium.

3.2. Consortium Board of Directors.

The Consortium shall have a Board of Directors who shall govern all business affairs of the SOSSEC Consortium. The Board will oversee planning, organizing and directing of the Consortium. The Board shall consist of no more than five members. The Board shall appoint a Chairman of the Board who shall speak for the Board in all matters that affect the Consortium, including all work in conjunction with SOSSEC Inc.

3.3. Consortium Administrative Organization (CAO) and OT Lead.

The Consortium CAO and OT Lead is designated as SOSSEC Inc. with the qualifications and significant experience in management relevant to the goals and objectives of SOSSEC. The CAO/OT Lead shall have a good understanding of this agreement, understand OTA, CRADA, Cooperative Agreements and federal contracting.

3.4. Responsibilities of the Consortium Administrative Organization.

The CAO shall manage and coordinate the day-to-day operational affairs and staff of the Consortium.

The Consortium Board Chairman shall act as the administrative point of contact for the Consortium Members under this Agreement and any amendments hereto.

3.5. General Membership Meetings and Meeting Attendance.

General Membership meetings of the Consortium will be conducted at least once per year or as appropriate. The location of all meetings will be determined on a meeting by meeting basis by a consensus of the Consortium Members in attendance. Consortium Members agree to attend, Consortium General Membership meetings (to the best of their ability) to continue their membership in the Consortium. Consortium General Membership meeting agendas may, at a minimum, include health of the consortium, customer presentations, security and cybersecurity training, and other topics that facilitate networking among members and customers.

3.6. Deleted

3.7. Consortium Committees.

When the SOSSEC Board of Director deems it advantageous for the Consortium, it may establish a series of committees manned by the Membership and Sponsor(s) to advise on a variety of areas of interest to the Sponsor(s) or the SOSSEC Membership.

3.7.1. Business Development Committee Responsibilities.

The Business Development Committee may have the following responsibilities:

- a) Interface with key stakeholders (e.g., Users, Program Executive Officers (PEO's) and Program Managers (PMs)) representing agencies and offices of interest to the SOSSEC Consortium to identify the potential for developing a new OTA and/or requirements for technology development applicable to currently held OTAs.
- b) Recommend research and development programs and projects to be conducted to meet identified requirements.
- c) Review evolving technology requirements and user needs and evaluate new opportunities for additional new objectives and Research Initiatives.

3.7.2. Integrated Product Teams (IPTs).

The Sponsor(s) and the Consortium Members are encouraged to form IPTs to develop both White Papers for consideration as Research Initiatives in Project Proposals in response to the Sponsor(s)'s Project Proposal Announcement. In the event that IPTs are not formed at the White Paper or Proposal phase, after the selection and award of the Research Projects by the Sponsor(s), the Sponsor(s) and the Consortium Members agree, where applicable, to form IPTs to perform the Projects in response to sponsor requests.. The membership and meetings of the Integrated Product Teams and the IPT leaders will be determined by the Party having the responsibility to perform the specific Project. The IPTs will report progress of the Projects against established objectives to the Consortium. Where possible, the IPT leaders will participate as members of the appropriate Subcommittee.

3.7.3. Diligent Efforts.

Both the Sponsor(s) and the Consortium Members conducting Projects in accordance with this Agreement shall use all reasonable efforts and proceed diligently to perform the Projects, including, without limitation, by;

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

The Parties agree to conduct activity under the Projects, in a good technical manner, and in compliance with applicable laws, rules and regulations, and all other requirements to attempt to achieve the objectives efficiently and expeditiously. The Parties further agree that the primary goal of the Program is to develop prototypes, conduct Technology Demonstrations, training, consultation and technology transfer of the technology developed from the Projects. Accordingly, all Parties shall use Diligent Efforts to conduct such research and development efforts as are outlined in the relevant Projects with the goal of accomplishing program goals as soon as practicable. The Parties further agree to use Diligent Efforts to meet the schedules established in the applicable Projects for achieving specific objectives and milestones contained therein.

ARTICLE IV - DATA RIGHTS AND RESPONSIBILITIES

Provisions defining data rights, inventions and patents can be found in the specific OTA Agreement in which a Member organization participates.

ARTICLE V - EXPORT CONTROLS

5.1. Export Controls.

This Agreement is subject to restrictions concerning the export of products and/or technology, Confidential Information, Trade Secrets, or Classified and Unclassified Technical Data from the United States which may be imposed upon or related to the Parties to this Agreement from time to time by the Sponsor(s) of the

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

ARTICLE VI - WITHDRAWAL OF CONSORTIUM MEMBERS

6.1. Voluntary Withdrawal.

A Consortium Member may voluntarily withdraw from this Agreement at any time and for any or no reason by notice of withdrawal given by such Consortium Member to the Grants Officer 14 calendar days prior to their withdrawal and to the Board of Directors and the other Consortium Members.

6.2. Effect of Withdrawal.

6.2.1. Rights of a Consortium Member.

Except for the rights and obligations with respect to the agreements in a specific OTA, and/or specific

intellectual property agreements between or amongst the Consortium Members, from and after the effective date of withdrawal of a Consortium Member and such obligations of a continuing nature, such Consortium Member shall cease to have any rights or obligations as a Consortium Member under this Agreement.

6.2.2. Continued Funding and Technology Contribution Commitment.

In the event of the withdrawal of a Consortium Member pursuant to this Article VI, such Consortium Member's rights and obligations pursuant to any executory Project Awards, including but not limited to, continued funding and technology contribution commitments shall continue in accordance with the specific terms and schedule of the Project Award under the OT Agreement or until the Sponsor(s) and Consortium Member come to agreement to terminate the Award, whichever is first.

ARTICLE VII - TERM, RENEWAL, AND TERMINATION

7.1. Term.

This agreement shall continue for a period of five (5) years from the Effective Date of this Agreement and may be automatically renewed.

7.2. Material Breach or Default by a Consortium Member.

If a Consortium Member materially breaches any material warranty, term or condition of this Agreement, any other Consortium Member may provide notice of such material breach to the CAO/OT Lead. The CAO/OT Lead shall report same to the consortium board of directors that shall review the facts of the willful material breach or default and determine whether the Consortium Member alleged to have materially breached any material term or condition of this Agreement has, in fact, committed such a material breach. Upon such decision, the CAO/OT Lead shall make notification to the offending Consortium Member. If the Consortium Member fails to remedy such material breach within ninety (90) days after receipt of such notice of such material breach from the CAO, at its option, and in addition to any other remedies that the Consortium may have in law or equity, terminate this Agreement with respect to such Consortium Member. If the CAO are unable to reach agreement, the facts of the willful material breach or default shall be submitted for resolution pursuant to Article X.

ARTICLE VIII - REPRESENTATIONS AND WARRANTIES

8.1. Representations and Warranties of All Parties.

Each Party represents and warrants to the other parties that:

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

ARTICLE IX - LIMITATION AND CROSS-WAIVER OF LIABILITY**9.1. Waiver of Liability.**

Consortium Members waive all claims against any of the entities or persons part of this Agreement and additional Consortium Members that are based on alleged damages relating to and arising out of activities under this Agreement and the injured Consortium Member suffers such damages by virtue of its involvement under this Agreement.

9.2. Subcontractors or Sub-entities.

The Consortium Members agree to extend the waiver of liability as set forth above to subcontractors or sub-entities at any tier under the Project Awards by requiring them, by written contract, purchase order or otherwise, to waive all claims against any and all Consortium Members.

9.3. Inapplicability.

Notwithstanding the other provisions of this article, this waiver of liability shall not be applicable to:

- a) Claims between a Consortium Member and its related entities or claims between the Sponsor(s)'s related entities (however, claims between the Sponsor(s) and the Consortium Members claims between the members and SOSSEC, Inc., or vice versa, are not included within this exception),
- b) Claims made by a natural person, his/her estate, survivors or subrogates for injury or death of such natural person,
- c) Claims for damage caused by willful misconduct,
- d) Intellectual property claims.

9.4. Limitation of Liability.

In no event will any party hereto be liable for any special, incidental, consequential or indirect damages arising in any way out of this Agreement, however caused and on any theory of liability. This limitation will apply even if the other party or parties hereto have been advised of the possibility of such damage. In no case shall the Sponsor(s)'s or any Consortium Members' financial liability exceed the amount obligated by the Sponsor(s) or committed as a cash contribution or in-kind contribution by a Consortium member under the Project Award. Nothing in this Article IX shall be construed to create the basis of a claim or suit where none would otherwise exist.

ARTICLE X - DISPUTE RESOLUTION**10.1. Dispute Resolution Process.**

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

10.2. Dispute Resolution Representatives.

In the event of disputes between the Parties, including disputes among the Consortium Members' representatives to the Consortium Board of Directors which such representatives are unable to resolve, a Party seeking to resolve such dispute will, by written notice to the other, have such dispute referred to their respective executive officers designated below or their successors, for attempted resolution by good faith negotiations within fourteen (14) days after such notice is received. Said designated officers are as follows:

- For the Consortium Member: Designated Senior Executive
- For the Consortium: The Consortium Chairman of the Consortium Board of Directors

In the event the designated officers are not able to resolve such dispute, either Party may at any time after the 14-day period invoke the provisions of paragraph 10.3 hereinafter.

10.3. Alternative Dispute Resolution.

Following settlement efforts pursuant to paragraph 10.2, any dispute, controversy or claim arising out of or relating to the validity, construction, enforceability or performance of this Agreement, including disputes

relating to alleged breach or to termination of this Agreement, other than disputes which are expressly prohibited herein from being resolved by this mechanism, shall be settled by binding Alternative Dispute Resolution ("ADR") in the manner described below:

10.3.1. ADR Request.

If a Party intends to begin an ADR to resolve a dispute, such Party shall provide written notice (the "ADR Request") to the other Party informing such other Party of such intention and the issues to be resolved. From the date of the ADR Request and until such time as any matter has been finally settled by ADR, the running of the time periods contained in Article VII under which Party must cure a breach of this Agreement shall be suspended as to the subject matter of the dispute.

10.3.2. Additional Issues.

Within ten (10) business days after the receipt of the ADR Request, the other Party may, by written notice to the Party initiating ADR, add additional issues to be resolved. No ADR of Patent Issues.

Disputes regarding the scope, validity and enforceability of patents shall not be subject to this paragraph 10.3.3 nor shall it be subject to paragraph 10.4, and shall be submitted to a court of competent jurisdiction.

10.4. Arbitration Procedure.

Any dispute or claim arising out of or in connection with, this Agreement shall be finally settled by binding arbitration in accordance with the then current rules and procedures of the American Arbitration Association.

The arbitration shall be conducted by three (3) arbitrators with experience with the issue under consideration, one (1) each to be appointed by the Parties in Dispute and a third being nominated by the two (2) arbitrators so selected or, if they cannot agree on a third arbitrator, by the President of the American Arbitration Association. Such arbitration will take place, unless otherwise determined by a requisite majority of the Consortium Board of Directors. The arbitrators shall apply the law of the State of Massachusetts 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 Parties agree that, any provision of applicable law notwithstanding, they will not request, and the arbitrators shall have no authority to award punitive or exemplary damages against any Party. Nothing in this Article 10 shall limit a Party's right to seek injunctive relief with respect to a breach or threatened breach of this Agreement.

10.5. Governing Law.

This Agreement shall be governed by, construed, and interpreted in accordance with the laws of the State of Massachusetts, without reference to principles of conflicts of laws.

ARTICLE XI - GENERAL PROVISIONS

11.1. Independent Contractors.

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

11.2. Parties Bound.

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

11.3. Assignment.

This Agreement may not be assigned or transferred by any of the Parties hereto without the prior written consent of the other Parties. See paragraph 3.1.2.2 above.

11.4. Affiliates.

Deleted

11.5. Agreement.

This Agreement constitutes the entire and only agreement between the Parties relating to the subject matter hereof, and all prior negotiations, representations, agreements and understandings are superseded.

11.6. Amendment.

This Agreement may only be amended by a written instrument executed by the Parties except for administrative changes required for clarification.

11.7. Waiver.

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

11.8. Severability.

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

11.9. Counterparts.

DELETED

11.10. Public Announcements.

Any announcements, press releases or similar publicity (collectively, "Announcements") with respect to the execution of this Agreement shall be submitted to and agreed upon by the Consortium Board of Directors in advance of such Announcement. Each Consortium Member shall have the right to review and request changes to any Announcements.

11.11. Disclosure.

Except as specifically authorized in accordance with paragraph 11.10, the Parties agree that the existence and terms of this Agreement shall be maintained in confidence by all Parties, except that any Party may disclose the terms hereof to the extent required by law (including without limitation pursuant to the requirements of U.S. securities laws), provided that such disclosure under this paragraph 11.10 shall, to the extent legally permissible, be in the form of the redacted version of this Agreement to be agreed upon by the Consortium Board of Directors.

11.12. No Third Party Beneficiary Rights.

The Consortium Members agree and acknowledge that the Sponsor(s) is not intended to be, and shall not constitute, a third party beneficiary of the this Agreement, which is intended exclusively as an agreement among, and for the benefit of, the Consortium Members.

11.13. Force Majeure.

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

Order of precedence.

In the event of any inconsistency between the terms of this Agreement and the terms set forth in the OT Agreement, the inconsistency shall be resolved by giving precedence in the following order:

- 1) the OT Agreement,
- 2) Attachments to the OT Agreement other than the Consortium Member Agreement,
- 3) other documents listed or references (numbers 1 through 4) in the OT Agreement, and
- 4) the Consortium Member Agreement.

11.14. Entire Agreement.

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

11.15. Non-Disclosure Agreement For the purposes of this agreement, the CMA will serve as an acknowledgement of an NDA agreement between the member and the SOSSEC Consortium.

Signatory to this agreement agrees that the Information relating to the interaction between an among members and with the Consortium, or any portion of it which is (a) disclosed in writing after the date of this Agreement and which is (b) identified as Proprietary, will be received and accepted by the Member in confidence and used only for the following purposes:

Recipient shall not use the Information for any other purpose except the execution of approved tasks related to SOSSEC Consortium OTAs, including but not limited to the development, production, or marketing of any product incorporating Information.

The Recipient will hold the Information in confidence in the same manner and with the same degree of care that the Member uses to protect its own most valuable proprietary information, but in no event less than a reasonable degree of care.

The Information shall be disclosed only to those employees of Member(s) as necessary for the purposes above, and shall not be disclosed to any third party outside the Member(s) without prior written consent of Discloser.

The obligations of the Member under this Agreement will not extend to any Information that is:

- a) in the public domain as of the date of this agreement,
- b) is lawfully known to the Member as of the date of this agreement,
- c) hereafter becomes known to the Member independently of this disclosure through the Member's own developments or from a third person who has no obligation to keep such disclosure secret, or
- d) becomes publicly known and ceases to be secret or confidential through no fault to the Member as by (i) public use or (ii) publication.

Unless otherwise agreed to in writing, the obligation of the Member under this Agreement will terminate at the expiration of 5 years from the effective date of this agreement.

This Agreement sets forth the entire understanding between the parties as to the subject matter hereof and supersedes any and all prior and collateral agreements and representations. This Agreement may not be modified, changed or discharged, in whole or in part, except by a written agreement signed by both parties. This agreement shall be construed and interpreted in accordance with the laws of the Commonwealth of Massachusetts.