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THIS **AFFILIATION AGREEMENT** (the "Agreement") is made by and between the National Association of Minority Contractors, Inc. ("NAMC"), a 501(c)(3) nonprofit corporation, with its principal place of business at 910 17<sup>th</sup> Street NW, Suite 413, Washington, DC 20006, and the Chapter of the National Association of Minority Contractors, Inc.

**WHEREAS:** NAMC's commitment is to build local construction workforce economies by developing new chapters and strengthening existing ones.

**WHEREAS:** NAMC seeks to create opportunities which maximize profitability and positive cash flow from construction projects for its membership.

**WHEREAS:** NAMC seeks to establish clear criteria, requirements and standards for participation as a NAMC chapter and member and to set standards of excellence and protect the chapters and the work accomplished, as well as protect the NAMC brand.

**WHEREAS:** NAMC seeks to create an infrastructure that is beneficial to the chapters and their members and provide clarity of governance.

**NOW THEREFORE,** in consideration of the premises set forth above and the promises set forth below, the sufficiency and receipt of which are hereby acknowledged, the parties hereby agree as follows:

**I. BOARD REPRESENTATION AND LEADERSHIP**

- A. All chapters shall be governed by a Board of Directors. At least seventy (70) percent of the Chapter's Board of Directors and Officers shall have relevant construction industry experience as defined by NAMC'S bylaws. Specifically, each Chapter President shall have relevant construction industry experience as defined by NAMC's bylaws.
- B. Each Board of Directors must have a Chairperson or President, Vice President, Secretary or Treasurer. Each Officer shall be elected annually by the Board of Directors subsequent to the election of the Board of Directors for that year. Each Officer shall serve a period of two years to promote continuity.
- C. Board Members shall be elected annually by the General Membership of the Chapter. Each Board Member shall serve staggered terms to maintain consistency and continuity of succession.
- D. Each newly elected Board Member and Officer shall attend a Board Orientation and Leadership Training within thirty (30) days of the election. All Board Members and Officers shall sign a Code of Conduct Pledge established by the Board of Directors upon election.
- E. Board Members and Officers shall not receive compensation for their services except for approved travel or organization expense reimbursement. Each Chapter shall develop a policy for reimbursements.
- F. In order to qualify to serve as an Officer of the Chapter, each person shall

- i. Be a person in good financial standing with the Chapter.
- ii. Be a person who has served at least two (2) consecutive years on the board within the past two (2) years.
- iii. Be a person with previous leadership experience in a chapter, committee or other organization.
- iv. Present two (2) letters of recommendation of character and business acumen.

G. Each Chairperson or President, Vice Present or Executive Director shall attend the Mid- Winter Meeting and Annual Conference.

H. In order to qualify to serve as a Board Member each person shall:

- i. Be a person in good financial standing with the Chapter.
- ii. Be a member for at least two (2) consecutive years within the past year.
- iii. Must have at least (1) letter of recommendation of character and business acumen.

## **II. NOMINATIONS AND ELECTIONS**

- A. Each Chapter's bylaws shall set forth the rules governing the elections of Board Members and Officers.
- B. Each Chapter shall have a Nominations Committee and a designated time for elections.
- C. Each Chapter's Nominations Committee shall provide written procedures for the nominations and elections process to the members at least 30 days prior to elections. All interested candidates shall provide a written Statement of Interest. Each candidate shall have the opportunity to present themselves to the membership.
- D. Election results shall be reported to the National Office within two (2) weeks including contact and member profile information.

## **III. BY-LAWS**

- A. All By-laws shall be submitted and approved by NAMC National within 30 days of executing this agreement.
- B. By-laws should generally align with the National by-laws regarding the following
  - i. Board Composition and Officers
  - ii. By-law Changes
  - iii. Nominations and Elections Process
  - iv. Meetings and Committees

## **IV. GOOD STANDING STATUS AND CODES OF CONDUCT**

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- A. All Chapters shall maintain good standing with NAMC. Good standing is defined as:
- i. Financially current with payment of annual dues.
  - ii. Reporting requirements have been met including updated chapter roster, officers, member profile information and chapter report submitted to the National Office.
  - iii. Annual legal filings and financial statements current.
  - iv. Adherence to the National Bylaws.
- B. Chapter warrants that it is in full compliance with all applicable laws, regulations and other legal standards that may affect its performance under this Agreement, and shall remain in full compliance with, and otherwise conduct its activities at all times in accordance with, all applicable law, regulations and other legal standards. Further, Chapter warrants that it shall maintain all permits, licenses and other governmental approvals that may be required in the Territory in connection with its performance under this Agreement. Furthermore, Chapter warrants that it shall make all required filings, such as annual corporate reports and tax filings that may affect its corporate or tax status.
- C. Tax Exempt Activity Limitations. NAMC is prohibited from engaging in certain activities that are specified in the applicable tax laws. For example, and not by way of limitation, NAMC as a tax-exempt organization is prohibited from participating in or intervening in any political campaign on behalf of or in opposition to a candidate for public office. The Chapter shall not engage in activities that are not tax exempt under IRS 501(c)(3) and shall seek guidance from NAMC in connection with Chapter activities and the applicability of IRS 501(c)(3) (if applicable).
- D. Recordkeeping, Reporting and Inspection. The Chapter shall establish and maintain a bank account or accounts and financial records of all income and expenses. Chapter shall maintain all records related to its corporate and tax-exempt status and shall forward to NAMC copies of its Articles of Incorporation, Bylaws and tax exemption determination letter from the Internal Revenue Service (if applicable), as well as any adverse notices or other correspondence received from any governmental agency (e.g., Internal Revenue Service, state Secretary of State or corresponding agency). Chapter shall maintain reasonable records related to all programs, activities and operations. Chapter shall submit regular written reports, no less than once per year, to NAMC summarizing its programs, activities and operations, including but not limited to budget and financial statements. Upon the written request of NAMC and at NAMC's expense, Chapter shall permit NAMC or NAMC's designated agent to review appropriate records of Chapter pertaining to its programs, activities and operations.
- i. Programs and Activities. Chapter shall endeavor to sponsor and conduct programs and activities that further the purposes and objectives of NAMC, and shall use its best efforts to ensure that such programs and activities are of the highest quality with respect to content, materials, logistical preparation, and otherwise. Chapter shall endeavor to use, to the extent possible, materials available through NAMC in support of such programs and activities. Chapter shall send to NAMC on a

regular basis a schedule of upcoming meetings, conferences and seminars, as well as other programs and activities that Chapter intends to sponsor or conduct. NAMC may, at its sole discretion, send representatives to observe such programs and activities.

- ii. Government Affairs Efforts. Chapter shall endeavor to conduct government affairs efforts within the Territory consistent with the purposes and objectives of NAMC. In performing this function, Chapter shall work with NAMC in order to ensure national consistency in these efforts.

**V. INTELLECTUAL PROPERTY AND CONFIDENTIAL INFORMATION**

- A. Limited License. In accordance with NAMC's non-exclusive grant to the Chapter to be a chapter of NAMC in the Territory, Chapter is hereby granted a limited, revocable, nonexclusive license to use (i) the name "National Association of Minority Contractors," "NAMC," logo of NAMC, and other NAMC trademarks, service marks, trade names, and logos (hereinafter collectively referred to as the "Marks"); (ii) all copyrighted or proprietary information and materials provided by NAMC to Chapter during the Term of this Agreement (hereinafter referred to as the "Proprietary Information") (the Marks, and Proprietary Information are hereinafter collectively referred to as the "Intellectual Property") in or in connection with Chapter's name, acronym and logo and for other official Chapter related purposes, with the limited authority to use the Intellectual Property solely in connection with the activities authorized under this Agreement, subject to the terms and conditions of this Agreement and any written guidelines attached hereto, otherwise incorporated herein, or subsequently provided to Chapter by NAMC.
- B. The Intellectual Property is shall always remain the sole and exclusive property of NAMC. The Intellectual Property may be used by Chapter of NAMC if and only if such use is made pursuant to the terms and conditions of this limited and revocable license. Any failure by Chapter to comply with the terms and conditions contained herein, whether willful or negligent, may result in the immediate suspension or revocation of this license, in whole or in part, by NAMC. Failure to comply, whether willful or negligent, also may result in the suspension or revocation of the charter of Chapter by NAMC. The interpretation and enforcement (or lack thereof) of these terms and conditions, and compliance therewith, shall be made by NAMC in its sole discretion.
- C. NAMC's logo is trademarked and may not be revised or altered in any way and must be displayed in the same form as produced by NAMC. The Marks may not be used in conjunction with any other trademark, service mark, or other mark without the express prior written approval of NAMC.
- D. The Intellectual Property must be used by Chapter in a professional manner and solely for official Chapter-related purposes. Chapter shall not permit any third party to use the Intellectual Property without NAMC's express prior written approval. Chapter shall not sell or trade the Intellectual Property without NAMC's express prior written approval. Notwithstanding the foregoing, the Intellectual



Property may not be used for individual personal or professional gain or other private benefit, and the Intellectual Property may not be used in any manner that, in the sole discretion of NAMC, discredits NAMC or tarnishes its reputation and goodwill; is false or misleading; violates the rights of others; violates any law, regulation or other public policy; or mischaracterizes the relationship between NAMC and Chapter, including but not limited to the fact that Chapter is a separate and distinct legal entity from NAMC.

- E. Confidential Information. The parties shall maintain the confidentiality of all the confidential and proprietary information and data ("Confidential Information") of the other party. The parties also shall take all reasonable steps to ensure that no use, by themselves or by any third parties, shall be made of the other party's Confidential Information without such other party's consent. Each party's Confidential Information shall remain the property of that party and shall be furnished in confidence to the other party when necessary under the terms of this Agreement. Upon any revocation, surrender or other termination of this Agreement, each party shall: (i) deliver immediately to the other party all Confidential Information of the other party, including but not limited to all written and electronic documentation of all Confidential Information, and all copies thereof; (ii) make no further use of it; and (iii) make reasonable efforts to ensure that no further use of it is made by either that party or its officers, directors, employees, agents, contractors, or any other person or third party. Each party's confidentiality obligations under this Section shall survive any revocation, surrender or other termination of this Agreement.

## **VI. INDEMNIFICATION**

- A. Chapter shall indemnify, save and hold harmless NAMC, its subsidiaries, affiliates, related entities, partners, agents, officers, directors, employees, members, shareholders, attorneys, heirs, successors, and assigns, and each of them, from and against any and all claims, actions, suits, demands, losses, damages, judgments, settlements, costs and expenses (including reasonable attorneys' fees and expenses), and liabilities of every kind and character whatsoever (a "Claim"), which may arise by reason of (i) any act or omission by Chapter or any of its subsidiaries, affiliates, related entities, partners, officers, directors, employees, members, shareholders or agents; or (ii) the inaccuracy or breach of any of the covenants, representations and warranties made by Chapter in this Agreement. This indemnity shall require Chapter to provide payment to NAMC of costs and expenses as they occur. Chapter shall promptly notify NAMC upon receipt of any Claim and shall grant to NAMC the sole conduct of the defense to any Claim. The provisions of this Section shall survive any revocation, surrender or other termination of this Agreement.

## **VIII. REVOCATION OR SURRENDER OF CHARTER**

- A. Revocation of Charter. The charter granted by NAMC to the Chapter hereunder shall remain in full force and effect unless and until revoked by NAMC or surrendered by Chapter in accordance with the provisions of this Agreement. NAMC, through its Board of Directors, shall have the authority to revoke

the charter of Chapter if the Board of Directors determines that the conduct of Chapter is in breach of any provision of this Agreement. Failure to meet stated Chapter Charter requirements, to follow administrative procedures, or to maintain a level of activity and leadership consistent with the objectives of NAMC regional chapters are grounds for termination by the NAMC Board of Directors. Any decision by NAMC to revoke Chapter's charter shall be initiated by sending written notice to Chapter specifying the grounds upon which the revocation is based; however, NAMC shall provide Chapter with a minimum of thirty (30) days from the date of such notice to respond. Cure for all outstanding problems must be initiated with the Chapter's response to the notification and be totally corrected within ninety (90) days from notification. If NAMC determines, in its sole discretion, that Chapter has not corrected the condition leading to NAMC's decision to revoke Chapter's charter, NAMC shall so notify Chapter in writing. NAMC's decision shall become final unless, within thirty (30) days of its receipt of written notice from NAMC, Chapter delivers to NAMC a written notice to appeal such determination. Upon the filing of such an appeal notice, Chapter shall have the opportunity to present its case, by written communication or in person, to the Board of Directors of NAMC pursuant to the applicable rules or procedures prescribed by NAMC's Board of Directors. The decision of NAMC's Board of Directors upon such appeal shall be final and not subject to further appeal.

- B. Surrender of Charter. Chapter may surrender its charter by delivering to NAMC written notice of its intention to do so no less than thirty (30) days prior to the effective date of such surrender.

## **IX. MISCELLANEOUS**

- A. Entire Agreement. This Agreement: (i) constitutes the entire agreement between the parties hereto with respect to the subject matter hereof; (ii) supersedes and replaces all prior agreements, oral and written, between the parties relating to the subject matter hereof; and (iii) may be amended only by a written instrument clearly setting forth the amendment(s) and executed by both parties.
- B. Warranties. Each party covenants, warrants and represents that it shall comply with all laws, regulations and other legal standards applicable to this Agreement, and that it shall always exercise due care and act in good faith in performance of its obligations under this Agreement. The provisions of this Section shall survive any revocation, surrender or other termination of this Agreement.
- C. Waiver. Either party's waiver of, or failure to exercise, any right provided for in this Agreement shall not be deemed a waiver of any further or future right under this Agreement.
- D. Arbitration. Any and all disputes arising under this Agreement shall be subject to mandatory and binding arbitration. Said arbitration shall take place in the District of Columbia. Neither party shall have any right to bring an action relating to this Agreement in a court of law, except insofar as to either enforce or appeal the results of any such arbitration. In any such arbitration, and subsequent court



- action, the prevailing party shall be entitled to collect its fees and costs associated therewith from the non-prevailing party.
- E. **Governing Law.** All questions with respect to the construction of this Agreement or the rights and liabilities of the parties hereunder shall be determined in accordance with the laws of the District of Columbia. Any legal action taken or to be taken by either party regarding this Agreement or the rights and liabilities of parties hereunder shall be brought only before a federal, state or local court of competent jurisdiction located within the District of Columbia. Each party hereby consents to the jurisdiction of the federal, state and local courts located within the District of Columbia.
- F. **Assignment.** This Agreement may not be assigned, or the rights granted hereunder transferred or sub-licensed, by either party without the express prior written consent of the other party.
- G. **Heirs, Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of each party, its subsidiaries, affiliates, related entities, partners, agents, officers, directors, employees, heirs, successors, and assigns, without regard to whether it is expressly acknowledged in any instrument of succession or assignment.
- H. **Headings.** The headings of the various paragraphs hereof are intended solely for the convenience of reference and are not intended for any purpose whatsoever to explain, modify or place any construction upon any of the provisions of this Agreement.
- I. **Counterparts.** This Agreement may be executed in one (1) or more counterparts, each of which shall be deemed an original and all of which taken together shall constitute one and the same instrument.
- J. **Severability.** All provisions of this Agreement are severable. If any provision or portion hereof is determined to be unenforceable in arbitration or by a court of competent jurisdiction, then the remaining portion of the Agreement shall remain in full effect.
- K. **Force Majeure.** Neither party shall be liable for failure to perform its obligations under this Agreement due to events beyond its reasonable control, including, but not limited to, strikes, riots, wars, fire, acts of God, and acts in compliance with any applicable law, regulation or order (whether valid or invalid) of any governmental body.
- L. **Notice.** All notices and demands of any kind or nature that either party may be required or may desire to serve upon the other in connection with this Agreement shall be in writing and may be served personally, by fax, by certified mail, or by overnight courier, with constructive receipt deemed to have occurred on the date of the mailing, sending or faxing of such notice, to the following addresses or fax numbers:

**If to the Chapter: mailing address on page one of this annual report.**

**If to the Association:**

**National Association of Minority Contractors (NAMC)**

910 17<sup>th</sup> Street NW Suite 413

Washington, DC 20006

T: (202) 296-1600

F: (202) 296-1644

E: [info@namcnational.org](mailto:info@namcnational.org)