

**AMENDED AND RESTATED BYLAWS**  
**OF**  
**VERTICAL LIFT CONSORTIUM, INC.**  
**A Delaware Non-Stock, Non-Profit Corporation**

**ARTICLE I**  
**NAME AND PURPOSES**

**Section 1.1 Name.** The name of this Corporation is Vertical Lift Consortium, Inc. (the "Corporation" or "VLC").

**Section 1.2 General Purposes.**

- (a) The Corporation, formerly known as Center for Rotorcraft Innovation, Inc., is amending its bylaws and changing its name in response to a request of the Office of the Secretary of Defense Acquisition, Technology & Logistics, a U.S. Government organization, to form a consortium comprising traditional and non- traditional government contractors, small and large businesses, for-profit and not- for-profit entities, academic organizations, and their affiliated organizations to enter into an Other Transaction Agreement (the "OT Agreement") under the authority of 10 U.S.C. § 2371, Section 845 of the 1994 National Defense Authorization Act, P.L. 103-160, as amended by Section 241 of the FY 1999 Strom Thurmond National Defense Authorization Act, P.L. 105-261 and Section 822 of the FY 2002 National Defense Authorization Act, P.L. 107-107, under which to provide the Government advice in developing and performing vertical lift aircraft and technologies research and development (including prototype projects) selected by the Government. The Corporation will act on behalf of its members, through a Consortium Administrative Organization ("CAO"), serving as the administrator for the OT Agreement.

- (b) The Corporation is organized under the laws governing Delaware non-profit corporations and will be exclusively operated to carry out cooperative scientific research regarding vertical lift aircraft and technologies as a business league within the meaning of Section 501(c)(6) of the Internal Revenue Code of 1986, as amended (the "Code"), or any corresponding provision of any further U.S. Internal Revenue Code.
- (c) In particular, the Corporation shall:
  - (i) Enter into the OT Agreement with the U.S. Government to facilitate the execution of vertical lift research and development by VLC members;
  - (ii) Collaboratively and collectively provide the U.S. Government with input and advice on non-proprietary, non-confidential technical concepts and issues related to vertical lift aircraft and technologies;
  - (iii) Act as a knowledgeable source to members of Congress and their staff and other branches of the U.S. Government about vertical lift aircraft and technologies research; and
  - (iv) Engage in any other lawful activities that will further the purposes of the Corporation.

## **ARTICLE II**

### **POWERS**

**Section 2.1 General Powers.** The Corporation is to have and to exercise all rights and powers conferred on non-profit corporations under the laws of the State of Delaware.

**Section 2.2 Limitation of Powers.** The Corporation is organized as a non-profit business league within the meaning of Section 501(c)(6) Internal Revenue Code and shall not carry on

activities not permitted to be carried on by a corporation exempt from federal income tax under Section 501(c)(6) of the Code.

### ARTICLE III

#### DEDICATION OF ASSETS

**Section 3.1 Irrevocable Dedication.** The property, assets, profits, and net income of the Corporation are irrevocably dedicated to fulfilling the purposes set forth in Article I of these Bylaws and shall not inure to the benefit of any director or officer of the Corporation or to the benefit of any private individual or member, except that the Corporation shall be authorized and empowered by resolution of the Board of Directors (the "Board") to pay reasonable compensation for services rendered, to make payments and distributions in furtherance of the purposes set forth in Article I, and to distribute the property and assets of the Corporation as provided in Section 3.2 below.

**Section 3.2 Dissolution.** Each member of VLC in good standing shall have the right to a fractional vote in performing all the acts necessary for dissolution of the Corporation that are required by Section 275 of the General Corporation Law of the State of Delaware. The fractional vote of each member shall be equal to the number of voting directors within that member's class, divided by the number of members in that class. In the event of the dissolution of the Corporation:

- (a) all liabilities and obligations of the Corporation shall be paid, satisfied and discharged by the Corporation or adequate provision shall be made therefor by the Corporation;
- (b) the U.S. Department of Defense or other federal agencies of the U.S. Government shall have the option to retake possession of any equipment which they may have provided to the Corporation;

- (c) any assets held by the Corporation upon any conditions or limitations shall be distributed in such a way as to meet those conditions or limitations;
- (d) recognizing that it is not the intent of the Corporation or any of its members for any member to transfer to the Corporation title, license, or interest of any type to any member's proprietary information, data, patents, inventions, or other intellectual property, any interest in any such intellectual property that may be held by the Corporation shall revert to the member responsible for the creation thereof to the extent permitted to maintain the Corporation as exempt from federal income tax under Section 501(c)(6) of the Code, provided, however, that nothing in this provision bestows an automatic right of the Corporation to obtain, retain, or claim title to any proprietary information, data, patents, inventions, or other intellectual property solely or jointly owned, developed, or acquired by one or more Corporation members;
- (e) any reversion of title referenced in subparagraph (d) above shall not affect any licenses or other rights to such information, data, patents, inventions, and other intellectual property that may have been granted pursuant to these Bylaws, the Certificate of Incorporation, the OT Agreement, or any other agreement between or among the members of the Corporation; any such licenses or rights shall continue in accordance with their terms;
- (f) to the extent permitted to maintain the Corporation as exempt from federal income tax under Section 501(c)(6) of the Code, all other assets shall be offered for sale at an auction open to all members of the Corporation; and
- (g) the proceeds of the auction referenced in subparagraph (f) above, and any assets not sold in the auction, shall be distributed to one or more tax-exempt non-profit research organizations or educational institutions working in the field of vertical lift aircraft and

technologies as determined in the discretion of the Board.

## ARTICLE IV

### OFFICES

**Section 4.1 Principal Office.** The Corporation may have offices, either within or outside the State of Delaware, as the Board from time to time may determine.

**Section 4.2 Address of Registered Agent.** The Corporation shall maintain a registered agent in the State of Delaware. The identity and address of the registered agent may be changed from time to time by resolution of the Board and filing of a statement with the Delaware Secretary of State pursuant to the provisions of Delaware law.

## ARTICLE V

### MEMBERSHIP AND PARTICIPATION

**Section 5.1 Members.** The Corporation shall be a membership corporation. Members must meet the qualifications for membership set forth in these Bylaws and be approved for acceptance into VLC membership as provided herein. Every member of the Corporation is independent of the other members, there is no affiliation between the members within the definition of 13 C.F.R. § 121.103, and no such affiliation is intended by either the formation or the implementation of the Corporation.

**Section 5.2 Admission of Members.** Subsequent to adoption of these Bylaws by its initial directors, an open call for interest and application shall be made by the Corporation. To facilitate an open membership policy, the membership application and approval process described herein may take place throughout the fiscal year. The Board may adopt a form of membership application and agreement by a majority vote, and such application and agreement shall require

applicants to (a) comply with all of the provisions of these Bylaws and any policies and procedures adopted by the Board, (b) execute the Corporation's nondisclosure agreement regarding protection of proprietary data, and (c) warrant that the membership information that such prospective member provides is complete and correct and that the prospective member meets the eligibility requirements set forth in Section 5.3 hereof. The CAO shall review membership applications to determine compliance with application terms and forward them to the Board for action. Valid membership applications shall be promptly reviewed and approved or disapproved by the Board no later than the first Board meeting following the passage of 30 calendar days from receipt of a completed application.

**Section 5.3 Membership Eligibility.** Any legally constituted not-for-profit or for-profit entity (including any corporation, partnership, limited liability company, proprietorship, or academic or research and development organization) shall be eligible to be a member of the Corporation if such entity meets the following requirements:

- (a) At the direction of the Government, membership in the Corporation shall be limited to U.S. companies, firms, organizations, institutions, or other entities organized or existing under the laws of the United States, its territories, or possessions that:
  - (i) are controlled and substantially owned by citizens of the United States, as defined by Section 120.15 of the International Traffic in Arms Regulations;
  - (ii) are under Foreign Ownership, Control, or Influence ("FOCI") and are FOCI-mitigated, and possess a facility clearance ("FCL") for the appropriate classification; or
  - (iii) have acknowledged in writing, in a form prescribed by the Board, their understanding of applicable U.S. export control laws and

regulations and their obligations thereunder, as well as their responsibility for compliance therewith.

- (b) Membership in the Corporation shall be granted only to entities that:
- (i) are not barred or suspended from contracting with or receiving funds from the U.S. Government;
  - (ii) can clearly demonstrate in their membership application that they have an interest in the research and development (including prototype projects) of vertical lift aircraft and technologies and are capable of making a technical contribution to the advancement of the U.S. vertical lift aircraft and technologies industry;
  - (iii) will pay annual published dues and/or make such other contributions as may be required by the Corporation at any time or from time to time;
  - (iv) will designate representatives with the ability and willingness to actively contribute to the work of the Corporation;
  - (v) are willing and able to comply with all terms of the OT Agreement and to enter into subcontract agreements with the Corporation under the terms and conditions of the OT Agreement to perform such proposed activities as may be selected by the U.S. Government; and
  - (vi) will comply with applicable U.S. laws, rules and regulations, including U.S. antitrust and export control laws.

Any member whose application has been approved by the Board in accordance with Section 5.2 of these Bylaws, and is in compliance with these qualifications and conditions, is a member in good standing.

**Section 5.4 Membership Rights.** A member in good standing is entitled to:

- (a) Have the right to one vote on any matters coming before the general membership, except as otherwise set forth in these Bylaws;
- (b) Designate representatives to participate in the activities of the Corporation as provided for in these Bylaws;
- (c) Share non-proprietary and non-confidential technology ideas and concepts in response to the U.S. Government's request;
- (d) Submit proprietary, confidential technical and cost proposals to the CAO as neutral agent of the Corporation, either individually or teamed with one(1) or more other members in good standing, in response to U.S. Government solicitations under the terms and conditions of the OT Agreement; the CAO, as neutral agent of the Corporation, shall review proposals for completeness and format in accordance with the U.S. Government solicitation and deliver the proposal to the U.S. Government for the U.S. Government evaluation and selection process;
- (e) Enter into project agreements pursuant to the terms and conditions of the OT Agreement, under which the member will perform the work proposed in that member's technical and cost proposals as selected for funding by the U.S. Government, in accordance with the OT Agreement and in compliance with any and all applicable laws, rules and regulations, including U.S. antitrust and export control laws.

**Section 5.5 Classes of Members.** The Corporation shall have eight (8) classes of members, designated as follows:

- (a) Large Domestic Original Equipment Manufacturer ("OEM"). Entities eligible for membership as Large Domestic OEMs shall be entities that (i) had at least \$1



- billion in vertical lift-related sales to the U.S. military during their most recent fiscal year; (ii) employ at least 500 engineers engaged in vertical lift-related research and development in the United States; and (iii) have design authority for vertical lift aircraft. Initial members of the Large Domestic OEM class shall include Bell Helicopter Textron, Inc.; The Boeing Company; Sikorsky Aircraft Corporation; and Lockheed Martin Corporation, each of which represents that it is eligible for membership as a Large Domestic OEM.
- (b) Large Traditional Defense Contractor. Entities eligible for membership as Large Traditional Defense Contractors shall be entities that had at least \$250 million in vertical lift-related sales to the U.S. military during their most recent fiscal year. Initial members of the Large Traditional Defense Contractor class shall include AgustaWestland North America, Inc.; EADS North America; and Northrop Grumman Corporation, each of which represents that it is eligible for membership as a Large Traditional Defense Contractor.
- (c) Supplier. Entities eligible for membership as Suppliers shall be entities that (i) produce or integrate equipment for vertical lift aircraft and technologies manufactured within the United States or (ii) design and supply materials or products, perform systems integration, or provide other services or support for use in the vertical lift aircraft and technologies manufacturing process in the United States.
- (d) Academic and Nonprofit Research Institution. Entities eligible for membership as Academic and Nonprofit Research Institutions shall be (i) United States universities and (ii) United States nonprofit organizations active in vertical lift research.
- (e) Small Vertical Takeoff and Landing (VTOL) Organization. Entities eligible for

- membership as Small VTOL Organizations shall be for-profit entities that are significantly involved in active research for vertical lift production, flight characteristics, performance, equipment, engines, avionics, transmissions, or related materials, or provide other services or support, for vertical lift aircraft and technologies manufactured within the United States.
- (f) Engine Manufacturer. Entities eligible for membership as Engine Manufacturers shall be entities that produce engines for vertical lift aircraft manufactured in the United States.
  - (g) American Helicopter Society. The American Helicopter Society, for as long as it remains a VLC member in good standing, shall constitute its own, single- member membership class.
  - (h) Others. Entities eligible for membership as Others shall be entities that do not meet the criteria for any other class of membership in the VLC.

**Section 5.6 Qualification and Removal.**

- (a) All members must be approved for membership in the Corporation by an affirmative vote of a majority of the Board.
- (b) In the event that any member qualifies for inclusion in more than one class of membership, that member shall have the option of choosing the membership class to which it belongs; however, no member that remains eligible for its current membership class shall be permitted to change its membership class, without approval by the Board, if such member has previously changed its membership class at any time within the preceding two (2) years. The Board shall have ultimate authority to determine whether a particular member is eligible for the membership class in which it desires to participate.

- (c) The Board may from time to time establish other classes of members and the admission criteria for such classes.
- (d) A member shall remain in good standing provided all subsequent contributions, dues, assessments, and fees, together with such penalties for late payment as may be determined by the Board, have been paid within the period established by the Board and the member continues to meet all the other requirements of participation.
- (e) Except as otherwise provided herein, eligibility and qualification for participation and all questions of good standing, rights, privileges, and responsibilities of members will be determined by resolution of a majority of the whole Board.
- (f) In addition, any member may be removed from further participation for good cause by an affirmative vote of a majority of the whole Board.
- (g) Membership in good standing is limited to entities that are not barred, suspended, or prohibited from contracting with or receiving U.S. Government procurement funds, and that are not otherwise unable to contract with or receive procurement funds from the U.S. Government. In the event that a member is so suspended, barred, or prohibited or otherwise becomes unable to contract with or receive procurement funds from the U.S. Government, its membership will be inactive, and it will not have the membership rights set forth in Section 5.4 of these Bylaws, for the duration of the period of such suspension, debarment, or prohibition, or until the member is able to contract with or receive procurement funds from the U.S. Government.

**Section 5.7 Relationships Between Members.** No member shall exchange any price or other sensitive competitive data with another member or use or disclose any trade secrets or other confidential and/or proprietary information for any improper purposes, including without

limitation any action in violation of U.S. antitrust, export control, or other laws, rules, or regulations.

**Section 5.8 Dues.** The first year's annual dues of any member shall be pro-rated from the beginning of the month in which the member's application is approved to the end of the Corporation's then-current fiscal year. Such pro-rated dues, plus any Corporation initiation fees, are payable upon the date that such member's application is approved by the Board.

Subsequent years' annual dues will be payable at the beginning of each subsequent fiscal year and, in any event, no later than the fifteenth day of the first month of that year. The Board may fix, change, amend, or adjust the dues applicable to the members or classes thereof from time to time without amending the Bylaws and publish the dues to the members. Notice of any changes from the previously published dues, fees, and contributions shall be given to members and prospective members no less than thirty (30) calendar days in advance of the effective date thereof.

**Section 5.9 Failure to Pay Dues.** If any member fails to pay timely its dues in full, then the standing of that member will be held in abeyance, and its membership rights set forth in Section 5.4(a), (d), and (e) of these Bylaws will be suspended, pending payment in full. Failure to pay dues within twenty (20) calendar days after the mailing of a second notice of dues payable shall result in termination of the membership of such member in the Corporation.

**Section 5.10 Voting Rights of Members.** Members shall not be entitled to vote on any action unless specifically provided for by the Certificate of Incorporation, these Bylaws, or a resolution of the Board.

**Section 5.11 Admission.** New members may be admitted pursuant to these Bylaws by acceptance of the Board as of the first day of the month following the member's acceptance by the Board.

**Section 5.12 Special Meetings of Members.** Special meetings of the members may be held at any time and place for any purpose or purposes, unless otherwise prescribed by statute, and shall be called by the Chairman of the Board or his designee on the written request of fifty percent (50%) or more of the members in good standing, by action of the Board, or otherwise by law.

**Section 5.13 Notice and Waiver of Notice.**

- (a) Unless notice is waived by all members, notice of any special meeting shall be given by written notice delivered to each member not less than thirty (30) calendar days or more than fifty (50) calendar days before the date of the meeting, personally, by electronic transmission, or by U.S. mail, by the Secretary/Treasurer to each member of record entitled to attend such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the member at its address as it appears on the records of the Corporation, with postage thereon prepaid. If delivered by electronic transmission, such notice shall be deemed to be delivered on the day following the date of transmission. The purpose of and the business to be transacted at any special meeting of the members shall be specified in the notice or waiver of notice of such meeting and the business transacted at any special meeting shall be confined to the purposes stated in the notice.
- (b) Attendance of a member at a meeting shall constitute waiver of notice of such meeting, except when the person attends the meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Any member may waive notice of any special meeting of members by executing a written waiver of notice either before or after the time of the meeting.

**Section 5.14 Quorum.** The presence or representation, either in person or by proxy, of a majority

of all the members entitled to vote on a particular matter as to which such members have voting rights hereunder, if any, shall constitute a quorum for the transaction of business with respect to such matter at any meeting of the members. If there is less than a quorum present or represented in person or by proxy, a majority of the votes cast by the members present or represented either in person or by proxy may adjourn the meeting from time to time and place to place and cause notice of each such adjourned meeting to be given to all absent members.

**Section 5.15 Action by Majority Vote.** Unless otherwise expressly set forth in these Bylaws, the act of the majority of the votes cast by members entitled to vote on a particular matter as to which such members have voting rights hereunder, if any, present at a meeting of the members at which a quorum is present, shall be the act of the members unless a greater number is required under these Bylaws or under any applicable laws of the State of Delaware.

**Section 5.16 Proxies.** Members entitled to vote may vote in person or by proxy. An appointment of proxy must be in writing and becomes effective when received by the CAO or other authorized representative of the Corporation. An appointment of proxy is valid for a period of three (3) years thereafter unless otherwise provided in the proxy or until revoked.

**Section 5.17 Conduct of Meetings.** The Chairman of the Board shall be the presiding officer and shall call any meeting of the members to order and shall act as chairperson of the meeting, and the Secretary/Treasurer of the Corporation shall act as secretary of all meetings of the members, but in the absence of the Secretary/Treasurer, the presiding officer may appoint any other person to act as secretary of the meeting.

**Section 5.18 Resignation.** Any member may resign by filing a written resignation with the Secretary/Treasurer, but such resignation shall not relieve the member so resigning of the obligation to pay any dues, assessments or other charges theretofore accrued and unpaid.

**Section 5.19 Reinstatement.** Upon written request signed by a former member and filed with

the Secretary/Treasurer, the Board may, by the affirmative vote of a majority of the members of the Board, reinstate such former member to membership upon such terms as the Board may deem appropriate.

**Section 5.20 Transfer of Membership.** Membership in the Corporation is not transferable or assignable.

## ARTICLE VI

### BOARD OF DIRECTORS

**Section 6.1 General Powers.** Subject to the provisions of the Delaware General Corporation Law and any limitations contained in the Certificate of Incorporation or these Bylaws, the activities and affairs of the Corporation shall be conducted and all corporate powers exercised by or under the direction of the Board. The Board shall be the principal policy-making body for the Corporation and the final dispute resolution governing body. The Board shall have all powers vested in it under Delaware law, including but not limited to: (a) approval and classification of new members; (b) removal of members that do not maintain eligibility or good standing; (c) final consideration and approval of the VLC annual operating budgets; (d) formation and management of any standing or temporary committees as needed; (e) selection of the CAO; (f) dispute resolution between the members relating to VLC business; (g) fixing the annual membership dues; (h) fulfillment of the specific administrative and supervisory functions delineated in the Bylaws and the OT Agreement; and (i) appointment of Corporation representatives to such steering committees, working groups, and other committees on which Corporation representation is requested by the U.S. Government.

**Section 6.2 Categories of Directors.** For the purpose of determining the term associated with each director elected or appointed pursuant to Section 6.3(a)-(h) below, each shall be

designated as either a Category A director or a Category B director.

**Section 6.3 Number and Allocation of Directors** The total number of directors shall be no fewer than sixteen (16), of which no fewer than fifteen (15) shall be voting and one (1) shall be nonvoting.

The aggregate number of directors from the classes designated below in subparagraphs (c) through (h) shall exceed the aggregate number of directors from the classes designated in subparagraphs (a) and (b). Directorships on the Board shall be allotted as follows:

- (a) Large Domestic OEMs, as a class, shall be entitled to elect two (2) voting directors to Category A seats and two (2) voting directors to Category B seats, except that Bell Helicopter Textron Inc. and The Boeing Company shall each appoint one (1) voting director to a Category A seat on the initial Board, and Sikorsky Aircraft Corporation and Lockheed Martin Corporation shall each appoint one (1) voting director to a Category B seat on the initial Board.
- (b) Large Traditional Defense Contractors, as a class, shall be entitled to elect two (2) voting directors to Category A seats and one (1) voting director to a Category B seat, except that AgustaWestland North America, Inc. and EADS North America shall each appoint one (1) voting director to a Category A seat on the initial Board, and Northrop Grumman Corporation shall appoint one (1) voting director to a Category B seat on the initial Board.
- (c) Suppliers, as a class, shall be entitled to elect one (1) voting director to a Category A seat and one (1) voting director to a Category B seat.
- (d) Academic and Nonprofit Research Institutions, as a class, shall be entitled to elect one (1) voting director to a Category A seat and one (1) voting director to a Category B seat.



- (e) Small VTOL Organizations, as a class, shall be entitled to elect one (1) voting director to a Category B seat.
- (f) Engine Manufacturers, as a class, shall be entitled to elect one (1) voting director to a Category A seat.
- (g) The American Helicopter Society shall be entitled to appoint one (1) nonvoting director to a Category B seat
- (h) Others, as a class, shall be entitled to elect one (1) voting director to a Category A seat and (1) voting director to a Category B seat.

In addition, members paying the highest dues category shall be appointed one (1) voting director seat for a term of one year. Members that are under common control may be represented on the Board by only one employee at any time. For purposes of this limitation, members shall be deemed to be under common control if either (i) one member holds a majority ownership interest in the other member or (ii) the same person or entity holds a majority ownership interest in both members.

**Section 6.4 Qualifications of Directors.** Directors need not be residents of the State of Delaware. Each director shall be a “U.S. Person” as defined in the International Traffic in Arms Regulations.

**Section 6.5 Election and Term.**

- (a) Each director appointed or elected to a Category A seat on the initial Board shall serve a term that will expire on December 31, 2011. The term associated with each Category A seat shall expire on December 31 of every second year after 2011.
- (b) Each director appointed or elected to a Category B seat on the initial Board shall serve a term that will expire on December 31, 2012. The term associated with each Category B seat shall expire on December 31 of every second year after 2012.

- (c) Each director appointed to a seat on the Board pursuant to Section 6.3(i) shall serve a term that will expire on December 31 of the year to which the dues payment referenced in Section 6.3(i) applies.
- (d) Directors elected by classes of members shall be elected by written ballot, to be distributed and collected by the CAO during the fourth quarter of the year immediately preceding the beginning of the term for which the directors are being elected. The election of the initial Board shall occur as soon as practicable after the adoption of these amended Bylaws.
- (e) In the event that an election by any class electing one director results in no candidate receiving a majority of the votes of the voting class members, a runoff election will be held between the two candidates receiving the most votes in the initial election.
- (f) In the event that an election by any class electing two directors results in no candidate receiving a majority of the votes of the voting class members, a runoff election will be held among the four candidates receiving the most votes in the initial election.
- (g) In the event that an election by any class electing two directors results in only one candidate receiving a majority of the votes of the voting class members, the candidate receiving the majority of the votes shall be elected to the Board, and a runoff election for the remaining seat representing the class will be held between the two candidates with the next highest vote totals in the initial election.
- (h) Runoff elections also will be conducted by written ballot, to be distributed and collected by the CAO as early as practicable after the two runoff candidates have been determined.
- (i) In the event that a runoff election results in a tie between the candidates, the

incumbent Board, prior to the end of the year in which the runoff election is held, will appoint one of the two runoff candidates to the contested Board seat.

- (j) Directors appointed to a seat by virtue of their dues status shall serve a term that expires on December 31 of the calendar year in which they paid their dues.

**Section 6.6 Quorum and Voting.** Unless otherwise required by law or by the Certificate of Incorporation or the Bylaws, a majority of the total number of directors shall constitute a quorum for the transaction of business or of any particular business, and, except as otherwise provided by law or by the Certificate of Incorporation or the Bylaws, the vote of a majority of the directors present at the meeting at the time of such vote, if a quorum is then present, shall be the act of the Board. In the absence of a quorum at any Board meeting, a majority of the directors present may adjourn the meeting. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of enough directors to leave less than a quorum, if any action taken is approved by at least a majority of the required quorum for such meeting. Notwithstanding the provisions of Section 6.13 of these Bylaws, directors are expected to make every reasonable effort to attend Board meetings in person.

**Section 6.7 Resignation.** Any director may resign at any time by giving written notice of such resignation to the CAO. Any director who is an employee or representative of a member that resigns or is removed from membership in the Corporation shall be terminated from his or her position as a director as of the effective date of the member's resignation or removal from the Corporation. Any director who resigns, retires, or otherwise ceases active employment with a member shall be subject to removal at the discretion of that member.

**Section 6.8 Removal.** A director appointed by a member may be removed from office with or without cause by the member by whom such director was appointed.

**Section 6.9 Board Vacancies.** In the event that a Board vacancy is created by reason of the

resignation or removal of a director who was elected by any class of members, the Board, at its next meeting, shall select a representative of that class to fill the vacancy for the remainder of the term. In the event that a Board vacancy is created by reason of the resignation or removal of a director who was appointed by any member, that member shall be entitled to immediately appoint a representative to fill the vacancy for the remainder of the term.

**Section 6.10 Meetings.** The Board will meet in person at least two (2) times per year, and either in person or via convenient means, including telephonic, otherwise as needed in order to execute the business of the Corporation in a timely manner.

**Section 6.11 Notice and Waiver of Notice.**

- (a) Notice. Unless notice is waived by all directors, notice of the date, time, and place of any meeting shall be given by written notice delivered personally, by electronic transmission, or by U.S. mail to each director at least thirty (30) days but not more than fifty (50) days prior thereto. If delivered by electronic transmission, such notice shall be deemed to be delivered on the day following the date of transmission. If delivered by U.S. mail, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the directors at their addresses as they appear in the records of the Corporation, with postage thereon prepaid. If such notice is given by fax, it shall be deemed to be delivered when the fax is time-dated as delivered. The purpose of and the business to be transacted at any special meeting of the Board need not be specified in the notice or waiver of notice of such meeting.
- (b) Waiver of Notice. Whenever any notice whatsoever is required to be given under the provisions of Delaware law or under the provisions of the Certificate of Incorporation or these Bylaws, a waiver thereof in writing, signed at any time by the person or

persons entitled to such notice, shall be deemed equivalent to the giving of such notice. The attendance of a director at a meeting shall constitute a waiver of notice of such meeting, except where a director attends the meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

**Section 6.12 Manner of Acting.** The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the Board, unless otherwise provided in the Certificate of Incorporation or these Bylaws.

**Section 6.13 Informal Action by Directors.** Any action required or permitted to be taken at any meeting of the Board may be taken without a meeting if all directors consent in writing to such action. Such action shall be evidenced by one or more written consents stating the action taken, signed by each director either before or after the action taken. Such written consents shall be included in the minutes or filed with the corporate records reflecting the action taken. Any one (1) or more directors may participate in a regular or special meeting of the Board by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting may simultaneously hear each other during the meeting. A director participating in a meeting by such means is deemed to be present in person at the meeting.

**Section 6.14 Compensation.** Directors will not receive compensation for services rendered but may be reimbursed for minor expenses incurred in connection with their duties as directors in accordance with policies established by the Board from time to time. Attendance at Board meetings shall be at the director's own expense.

**Section 6.15 Conflicts of Interest.**

- (a) It is understood that each participant in the activities of the Corporation, including each director of the Corporation, participates in Corporation activities as a

representative of his or her member organization. Neither service as a director nor any other participation in Corporation activities shall, by itself, be deemed to constitute a conflict of interest.

- (b) Each director shall disclose to the Board any possible conflict of interest with the Corporation.
- (c) Any director having a conflict of interest on any matter shall abstain from voting on the matter, but shall be counted in determining the quorum for the vote on the matter. In addition, he or she shall not use his or her personal influence on the matter, but may briefly state his or her position on the matter and may answer pertinent questions from other directors.
- (d) The minutes of the meeting involving any such situations referred to in subparagraphs (a) and (b) above shall reflect that a disclosure was made and that the interested director abstained from voting.
- (e) If a director is uncertain as to whether he or she has a conflict of interest which requires abstention, or if a director asserts that another director has such a conflict, the Board, by majority vote of those present other than the director having the possible conflict, shall decide whether abstention is required. If so, the director having the possible conflict will abstain.

**Section 6.16 Technology Committee.** The Board shall establish a Technology Committee consisting of representatives of Corporation members. The role of the Technology Committee shall be to make recommendations to the Board on program objectives and priorities as they relate to research priorities, research funding, reporting of research results, and such other topics as the Board may designate from time to time. The Board shall provide the input of the Corporation to the U.S. Government as to final program objectives and priorities based on the

Technology Committee's recommendations. The Board shall appoint as many members to the Technology Committee as it deems necessary for the Committee to best serve the Corporation. Technology Committee members shall serve at the pleasure of the Board.

**Section 6.17 Government Affairs Committee.** The Board shall establish a Government Affairs Committee. The role of the Government Affairs Committee shall be to manage the Corporation's relationship with the U.S. Government, represent the public face of the Corporation, and perform such other functions as may be determined by the Board. Voting participation on the Government Affairs Committee shall be limited to voting and nonvoting directors; however, only voting directors may be voting participants on the Government Affairs Committee. The Board shall appoint as many members to the Government Affairs Committee as it deems necessary for the Committee to best serve the Corporation. Members of the Government Affairs Committee shall be subject to reappointment by the Board each calendar year, and may be removed by the Board at any time.

**Section 6.18 Other Committees.** The Board shall establish and appoint such additional committees and subcommittees as the Board may deem advisable at any time and from time to time, and shall prescribe the purpose and size of the committees and subcommittees and terms of membership to the extent it deems necessary. Nothing in the Bylaws shall prohibit the Board from delegating day-to-day management functions of the Corporation to an Executive Committee.

**Section 6.19 Committee Policies and Procedures.** The policies and procedures set forth in Sections 6.6, 6.13, 6.14, and 6.15 of these Bylaws shall apply equally to meetings of any VLC committees or of the VLC members.

## ARTICLE VII

### CONSORTIUM ADMINISTRATIVE ORGANIZATION

**Section 7.1 Consortium Administrative Organization (“CAO”).** The CAO is an independent, neutral organization selected by the Board to administer the day-to-day affairs of the Corporation, under the direction of the Chairman of the Board. The CAO is generally responsible for (i) providing VLC administrative support; (ii) executing and administering agreements with the Government on behalf of the Corporation; (iii) acting as the designated authorized signatory for and on behalf of the Corporation; (iv) recording minutes of meetings of the Board, the general membership, and any committees; and (v) such other administrative functions assigned by the Board.

**Section 7.2 Initial CAO.** R. Vause & Associates, LLC shall serve as the initial CAO pursuant to the terms of an agency agreement to be approved by the Board. Effective December 12, 2012, the Corporation has entered into an agreement with Advanced Technology International to serve as the Corporation’s new CAO.

**Section 7.3 Review of CAO.** The Board shall periodically review the performance and contract terms of the CAO, shall request competitive proposals as the Board deems appropriate, and shall retain full authority to replace the CAO and/or negotiate the terms of the Corporation’s retention of the CAO.

**Section 7.4 Managing Director.** The CAO shall provide a Managing Director who shall be approved by the Board. The Managing Director is responsible for the day to day management of the Corporation. Specific duties include but are not limited to serving as the interface between the Corporation and its customers, managing the Corporation’s financial and accounting processes, and managing the Corporation’s membership dues.



## ARTICLE VIII

### OFFICERS

**Section 8.1 Number.** The principal officers of the Corporation shall be a Chairman of the Board, Vice Chairman of the Board, and Secretary/Treasurer. The Board may elect such other officers and assistant officers and agents as may be deemed necessary.

**Section 8.2 Chairman.** The Board shall elect from among the voting directors a Chairman by the affirmative vote of a majority of the members of the Board. The Chairman will serve a term of one (1) calendar year. The Chairman's responsibilities will include serving as a voting member of the Board, chairing all general membership and Board meetings, overseeing all Board activities, and performing such other functions as may be determined by the Board.

**Section 8.3 Vice Chairman.** The Board will elect from among the voting directors a Vice Chairman by the affirmative vote of a majority of the members of the Board. The Vice Chairman must represent a different membership class than the membership class represented by the Chairman. The Vice Chairman will serve a term of one (1) calendar year. The Vice Chairman's responsibilities will include serving as a voting member of the Board, assuming the responsibilities of the Chairman when the Chairman is unavailable, otherwise assisting the Chairman as needed, and performing such other functions as may be determined by the Board.

**Section 8.4 Secretary/Treasurer.** The CAO shall nominate a representative to serve, subject to Board approval, as Secretary/Treasurer of the Board. The Secretary/Treasurer shall serve as a nonvoting participant in all Board meetings and shall:

- (a) keep the minutes of the Board meetings in one or more books provided for that purpose;
- (b) see that all notices are duly given in accordance with the provisions of the Bylaws or as required by law;

- (c) be custodian of the corporate records and of the seal of the Corporation if one is authorized by the Board, in which case the Secretary/Treasurer shall see that the seal of the Corporation is affixed to all documents the execution of which on behalf of the Corporation under its seal is duly authorized;
- (d) keep full and accurate accounts of receipts and deposits in books belonging to the Corporation, have charge and custody of and be responsible for all funds and securities of the Corporation; receive and give receipts for moneys due and payable to the Corporation from any source whatsoever; sign checks, drafts, or other orders for payment of money; and deposit all such moneys in the name of the Corporation in such banks, trust companies or other depositories as shall be selected in accordance with the provisions of the Bylaws; and
- (e) perform all of the duties incident to the office of Secretary/Treasurer and such other duties as from time to time may be assigned by the Board.

**Section 8.5 Removal.** Any officer or agent elected or appointed by the Board may be removed by majority vote of the whole Board, whenever in its judgment the best interests of the Corporation will be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment shall not of itself create contract rights.

**Section 8.6 Vacancies.** A vacancy in any office because of death, resignation, removal, disqualification, or otherwise may be filled by the Board for the unexpired portion of the term.

**Section 8.7 Other Assistants and Acting Officers.** The Board shall have the power to appoint any person to act as assistant to any officer, or to perform the duties of such officer whenever for any reason it is impracticable for such officer to act personally, and such assistant or acting officer so appointed by the Board shall have the power to perform all the duties of the

office to which such person is so appointed to be assistant, or as to which such person is so appointed to act, except as such power may otherwise be defined or restricted by the Board.

**Section 8.8 Additional Officers.** Any additional officer not specified above shall have only such authority, duties and responsibilities as shall be specifically authorized and designated by the Board.

**Section 8.9 Compensation.** Officers will not receive compensation for services rendered but may be reimbursed for minor expenses incurred in connection with duties as officers of the Corporation in accordance with policies established by the Board from time to time.

## ARTICLE IX

### ANTITRUST PROVISIONS

**Section 9.1 Compliance with Antitrust Laws.** The activities of the Corporation shall be conducted in accordance with all federal and state antitrust laws.

**Section 9.2 Retention of Antitrust Counsel.** To help assure compliance with the antitrust laws, the Corporation, through the Board, shall retain qualified antitrust counsel.

**Section 9.3 Role of Antitrust Counsel.** The antitrust counsel retained under Section 9.2 shall counsel the Corporation on the antitrust laws and on their relation or application to the activities and business of the Corporation. In furtherance of the foregoing, antitrust counsel shall:

- (a) establish an antitrust compliance program and related procedures for the Corporation, including a requirement that antitrust counsel (i) review and approve in advance agendas for all meetings of members, the Board, and all committees; (ii) attend all meetings of members, the Board, and such committees as antitrust counsel, in conjunction with the committee chairman and the Board, deems necessary and prudent; and (iii) review and approve in advance minutes of any

- meetings (including, without limitation, documents and materials referred to in such minutes that may have antitrust implications or significance);
- (b) periodically update the Corporation on the antitrust laws and their relation or application to the activities of the Corporation;
  - (c) review and approve in advance all decisions or actions of the Corporation that have the effect of rejecting or terminating membership or participation by any interested party;
  - (d) communicate on behalf of the Corporation with (i) antitrust counsel representing one or more individual members of the Corporation, (ii) the Antitrust Division of the Department of Justice, (iii) the Federal Trade Commission, and (iv) state or other antitrust authorities, provided, however, that antitrust counsel shall provide notice to the Board before initiating any communication with any federal or state antitrust enforcement agency on behalf of the Corporation; and
  - (e) submit on behalf of the Corporation any notices under the National Cooperative Research and Production Act and any requests to the antitrust authorities identified in subparagraph (d) for business review letters or clearances. The listed responsibilities of antitrust counsel will be reviewed by the Board from time to time, to identify and implement any changes which are deemed legally and fiscally necessary or prudent.

## **ARTICLE X**

### **FISCAL YEAR**

The fiscal year of the Corporation shall begin on the first day of January in each year.

## ARTICLE XI

### SEAL

The Board may provide a corporate seal and prescribe the form thereof.

## ARTICLE XII

### CORPORATE ACTS, LOANS, AND DEPOSITS

**Section 12.1 Corporate Acts.** The Board may authorize any officer or agent to sign on behalf of the Corporation any checks, drafts, notes, bonds, bills of exchange, and orders for the payment of money of the Corporation, and all deeds, mortgages, conveyances, and other written contracts, agreements and instruments to which the Corporation shall be a party, and any assignments or endorsements of stock certificates, registered bonds, or other securities owned by the Corporation. Such authority may be general or confined to specific instances.

**Section 12.2 Loans.** No funded indebtedness shall be contracted on behalf of the Corporation and no evidences of such indebtedness shall be issued in its name unless authorized by a resolution of the Board. Such authority may be general or confined to specific instances.

**Section 12.3 Deposits.** All funds of the Corporation, not otherwise employed, shall be deposited from time to time to the credit of the Corporation in such banks, savings and loan associations, trust companies or other depositories as the Board may select.

## ARTICLE XIII

### AMENDMENTS AND CONFLICTS

**Section 13.1 Amendments.** The Bylaws may be amended, altered, supplemented, or repealed by a two-thirds vote of the Board. Members of the Corporation shall not have the right to vote to alter, amend, or repeal these Bylaws or to adopt new Bylaws. Suggestions for amendments may

be forwarded in writing to the Chairman of the Board at any time by any member. Members will be advised of any actual or proposed amendments, alterations, supplements, or changes at the earliest possible time.

**Section 13.2 Conflicts.** Any conflicts between these Bylaws and the OT Agreement shall be construed in favor of the Bylaws.

## **ARTICLE XIV**

### **RECORDS AND REPORTS**

**Section 14.1 Availability for Inspection.** The Corporation shall keep at its office correct and complete books and records of the account, the activities and transactions of the Corporation, the minutes of the proceedings of the Board and any committee of the Corporation, and a current list of the directors and officers of the Corporation and their residence addresses. Any of the books, minutes, and records of the Corporation may be in written form or in any other form capable of being converted into written form within a reasonable time.

**Section 14.2 Auditor.** The Board shall employ a certified public accountant to audit the books of the Corporation for each fiscal year it deems necessary and at such other time or times and for such periods as the Board may deem advisable and to furnish certified reports on such audits. A copy of such annual audit report shall be available at the first subsequent meeting of the directors, and shall be available to members upon request.

## **ARTICLE XV**

### **LIABILITY, INDEMNIFICATION, AND INSURANCE**

**Section 15.1 Liability for Other Members.** A member shall not be liable, solely by reason of being a member, for a debt, obligation, or liability of the Corporation of any kind or for any acts

(or failure to act) of another member or of a representative of the Corporation.

**Section 15.2 Indemnification.** The Corporation shall indemnify any director, officer, employee, or agent; any former director, officer, employee or agent; and any person who may have served at its request as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, whether for profit or not for profit, against expenses (including attorneys' fees, judgments, fines, and amounts paid in settlement, actually and reasonably incurred by him or her in connection with any threatened, pending, or completed action, suit, or proceeding whether civil, criminal, administrative, or investigative) to which he or she may be or is made a party by reason of being or having been such director, officer, employee, or agent if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Corporation. However, there shall be no indemnification in respect of any claim, issue, or matter as to which he or she shall have been adjudged to be liable to the Corporation unless and only to the extent that the Court of Chancery or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery or other court shall deem proper.

**Section 15.3 Payment of Expenses.** The Corporation shall pay expenses incurred by an officer or director in defending a civil or criminal action, suit, or proceeding in advance of the final disposition of such action, suit, or proceeding upon receipt of an undertaking by or on behalf of such officer or director to repay such amount if it shall ultimately be determined that he or she is not entitled to be indemnified by the Corporation under this Article. Such expenses incurred by other employees and agents may be paid upon such terms and conditions, if any, as the Board deems appropriate.

**Section 15.4 Applicability.** The provisions of this Article shall be applicable to claims, actions, suits, or proceedings made or commenced after the adoption hereof, whether arising from acts or omissions occurring before or after adoption hereof.

**Section 15.5 Nonexclusivity.** The indemnification and advancement of expenses provided by this Article shall not be deemed exclusive of any other rights to which such director, officer, employee, or agent may be entitled under any statute, bylaw, agreement, vote of the disinterested members or directors, or otherwise, and shall not restrict the power of the Corporation to make any indemnification permitted by law.

**Section 15.6 Continuation.** The indemnification and advancement of expenses provided by this Article shall, unless otherwise provided when authorized or ratified, continue as to a person who has ceased to be a director, officer, employee, or agent and shall inure to the benefits of the heirs, executors, and administrators of such a person.

**Section 15.7 Insurance.** The Board shall authorize the purchase of insurance on behalf of any person who is or was a director, officer, employee, or agent of the Corporation, or who is or was serving at the request of the Corporation as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, against any liability asserted against or incurred by him in any such capacity, or which arises out of such person's status as a director, officer, employee, or agent, whether or not the Corporation would have the power to indemnify such person against that liability under law.

**Section 15.8 Severability.** If any part of this Article shall be found in any action, suit, or proceeding to be invalid or ineffective, the validity and the effectiveness of the remaining parts shall not be affected. The undersigned certifies that the foregoing is a true and correct copy of the Amended and Restated Bylaws of Vertical Lift Consortium, Inc., adopted on the 22nd day of January 2010 and amended on the 26<sup>th</sup> day of October 2018, and previously amended on the 26th day of June 2018, the 22nd day of September 2016 and the 23rd day of January 2013, by



the Board of Directors of Vertical Lift Consortium, Inc.

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Secretary / Treasurer