

**ENTERPRISE AWARD AGREEMENT**

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| **Project Team Lead** |  |
| **Project Title** |  |
| **Project Designation** |  |
| **MXD Contract Number** |  |
| **TIA Funded Costs** |  |
| **Project Team Cost Share** |  |
| **EAA Effective Date** |  |
| **Project End Date** |  |

**Enterprise Award Agreement**

1. **STRUCTURE**
   1. Parties. This Enterprise Award Agreement (“**Agreement**”) is entered into by and among UI LABS, d/b/a MXD USA, a corporation organized under the Illinois General Not for Profit Corporation Act (“MXD”) and the Project Team Lead(the “**Project Team Lead**”) identified on the cover page of this Agreement (“**Cover Page**”) solely for purposes of executing the project identified on the Cover Page and described herein (the “**Project**”). The Project Team Lead is a Member of the MXD consortium pursuant to the Membership Agreement, as amended from time to time, by and between MXD and Project Team Lead (“**Membership Agreement**”) and will be responsible for ensuring that it and the Project Participants identified in Exhibit A fulfill all responsibilities required to complete the Project in accordance with the Membership Agreement, this Agreement, and any sub-agreements entered into between the Project Team Lead and the other Project Participants (the “**Sub-Agreements**”). Except as otherwise specified, references to Project Participants include the Project Team Lead. This Agreement will be effective as of EAA Effective Date set forth on the Cover Page (“**EAA Effective Date**”).
   2. Membership Agreement. This Agreement incorporates by reference all terms, obligations and conditions of the Membership Agreement (including, but not limited to, Article VII (Confidential Information), Article VIII (Intellectual Property), Article IX (Foreign Access), Article X (Export Compliance), and Article XI (Publications)). This is an Enterprise Award Agreement under the Membership Agreement and sets forth details related to an Enterprise Project. Except as specifically provided below, capitalized terms used in this Agreement will have the meaning set forth in the Membership Agreement.

The Project Team Lead shall flow down Articles VII, VIII, IX and X of the Membership Agreement to its subcontractors or subagreement awardees.

* 1. Department of Defense Requirements. MXD has been granted an Award pursuant to Technology Investment Agreement number W15QKN-19-3-0003 (“**TIA**”), between MXD and US Army Contracting Command—Picatinny, the U.S. federal awarding agency on behalf of the United States of America (“**Government**”) and is subject to certain federal laws and other regulatory requirements associated with Government expenditures as reflected in the TIA and its Exhibits and Attachments.
  2. Project Participants. All Project Participants, including their technical and contractual representatives are identified in Exhibit A.
  3. Project IP Management Plan. The Project IP Management Plan is attached to this Agreement as Exhibit B.
  4. Statement of Work. The statement of work attached as Exhibit C (“**SOW**”) provides a detailed description of the work to be accomplished including milestones, deliverables and reports required by this Agreement. Any changes to the SOW will be effective only if incorporated via written modification to this Agreement executed by MXD and all Project Participants affected by such change.
  5. Export Control and Security Administration. Participants under this Agreement remain subject to a number of federal laws and regulations related to U.S. Export Control, foreign participation and classified information as set forth in Exhibit D. Unless disclosed and agreed to by MXD in writing using the form of “Notice of Export Controlled or Classified Information” attached as Exhibit D, this Agreement will not involve or make use of classified information. Written concurrence from MXD must be obtained prior to disclosure of any such information.
  6. Use of MXD Equipment. If any Project Participant will use or access any premises or equipment of MXD, the Project Team Lead will cause such Project Participant to execute the Form of Shop Floor Agreement attached hereto as Exhibit H prior to accessing such premises or equipment.
  7. Title to Property and Equipment. All equipment being purchased under this Agreement will be listed as exempt property with conditional title throughout the performance of this Agreement. Exempt property is defined as tangible personal property acquired in whole or in part with Federal funds, where the Government has statutory authority to vest title in the Project Participant without further obligation to the Government. If the Government does not elect to retain title, 2 CFR 200.313 “Equipment” will apply. The Government will not elect to retain title to equipment under this Agreement that the Project Participant has shown will continue to contribute toward the sustainability of MXD.

Supplies will be managed in accordance with 2 CFR 200 § 314. The Project Participant is permitted to use their existing policies and procedures to account for and manage supplies.

The Project Team Lead shall flow down this requirement to its subcontractors or subagreement awardees.

* 1. Equipment Priority of Use.
     1. The Project Participant shall not use equipment acquired with Federal funds to provide services to non-Federal entities that are not performing under this Agreement, for a fee that is less than private companies charge for equivalent services, unless specifically authorized by Federal statute, for as long as the federal government retains an interest in the equipment.
     2. The Project Participant shall use the equipment in the project or program for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds and shall not encumber the property without approval of the Government.
     3. When no longer needed for the original project or program, the Project Participant shall use the equipment in the following order of priority:
        1. First, activities sponsored by the Government that funded the original project;
        2. Second, activities sponsored by other Governments;
        3. Third, activities sponsored by other Government agencies; and
        4. Fourth, other activities that promote MXD’s sustainability goals.
     4. Project Participant Acquired Property.
        1. In this article “property” means any tangible nonexpendable personal property charged directly to this agreement having a useful life of more than one year and an acquisition cost of $5,000.00 or more per unit, and defined as “equipment” in DGARS 34.2.
        2. The Project Participant may purchase real property or equipment in whole or in part with Federal funds in whole or in part with recipient funding under an award only with the prior approval of the Government (except that additional approval is not required for such items included in the proposed/negotiated budget at the time of award).
        3. Property Management - The Project Participant’s property management system shall comply with DGARS 34.23 or the Recipient’s Defense Contract Management Agency (DCMA) approved Government Property Management System.
        4. Title - Title to, management of, and disposition of tangible property. Use DGARS 37.685 through 37.700.
           1. Title. Title to such real property or equipment shall conditionally vest in the Project Participant upon acquisition. The Project Participant shall:

Use the real property or equipment for the authorized purposes of the project until funding for the project ceases, or until the property is no longer needed for the purposes of the project;

Not encumber the property without approval of the Government; and

Use the property in accordance with DGARS paragraph 34.21(d).

* + - * 1. If the Project Participant purchases real property (other than land) or equipment with its own funding, and designates the real property or equipment as recipient cost share, the Government will have a financial interest in the real property or equipment. The financial interest of the Government is determined by the Federal participation in the project.
      1. Disposition of Property - At the completion of the term of this Agreement, items of property acquired under this Agreement shall be disposed of in accordance with DGARS paragraph 34.21(e).

The Project Team Lead shall flow down this requirement to its subcontractors or subagreement awardees.

1.11 Purchasing System. The Project Team Lead purchasing system is subject to 32 CFR 37.705 and shall flow down to its subcontractors or subagreement awardees.

1. **FINANCIAL ADMINISTRATION, INVOICES AND PAYMENTS**
   1. Financial Management System Compliance. The Project Team Lead and all Project Participants shall certify to MXD, in writing, that their financial management system complies with 2 CFR §200.302.
   2. Estimated Cost

All Project Participants will follow the Standard Operating Procedures related to cost analysis and financial reporting attached hereto as Exhibit E (the “**Financial SOPs**”). Subject to the Project Team Lead deciding to reallocate costs, within a reasonable amount, between Project Participants (without, for the avoidance of doubt, modifying the overall Budget), the anticipated cost for the supplies/services (“**Budget**”) to be provided by the Project Participants, are as follows:

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| --- | --- | --- | --- |
| Organization | TIA Funded Cost | Project Team  Cost Share | Total |
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* 1. Limitation of Cost. The total amount of funding currently available for reimbursement by MXD in accordance with the TIA is the amount indicated on the cover page as TIA Funded Cost (the “**TIA Funded Cost**”).

The TIA Funded Cost will cover the work to be performed in accordance with the SOW. Any costs in excess of the TIA Funded Cost will not be paid by MXD unless authorized in a writing signed by the parties to this Agreement.

* 1. Cost Principles.

2 CFR 200, Subpart E, Cost Principles will apply and describes the cost principles for determining allowability of costs applicable to lower tier performing, cost type contracts or awards under this Agreement.

The Project Team Lead shall flow down this requirement to its subcontractors or subagreement awardees.

* 1. Audit Requirements.
     1. The Project Team Lead will comply with the audit requirements of 2 CFR 200, Subpart F Audit Requirements. The Project Participant’s relevant financial records are subject to examination or audit by the Government for a period not to exceed three (3) years after payment of the final invoice. MXD and the Government shall have direct access to sufficient records and information of the Project Participant, to ensure full accountability for all funding under this Agreement. Such audit, examination, or access will be performed during business hours on business days upon prior written notice and shall be subject to the security requirements of the audited party.
     2. Subawardee(s) will comply with the audit requirements appropriate for the type of entity receiving the award as required:
        1. For-profit entities will grant access to its records to the DCAA or other Government auditors and will provide standard access-to records requirements at 2 CFR 200, Subpart F Audit Requirements; grant the Government direct access to their records and/or allow the Government to examine independent auditor’s audit report and working papers for three (3) years after final payment.
        2. Non-profit sub-awardees will comply with the audit requirements of 2 CFR 200, Subpart F Audit Requirements.

The Project Team Lead shall flow down this requirement to its subcontractors or subagreement awardees.

2.6 Record Retention and Access. Financial records, supporting documents, statistical records, and all other records pertinent to this Agreement will be retained and access to them permitted in accordance with 2 CFR 200.333-337.

The Project Team Lead shall flow down this requirement to its subcontractors or subagreement awardees.

* 1. Prior Costs. Unless there is an executed Pre-Enterprise Award Agreement Cost Authorization, costs incurred by Project Participants will not be TIA Funded Costs unless such costs are authorized and incurred after the later of the (a) EAA Effective Date or b) the Project Effective Date set forth in the SOW.
  2. Invoicing Instructions. Payments will be requested monthly by the Project Team Lead in accordance with the Financial SOPs.
  3. Closeout Actions and Reports
     1. *Closeout.* Subject to any modifications required by the Sub-Agreements with Project Participants, upon completion of a Project, Project Team Lead will provide all closeout documentation required in the SOW and Financial SOPs within sixty (60) calendar days after the Project End Date (as defined below)(“Closeout”).
     2. *Unilateral Closeout*. MXD may unilaterally terminate this Agreement in the event a Project Participant fails to submit the closeout information required herein within sixty (60) days following the Project End Date (“Unilateral Closeout”) unless such failure is substantially due to the actions of the Government. MXD shall have no liability as a result of aUnilateral Closeout and Project Team Lead expressly agrees that amounts paid prior to the Unilateral Closeout constitute full payment of all financial obligations of MXD. Further, Project Team Lead releases and discharges MXD, its Members and their respective officers, agents and employees and contractors from any and all liabilities, obligations, claims, and demands whatsoever arising under or relating to a Unilateral Closeout. Project Team Lead further agrees to include the foregoing as a flow down provision in the Sub-Agreement.
     3. *Final Invoice*. Project Team Lead will submit a final invoice, designated as such, promptly upon completion of this Agreement, but no later than sixty (60) days from the Project End Date. Upon approval of that final invoice and upon the Project Team Lead’s compliance with all terms of this Agreement, MXD will promptly pay the balance of allowable TIA Funded Costs. The Project Team Lead will remit to MXD any refunds, rebates, credits or other amounts (including interest, if any) accruing to or received by any Project Participant or any assignee under this Agreement (or Sub-Agreement) to the extent that those amounts are properly allocable as TIA Funded Costs. Reasonable expenses incurred by the Project Team Lead or a Project Participant for securing refunds, rebates, credits or other amounts will be allowable costs if approved by MXD.

1. **REPORTING**
   1. Reports. All Reports will be completed by and submitted to the appropriate party as outlined in the SOW.
2. **TERM AND TERMINATION.**
   1. Term. Absent termination or extension, Project Participants will perform all work under this Agreement from the EAA Effective Date until the Project is projected to be completed as set forth on the Cover Page (“**Project End Date**”). Any extension of the performance period requires prior written approval of MXD and, if required, the Government. Suspension. MXD may suspend the performance of this Agreement for up to ninety (90) days by providing written notice to the Project Team Lead setting forth the effective date of suspension, stating the reasons for suspension and providing the Project Team Lead thirty (30) days to take corrective action (if corrective action is possible to cure the issue). After the suspension period, MXD may terminate this Agreement if it determines, in its sole discretion, that the reason for suspension has not been corrected to the satisfaction of MXD. If work resumes following the suspension period, MXD will make an equitable adjustment in the delivery schedule and/or the estimated cost (as applicable) or a combination thereof, and in any other terms of the subcontract that may be affected by the suspension as agreed to in writing by MXD and the Project Participants.
   2. Termination.
      1. *Termination*. With or without prior suspension, this Agreement may be terminated in whole or in part (including with respect to an individual Project Participant which will be acknowledged in the Sub-Agreement):
         1. By MXD, with or without prior notice, if MXD determines that the Project Team Lead or any Project Participant materially fails to comply with the terms and conditions of this Agreement;
         2. By MXD for convenience on at least thirty (30) days’ prior written notice;
         3. By Project Team Lead in the event MXD materially breaches any provision of this Agreement and fails to cure such breach within thirty (30) days of receipt of a notice from Project Team Lead or if a Project Participant is terminated and Project Team Lead is unable to find a suitable replacement within such thirty (30) day period;
         4. By mutual agreement of MXD and the Project Team Lead, in which case the parties will agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion or Project Participant to be terminated; or
         5. By MXD if insufficient funds are available from the Government.
      2. *Notice of Termination.* In the event that MXD terminates this Agreement, MXD will notify the Project Team Lead in writing of the termination and its effective date and the Project Team Lead (or relevant Project Participants if the Project is being terminated with respect to an individual Project Participant) will cooperate with MXD to ensure the Project is transitioned as smoothly as possible to other Project Participants or Members as directed by MXD.
      3. *Reduced Scope.* If MXD determines that a reduced or modified portion of the award will not accomplish the purpose for which this Agreement was executed, MXD may terminate the award in its entirety.
      4. *Effect of Termination.* Upon any termination of this Agreement, each Project Participant will abide by all obligations set forth in the Membership Agreement. Upon a termination for convenience by MXD, MXD, if permitted by the Government, will reimburse reasonable costs (i.e., non-cancelable obligations made prior to the effective date of termination) resulting from such termination for convenience.

4.3 Other Remedies. In addition to the remedies outlined herein, MXD may use any of the remedies identified in 2 CFR 200.338 “Remedies for noncompliance” when determined appropriate.

* 1. Claims Arising from Suspension or Termination. In the event of suspension or termination, any claim by a Project Team Lead for costs incurred under this Agreement must be received within ninety (90) days after the date of suspension or termination. Subject to obtaining any required approvals from the Government, no termination costs (other than non-cancelable obligations made prior to the effective date of termination) are payable in the event of a termination based on a Project Team Lead’s (or a Project Participant’s) failure to materially comply with the terms and conditions of this Agreement. Subject to any required Government approvals, allowability of costs under any termination claim will be determined in accordance with DoDGARs 32.62(c).
  2. Liability. Under no circumstances will MXD’s total liability under this Agreement for any claims for expenses incurred pursuant to this Agreement, including suspension or termination claims, exceed the lesser of the (i) amount approved by the Government or (ii) TIA Funded Costs obligated under this Agreement.

1. **SAFEGUARDING COVERED DEFENSE INFORMATION AND CYBER INCIDENT REPORTING.**
   1. The Project Participant will develop and implement policies and procedures for accepting information and data covered by DFARS clause 252.204-7102 that complies with such clause. The policy will, at a minimum, provide that the Project Participant will report cyber incidents in accordance with the following instructions:

* Do not shut off the workstation;
* Disconnect from the network;
* Do not alter or change anything on the system;
* Do not remotely connect to the system;
* Notify MXD immediately and await further instructions;
* At no time should malicious software be sent over the network; if requested for a copy of the malicious software, it should be burnt to a disc and physically mailed or carried.

The Project Team Lead shall flow down this requirement to its subcontractors or subagreement awardees.

1. **OPSEC**. [Negotiations ongoing to remove OPSEC language from the TIA.]

As applicable, the following OPSEC security applies.

6.1 Access and General Protection/Security Policy and Procedures. The Project Team Lead employees, including subawardee and/or subcontractor employees, shall comply with all installation and facility access and local security policies and procedures (provided by Government representative), and security/emergency management exercises. The Project Team Lead shall also provide all information required for background checks to meet installation access requirements to be accomplished by the Installation Provost Marshal Office, Director of Emergency Services, or Security Office. The Project Participant workforce shall comply with all personal identity verification and accountability requirements as directed by DoD, HQDA, and/or local policy. Should the Force Protection Condition (FPCON) at any individual facility or installation change, the Government may require changes in the Project Team Lead security matters or processes. During FPCONs Charlie and Delta, services/installation access may be discontinued/postponed due to higher threat. Services will resume when FPCON level and/or threat is reduced to an acceptable level as determined by the Installation Commander. Project Participant person working on an installation shall participate in the installation Random Antiterrorism Measures Program as directed. The Project Team Lead shall be subject to and comply with vehicle searches, wearing of ID badges, etc.

6.2. iWatch (See Something, Say Something) Training: The Project Team Lead employees, including subawardee and/or subcontractor employees, shall receive training and participate in the local iWATCH program (training standards provided by the requiring activity ATO). This locally developed training will be used to inform employees of the types of behavior to watch for and instruct employees to report suspicious activity to the Government. This training shall be completed within forty-five (45) calendar days after contract start date or effective date of incorporation of this requirement into the contract, whichever applies, and then annually thereafter. The Project Team Lead shall submit certificates of completion for each affected Project Participant employee subawardeeand/or subcontractor employee to the Government within fourteen (14) calendar days after completion of training by all employees subawardee and/or subcontractor personnel.

6.3. Access to DoD Facility or Installation: The Project Team Lead employees, including subawardee and/or subcontractor employees, shall comply with adjudication standards and procedures using the National Crime Information Center Interstate Identification Index (NCIC-III) and Terrorist Screening Database (Army Directive 2014-05/AR 190-13); applicable installation, facility and area commander installation and facility access and local security policies and procedures (provided by the Government).

6.4. Information Management Army Information Technology/IA: The Project Team Lead shall be capable of accessing, handling, receiving and storing UNCLASSIFIED documents, equipment, hardware and test items using thee applicable standards of For Official Use Only (FOUO) information. All Controlled Unclassified Information (documents designated as FOR OFFICIAL USE ONLY and/or LIMITED DISTRIBUTION) shall be submitted by a controlled means using UPS mail, Safe Access File Exchange (SAFE) website and/or DoD Army approved encryption software as per AR 25-1.

6.5. For Official Use Only Information (FOUO) and Controlled Unclassified Information (CUI): Contract personnel shall be capable of accessing, handling, receiving and storing UNCLASSIFIED documents, equipment, hardware and test items using applicable standards of FOUO and CUI.

6.6 OPSEC Training: In accordance with AR 530-1 (or DoDM 5205.02-M), new Project Team Lead employees, including subawardee and/or subcontractor employees, shall complete initial OPSEC training within thirty (30) calendar days of award and must also complete annual OPSEC awareness as provided by the appropriately designated OPSEC level II trained OPSEC Officer/Coordinator. The Project Participant shall arrange training through the Government.

6.7 Public Release of Information: In accordance with AR 530-1 (or DoDM 5205.02-M), an OPSEC review will be performed by the Government prior to public release of technical information. All Government technical information intended for public release by the Project Team Lead, subawardee and/or subcontractor shall undergo a Government OPSEC review prior to release. The OPSEC review will be performed as part of the Public Review Process described in Article VII.

1. **CONFLICT OF INTEREST**
   1. All Project Participant must disclose in writing any potential conflict of interest to MXD or the Government and will maintain an appropriate written and enforced policy on conflict of interest in accordance with the following:
      1. An institutional conflict of interest policy should require that each investigator disclose to a responsible representative of the institution all significant financial interests of the investigator (including those of the investigator’s spouse and dependent children) (i) that would reasonably appear to be affected by the research or educational activities funded or proposed for funding under this Agreement; or (ii) in entities whose financial interests would reasonably appear to be affected by such activities.
      2. Terms:
         1. The term “investigator” means the principal investigator, co-principal investigators, and any other person at the institution who is responsible for the design, conduct, or reporting of research or educational activities funded or proposed for funding under this Agreement.

The term “significant financial interest” means anything of monetary value, including, but not limited to, salary or other payments for services (e.g., consulting fees or honoraria); equity interest (e.g., stocks, stock options or other ownership interests); and intellectual property rights (e.g., patents, copyrights and royalties from such rights). The term does not include:

* + - * 1. Salary, royalties or other remuneration from the institution proposing or conducting research or educational activities funded or proposed for funding under this Agreement;
        2. Any ownership interests in the institution, if the institution is an applicant under the Small Business Innovation Research Program or Small Business Technology Transfer Program;
        3. Income from seminars, lectures, or teaching engagements sponsored by public or nonprofit entities;
        4. Income from service on advisory committees or review panels for public or nonprofit entities;
        5. An equity interest that, when aggregated for the investigator and the investigator’s spouse and dependent children, meets both of the following tests: does not exceed $10,000 in value as determined through reference to public prices or other reasonable measures of fair market value, and does not represent more than a 5% ownership interest in any single entity; or
        6. Salary, royalties or other payments that, when aggregated for the investigator and the investigator’s spouse and dependent children, are not expected to exceed $10,000 during the twelve (12) month period.
    1. The institutional policy must include adequate enforcement mechanisms, and provide for sanctions where appropriate.
    2. The institutional policy must include arrangements for keeping MXD appropriately informed if the institution finds that it is unable to satisfactorily manage a conflict of interest.
    3. Project Participants must maintain records of all financial disclosures and of all actions taken to resolve conflicts of interest for at least three years beyond the termination or completion of this Agreement to which they relate, or until the resolution of any Government action involving those records, whichever is longer.

The Project Team Lead shall flow down this requirement to its subcontractors or subagreement awardees.

1. **GENERAL PROVISIONS.**
   1. Entire Agreement. This Agreement along with the Membership Agreement, and all Exhibits, attachments and amendments thereto embody the entire understandings of the Project Team Lead and MXD with respect to the subject matter of this Agreement and will supersede all previous communications, representations or understandings, either oral or written between and among Project Team Lead and MXD relating to the Project.
   2. Disputes. Any dispute under this Agreement will be a dispute under the Membership Agreement and Article XVI of the Membership Agreement will apply.
   3. Modifications. This Agreement may only be modified in writing and modifications will not be effective until a written modification is signed by each party (or its successor). MXD may unilaterally make administrative modifications that do not materially alter the obligations of the Project Team Lead.
   4. Notices. All notices and prior approvals required hereunder will be in writing and will be addressed to the parties identified in Exhibit A. The mechanics of delivering an effective notice shall be governed by Article XX of the Membership Agreement.
   5. Supplemental Terms and Conditions. The Supplemental Terms and Conditions and Participant Certifications attached hereto as Exhibit F are hereby incorporated into and made part of this Agreement. The parties contemplate that the Sub-Agreement will have a substantially similar exhibit for Project Participants that is incorporated into the Sub-Agreement.
   6. Force Majeure. No party will be in breach of this Agreement for any failure to perform caused by any event beyond its reasonable control and not caused by the fault or negligence of that party. In the event such a force majeure event occurs, the party unable to perform will promptly notify the other party in accordance with Section 8.4.

[REMAINDER OF THE PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF**,** the parties have caused this Agreement to be executed and delivered as of the date last signed below.

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| **MXD** |
| **By:** |
| **Name:** Chandra Brown |
| **Title:** Chief Executive Officer |
| **Date:** |

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| --- |
| **{XXXXXXXXXX}** |
| **By:** |
| **Name:** |
| **Title:** |
| **Date:** |

**Exhibit A**

**Representatives**

**Representatives.** The following technical and contractual representatives of MXD and Project Team Lead are hereby designated for this Agreement.

Project Team Lead Representatives are:

Technical Representative:

Email:

Phone:

Contract Representative:

Email:

Phone:

MXD Representatives are:

Technical Representative:

Emily Jerger

[Emily.Jerger@mxdusa.org](mailto:Emily.Jerger@mxdusa.org)

312-281-6863

Contract Representative:

Voula Colburn

Voula.Colburn@mxdusa.org

312-281-6845

Either party may change any of its representatives by providing written notice to the other party, as set forth in Section 8.4 Notices.

**Exhibit B**

**Project Intellectual Property (IP) Management Plan**

**Duty to Update.** The Project Team Lead is required to keep the information provided in this IP Management Plan up-to-date. Please promptly provide an updated copy to MXD within fifteen (15) business days of any change. The IP Management plan catalogs the Project IP that is anticipated to be developed by this Project and Background Intellectual Property required to utilize the Project IP, and identifies any enhanced rights granted post-Project in that IP, beyond the base rights granted under the MxD Membership Agreement.

**Intellectual Property Register.** The Project Team Lead will or will cause the Project IP Owners and BIP IP Owners to keep MXD and the Executive Committee apprised of Project IP created, filing status, and any claims against the Project IP and BIP licensed to other Members under this Agreement in an IP Register. In the event of a conflict between the rights identified in the IP Register and those identified in the IP Management Plan, the information contained herein shall control. In addition, the Project Team Lead will or will cause the Project IP Owner to fulfill the obligations set forth in Exhibit Bof the Membership Agreement. Project Team Lead and/or the Project IP owner agree to keep the attached table up-to-date by submitting a notice of IP Creation to the Project Team Lead Technical Representative and MXD Technical Representative within fifteen (15) business days’ of such IP’s creation.

**Minimum Rights.** Project Team Lead acknowledges and will cause each Project Participant to acknowledge the license grants to Project IP and BIP set forth in Article VIII, Section 2 of the Membership Agreement. Additional license grants beyond such grants pursuant to the Membership Agreement are set forth herein.

[INSERT IPMP TABLES HERE]

**License Grants.**

[Insert additional license grants here]

**Exhibit C**

**Statement of Work**

**C1.** **Project Title**: ­­­­­­­­­­­­­­­­\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**C2.** **Scope of Work**: Reference Attachment 1 (Project Proposal) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. In the event of an inconsistency between this SOW and the project proposal, the following order of precedence shall apply:

1. Statement of Work
2. Project Proposal

**C3. Project Charter**

\*Insert Project Charter

**C4.** **Technical Proposal Clarifications**:

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| --- | --- | --- | --- |
| **C#** | **Proposal Section** | **Clarification Question** | **Description of Clarification/Modification** |
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**C5.** **Responsibility Matrix & Project Schedule**:

**Project Schedule**

\*Insert Gantt Chart

**RACI CHART**

\*Insert RACI Chart

**C6.** **Project Milestones -** Describe the milestones to be achieved during the Project timeframe:

| **Milestone Description** | **Completion Date** | **Success Criteria** |
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**C7.** **Deliverables**:

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| **D#** | **Project Deliverable** | **Format of Delivery to MxD** | **Primary Party** | **Description of Deliverable & End TRL (if applicable)** | **Due Date** |
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**C8.** **Reporting**:

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| **R#** | **Report** | **Description of Report/Presentation** | **Required Template** | **Due Date** |
| 1 | Monthly Technical and Financial Reports\* | Monthly report including the financial and technical status of the Project | Provided as Attachment 2 to Exhibit B. | 15th of every month |
| 2 | Member Technical Reviews | Presentation encompassing all technical advancements made prior to key milestone and presented to the MxD Program Manager, members of the Technical Advisory Committee, and other interested MxD members. | Provided as Attachment 3 to Exhibit B. | Scheduled by the MxD Program Manager |
| 3 | Presentations at MxD | Presentation and demonstration of developed technology presented in person at MxD | Provided as Attachment 4 to Exhibit B | Scheduled as needed by the MxD Program Manager |
| 4 | Annual Patent Reports | Report of inventions and subcontracts | Must use DD FORM 882 | NLT 60 days after the close of the Gov’t fiscal year |
| 5 | Intellectual Property Reports | Project Team must promptly notify the MxD Program Manager apprised of Project IP created, filing status, claims against the Project IP, and BIP licensed to other Members. | Template provided as part of IMPM | At a minimum, by the 15th of the following month |
| 6 | Safety Accident/Incident Report | Project Team must report any major accident/incident (including fire) resulting in any one or more of the following situations: one or more fatalities or one or more disabling injuries; damage of Government property exceeding $10,000; impact to Project planning or production schedules or degradation of the safety of equipment under contract. Such report will also identify potential hazards requiring corrective action. | Report must comply with DI-SAFT-81563 standard for each incident | Immediately following the accident/ incident |
| 7 | Draft Final Technical Report | Report must include a comprehensive, cumulative, and substantive summary of all technical advancements and significant accomplishments achieved during the project. | Provided as Attachment 5 & 6 to Exhibit B | 15 days prior to the Project End Date |
| 8 | Final Technical Report\* |  |  | NLT the Project End Date |
| 9 | Project Team Lead Release\* | Release by Project Participants confirming scope of work to be complete. | Provided as Attachment 7 to Exhibit B | 60 days after the Project End Date |
| 10 | Property Report\* | List of all MxD funded equipment and planned disposition | Provided as Attachment 8 to Exhibit B | 60 days after the Project End Date |
| 11 | Final Patent Report\* | Report of inventions and subcontracts | Must use DD FORM 882 | 60 days after the Project End Date |
| \*Completed reports are required by MxD approve and pay monthly invoices and the final project invoice. | | | | |

**C9.** **Monthly Spend Plan**:

\*Insert Monthly Spend Plan by organization

**EXHIBIT D**

**RESPONSIBILITIES REGARDING EXPORT CONTROLS, FOREIGN PARTICIPATION AND CONFIDENTIAL INFORMATION**

**EXPORT CONTROL.** To Project Team Lead’s actual knowledge, the following materials, including without limitation BIP which will be used in this Project and shared with other Project Participants, are subject to the International Traffic in Arms Regulations (ITAR) and the Export Administration Regulations of the United States Department of Commerce or any other applicable export control laws or regulations as per Article X in the Membership Agreement. Please list applicable export classifications (i.e. ECCN), if known. If none, please write “None” below:

**[INSERT RESPONSE]**

**FOREIGN PARTICIPATION.** The Project Team Lead will provide the MXD notice of proposed participation of any instrumentality of a non-US citizen, foreign government or any foreign company, firm, organization, institution or other entity and written notice of whether or not the notice required by Article IX of the Membership Agreement has been submitted. Project Team Lead acknowledges that participation by those foreign entities in this Project will only be granted on a case-by-case basis at the sole discretion of the Executive Committee and upon approval of the Government.

**CONFIDENTIALITY.** The Project Team Lead shall flow down Article VII of the Membership Agreement to their respective personnel, agents, partners and team members receiving such Confidential Information or Trade Secrets under this Agreement.In addition to the provisions of Article VII of the Membership Agreement, the following non-disclosure provisions (if any) will apply to this Agreement. If none, please write “None” below:

**[INSERT RESPONSE]**

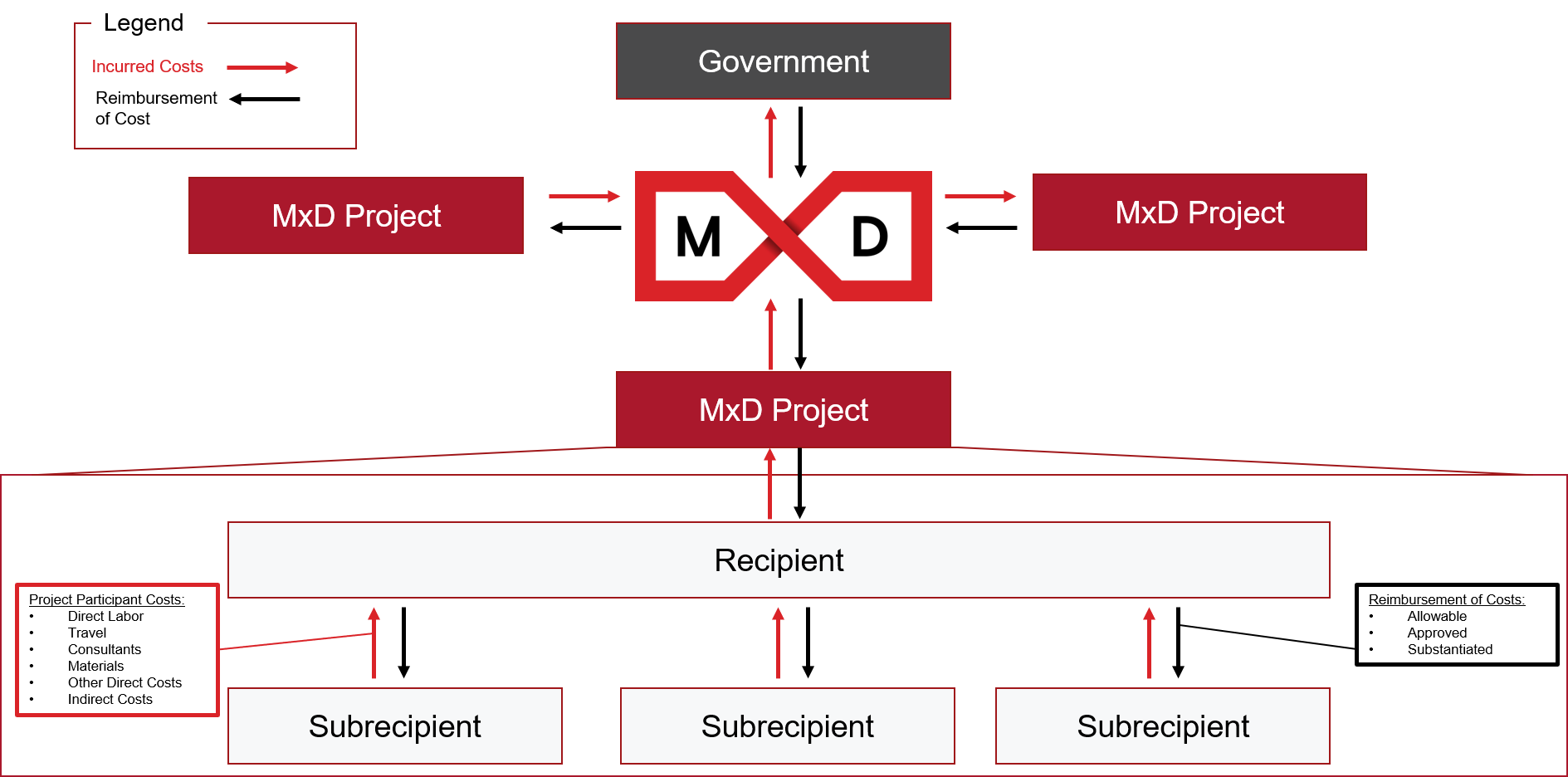
**EXHIBIT E**

**MxD FINANCIAL STANDARD OPERATING PROCEDURES**

Project Participant Cost Reimbursement Guide

## Background

MxD projects are governed by a Technology Investment Agreement with the Government and are generally funded on a cost reimbursable basis. Reimbursement may be with Federal Assistance Funds or MxD Funds depending on the specific project call.

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## Purpose

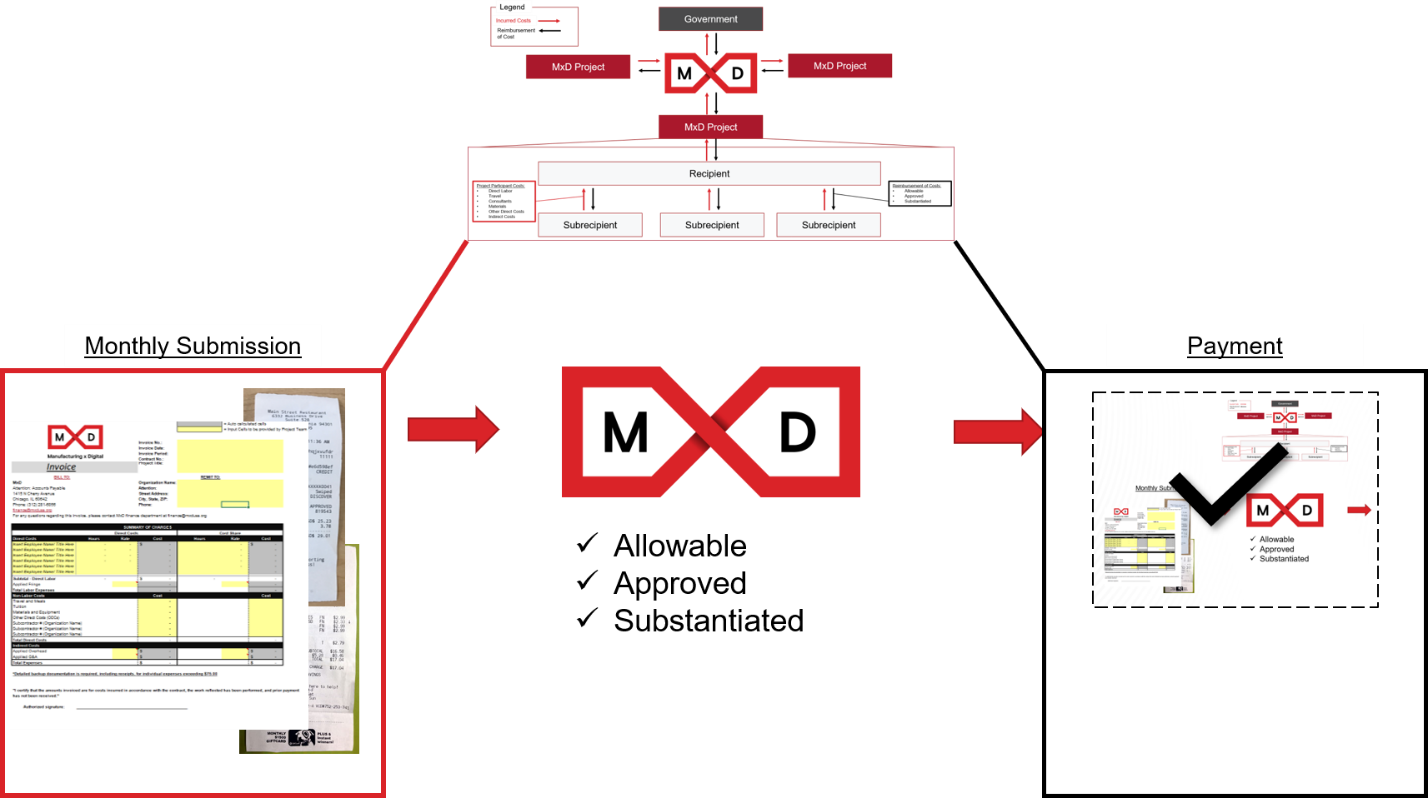
This guide is intended to assist Project Participants with the invoicing of costs incurred and reporting cost share on approved MxD projects. Project Participants will be reimbursed for their costs incurred that are allowable, approved, and substantiated guided by 2 CFR 200 Subpart E.

This guide covers the following:

* **Reimbursement Process**
* **Allowable Costs**
* **Approved Costs**
* **Substantiating Costs**
* **Rate/Budget Changes**
* **Invoice Preparation/Submission**
* **Project Closeout**

## Reimbursement Process

Unless otherwise stated in the Project SOW, Project Participants are expected to submit required monthly technical reports and financial substantiation along with a monthly invoice and cost share summary reports (Attachment 1).

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The Project Participants will submit applicable materials, along with necessary substantiation to [finance@mxdusa.org](mailto:finance@mxdusa.org) by the 15th day following the month (quarter, if applicable) covered by the invoice (e.g. January invoices are submitted by February 15th). For ease of review and the fastest turnaround time, MxD requires Project Participants to use the MxD standard invoice template (Attachment 1).

Once the Project Participant(s) submit their invoice(s) and substantiating documentation, MxD and, separetly, the Project Team Lead will review to confirm that the costs are allowable, approved, and substantiated. This includes reviewing the substantiating documentation to ensure that the costs are supported. MxD will not review until acceptable substantiating documentation is provided. Once the review is completed and the invoice is approved, MxD will approve the invoice for payment.

## Allowable Costs

As with the cost analysis that MxD conducts during the proposal phase, MxD will review the costs incurred to determine if they are allowable. Most costs that are incurred, if properly substantiated are likely to be allowable. However, there are costs that are specifically unallowable by the Government and include items like alcoholic beverages, fines and penalties, etc. These costs should be excluded from any billing or claim on MxD projects. Any costs unallowable to claim for Federal reimbursement is also unallowable to claim as cost share. The full list of unallowable costs can be found in 2 CFR 200 Subpart E.

The MxD Technology Investment Agreement (TIA) specifically clarifies the following regarding the allowability of costs and/or the valuation of cost share:

* Travel cost reimbursement will only be for costs that are allowable per the Joint Federal Travel Regulations (JFTR), at published per diem rates at the time the costs are incurred and based on actual costs incurred. Travel costs beyond the published per diem rates are unallowable. The expectation is that airfare will be coach or economy class; upgrades are unallowable.
* Costs resulting from obligations incurred by Project Participants during as suspension or after termination of an award are not allowable unless MxD expressly authorizes them in notice of suspension or termination or subsequently. However, costs during suspension or after termination are allowable if:
  + The costs result from obligations which were properly incurred by Project Participants before the effective date of suspension or termination, are not in anticipation of it; and
  + The costs would be allowable if the agreement was not suspended or expired normally at the end of the estimated term in which the termination takes effect.
* Equipment being purchased under this agreement will be listed as exempt property with conditional title throughout the performance of the agreement. Except property is defined as tangible personal property acquired in whole or in part with Federal Funds, where the Government has statutory authority to vest title in the Project Participants without further obligation to the federal government. If the Government does not elect to retain title, 2 CFR 200.313 “Equipment” will apply. The government will not elect to retain title to equipment under the agreement that the Project Participants or MxD has shown will continue to contribute towards the sustainability of MxD.
* Supplies will be managed in accordance with 2 CFR 200.314. The Project Participants are permitted to use their existing policies and procedures to account for and manage supplies.

**NOTE: Profit or Fee is unallowable on MxD projects.**

## Approved Costs

Prior to award of a MxD project, Project Participants prepare a cost proposal that is reviewed and approved by MxD (also by the Government for projects awarding federal funds). The final approved budget is the benchmark that is used when reviewing costs for reimbursement. The approved budget contains approved cost amounts and technical factors (e.g. labor categories/hours mix, materials, software, etc.). MxD will review the costs submitted for reimbursement against the approved dollar values and technical factors in the approved budget.

MxD understands that project proposals are estimates and that circumstances may, and often will, warrant departures from those approved budgets. Project Participants should follow the procedures outlined in the “Rate/Budget Changes” section of this guide when costs depart from the approved budget.

## Substantiating Costs

MxD requires costs to be substantiated prior to reimbursement and for cost share reporting purposes. Project Participants will provide substantiating documentation for all the following costs:

* Direct Labor
* Consultant costs
* Materials/Equipment greater than $75
* Travel expenses greater than $75
* Other direct costs greater than $75
* Indirect costs (revised rates or for final true up)
  + If Project Participants have an updated approved rate agreement with the Government (e.g. Forward Pricing Rate Agreement), they can bill at the updated rate but must provide the updated rate agreement as substantiation
* Subrecipient costs
  + Project Participants must provide substantiation for subrecipient costs for all the cost factors listed above. MxD’s invoice template should be used by each subrecipient.

Table 1. “Recommended Sources of Cost Information/Substantiation” is intended to assist participants in identifying relevant substantiating documentation for costs incurred.

The following are best practices to consider when substantiating costs:

* Provide a description of the detailed methodology used to derive or calculate costs based on the supporting documentation
* Ensure the source used is current and relevant
* If using screenshots, save the full screen shot including address, date, and other information
* Invoices, quotes, estimates, etc. should be on official letterhead and signed
* If using spreadsheets or downloads out of a system, save screenshots out of the system showing totals, report names, dates, etc. that can be tied to the spreadsheet

MxD requires direct quotes and proof of bid from a minimum of 3 suppliers for any material, equipment, or applicable other direct costs exceeding a unit price of $5000 or total price of $25,000.

**NOTE: Project Participants must retain relevant substantiating documentation and financial records for a period of 3 years after the date of the final expenditure report to support an audit or examination by MxD and/or the Government.**

Proprietary or Sensitive

In certain instances, Project Participants may not wish to share sensitive or proprietary data with MxD.

* For projects funded through federal funds, Project Participants should notify MxD and coordinate submission directly to the Government when required. MxD will reach out to the Project Participant/Government to confirm that the Government is in receipt of substantiation.
* For projects not funded through federal funds, Project Participants should notify MxD and MxD will coordinate with the Project Participant to identify a reasonable alternative.

**NOTE: Due to additional coordination, requiring such alternative may extend the time frame necessary to receive reimbursement.** Substantiation Challenges

Table 1 contains recommended sources for cost information/substantiation. If the items listed in Table 1 are not readily available, the Project Participant should reach out and coordinate with MxD. MxD will work with the Project Participant, to the extent it is able, to identify any alternative means of substantiation.

|  |  |  |
| --- | --- | --- |
| **Table 1. Recommended Sources of Cost Information/Substantiation** | | |
| **Element of cost** | **Objective** | **Recommended Sources of Cost Information/Substantiation** |
| **Direct Labor**   * **Fringe** * **Direct** | Substantiate the cost of direct labor and fringe proposed through Government approved, historical, average, or other data. | * Direct labor rate agreement with the Government * Labor distribution reports * Payroll data   + - Identify annual hours worked     - Support escalation factors over typical 3-5% |
| **Travel** | Substantiate the travel costs and identify any departures from Government published per diem rates | * Actual receipts/invoices for airlines, hotels, etc. over $75; reservation confirmation is not sufficient |
| **Consultants** | Substantiate consultant costs, broken down by cost elements | * Receipts/invoices of actual costs from Consultants |
| **Materials** | Substantiate the cost to manufacture materials internally or to purchase them from an outside vendor | * Invoice/receipts of actual expenditures |
| **Other Direct Costs** | Substantiate the other costs directly allocable to the project | * Invoices/receipts from actual expenditures * Policies identifying standard costs (e.g. University tuition reimbursement rates or equipment use rates) |
| **Indirect Costs** | Substantiate and allocate costs such as general and administrative or facilities and administrative costs to the specific project | * Forward Pricing Rate Agreement (FPRA) * Negotiated Indirect Rate Agreement (NICRA) * Forward Pricing Rate Recommendation (FPRR) * Default 10 percent rate * Provide pools and bases that make up the indirect rates. |
| **Subrecipient** | Substantiate the costs of subrecipients including all of the above elements | * Subrecipient invoice detailed in MxD invoice template * Substantiation sources for the above cost elements for subrecipient incurred costs. |

Rate/Budget Changes

MxD will review all costs to ensure that they are within the approved budget. Project Participants should notify MxD as soon as they become aware of changes that meet the cost amount and technical factor criteria below:

* Cost amounts:
  + Direct Labor Rates: changes that exceed the agreed upon/approved escalation factor(s)
  + All other costs: changes that affect the cost element (Direct labor, materials, ODCs, consultants, etc.) by more than 5%
  + Indirect rates: If an updated rate agreement is entered with the Government.
* Technical factors:
  + Direct Labor: changes in labor categories, role of employees, and/or hours mix
  + Consultants: changes to scope of work or consultant
  + Travel: changes in the number of trips, personnel, nights, or location
  + Materials/Equipment/ODCs: changes to materials or equipment where impact is not negligible or equivalent replacement is not clear. Changes to indicated purpose or use must be approved by MxD and the government.

Coordinating changes from the approved budget are particularly applicable to costs that will alter the current federal/MxD vs cost share ratio.

## Invoice Preparation/Submission

Project Participants are required to use the MxD’s standard invoice template for reporting their monthly project expenditures (both MxD/federally funded and cost share). Please follow the steps below when completing the project invoice form (Excel row/cell ref.):

**Step 1**: Basic Invoice Information

* Invoice ID: Provide an "Invoice Number" and “Invoice Date” for which you are reporting (Rows 4-5).
* Invoice PoP: Enter the "Invoice Period" with the following formatting: MM/DD/YYYY - MM/DD/YYYY (Row 6).
* Project ID: Identify the MxD project number and project title (Rows 7-8).
* Team Lead: Provide organization information for whom you are sending the invoice to in the: “REMIT TO:” section (Rows 12-16).

**Step 2**: Labor Expenditures

* Direct Costs: Identify the labor rate and total hours for each employee or salary band (Rows 23-28).
* Fringe: Enter the fringe billing rate agreed upon in the project award in the row for *Applied Fringe* (Row 31).
* MxD Funds / Cost Share Allocation: To the extent possible, segregate labor costs between MxD funds and cost share contributions. Itemize cost share contributions by subrecipient (Rows 23 – 28).

**Step 3**: Non-labor Expenditures

* General: Enter non-labor project costs for the period in accordance with how the expenditures were classified in the agreed upon project award (Rows 34-37).

MxD Funds / Cost Share Allocation: To the extent possible, segregate costs between MxD funds and cost share contributions Itemize cost share contribution by subrecipient (Rows 34-40).

**Step 4:** Indirect Cost Rates

* Interim / Provisional Rates: Please submit invoices using the indirect cost rates (e.g., Fringe, Overhead, G&A etc.) agreed upon in the project award. If a revised rate agreement is available with the Government, that rate can be used if the new rate agreement is provided as substantiation.
* Rate Input: Enter the Overhead and G&A rates included. Itemize cost share by subrecipient (Rows 43-44).
  + Additional Rates: As necessary, Project Participants may insert additional rows for other indirect rates beyond the standard overhead and G&A rate if these were identified in the project proposal.

Final Rates: Project Participants may bill for unsettled costs as part of the final invoice and true-up process for up to 60 calendar days after award end date.

**Certifications**

* Invoices will include the following written certifications:
  + **Invoiced Amount:** *“****[Insert Project Participant Name]*** *(the “Project Participant”) certifies that the amounts invoiced are for costs incurred in accordance with the agreement for project* ***[Insert Project Name]*** *(the “Project”), the work reflected has been performed, and prior payment has not been received.”*
  + **Unallowable costs:** *“Project participant has reviewed the invoice requesting reimbursement of costs incurred for in accordance with 2 CFR 200 Subpart E and certifies that to the best of its knowledge there are no unallowable costs included with the invoice. Project Participant acknowledges that if unallowable costs are included, Project Participant will not be entitled to reimbursement of such costs.”*
  + **Profit/fee:** *“Project Participant has reviewed the invoice requesting reimbursement of costs incurred for the project and certifies that to the best of its knowledge the invoice does not include any profits, fees or proceeds to Project Participant. Project Participant acknowledges that if profits, fees or proceeds to Project Participant are included, Project Participant will not be entitled to their reimbursement”*
  + **Authority:** *“I acknowledge and agree that MxD will be relying on the foregoing certifications and I represent and warrant that I have the authority to make these certifications on behalf of the Project Participant.”*

Authorized Signature \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_”

## Project Closeout

After the final completion of the MxD project, Project Participants will submit the following to MxD for project close-out within 60 days:

1. Final Invoice: The final invoice should contain all the details applicable to all invoices. Additionally, the final invoice should contain the unbilled costs incurred for project completion and should be identified as “Final Invoice”.
   1. Project Participants without an indirect rate agreement with the Government will provide their actual indirect cost rates for the period with a detailed breakdown of the indirect cost pools and base(s) substantiating their indirect rates. MxD will conduct analysis of the updated rates for fair and reasonableness. Updated rates will be accounted for during the true-up process contingent upon MxD’s unilateral approval.
   2. Project Participants with finalized indirect rate agreements with the Government will provide this Agreement covering the MxD project period of performance
2. Project Summary: The cumulative total of all costs incurred and billed to date (not including the final invoice) by cost element to include cost share.

MxD will review the above materials and will work with the Project Participant to true-up for any unsettled claims. Once all unsettled claims have been addressed MxD will notify the Project Participant to submit the Project Participant Release form (Attachment 2) to MxD.

**NOTE: Final payment can only be made by MxD if the ratio or percentage of Cost Share specified in the approved budget has been provided by the Project Team. When Federal reimbursement reaches 75% of commitment, Cost Share needs to be at commensurate level, per the budget & SOW”.**

MxD may request an audit to close-out a project in accordance with Article 4, Section I of the Technology Investment Agreement (W15QKN1930003). Project Participants must comply with the audit requirements appropriate for the type of entity receiving the award as required:

a. For-profit entities:

(1) A for-profit entity that, at time of the subaward, grants access to its

records to the DCAA or other federal government auditors, will provide

standard access-to records requirements at 2 CFR 200, Subpart F Audit

Requirements;

(2) A for-profit entity that does not, at time of the subaward, grant the federal government direct access to their records and is not willing to provide this information, will allow the AO and OTAO to examine its independent auditor’s audit report and working papers for three years after final payment. Unless notified otherwise by the AO, the AO and GPM may have access to records concerning technical performance.

b. Non-profit sub-awardees will comply with the audit requirements of 2 CFR

200, Subpart F Audit Requirements.

## Attachments

Attachment 1: MxD Invoice Template

Attachment 2: Project Participant Release Form

**EXHIBIT F**

**MXD - SUPPLEMENTAL TERMS AND CONDITIONS**

**AND PARTICIPANT CERTIFICATIONS**

The following MXD General Terms and Conditions apply to each Enterprise Award Agreement. Terms not defined in this document will have the meaning assigned in the Enterprise Award Agreement.

**I. SUPPLEMENTAL TERMS AND CONDITIONS**

**1. Officials Not to Benefit.** No member of or delegate to Congress, or resident commissioner, will be admitted to any share or part of this Agreement, or to any benefit arising from it, in accordance with 41 U.S.C. 22.

**2. Reporting Executive Compensation.** Project Team Lead will report on its executive compensation in accordance with the Federal Funding Accountability and Transparency Act (FFATA) of 2006 and associated 2008 amendments. Reporting is required for Agreements equal to or over $25,000. If the initial award is below $25,000 but subsequent Agreement modifications result in a total award equal to or over $25,000, the award will be subject to the reporting requirements, as of the date the award exceeds $25,000. If the initial award equals or exceeds $25,000 but funding is subsequently deobligated such that the total award amount falls below $25,000, the award continues to be subject to the reporting requirements of the Transparency Act.

**3. Financial Assistance Universal Identifier and SAM Registration.** Project Team Lead will have Dun and Bradstreet Data Universal Numbering System (DUNS) numbers and maintain current registrations in the SAM data base.

**4. Resource Conservation and Recovery Act.** In accordance with the Resource Conservation and Recovery Act (section 6002, Pub. L94-580, 42 U.S.C. 6962), State and local institutions of higher education, hospitals, and non-profit organizations that receive Government awards or other federal funds will give preference in their procurement programs funded with Federal funds to the purchase of recycled products pursuant to the guidelines developed by the Environmental Protection Agency.

**5. Freedom of Information Act (FOIA) Access to Researcher’s Data.** Upon MXD’s or the Government’s request, pursuant to DoDGARs 32.36(d), the Project Team Lead will provide, within a reasonable time, research data as defined in DoDGARs 32.36(d)(2)(i).

**6. Activities Abroad.** Project Team Lead will assure that project activities carried on outside the United States are coordinated as necessary with appropriate Government authorities and that appropriate licenses, permits, or approvals are obtained prior to undertaking proposed activities. MXD does not assume responsibility for any Project Participant’s compliance with the laws and regulations of the country in which the activities are to be conducted.

**7. Cargo Preference.** Each Project Participant agrees that it will comply with the Cargo Preference Act of 1954 (46 U.S.C. 1241), as implemented by Department of Transportation regulations at 46 CFR 381.7, which requires that at least 50 percent of equipment, materials or commodities procured or otherwise obtained with Government funds under this Agreement, and which may be transported by ocean vessel, will be transported on privately owned U.S.-flag commercial vessels, if available.

**8. Preference for U.S. Flag Air Carriers***.*Travel supported by Government funds under this Agreement will use U.S. flag air carriers (air carriers holding certificates under 49 U.S.C. 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981 amendment to the Comptroller General’s Decision B-138942. Such Act and guidelines are incorporated in this Agreement by reference.

**9. Governing Laws & Regulations***.* This Agreement will be enforced and interpreted in accordance with applicable federal laws and regulations, directives, circulars or other guidance. Federal laws and regulations will govern in the event of any conflict with the provisions of this Agreement. When signed, this Agreement will become binding on the Project Participants and MXD to be administered in accordance with OMB Circular A-110, DoD Grant and Agreement Regulations, 3210.6-R, and as specified herein. In the event of a conflict between the provisions of this Agreement and the OMB Circulars, the OMB Circulars will govern.

**II. PARTICIPANT CERTIFICATIONS.**

**1. Lobbying and Taxes**. The following Certifications and Representations are hereby incorporated herein by reference: (1) Certification Regarding Lobbying, Appendix A to 32 CFR Part 28 and (2) Representation Regarding an Unpaid Delinquent Tax Liability or Felony Conviction under any Federal Law – DoD Appropriations.

**2. Drug Free Workplace.** By signing this Agreement or accepting funds under this Agreement, each Project Participant agrees to comply with the “Government-Wide Drug-Free Workplace (Grants)” requirements specified by DoDGARs Part 26, Subpart B (or Subpart C, if the Project Participant is an individual) of 32 CFR Part 26 (2004), which implements sec. 5151-5160 of Drug-Free Workplace Act of 1988 (41 USC 701, et seq.).

**3. No Discrimination.** By signing this Agreement or accepting funds under this Agreement, each Project Participant assures that it will comply with applicable provisions of the following U.S. national policies prohibiting discrimination:

(*a)* On the basis of race, color, or national origin, in Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d, et seq.), as implemented by DoD regulations at 32 CFR part 195.

*(b)* On the basis of race, color, religion, sex, or national origin, in Executive Order 11246 (3 CFR, 1964-1965 Comp. p. 339), as implemented by Department of Labor regulations at 41 CFR part 60.

*(c)* On the basis of sex or blindness, in Title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et seq.)

*(d)* On the basis of age, in the Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.), as implemented by Department of Health and Human Services regulations at 45 CFR part 90.

*(e)* On the basis of handicap, in Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by Department of Justice regulations at 28 CFR part 41 and DoD regulations at 32 CFR part 56.

**4. Clean Air Act.** By signing this Agreement or accepting funds under this Agreement, each Project Participant agrees that it will comply with applicable provisions of the Clean Air Act (42 U.S.C. 7401 et seq.), as amended and the Clean Water Act (33 U.S.C. 1251 et seq.), as implemented by Executive Order No. 11738 (3 CFR, 1971-1975 Comp. P. 799), and the related regulations of the Environmental Protection Agency (EPA) (40 CFR part 15). Said regulations, Executive Order, and Acts are incorporated in this Agreement by reference.

**5. EPA Violating Facilities List.** By signing this Agreement or accepting funds under this Agreement, each Project Participant assures that it will not use any facility on the EPA’s List of Violating Facilities in performing any award that is nonexempt under 40 CFR 15.5, as long as the facility remains on the list. If, in performing this Agreement, a Project Participant intends to use a facility that is on the List of Violating Facilities or that the Project Participant knows has been recommended to be placed on the List of Violating Facilities, the Project Team Lead will notify MXD.

**6. No Human Trafficking.** By signing this Agreement or accepting funds under this Agreement, each Project Participant assures that it will comply with section 106 (g) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104). If any Project Participant (i) engages in trafficking in persons or has procured a commercial sex act during the period of time this Agreement is in effect or (ii) uses forced labor in the performance of this Agreement, the Government shall be authorized to terminate this Agreement without penalty.

**EXHIBIT G**

**DATA ASSERTION FORM**

**EXHIBIT H**

**SHOP FLOOR AGREEMENT**

**1.** This Shop Floor Agreement (the “**Agreement”)** is entered into by and between UI LABS, d/b/a MXD USA, a corporation organized under the Illinois General Not for Profit Corporation Act (“**MXD**”), and the organization (“Organization”) identified below. The Organization is a Member of the MXD consortium pursuant to the Membership Agreement, as amended from time to time, by and between MXD and Organization (“**Membership Agreement**”). The MXD consortium was established pursuant to Technology Investment Agreement, number W15QKN-19-3-0003 (“**TIA**”), between MXD and US Army Contracting Command – Picatinny,, the U.S. federal awarding agency on behalf of the United States of America (“**Government**”). This Insurance and Indemnity Agreement will be effective as of the date of signature by MXD (“**Agreement Effective Date**”).

**2. Defined Terms.** Except as specifically provided below, capitalized terms used in this Agreement will have the meaning set forth in the Membership Agreement. To the extent that the provisions of this Agreement contradict any provisions of the Membership Agreement, the provisions contained in this Agreement will prevail over those of the Membership Agreement.

**3. Term.** The initial Term of this Agreement will commence upon the Agreement Effective Date and will conclude after six (6) months (the “Term”). The initial Term may be extended as agreed upon by the Parties.

**4. Indemnity.** To the fullest extent permitted by law, Organization agrees to indemnify and hold harmless MXD, its Members and their respective Affiliates, and each of their respective directors, officers, partners, agents, employees, servants and assignees, all to be referenced as “MXD” for purposes of this Agreement, from and against all third-party liability, claims and demands on account of injury to persons including death, and damage to property arising out of (i) the use of or access to MXD property, including without limitation equipment, including any property which is owned, leased or rented by MXD or loaned or consigned to MXD and (ii) the performance, or lack of performance, of the Agreement by Organization, Organization’s sub-contractors, and (iii) damage to property of Organization. For the avoidance of doubt, Organization will not be entitled to the foregoing indemnification based on its status as a Member if such Organization opposes MXD on a claim. Organization, Organization’s sub-contractors, or their respective employees and agents, all to be referenced as “Organization” for purposes of this Agreement will, at its own expense, defend any and all actions at law brought against MXD based thereon and will pay all attorney's fees and all other expenses and promptly discharge any judgments or settlements arising therefrom.

**5. Insurance.**

**5.1.** Organization will secure, and keep in full force and effect, and will cause its subcontractors to secure, and keep in full force and effect throughout the term of this Agreement the following coverage at Organization’s sole cost and expense. That Insurance will be primary, notwithstanding any other insurance that might be in effect for the indemnitees:

**5.1.1.** Commercial General Liability Insurance, including Contractual Liability (to specifically include coverage for the indemnification clause of this Agreement), Products & Completed Operations Liability, Broad Form Property Damage, Personal and Advertising Injury Liability, written on an occurrence form, with combined bodily injury and property damage limits of liability of no less than

$5,000,000 per occurrence, $5,000,000 per project general aggregate, $5,000,000 Personal & Advertising Injury and $5,000,000 Products and Completed Operations liability with an aggregate limit per project. The limits of liability can be provided in a combination of a Commercial General Liability policy and an Umbrella Liability policy, which is written on a no less than follow form basis. The policy should be written on form CG00 01 07 98 or its equivalent and will not include any exclusions or limitations other than those incorporated in the standard form. That insurance is to be primary insurance, notwithstanding any insurance maintained by the indemnified parties

**5.1.2.** Worker's Compensation Insurance providing statutory benefits for Organization and its subcontractor’s employees and Employer's Liability coverage in an amount that is no less than $1,000,000;

**5.1.3.** Automobile Liability Insurance, including owned, non-owned and hired car liability insurance for combined limits of liability of $5,000,000 per occurrence. The limits of liability can be provided in a combination of an Automobile Liability policy and an Umbrella Liability policy, which is written on a no less than follow form basis;

**[Note: MXD may increase insurance requirements based on the size and/or scope of the project].**

**5.2.** All required insurance policies will be maintained with insurance companies licensed within the State that work is being performed and holding an AM Best rating of no less than A-, VIII. Those policies will contain a provision that that coverage will not be canceled or non-renewed or materially changed, until at least thirty (30) days prior written notice has been provided to UI LABS.

**5.3.** Organization agrees to have included in each of the above policies, and will cause its subcontractors (at any tier) to have included in each of the above policies a waiver of subrogation in favor of MXD.

**5.4.** MXD and its subsidiaries and affiliated entities, now or hereafter formed, all as their interests may appear, and such other parties in interest as MXD may designate in writing from time to time will be named as additional insured except with respect to Workers Compensation.

**5.5.** Certificates in the customary form, *i.e.* Acord 25, evidencing all terms of this Agreement, will be delivered to MXD, accompanied with additional insured endorsement CG2010 (1001) and CG2037 or their equivalent, prior to accessing or using any property of MXD. Similar certificates,

while Organization is on the MXD premises, will be delivered evidencing the renewal or replacement of such insurance, at least 10 days prior to the effective date of such renewal or change of insurer.

**5.6.** Organization acknowledges and agrees to their total liability, regardless of insurance and/or circumstance, for any and all damage to property, equipment, personal injury or death that may result from their usage of MXD’s property.

**5.7** In the case of any discrepancy regarding the value of damage to property, Organization acknowledges and agrees that MXD shall determine such value in its sole reasonable discretion.

**6. Use of Shop Floor.** This Agreement does not guarantee a right of access to the MXD shop floor. MXD reserves the right to impose requirements (e.g., hours, qualifications, supervision, etc.) on Organization using the shop floor. Organization acknowledges and agrees that it may only use the shop floor in accordance with the requirements in effect at the time of its intended use. Furthermore, MXD reserves the right to refuse access to the shop floor to any person, Organization and/or Member at any time in its sole discretion.

**7. Disputes.** Any dispute under this Insurance and Indemnity Agreement will be a dispute under the Membership Agreement and Article XVI of the Membership Agreement will apply to any disputes under this Insurance and Indemnity Agreement between MXD and any Member acting as Organization.

**IN WITNESS WHEREOF**, the Parties, intending to be legally bound, have caused this Agreement to be executed by their duly authorized representatives, as of the Effective Date.

|  |  |
| --- | --- |
| **Organization:** | **MXD** |
| **By:** | **By:** |
| **Name:** | **Name:** |
| **Title:** | **Title:** |
| **Date:** | **Date:** |

**ATTACHMENT 1: MxD INVOICE TEMPLATE**



**ATTACHMENT 2: MxD PROJECT RELEASE FORM**

**PROJECT TEAM LEAD RELEASE**

This Project Team Lead Release (“**Release**”) is entered into by and between [**Project Team Lead FULL LEGAL NAME**], with address at [**Project Team Lead Address** **TBD**] (“**Project Team Lead**”), and UI LABS d/b/a MXD USA, a corporation organized under the Illinois General Not for Profit Corporation Act (“**MxD**”).  Except as specifically provided below, capitalized terms used in this Release will have the meaning set forth in the Membership Agreement by and between the Parties.  If a term in this Release conflicts with a term in the Membership Agreement, the provisions of this Released will prevail.

Funding Revision(s) to Agreement:

1. The total MxD Funding Amount committed to XXX is decreased by $ XXX from $ XXX to $ XXX.
2. The Project Team Cost Share due from XXX is decreased by $ XXX from $ XXX to $ XXX.

Pursuant to the terms of Enterprise Award Agreement (“**EAA**”) by and between parties related to Project number [**Project Number TBD**] and in consideration of the sum of [$**Total Remaining to be Paid under EAA**] (“**Closeout Payment**”) which has been or is to be paid under that EAA, Project Team Lead, for itself and for all Project Participants, vendors and others who performed work on the Project, upon payment of the Closeout Payment, does remise, release, and discharge MxD, and members of the Strategic Advisory Committee, the Technical Advisory Committee and the Executive Committee and its and their affiliates, parent corporations, administrators, successors, assigns, insurers, officers, directors, employees, legal representatives and agents (each a “**Released Party**”), of and from all from liability for any and all claims, costs, causes of action, damages, losses, obligations or liabilities of any nature whatsoever at law or in equity, past or present whether or not now or heretofore known, suspected, or claimed arising under or from the EAA (“**Claims**”), except:

1.Specified Claims in stated amounts or in estimated amounts where the amounts are not susceptible of exact statement by as set forth in Exhibit A.

2.Claims for Released Party’s (i) gross negligence, (ii) willful, reckless or intentional misconduct, or (iii) breach of Released Party’s confidentiality obligations set forth in Article VII of the Membership Agreement which claims are not known to the Project Team Lead on the date of the execution of this Release.

3.Claims for breach of the license set forth in Article VIII of the Membership Agreement accruing after the date of this Release.

4.Project Team Lead represents that as of the date of this Release, there are no known Claims by or between the Project Participants, vendors or others related to the Project except as may be described in Exhibit A as applicable.

**IN WITNESS WHEREOF**, this release has been executed this [TBD]day of[TBD Month], 2019.

(Project Team Lead)MxD

By:  By:

Title:Title:

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**CERTIFICATE**

I,, certify that I am the[TBD Corporate Title] of the corporation named as Project Team Lead in the foregoing Release; that this Release was duly signed for and on behalf of Project Team Lead; by authority of its governing body and is within the scope of its corporate powers.

By:

Title:Date:

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**Exhibit A**

**Unreleased Claims**

Claims which are not released:

[“None” but if not, please describe the unreleased claims with as specificity as possible]