

MEMORANDUM OF UNDERSTANDING
Between
NAFEMS and International Council on Systems Engineering

THIS MEMORANDUM OF UNDERSTANDING ("MOU") is made this 19th day of June, 2019, by and between NAFEMS, an independent organization representing the engineering simulation community with offices at 46 Campbell Street, Hamilton ML3 6AS, United Kingdom, and the International Council on Systems Engineering (INCOSE), with offices at 7670 Opportunity Road, Suite 220, San Diego, CA 92111, henceforth known as the "Parties." It sets forth the relationship and obligations for NAFEMS and INCOSE relating to mutual participation and collaboration.

1. PURPOSE: This MOU is intended to promote a collaborative relationship in related professional areas that are of mutual interest and benefit to INCOSE and NAFEMS. INCOSE and NAFEMS wish to develop and promote best practice processes and guidance, training, and supporting materials that can be used in projects and organizations in the field of "Systems Modeling and Simulation." This agreement is intended to formalize the working relationship and arrangements.

2. BACKGROUND:

NAFEMS is the International Association for the Engineering Modelling, Analysis and Simulation Community. It is a not-for-profit organization which was established in 1983.

INCOSE is a non-profit membership organization, dedicated to advancing interdisciplinary principles and practices that enable the realization of successful systems.

It is the express purpose of the signatory organizations to support processes that provide customers with systems that perform optimally and are affordable. By joining efforts, the signatory organizations facilitate the exchange and further development of their knowledge and best practices towards comprehensive integration into the design and operation of successful systems.

3. SCOPE AND OBJECTIVES: The Parties will each appoint personnel to explore collaboration opportunities and propose specific objectives on what each party will pursue and how the collaborative efforts will be handled. The *potential* scope for partnering includes, but is not limited to:

- a. Promotion opportunities at one another's annual meetings and symposia.
- b. Adoption of a policy permitting one organization's members to join and participate in the technical or working groups of the other organization for a nominal annual fee, without requiring dual society-level membership; thereby facilitating opportunities for cross-talk among practitioners of the two organizations. This may include preferential access to the other organization's products or other IP.
- c. Facilitation of opportunities for joint collaborative publications, tutorials, presentations, and development/improvement of processes, methods, guidance and tools; plus co-marketing of any joint products, public relations and communications about the nature of the relationship, and sharing of initiatives or projects of potential interest to the Parties' members.

All joint and collaborative opportunities and products will meet the necessary reviews of each of the Parties as prescribed by their respective policies. The embodiment of the cooperative relationship will comprise the specific recommendations in Addendum A, which will be kept up to date as the partnership and its objectives evolve.

4. OWNERSHIP: The Parties agree and acknowledge that NAFEMS is the exclusive owner of all rights, title and interest throughout the world to the name NAFEMS; and that INCOSE is the exclusive owner of all rights, title and interest throughout the world to the name INCOSE: including, and without being limited to, all rights in the

trademarks, service marks, certification marks, and association marks. During the term of this MOU, the Parties shall identify areas of mutual support of events; with a non-exclusive, non-transferable, royalty-free license to use the other party's Conference Marks in connection with any mutual advertising and marketing of these events. Both parties shall comply with any branding and logo usage guidelines when producing publications and publicity material.

5. INTELLECTUAL PROPERTY: It is the intent that each Party honor and protect the intellectual property (IP) of the other. Each Party shall continue to own the intellectual property developed by it prior to or independently of this MOU. The parties agree that neither of them shall gain by virtue of this MOU any rights of ownership or any other interest, right, or title to copyrights, patents, trade secrets, trade marks, or any other intellectual property rights owned by the other Party.

By entering into this MOU, the parties undertake:

- (a) Not to use each other's intellectual property without the prior express written consent of the other,
- (b) To ensure the confidentiality of such intellectual property of the other within its respective organizations, and
- (c) Not to use each other's intellectual property other than for the purpose of this MOU.

The Parties mutually agree to make every reasonable effort to avoid publication of the other's IP. However, as part of their individually or jointly published products, proceedings, and training, one organization may provide electronic links to the other organization pointing to where the information may be obtained. The Parties agree to provide the other these links, and license to use logos, trademarks or other IP as requested, when approved in writing and signed by authorized representatives of the Parties.

The ownership of IP developed jointly by the two Parties shall be negotiated on a case-by-case basis. The Parties shall execute appropriate documents with respect to the ownership, licensing, assignment, publication, distribution or other rights associated with jointly-developed materials.

Note: It is not uncommon for individuals presenting such information at one Party's conference to also have affiliation with the other Party or joint Working Group (WG); and therefore, it will be difficult to discern the original Intellectual Property holder. In an effort to determine IP ownership, each organization *should* incorporate into their respective calls for papers and proposed submitters application forms, a means of requiring the submitter to declare if the information being provided is considered IP of either INCOSE or NAFEMS, or of the submitter or their employer. In this latter case, they shall be required to declare the extent to which INCOSE and NAFEMS have rights to use or reproduce the IP. Any information not designated as the IP of a specific Party will be considered IP of the Party at whose conference or WG the information is first presented.

6. INDEMNITY: Each Party shall indemnify and hold harmless the other Party (including its parents, subsidiaries, affiliates and its and their officers, agents and employees) from and against any and all claims, demands, liabilities, settlements, damages, costs, and expenses, including reasonable attorneys' fees and expenses, arising out of, or in any way connected with, any default, breach or negligent non-performance of this MOU or any negligent act or omission on the part of itself, its agents and employees arising out of this MOU. This provision shall also apply to any and all subcontractors employed by the indemnifying Party.

7. PROPRIETARY OR CONFIDENTIAL INFORMATION: During the term of this MOU, each Party may disclose to the other its Proprietary or Confidential Information. Proprietary or Confidential Information shall mean all information marked "Proprietary" or "Confidential" or under any similar legend indicating the nature of the information. Neither Party shall disclose to a third party Proprietary or Confidential Information of the other Party. Each Party further agrees to act as trustee for any Proprietary or Confidential Information jointly created or acquired through the Parties' participation in this MOU.

8. RELATIONSHIP MANAGEMENT: The Parties will each name a representative who will act as a liaison between the organizations, in particular as the authorized senders, recorders and recipients of any proprietary or confidential information, IP or Copyrighted material. The names and contact details of each representative shall be maintained at Addendum A.

9. GENERAL ADMINISTRATION, TERMS AND CONDITIONS:

Non-Binding: Except Sections 4, 5, 6, 7, and 9 of this MOU, which shall be binding, the Parties understand that nothing else herein shall be construed as a binding contract between the Parties. The Parties further understand that (i) the activities intended by this MOU may not be successfully completed; and/or (ii) the results achieved may not be as anticipated. Further, INCOSE and NAFEMS acknowledge and agree that this MOU is a non-exclusive engagement; nothing contained herein shall be construed as preventing or restricting either Party from pursuing any opportunity with other entities without involving the other Party or to enter into similar alliance arrangements with other entities.

Relationship of the Parties: This MOU shall not be construed to be an agency or a partnership or joint venture or an employment relationship whether for tax or for any other purpose. Neither Party shall be entitled to bind the other Party with any third party by its actions, unless it has specifically obtained the prior written consent of such other Party to do so. Each Party is an independent contractor, and no provision of this MOU grants either Party any express or implied right of authority to assume or create any obligations or responsibility on behalf of or in the name of the other Party, or bind the other Party in any manner or thing whatsoever. This MOU is not a commitment of financial resources. Any commitment by a Party to pay fees or other amounts to the other Party must be approved in writing, by the paying Party in advance. Except as may be agreed by the Parties in an applicable Definitive Agreement(s), each Party will be responsible for all expenses incurred by such Party in connection with negotiation of this MOU and any promotion, marketing or other activities under this MOU. Each Party shall be liable to pay any tax attributable to it.

Compliance with Laws: Each Party warrants to the other Party that in performing their duties required under this MOU, they will comply with the applicable law and shall take no action which constitutes a violation of applicable law and which would subject the other Party to penalties under applicable law.

Governing Law and Jurisdiction: This MOU shall be governed by and construed and enforced in accordance with the laws of the United States of America and the State of California, without regard to conflict of laws principles.

Assignment: Neither Party may assign or transfer neither its interest in this MOU, nor any interest herein or claim hereunder without the express written consent of the other Party.

Complete agreement: This MOU constitutes the entire agreement among the Parties and supersedes all other prior MOUs of the Parties for the period to which it applies and may not be modified except in writing signed by the Parties.

Notices: Any notice given under this MOU to any of the Parties may be effected by: (i) email or, (ii) facsimile, receipt of which is confirmed by facsimile confirmation.

Counterparts: This MOU may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. If either Party uses a scanned or facsimile transmittal, that copy shall be deemed to be an original.

Financial Considerations: Each party agrees to bear its own cost of participation in this MOU. For financial considerations relating to a specific activity and/or event refer to the applicable addendum relating to the activity and/or event for such details.

Amendments: Amendments to this MOU may be made at any time subsequent to the initial effective date upon mutual consent of the Parties. Modifications to Addendum A that do not increase the total commitment of either party may be agreed between designated representatives without requiring re-authorization of this MOU.

Duration of MOU: This agreement shall remain in effect for a period of three (3) years, unless otherwise changed through mutual agreement of both Parties. Three months before the expiry of the MOU, the Parties shall meet to discuss renewal or changes of direction. At periods not exceeding each 12-month period from initial MOU signature, NAFEMS and INCOSE should meet to review progress towards agreed goals, plus any necessary revisions.

Termination: Either Party may dissolve this relationship after giving the other notice in writing 60 days in advance of cancellation date. Upon termination or non-renewal of this MOU, no Party may use, license, create derivative works, or exploit in any way the jointly owned works or intellectual property of the other Party without the written consent of the other Party. However, this does not include works that are owned by one of the Parties for which the other Party has contributed as part of a broader industry project team assembled solely for the purpose of creating or revising those works. Upon termination or non-renewal, each Party shall return any Proprietary or Confidential Information of the other Party in its possession.

No exclusivity: Nothing in this agreement shall prohibit either Party from establishing contracts, strategic alliances or MOUs with any other entity, organization or individual.

IN WITNESS WHEREOF, this MOU is executed by the Parties hereto by their respective undersigned and authorized officers as of the date first written above.

NAFEMS

INCOSE

Authorized Signature

Authorized Signature

Tim Morris

Garry Roedler

CEO

President

NAFEMS Ltd

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ADDENDUM A

Recommendations:

1. Implementation of a joint cross organizational WG on “Systems Modeling and Simulation.”
2. NAFEMS and INCOSE to offer jointly "Systems Modeling and Simulation" focused events and to stimulate cross fertilization.
3. NAFEMS and INCOSE to plan and develop a series of articles, papers and presentations for their respective membership publications, events and general promotion of the benefits of joint approaches.
4. NAFEMS and INCOSE to mutually support specific, non-funded, events of each organization. Events to be determined but to include: NAFEMS World Congress, INCOSE Symposium. Such support will include invitations to each organization’s meetings on subjects of mutual interest.
5. NAFEMS and INCOSE to provide hosting of web pages, documents, electronic meetings, and products to publicize and disseminate their work on “Systems Modeling and Simulation.”
6. NAFEMS and INCOSE to develop and publish jointly a glossary of terms in use across the field of “Systems Modeling and Simulation.”
7. NAFEMS and INCOSE to develop jointly new processes, methods, guidance and tools in the field of “Systems Modeling and Simulation.”
8. NAFEMS and INCOSE to provide mutual assistance and support for international standards.
9. NAFEMS and INCOSE to develop discipline-specific or domain-specific variants or extensions of a Competency Framework.
10. NAFEMS and INCOSE to develop a joint approach for interfacing with other organizations in related professional areas.

Specific Areas of responsibility for INCOSE:

- Maintain Charter document and online sites to integrate joint WG on “Systems Modeling and Simulation” within the Technical Working Groups of INCOSE.
- INCOSE to integrate NAFEMS within INCOSE’s Model Based System Engineering initiative with the support and contribution of NAFEMS.

Specific Areas of responsibility for NAFEMS:

- Maintain Terms of Reference document and online sites to integrate joint WG on “Systems Modeling and Simulation” within the Technical Working Groups of NAFEMS.

Points of contact (designated representatives):

For NAFEMS:

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For INCOSE:

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