

DEFENSE

Research and Development

**Memorandum of Agreement
Between the
UNITED STATES OF AMERICA
and GERMANY**

Signed at Washington and Bonn
March 5 and 24, 2009

with

Annex



NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89—497, approved July 8, 1966
(80 Stat. 271; 1 U.S.C. 113)—

“ . . .the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof.”

GERMANY

Defense: Research and Development

*Memorandum of agreement signed at
Washington and Bonn
March 5 and 24, 2009;
Entered into force March 24, 2009.
With annex.*

MEMORANDUM OF AGREEMENT
BETWEEN
THE DEPARTMENT OF DEFENSE
OF THE UNITED STATES OF AMERICA
AND
THE FEDERAL MINISTRY OF DEFENSE
OF THE FEDERAL REPUBLIC OF GERMANY
FOR
RESEARCH, DEVELOPMENT, TEST, AND EVALUATION
PROJECTS

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PREAMBLE

The Department of Defense of the United States of America (U.S.) and the Federal Ministry of Defense of the Federal Republic of Germany (GE), hereinafter referred to as the "Parties":

Recognizing the General Security Agreement between the United States and the Federal Republic of Germany, which entered into force December 23, 1960;

Having a common interest in defense;

Recognizing the benefits to be obtained from standardization, rationalization, and interoperability of military equipment;

Desiring to improve their mutual conventional defense capabilities through the application of emerging technology;

Having a mutual need to conduct research, development, test, and evaluation (RDT&E) to satisfy common operational requirements; and

Having independently conducted studies, research, exploratory development, and testing of the applications of various technologies, recognize the benefits of cooperation in RDT&E Projects;

Have agreed as follows:

ARTICLE I

DEFINITIONS

The Parties have agreed upon the following definitions for terms used in this Memorandum of Agreement (MOA) and its implementing Project Agreements (PAs):

Classified Information	Official Information that requires protection in the interests of national security and is so designated by the application of a security classification marking. This Information may be in oral, visual, magnetic, or documentary form, or in the form of equipment or technology.
Contract	Any mutually binding legal relationship under national laws that obligates a Contractor to furnish supplies or services, and obligates one or both of the Parties to pay for them.
Contracting	The obtaining of supplies or services by Contract from sources outside the governmental organizations of the Parties. Contracting includes description (but not determination) of supplies and services required, solicitation and selection of sources, preparation and award of Contracts, and all phases of Contract administration.
Contracting Agency	The entity within the governmental organization of a Party that has authority to enter into, administer, and/or terminate Contracts.
Contracting Officer	A person representing a Contracting Agency of a Party who has the authority to enter into, administer, and/or terminate Contracts.
Contractor	Any entity awarded a Contract by a Party's Contracting Agency.

Contractor Support Personnel	Persons specifically identified as providing administrative, managerial, scientific, or technical support services to a Party under a support Contract.
Controlled Unclassified Information	Unclassified Information to which access or distribution limitations have been applied in accordance with applicable national laws or regulations. It includes Information that has been declassified but remains controlled.
Cooperative Project Personnel (CPP)	Military members or civilian employees of a Parent Party assigned to the other Party's facilities who perform managerial, engineering, technical, administrative, Contracting, logistics, financial, planning, or other functions in furtherance of a Project Agreement.
Defense Purposes	Manufacture or other use in any part of the world by or for the armed forces of either Party.
Designated Security Authority (DSA)	The security office approved by national authorities to be responsible for the security aspects of this MOA.
Financial Costs	Project costs met with monetary contributions.
Host Party	The Party that receives CPP of the other Party sent to its facilities.
Information	Knowledge that can be communicated by any means, regardless of form or type, including, but not limited to, that of a scientific, technical, business, or financial nature, and also including photographs, reports, manuals, threat data, experimental data, test data, computer software, designs, specifications, processes, techniques,

inventions, drawings, technical writings, sound recordings, pictorial representations, and other graphical presentations, whether in magnetic tape, computer memory, or any other form, and whether or not subject to Intellectual Property Rights.

Intellectual
Property

In accordance with the World Trade Organization Agreement on Trade-related Aspects of Intellectual Property Rights of April 15, 1994, all copyright and related rights, all rights in relation to inventions (including Patent rights), all rights in registered and unregistered trademarks (including service marks), registered and unregistered designs, undisclosed Information (including trade secrets and know-how), layout designs of integrated circuits, geographical indications, and any other rights resulting from creative activity in the industrial, scientific, literary, and artistic fields.

Non-financial Costs

Project costs met with non-monetary contributions.

Parent Party

The Party that sends its CPP to the facilities of the other Party.

Party

A signatory to this MOA represented by its military or civilian personnel. Contractors and Contractor Support Personnel shall not be representatives of a Party under this MOA.

Patent

Legal protection of the right to exclude others from making, using or selling an invention. The term refers to any and all Patents, as defined by national law.

Project

Specific collaborative activity described in a PA to this MOA.

Project Agreement (PA)	An implementing agreement to this MOA that specifically details the terms of collaboration on a specific Project.
Project Background Information	Information not generated in the performance of a specific PA.
Project Equipment	Any material, equipment, end item, subsystem, component, special tooling, or test equipment jointly acquired or provided for use in the performance of this MOA or a PA.
Project Foreground Information	Information generated in the performance of a specific PA.
Project Information	Any Information provided to, generated in, or used in a PA.
Project Invention	Any invention or discovery, as defined by national laws, formulated or made in the course of work performed under a Project.
Prospective Contractor	Any entity that seeks to enter into a Contract to be awarded by a Party's Contracting Agency and that, in the case of a solicitation involving the release of export-controlled Information, is eligible to receive such Information.
Third Party	A government other than the Government of a Party and any person or other entity whose government is not the Government of a Party.

Article II

OBJECTIVE

2.1. The objective of this MOA is to define and establish the general terms and conditions that shall apply to the initiation, conduct, and management of RDT&E Projects detailed in separate Project Agreements (PAs) to this MOA. These PAs shall be entered into by authorized representatives of the Parties pursuant to this MOA and shall incorporate by reference the terms of this MOA. Additionally, this MOA shall allow the exchange of Information for the purposes of attempting to harmonize the Parties' military requirements to assist in better defining potential future cooperative efforts under this MOA.

2.2. A separate PA shall be established for each Project that is initiated under this MOA. Detailed terms and conditions of each PA shall be consistent with this MOA, and shall include provisions concerning the objectives, scope of work, sharing of tasks, management, financial arrangements, contracting provisions (if required), security classification, and other special provisions as required, in accordance with the format at Annex A to this MOA.

2.3 This Agreement supersedes the March 17, 1995 Research and Technology Project (RTP) MOU, which shall terminate upon the entry into force of this Agreement, except for those PAs that were entered into under the RTP MOU and that have not expired prior to the entry into force of this Agreement. For those PAs the terms of the RTP MOU shall continue to apply as long as such PAs are in force.

Article III

SCOPE OF WORK

3.1. The scope of work for this MOA shall encompass collaboration on RDT&E activities to improve the defense capabilities of the Parties. PAs may include collaboration on basic research, applied research, advanced technology development, concept of operation studies and analysis, advanced concept technology development and its test and evaluation, advanced concept technology demonstration, and modeling and simulation.

3.2. Information may be exchanged to attempt to harmonize the Parties' requirements to assist in formulating, developing, and negotiating potential PAs under this MOA. Information exchange shall take place on an equitable basis, but need not necessarily coincide in time, technical field, or form of the Information. If Information is exchanged, but no PA is signed, or Information is exchanged before a PA is signed, the receiving Party shall use such exchanged Information only for information and evaluation purposes. The provisions of Article VIII (Disclosure and Use of Project Information) of this MOA shall apply.

3.3. Individual PAs may provide for the assignment of Cooperative Project Personnel (CPP) from one Party to facilities of the other Party to participate in Project activities. Such PAs shall include the provisions of Appendix 1 to Annex A to this MOA.

ARTICLE IV

MANAGEMENT (ORGANIZATION AND RESPONSIBILITY)

4.1. The Director for International Cooperation, Office of the Under Secretary of Defense (Acquisition, Technology and Logistics) (or his or her successor in the event of reorganization) is designated as the U.S. MOA Director. The Head of Research and Technology Division (or his or her successor in the event of reorganization) is designated as the German MOA Director. The MOA Directors shall be responsible for:

4.1.1. Monitoring implementation of this MOA and exercising executive-level oversight;

4.1.2. Monitoring the overall use and effectiveness of the MOA;

4.1.3. Periodically assessing cooperative activities and recommending amendments to the MOA; and

4.1.4. Resolving issues brought forth by the Executive Agents (EAs).

4.2. The appropriate U.S. Service Acquisition Executive, or Defense Agency Director, or his designee, is designated as the U.S. EA for those Projects within his or her respective Military Department or Defense Agency. The appropriate Head of Armaments Research and Technology Branch, or his or her designee, is designated as the German EA (GE EA). The EAs shall be responsible for:

4.2.1. Entering into PAs in accordance with this MOA and the respective national policies and procedures of the Parties;

4.2.2. Overseeing the implementation of PAs;

4.2.3. Resolving issues brought forth by the PA Steering Committee (SC), or if no PA SC is established, by the PA Project Officers (POs);

4.2.4. Monitoring Third Party sales and transfers authorized in accordance with Article XII (Third Party Sales and Transfers) of this MOA;

4.2.5. Approving plans to manage and control the transfer of Project Equipment, in accordance with Article VII (Project Equipment) of this MOA and the PA, when no SC is established under a PA;

4.2.6. Maintaining oversight of the security aspects of a Project, when no SC is established under a PA;

4.2.7. Approving assignment of CPP to work on a Project at the other Party's facilities in accordance with the provisions set out in a PA, when no SC is established under a PA; and

4.2.8. Reviewing the final Project report submitted by the POs, when no SC is established under a PA.

4.3. Each PA shall identify the management of the Project, which shall consist of either a SC and POs, or POs only. If established, the SC shall have overall authority over the POs, in accordance with this MOA. The POs shall have primary responsibility for effective implementation, efficient management, and direction of their Project in accordance with this MOA. The Parties shall maintain and fund their own organizations for managing this Project.

4.4. If established under a PA, the SC shall consist of one representative designated by each Party. The SC shall meet as required, normally alternating meetings between the United States and Germany. Each meeting of the SC shall be chaired by the representative of the Party hosting the meeting. Decisions of the SC shall be made unanimously. In the event that the SC is unable to reach a timely decision on an issue, each SC representative shall refer the issue to his or her respective EA for resolution.

4.5. If an SC is established under a particular PA, it shall be responsible for:

4.5.1. Employing its best efforts to resolve, in consultation with the export control authorities of the Party concerned, any export control issues raised by the POs, in accordance with subparagraph 4.6.1. of this Article, or raised by a Party's SC representative in accordance with paragraph 4.7. of this Article;

4.5.2. Providing policy and management direction to the POs during PA execution;

4.5.3. Monitoring overall implementation, including technical, cost, and schedule performance against requirements;

4.5.4. Resolving issues brought forth by the POs;

4.5.5. Maintaining oversight of the security aspects of a Project, including reviewing and obtaining approval from the appropriate Designated Security Authority (DSA) of a Project Security Instruction (PSI) and a Classification Guide (CG) prior to the transfer of Classified Information or Controlled Unclassified Information;

4.5.6. Approving assignment of CPP to work on a Project at the other Party's facilities in accordance with the provisions set out in a PA;

4.5.7. Reviewing the final Project report submitted by the POs; and

4.5.8. Reporting status and activity of assigned PAs on an annual basis to the EAs.

4.6. Each Party shall appoint one PO for a Project. The POs shall have the responsibility for managing the cost, schedule, performance requirements, technical, security, and financial aspects of their Project. In particular, the POs shall be responsible for:

4.6.1. Monitoring export control arrangements required to implement this MOA and, if applicable, referring immediately to the SC any export control issues that could adversely affect the implementation of this MOA;

4.6.2. Executing the financial aspects of the Project in accordance with Article V (Financial Provisions) of this MOA, the PA, and the Project financial management procedures, if applicable;

4.6.3. Referring issues to the SC that cannot be resolved by the POs or, if no SC is established, to the EAs;

4.6.4. Establishing and obtaining approval on the plan to manage and control the transfer of Project Equipment, in accordance with Article VII (Project Equipment) and the PA, as well as maintaining a list of all Project Equipment transferred by the Parties under a PA;

4.6.5. Developing and forwarding for DSA approval a PSI and a CG within three months after PA signature for any PA involving the transfer of Classified Information or equipment, and implementing the PSI and CG upon final approval;

4.6.6. Appointing a Project Security Officer, if necessary;

4.6.7. Reporting status and activity of the Project on an annual basis to the SC, or if no SC is established, to the EAs; and

4.6.8. Preparing and submitting the final Project report.

4.7. If a Party finds it necessary to exercise a restriction on the retransfer of export-controlled Information as set out in subparagraph 8.1.2. of Article VIII (Disclosure and Use of Project Information) of this MOA, it shall promptly inform the other Party. If a restriction is then exercised and an affected Party objects, that Party's SC representative shall promptly notify the other Party's SC representatives and they shall immediately consult in order to discuss ways to resolve such issues or mitigate any adverse effects.

ARTICLE V

FINANCIAL PROVISIONS

5.1. This MOA creates no financial or non-financial commitments. Detailed descriptions of the financial arrangements for a specific Project, including at a minimum the maximum total cost of the Project and each Contributing Party's contribution, shall be contained in the PA.

5.2. Each Party shall contribute its equitable share of the full Financial Costs and Non-financial Costs of the Project, including overhead costs, administrative costs, and costs of claims, and shall receive an equitable share of the results of the Project.

5.3. Each Party shall bear the full Financial Costs and Non-financial Costs it incurs for performing, managing, and administering its activities under this MOA and its PAs. These costs include financial and non-financial contributions (e.g., salaries, travel, and per diem costs for each Party's personnel), as well as any Contract costs.

5.4. The following costs shall be borne entirely by the Party incurring the costs:

5.4.1. Costs associated with any unique national requirements identified by a Party.

5.4.2. Any other costs outside the scope of this MOA or a PA.

5.5. Participation in a PA is subject to the availability of funds for such purpose. A Party shall promptly notify the other Party if available funds are not adequate to fulfill its obligations under a PA. If a Party notifies the other Party that it is terminating or reducing its funding for a Project, both Parties shall immediately consult with a view toward continuation on a modified basis.

5.6. Cooperative efforts of the Parties over and above the jointly determined work set forth in Article III (Scope of Work) shall be subject to future mutual consent of the Parties.

5.7. The Parties shall bear costs related to the assignment of any CPP under a PA as follows.

5.7.1. The Host Party shall bear the following costs:

5.7.1.1. CPP assignment-related administrative and support services costs such as CPP costs of office space, security services, Information technology services, communications services, and supplies.

5.7.2. The Parent Party shall bear the following costs:

5.7.2.1. All pay and allowances of CPP, including travel incurred in support of Project efforts;

5.7.2.2. Transportation of CPP, CPP dependents, and their personal property prior to commencement of the CPP assignment at a location specified by the Host Party, and return transportation of the foregoing from this location upon completion or termination of the CPP assignment; and

5.7.2.3. Compensation for loss of, or damage to, the personal property of CPP or CPP dependents, subject to the laws and regulations of the Parent Party's Government.

ARTICLE VI

CONTRACTING PROVISIONS

6.1. If either Party determines that Contracting is necessary to fulfill that Party's responsibilities under Article III (Scope of Work) of this MOA, that Party shall contract in accordance with its respective national laws, regulations, and procedures. When one Party individually contracts to perform a task under this MOA, it shall be solely responsible for its own Contracting, and the other Party shall not be subject to any liability arising from such Contracts without its prior written consent.

6.2. For all Contracting activities performed by either Party, the POs shall, upon request, be provided a copy of all statements of work prior to the development of solicitations.

6.3. Each Party's Contracting Agency shall negotiate to obtain the rights to use and disclose Project Information required by Article VIII (Disclosure and Use of Project Information). Each Party's Contracting Agency shall insert into its prospective Contracts (and require its Contractors to insert in subcontracts) provisions that satisfy the requirements of this MOA, including Article VIII (Disclosure and Use of Project Information), Article IX (Controlled Unclassified Information), Article XI (Security), Article XII (Third Party Sales and Transfers), and Article XVIII (Amendment, Termination, Entry into Effect, and Duration), including the export control provisions in accordance with this MOA, in particular paragraph 6.4. and paragraph 6.5. of this Article.

6.4. Each Party shall legally bind its Contractors to a requirement that the Contractor shall not retransfer or otherwise use export-controlled Information furnished by another Party for any purpose other than the purposes authorized under this MOA. The Contractor shall also be legally bound not to retransfer the export-controlled Information to another Contractor or subcontractor unless that Contractor or subcontractor has been legally bound to limit use of the Information to the purposes authorized under this MOA. Export-controlled Information furnished by one Party under this MOA may only be retransferred by another Party to its Contractors if the legal arrangements required by this paragraph have been established.

6.5. Each Party shall legally bind its Prospective Contractors to a requirement that the Prospective Contractor shall not retransfer or otherwise use export-controlled Information furnished by another Party for any purpose other than responding to a solicitation issued in furtherance of the purposes authorized under this MOA. Prospective Contractors shall not be authorized use for any other purpose if they are not awarded a Contract. The Prospective Contractors shall also be legally bound not to retransfer the export-controlled Information to a prospective subcontractor unless that prospective subcontractor has been legally bound to limit use of the export-controlled Information for the purpose of responding to the solicitation. Export-controlled Information furnished by one Party under this MOA may only be retransferred by another Party to its Prospective Contractors if the legal arrangements required by this paragraph have been established. Upon request by the furnishing Party, the receiving Party shall identify its Prospective Contractors and prospective subcontractors receiving such export-controlled Information.

6.6. In the event the Contracting Officer is unable to secure adequate rights to use and disclose Project Information as required by Article VIII (Disclosure and Use of Project Information), or is notified by Contractors or Prospective Contractors of any restrictions on the disclosure and use of Information, the matter shall be referred to the POs for resolution.

6.7. The Contracting Officer shall immediately advise the PO of any cost growth, schedule change, or performance problems of any Contractor for which the Contracting Officer is responsible.

6.8. No requirement shall be imposed by either Party for work sharing, or other industrial or commercial compensation in connection with this MOA, that is not in accordance with this MOA.

ARTICLE VII

PROJECT EQUIPMENT

7.1. For the purpose of carrying out this MOA or a PA, each Party may provide Project Equipment identified as being necessary for executing this MOA or a PA to the other Party. The receiving Party shall use the provided Project Equipment only for the purposes of carrying out activities under this MOA or the PA.

7.2. Project Equipment shall remain the property of the providing Party. A list of all Project Equipment provided by one Party to another Party shall be developed, approved, and maintained. In addition, in accordance with Article XII (Third Party Sales and Transfers), Project Equipment shall not be re-transferred to a Third Party without the prior written consent of the providing Party.

7.3. The receiving Party shall maintain any such Project Equipment in good order, repair, and operable condition. Unless the providing Party has authorized the Project Equipment to be consumed without reimbursement to the providing Party, the receiving Party shall return the Project Equipment to the providing Party in as good condition as received, normal wear and tear excepted, or return the Project Equipment and pay the cost to restore it. If the Project Equipment is damaged beyond economical repair, the receiving Party shall return the Project Equipment to the providing Party (unless otherwise specified in writing by the providing Party) and pay its replacement value as computed pursuant to the providing Party's national laws, regulations, and procedures. If the Project Equipment is lost while in the custody of the receiving Party, the receiving Party shall issue a certificate of loss to the providing Party and pay the replacement value as computed pursuant to the providing Party's national laws, regulations, and procedures. The providing Party shall provide an approximate estimate of the replacement value at the time of transfer to the receiving Party to be indicated in the applicable form in Article XI (Project Equipment) of Annex A to this MOA. The providing Party shall consult with the receiving Party how the replacement value was calculated.

7.4. A PA shall provide specific details of any loan of Project Equipment for a Project. Project Equipment identified at the time of PA signature shall be detailed in the PA as set out in

Article XI (Project Equipment) of Annex A to this MOA. Project Equipment that cannot be identified at the time of PA signature, or loaned under this MOA, shall be documented in a list to be developed and maintained in the same format as set out in Article XI (Project Equipment) of Annex A to this MOA. Approval for all loans shall be in accordance with national laws, regulations, and procedures.

7.5. The providing Party shall deliver Project Equipment to the receiving Party at a mutually agreed location. Possession of the Project Equipment shall pass from the providing Party to the receiving Party at the time of receipt of the Project Equipment. Any further transportation is the responsibility of the receiving Party.

7.6. Project Equipment transferred to one Party shall be returned to the providing Party prior to the termination or expiration of the loan period. The receiving Party shall provide written notice of consumption or expenditure of Project Equipment approved for such consumption or expenditure. In the event the intended consumption does not occur, the receiving Party shall, unless otherwise determined by the providing Party, return the Project Equipment at a mutually agreed location. Any further transportation is the responsibility of the providing Party.

ARTICLE VIII

DISCLOSURE AND USE OF PROJECT INFORMATION

8.1. General

8.1.1. Both Parties recognize that successful collaboration depends on full and prompt exchange of Information necessary for carrying out this MOA and its PAs. The Parties intend to acquire sufficient Project Information and rights to use such Information to enable collaboration on RDT&E activities. The nature and amount of Project Information to be acquired shall be consistent with the objectives stated in Article II (Objective), Article III (Scope of Work), Article VI (Contracting Provisions), and the objectives and scope of the applicable PA.

8.1.2. Transfer of Project Information shall be consistent with the furnishing Party's applicable export control laws and regulations. Unless otherwise restricted by duly authorized officials of the furnishing Party at the time of transfer to another Party, all export-controlled Information furnished by that Party to another Party may be retransferred to the other Party's Contractors, subcontractors, Prospective Contractors, and prospective subcontractors, subject to the requirements of paragraphs 6.4. and 6.5. of Article VI (Contracting Provisions) of this MOA. Export-controlled Information may be furnished by Contractors, subcontractors, Prospective Contractors, and prospective subcontractors of one Party's nation to the Contractors, subcontractors, Prospective Contractors, and prospective subcontractors of another Party's nation pursuant to this MOA, subject to the conditions established in licenses or other approvals issued by the Government of the former Party in accordance with its applicable export control laws and regulations.

8.1.3. As set forth in paragraph 3.2. of Article III (Scope of Work) of this MOA, the Parties may exchange Information under this MOA for the purpose of harmonizing the Parties' requirements for formulating, developing, and negotiating PAs. The Party furnishing such Information shall clearly indicate to the receiving Party that it is furnishing such Information for this purpose. Until a PA is signed, or if no PA is signed, a Party may use Information received pursuant to paragraph 3.2. only for Information and evaluation purposes and shall not

disclose or transfer such Information to a Third Party without the prior written consent of the providing Party.

8.2. Government Project Foreground Information

8.2.1. Disclosure: Government Project Foreground Information generated in whole or in part by a Party's military or civilian employees shall be disclosed without charge to both Parties.

8.2.2. Use: Each Party may use all Government Project Foreground Information without charge for Defense Purposes. The Party generating Government Project Foreground Information shall also retain its rights of use thereto. Any sale or other transfer to a Third Party shall be subject to the provisions of Article XII (Third Party Sales and Transfers) of this MOA.

8.3. Government Project Background Information

8.3.1. Disclosure: Each Party, upon request, shall disclose to the other Party any relevant Government Project Background Information generated by its military or civilian employees, provided that:

8.3.1.1. Such Government Project Background Information is necessary to or useful in a Project, with the Party in possession of the Information determining whether it is "necessary to" or "useful in" the Project;

8.3.1.2. Such Government Project Background Information may be made available only if the rights of holders of Intellectual Property rights are not infringed;

8.3.1.3. Disclosure is consistent with national disclosure policies and regulations of the furnishing Party; and

8.3.1.4. Any disclosure or transfer of such Government Project Background Information to Contractors is consistent with the furnishing Party's export control laws and regulations.

8.3.2. Use: Government Project Background Information disclosed by one Party to the other may be used without charge by the other Party only for the purposes of the Project. The furnishing Party shall retain all its rights with respect to such Government Project Background Information.

8.4. Contractor Project Foreground Information

8.4.1. Disclosure: Contractor Project Foreground Information generated and delivered by Contractors shall be disclosed without charge to both Parties.

8.4.2. Use: Each Party may use without charge for its Defense Purposes all Contractor Project Foreground Information generated and delivered by Contractors of the other Party. The Party whose Contractors generate and deliver Contractor Project Foreground Information shall also retain its rights of use thereto in accordance with the applicable Contract(s). Any sale or other transfer to a Third Party of Contractor Project Foreground Information shall be subject to the provisions of Article XII (Third Party Sales and Transfers) of this MOA.

8.5. Contractor Project Background Information

8.5.1. Disclosure: Any Contractor Project Background Information (including Information subject to proprietary rights) generated and delivered by Contractors shall be made available to the other Party provided the following conditions are met:

8.5.1.1. Such Contractor Project Background Information is necessary to or useful in a Project, with the Party in possession of the Information determining whether it is "necessary to" or "useful in" the Project;

8.5.1.2. Such Contractor Project Background Information may be made available only if the rights of the holders of Intellectual Property rights are not infringed;

8.5.1.3. Disclosure is consistent with national disclosure policies and regulations of the furnishing Party; and

8.5.1.4. Any disclosure or transfer of such Contractor Project Background Information to Contractors is consistent with the furnishing Party's export control laws and regulations.

8.5.2. Use: Contractor Project Background Information furnished by one Party's Contractors and disclosed to the other Party may be used without charge by the other Party only for the purposes of the Project, and may be subject to further restrictions by holders of proprietary rights. The furnishing Party shall retain all its rights with respect to such Contractor Project Background Information.

8.6. Alternative Uses of Project Information

8.6.1. Any Project Background Information provided by one Party shall be used by the other Party only for the purposes set forth in this MOA, unless otherwise consented to in writing by the providing Party.

8.6.2. The prior written consent of each Party shall be required for the use of Project Foreground Information for purposes other than those provided for in this MOA.

8.7. Proprietary Project Information

8.7.1. All unclassified Project Information subject to disclosure and use restrictions with respect to Intellectual Property rights shall be identified and marked, and it shall be handled as Controlled Unclassified Information. All classified Project Information subject to proprietary rights shall be so identified and marked.

8.7.2. The provisions of the NATO Agreement on the Communication of Technical Information for Defence Purposes, done at Brussels on October 19, 1970, and the Implementing Procedures for the NATO Agreement on the Communication of Technical Information for Defence Purposes, approved by the North Atlantic Council on January 1, 1971, shall apply to proprietary Project Information related to this MOA and its PAs.

8.8. Patents

8.8.1. When a Party owns title to a Project Invention, or has the right to receive title to a Project Invention, that Party shall consult with the other Party regarding the filing of a Patent application for such Project Invention. The Party that has or receives title to such Project Invention shall, in other countries, file, cause to be filed, or provide the other Party with the opportunity to file on behalf of the Party holding title, or its Contractors, as appropriate, Patent applications covering that Project Invention. If a Party having filed or caused to be filed a Patent application decides to stop prosecution of the application, that Party shall notify the other Party of that decision and permit the other Party to continue the prosecution.

8.8.2. The other Party shall be furnished with copies of Patent applications filed and Patents granted with regard to Project Inventions.

8.8.3. The other Party shall acquire a non-exclusive, irrevocable, royalty-free license to practice or have practiced, by or on behalf of the Party, throughout the world for Defense Purposes, any Project Invention.

8.8.4. Patent applications to be filed under this MOA that contain Classified Information shall be protected and safeguarded in accordance with the requirements contained in the NATO Agreement for the Mutual Safeguarding of Secrecy of Inventions Relating to Defense and for Which Applications for Patents Have Been Made, done in Paris on September 21, 1960, and its Implementing Procedures.

8.8.5. Each Party shall notify the other Party of any Patent or other Intellectual Property infringement claims made in its territory arising in the course of work performed under any PA to this MOA. Insofar as possible, the other Party shall provide Information available to it that may assist in defending the claim. Each Party shall be responsible for handling all Patent or other Intellectual Property infringement claims made in its territory, and shall consult with the other Party during the handling, and prior to any settlement, of such claims. The Parties shall share the costs of resolving Patent infringement claims in the same percentage as they share costs under the PA or mutually consent to alternative arrangements. The Parties shall, in accordance with their national laws and practices, give their authorization and consent for all use and manufacture in the course of work performed under a Project of any invention covered by a Patent issued by their respective countries.

ARTICLE IX

CONTROLLED UNCLASSIFIED INFORMATION

9.1. Except as otherwise provided in this MOA, or as authorized in writing by the originating Party, Controlled Unclassified Information provided or generated pursuant to this MOA and any of its PAs shall be controlled as follows:

9.1.1. Such Information shall be used only for the purposes authorized for use of Project Information as specified in Article VIII (Disclosure and Use of Project Information).

9.1.2. Access to such Information shall be limited to personnel whose access is necessary for the permitted use under subparagraph 9.1.1. of this Article, and shall be subject to the provisions of Article XII (Third Party Sales and Transfers) of this MOA.

9.1.3. Each Party shall take all lawful steps, which may include national classification, available to it to keep such Information free from further disclosure (including requests under any legislative provisions), except as provided in subparagraph 9.1.2. of this Article, unless the originating Party consents to such disclosure. In the event of unauthorized disclosure, or if it becomes probable that the Information may have to be further disclosed under any legislative provision, immediate notification shall be given to the originating Party.

9.2. To assist in providing the appropriate controls, the originating Party shall ensure that Controlled Unclassified Information is appropriately marked to ensure its "in confidence" nature. The Parties' export-controlled Information shall be marked in accordance with the applicable Party's export control markings as documented in the PSI. The Parties shall also decide, in advance and in writing, on the markings to be placed on any other types of Controlled Unclassified Information and describe such markings in the PSI.

9.3. Controlled Unclassified Information provided or generated pursuant to this MOA and any of its PAs shall be handled in a manner that ensures control as provided for in paragraph 9.1. of this Article.

9.4. Prior to authorizing the release of Controlled Unclassified Information to Contractors, the Parties shall

ensure that the Contractors are legally bound to control such Information in accordance with the provisions of this Article.

ARTICLE X

VISITS TO ESTABLISHMENTS

10.1. Each Party shall permit visits to its Government establishments, agencies, laboratories, and Contractor industrial facilities by employees of the other Party or by employees of the other Party's Contractor(s), provided that the visit is authorized by both Parties and the employees have any necessary and appropriate security clearances and a need-to-know.

10.2. All visiting personnel shall be required to comply with security regulations of the hosting Party. Any Information disclosed or made available to visitors shall be treated as if supplied to the Party sponsoring the visiting personnel, and shall be subject to the provisions of this MOA.

10.3. Requests for visits by personnel of one Party to a facility of the other Party shall be coordinated through official channels and shall conform with the established visit procedures of the host country. Requests for visits shall bear the name of this MOA and the appropriate PA.

10.4. Lists of personnel of each Party required to visit, on a continuing basis, facilities of the other Party shall be submitted through official channels in accordance with recurring international visit procedures.

ARTICLE XI

SECURITY

11.1. All Classified Information provided or generated pursuant to this MOA, and any of its PAs, shall be stored, handled, transmitted, and safeguarded in accordance with the General Security Agreement between the Government of the Federal Republic of Germany and the Government of the United States of America, dated December 23, 1960, as amended, and including the Industrial Security Annex thereto, dated April 16, 1970, as amended.

11.2. Classified Information shall be transferred only through official Government-to-Government channels or through channels approved by the Designated Security Authorities (DSAs) of the Parties. Such Classified Information shall bear the level of classification, denote the country of origin, the conditions of release, and the fact that the Information relates to this MOA and the applicable PA.

11.3. Each Party shall take all lawful steps available to it to ensure that Classified Information provided or generated pursuant to this MOA and any of its PAs is protected from further disclosure, except as permitted by paragraph 11.8. of this Article, unless the other Party consents to such disclosure. Accordingly, each Party shall ensure that:

11.3.1. The recipient shall not release the Classified Information to any government, national, organization, or other entity of a Third Party without the prior written consent of the originating Party in accordance with the procedures set forth in Article XII (Third Party Sales and Transfers);

11.3.2. The recipient shall not use the Classified Information for other than the purposes provided for in this MOA and any of its PAs; and

11.3.3. The recipient shall comply with any distribution and access restrictions on Information that is provided under this MOA and any of its PAs.

11.4. The Parties shall investigate all cases in which it is known or where there are grounds for suspecting that Classified Information provided or generated pursuant to this MOA and any of its PAs has been lost or disclosed to unauthorized persons.

Each Party also shall promptly and fully inform the other Party of the details of any such occurrence, and of the final results of the investigation and of the corrective action taken to preclude recurrence.

11.5. The PO shall prepare a PSI and a Classification Guide (CG) for the Project. The PSI and the CG shall describe the methods by which Project Information shall be classified, marked, used, transmitted, and safeguarded, and shall require that markings for all export-controlled Classified Information also include the applicable export control markings identified in the PSI in accordance with paragraph 9.2. of Article IX (Controlled Unclassified Information) of this MOA. The PSI and CG shall be developed by the PO within three months after this MOA enters into effect. They shall be reviewed and forwarded to the Parties' National Security Authorities/Designated Security Authorities (NSAs/DSAs) for approval and shall be applicable to all Government and Contractor personnel participating in the Project. The CG shall be subject to regular review and revision with the aim of downgrading the classification whenever this is appropriate. The PSI and the CG shall be approved by the appropriate NSAs/DSAs prior to the transfer of any Classified Information or Controlled Unclassified Information.

11.6. The DSA of a Party that awards a classified Contract under this MOA and any of its PAs shall assume responsibility for administering within its territory security measures for the protection of the Classified Information, in accordance with its laws and regulations. Prior to the release to a Contractor, Prospective Contractor, or subcontractor of any Classified Information received under this MOA and any of its PAs, the DSAs shall:

11.6.1. Ensure that such Contractor, Prospective Contractor, or subcontractor and its facilities has the capability to protect the Classified Information adequately;

11.6.2. Grant a security clearance to the facilities, if appropriate;

11.6.3. Grant a security clearance for all personnel whose duties require access to the Classified Information, if appropriate;

11.6.4. Ensure that all persons having access to the Classified Information are informed of their responsibilities to protect the Classified Information in accordance with national security

laws and regulations, and the provisions of this MOA and any of its PAs;

11.6.5. Carry out periodic security inspections of cleared facilities to ensure that the Classified Information is properly protected; and

11.6.6. Ensure that access to the Classified Information is limited to those persons who have a need-to-know for purposes of this MOA and any of its PAs.

11.7. Contractors, Prospective Contractors, or subcontractors that are determined by DSAs to be under financial, administrative, policy, or management control of nationals or entities of a Third Party, may participate in a Contract or subcontract requiring access to Classified Information provided or generated pursuant to this MOA and any of its PAs only when enforceable measures are in effect to ensure that nationals or other entities of a Third Party shall not have access to Classified Information. If enforceable measures are not in effect to preclude access by nationals or other entities of a Third Party, the other Party shall be consulted for approval prior to permitting such access.

11.8. For any facility wherein Classified Information is to be used, the responsible Party or Contractor shall approve the appointment of a person or persons to exercise effectively the responsibilities for safeguarding at such facility the Information pertaining to this MOA and any of its PAs. These officials shall be responsible for limiting access to Classified Information involved in this MOA and any of its PAs to those persons who have been properly approved for access and have a need-to-know.

11.9. Each Party shall ensure that access to Classified Information is limited to those persons who possess requisite security clearances and have a specific need for access to the Information in order to participate in this MOA or any of its PAs.

11.10. Information or material provided or generated pursuant to this MOA may be classified as high as SECRET. The existence of this MOA is UNCLASSIFIED and the contents are UNCLASSIFIED. The classification of any PA and its contents shall be stated in that PA.

ARTICLE XII

THIRD PARTY SALES AND TRANSFERS

12.1. Except to the extent permitted in paragraph 12.2. of this Article, the Parties shall not sell, transfer title to, disclose, or transfer possession of Project Foreground Information (or any item produced either wholly or in part from the Project Foreground Information) or jointly acquired or produced Project Equipment to any Third Party without the prior written consent of the appropriate national authority of the other Party. Furthermore, neither Party shall permit any such sale, disclosure, or transfer, including by the owner of the item, without the prior written consent of the appropriate national authority of the other Party. Such consent shall not be given unless the Government of the intended recipient consents in writing with the Parties that it shall:

12.1.1. Not retransfer, or permit the further retransfer of, any equipment or Information provided; and

12.1.2. Use, or permit the use of, the equipment or Information provided only for the purposes specified by the Parties.

12.2. Each Party shall retain the right to sell, transfer title to, disclose, or transfer possession of Project Foreground Information:

12.2.1. That is generated solely by either that Party or that Party's Contractors in the performance of that Party's work allocation under a PA or Article III (Scope of Work) of this MOA; and

12.2.2. That does not include any Project Foreground Information or Project Background Information of the other Party and whose generation, test, or evaluation has not relied on the use of Project Equipment of the other Party.

12.3. In the event questions arise as to whether the Project Foreground Information (or any item produced either wholly or in part from the Project Foreground Information) that a Party intends to sell, transfer title to, disclose, or transfer possession of to a Third Party is within the scope of paragraph 12.2. of this Article, the matter shall be brought to the immediate attention of the other Party's PO. The Parties shall resolve the matter prior to any sale or other transfer of such

Project Foreground Information (or any item produced either wholly or in part from the Project Foreground Information) to a Third Party.

12.4. A Party shall not sell, transfer title to, disclose, transfer possession, grant, donate, or transfer usage rights of Project Equipment or Project Background Information provided by the other Party, to any Third Party without the prior written consent of the appropriate national authority of the Party that provided such Project Equipment or Project Background Information. The providing Party's appropriate national authority shall be solely responsible for authorizing such transfers and, as applicable, specifying the method and provisions for implementing such transfers.

ARTICLE XIII

LIABILITY AND CLAIMS

13.1. For liability arising out of, or in connection with, activities carried out in the performance of official duty in the execution of this MOA and its PAs, the following provisions shall apply:

13.1.1. For the armed forces and its civilian components, claims against any Party or its personnel shall be dealt with in accordance with the terms of Article VIII of the Agreement Between the Parties to the North Atlantic Treaty Regarding the Status of Their Forces (NATO SOFA), dated June 19, 1951.

13.1.2. When NATO SOFA is not applicable, the following provisions shall apply:

13.1.2.1. With the exception of claims for loss or damage to Project Equipment under Article VII (Project Equipment) of this MOA, each Party waives all claims against the other Party in respect to damage caused to its military or civilian personnel or damage caused to its property by personnel (that do not include Contractors) of the other Party. If, however, such damage results from reckless acts or reckless omissions, willful misconduct or gross negligence of a Party's personnel, the costs of any liability shall be borne by that Party alone, in accordance with its national laws and regulations. The Parties, however, shall mutually determine if such damage resulted from reckless acts or reckless omissions, willful misconduct, or gross negligence of a Party's personnel.

13.1.2.2. Claims from third parties for damage of any kind caused by one of the Party's personnel shall be processed by the most appropriate Party, as determined by the Parties. Costs incurred in satisfying such claims shall be shared by the Parties in accordance with the cost sharing specified in the applicable PA. Costs incurred outside of a PA, but pursuant to this MOA, shall be borne by the responsible Party(s) in a share to be agreed upon. If, however, such liability results from the reckless acts, or reckless omissions, willful misconduct, or gross negligence of a Party's personnel, the costs of any liability shall be borne by that Party alone, in accordance with its national laws and regulations. The Parties, however, shall mutually determine if such damage resulted from reckless acts, reckless omissions, willful misconduct, or gross negligence of a

Party's personnel.

13.2. Claims arising under or related to any Contract awarded pursuant to Article VI (Contracting Provisions) of this MOA shall be resolved in accordance with the provisions of the Contract.

13.3. The Parties shall not indemnify Contractors against third party liability claims.

13.4. In case of damage caused to or by jointly acquired Project Equipment, where the cost of making good such damage is not recoverable from other persons, such cost shall be borne by the Parties in accordance with the cost share of the PA.

ARTICLE XIV

CUSTOMS DUTIES, TAXES, AND SIMILAR CHARGES

14.1. Customs duties, import and export taxes, and similar charges shall be administered in accordance with each Party's respective laws and regulations. Insofar as existing national laws and regulations permit, the Parties shall endeavor to ensure that such readily identifiable duties, taxes and similar charges, as well as quantitative or other restrictions on imports and exports, are not imposed in connection with work carried out under this MOA and its PAs.

14.2. Each Party shall use its best efforts to ensure that customs duties, import and export taxes, and similar charges are administered in a manner favorable to the efficient and economical conduct of the work. If any such duties, taxes, or similar charges are levied, the Party in whose country they are levied shall bear such costs.

14.3. The German Party shall settle any customs duties or similar charges that may become due to the European Union (EU) in order to comply with EU legislation in respect of parts, components, and equipment needed for a Project and for which the Party shall be the final consignee. Any such charges shall be borne by the German Party as a cost over and above its shared cost of the Project.

ARTICLE XV

SETTLEMENT OF DISPUTES

15.1. Disputes between the Parties arising under or relating to this MOA or its PAs shall be resolved only by consultation between the Parties and shall not be referred to a national court, an international tribunal, or to any other person or entity for settlement.

ARTICLE XVI

LANGUAGE

16.1. The working language for this MOA and its PAs shall be the English language.

16.2. All data and Information generated under this MOA, its PAs, and implementing Contracts and provided by one Party to the other Party shall be furnished in the English language.

ARTICLE XVII

AMENDMENT, TERMINATION, ENTRY INTO FORCE, AND DURATION

17.1. All activities of the Parties under this MOA shall be carried out in accordance with their respective national laws and regulations, including their respective export control laws and regulations. The responsibilities of the Parties shall be subject to the availability of funds for such purposes.

17.2. All PAs must incorporate by reference, and be consistent with, this MOA.

17.3. In the event of a conflict between an Article of this MOA and a PA to this MOA, the Article of this MOA shall control.

17.4. This MOA and its PAs may be amended by the mutual written consent of the Parties.

17.5. This MOA and any of its PAs may be terminated at any time by the written consent of the Parties.

17.6. Either Party may terminate this MOA or any of its PAs upon 90 days written notice of its intent to terminate to the other Party. Such notice shall be the subject of immediate consultation by the Parties to decide upon the appropriate course of action to conclude the activities under this MOA or a PA. In the event of such termination, the following rules apply:

17.6.1. The terminating Party shall continue participation, financial or otherwise, up to the effective date of termination.

17.6.2. Each Party shall be responsible for its own costs associated with termination. However, in the event of termination, in no event shall a terminating Party's total financial contribution, including Contract termination costs, exceed that Party's total financial contribution for the PA.

17.6.3. All Project Information and rights therein received under the provisions of this MOA or its PAs prior to the termination of this MOA or a PA shall be retained by the Parties, subject to the provisions of this MOA and its PAs.

17.7. The respective rights and obligations of the Parties regarding Article VII (Project Equipment), Article VIII

(Disclosure and Use of Project Information), Article IX (Controlled Unclassified Information), Article XI (Security), Article XII (Third Party Sales and Transfers), Article XIII (Liability and Claims), and this Article XVII (Amendment, Termination, Entry Into Force, and Duration) shall continue to apply notwithstanding termination or expiration of this MOA and any of its PAs.

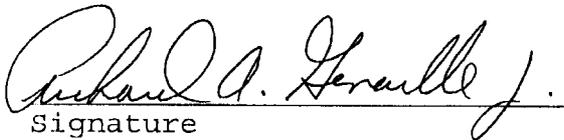
17.8. This MOA, which consists of seventeen (17) Articles and one Annex, shall enter into force upon signature by both Parties and shall remain in force for 10 years unless terminated by either Party. It may be extended by written agreement of the Parties. All PAs shall terminate upon the termination or expiration of this MOA.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their governments, have signed this MOA.

DONE, in duplicate, in the English language.

FOR THE DEPARTMENT OF DEFENSE
OF THE UNITED STATES OF
AMERICA

FOR THE FEDERAL MINISTRY OF
DEFENSE OF THE FEDERAL
REPUBLIC OF GERMANY


Signature


Signature

Richard A. Genaille Jr.
Name

DIRK ELLINGER
Name

Director of Policy, International Affairs
Title

DIRECTOR OF ARMAMENTS
Title

MAR 5 2009
Date

MAR 24 2009
Date

Washington, DC
Location

BONN
Location

ANNEX A

SAMPLE PROJECT AGREEMENT

PROJECT AGREEMENT NO. _____ *

TO THE MEMORANDUM OF AGREEMENT BETWEEN

THE DEPARTMENT OF DEFENSE
OF THE UNITED STATES OF AMERICA

AND

THE FEDERAL MINISTRY OF DEFENSE
OF THE FEDERAL REPUBLIC OF GERMANY

FOR

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

PROJECTS

CONCERNING

(FULL DESIGNATION OF THE PROJECT)

* The Project Agreement Numbers shall be structured as follows:

XX-NN-nnnn where XX is a U.S. Military Service or Defense Agency designator such as N for Navy, A for Army, AF for Air Force, AR for DARPA, etc.; NN is the calendar year, and nnnn is a sequential number.

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INTRODUCTION

This Project Agreement is entered into pursuant to the Memorandum of Agreement Between the Department of Defense of the United States of America (DoD) and the Ministry of Defense of the Federal Republic of Germany (MoD) Concerning Research and Development, Testing, and Evaluation Projects (RDT&E MOA) of (date), the terms of which are incorporated herein by reference.

ARTICLE I

DEFINITION OF TERMS AND ABBREVIATIONS

(Define only those terms used in this PA that have not been defined in the MOA.)

ARTICLE II

OBJECTIVES

2.1. The objectives of this _____ PA are:

2.1.1. The development of _____
_____.

2.1.2. The improvement of _____
_____.

ARTICLE III

SCOPE OF WORK

3.1. The following work shall be undertaken under this PA:

3.1.1. Develop _____
_____.

3.1.2. Evaluate _____
_____.

3.1.3. Design, fabricate, and test
_____.

ARTICLE IV

SHARING OF TASKS

4.1. The sharing of tasks shall be as follows:

4.1.1. The DoD shall _____
_____.

4.1.2. The MoD shall _____
_____.

4.1.3. DoD and MoD shall jointly _____
_____.

ARTICLE V

BREAKDOWN AND SCHEDULE OF TASKS
(OPTIONAL)

(Use this format when the tasks covered under this Project may be performed using multiple phases, requiring milestones or decision points.)

5.1. The Project shall proceed according to the following phases and schedule:

<u>Phase 1</u>	<u>Start</u>	<u>End</u>
Description of Phase 1	MM/DD/YY	MM/DD/YY

(Milestone 1) (e.g., Transmittal of Feasibility Report)

<u>Phase 2</u>	<u>Start</u>	<u>End</u>
Description of Phase 2	MM/DD/YY	MM/DD/YY

(Milestone 2) (e.g., Decision to proceed to Phase 3)

<u>Phase 3</u>	<u>Start</u>	<u>End</u>
Description of Phase 3	MM/DD/YY	MM/DD/YY

(Milestone 3) (e.g., Evaluation, analysis of results)

(Add as many phases as necessary.)

5.2. The final report must be transmitted to the MOA Executive Agents (EAs) six months before the termination date of this PA.

ARTICLE VI

MANAGEMENT

(If a PA does not require a Steering Committee, use the following format to set forth how the PA will be managed.)

Alternative 1

6.1. This PA shall be directed and administered on behalf of the Parties by one Project Officer (PO) from each Party. The POs are:

DoD PO	Title/Position	_____
	Organization	_____
	Address	_____

MoD PO	Title/Position	_____
	Organization	_____
	Address	_____

6.2. Project Offices shall be established in _____ (name of U.S. location) and in _____ (name of German location). The POs are responsible for management of those tasks listed as national responsibilities in Article IV (Sharing of Tasks) of this PA.

6.3. Particular Management Procedures:

(Mention only those additional management responsibilities not covered under Article IV of the MOA.)

(If a Project requires the establishment of a Steering Committee, use the following format to set forth how the Project will be managed.)

Alternative 2

6.1. This PA shall be directed and administered on behalf of the Parties by an organization consisting of a Steering

Committee (SC) and one Project Officer (PO) from each Party.
The SC members are:

DoD Co-Chairman	Title/Position	_____
	Organization	_____
	Address	_____

MoD Co-Chairman	Title/Position	_____
	Organization	_____
	Address	_____

6.2. The POs are:

DoD PO	Title/Position	_____
	Organization	_____
	Address	_____

MoD PO	Title/Position	_____
	Organization	_____
	Address	_____

6.3. Particular Management Procedures:

(Mention only those additional management responsibilities not covered under Article IV of the MOA. For instance, if a PA will include assignment of CPP, add the following paragraph: 6.4. The [DoD/MoD] may assign CPP to the facilities of the [MoD/DoD] to assist in administering this Project. Provisions for the CPP are described in Appendix 1 to this PA, which is an integral part hereof.)

ARTICLE VII

FINANCIAL ARRANGEMENTS

7.1. The Parties estimate that the cost of performance of the tasks under this PA shall not exceed U.S.\$ / Euros.

7.1.1. The DoD tasks shall not cost more than: _____
U.S.\$.

7.1.2. The MoD tasks shall not cost more than: _____
Euros.

7.2. Cooperative efforts of the Parties over and above the jointly agreed tasks set forth in the scope of work, sharing of tasks, and financial arrangements Articles of this PA shall be subject to amendment to this PA or signature of a new PA.

ARTICLE VIII

CONTRACTING PROVISIONS (OPTIONAL)

(Address any additional contracting provisions, as required.)

ARTICLE IX

CLASSIFICATION

The existence of the PA and its contents are unclassified.

Select one of the three following possibilities:

9.1. No Classified Information shall be exchanged under this PA;

9.1. The highest level of Classified Information exchanged under this PA is: Confidential; or

9.1. The highest level of Classified Information exchanged under this PA is: Secret.

ARTICLE X

PRINCIPAL ORGANIZATIONS INVOLVED

(List government laboratories, research centers, and other organizations for both the United States and Germany.)

ARTICLE XI

PROJECT EQUIPMENT
(OPTIONAL)

11.1. (If Project Equipment to be loaned is known at the time of PA signature, use the following alternative:) The Parties have determined that the loan of Project Equipment is necessary for purposes of the Project.

Providing Party	Receiving Party	QTY	Description	Part/ Stock #	Consumables\ Non-Consumables	Approx Value	Loan Period

(If loan of Project Equipment is not known at time of PA signature, but it is believed to be necessary, include the following:)

After having secured appropriate national approvals, the POs shall establish and maintain a list of all Project Equipment to be loaned for the purposes of the Project in the following format.

Providing Party	Receiving Party	QTY	Description	Part/ Stock #	Consumables\ Non-Consumables	Approx Value	Loan Period

ARTICLE XII

SPECIAL PROVISIONS

(Identify any procedures, specifications, or other necessary attributes of the Project not delineated in other Articles.)

ARTICLE XIII

ENTRY INTO FORCE, DURATION AND TERMINATION

This _____ PA, a Project under the RDT&E MOA between the Department of Defense of the United States of America and the Federal Ministry of Defense of the Federal Republic of Germany shall enter into force upon signature by the Parties, and shall remain in force for _____ years unless terminated by either Party. It may be extended by written agreement of the Parties.

DONE, in duplicate, in the English language.

FOR THE DEPARTMENT OF DEFENSE
OF THE UNITED STATES OF
AMERICA

FOR THE FEDERAL MINISTRY OF
DEFENSE OF THE FEDERAL
REPUBLIC OF GERMANY

Signature

Signature

Name

Name

Title

Title

Date

Date

Location

Location

APPENDIX (1)
TO ANNEX A

ASSIGNMENT OF (INSERT NAME OF PROJECT) COOPERATIVE PROJECT
PERSONNEL

1. Purpose and Scope

1.1. This Appendix to the Project Agreement (PA) establishes the provisions that shall govern the conduct of German Ministry of Defense (MoD) or U.S. Department of Defense (DoD) Cooperative Project Personnel (CPP). During the term of the PA, each Party shall be permitted to assign military members or civilian employees of its MoD or DoD to German MoD or U.S. DoD facilities in accordance with this Appendix. CPP shall be able to perform all the responsibilities for the positions assigned to them under this PA. Commencement of assignments shall be subject to any requirements that may be imposed by the other Party or its Government regarding acceptance of PA CPP, such as, but not limited to, visas and visit request documentation. The U.S. DoD and German MoD Steering Committee (SC) representatives or in the event no SC is established, the Executive Agents (EAs), shall approve the length of tour for the positions at the time of initial assignment.

1.2. CPP shall be assigned to U.S. DoD or German MoD facilities for Project work and shall report to their designated supervisor within those organizations regarding that work. The designated supervisor shall be responsible for the creation of a document describing the duties of each CPP position, which shall be subject to approval by the SC or, in the event no SC is established, the Project Officers (POs). CPP shall not act as liaison officers for their parent organizations or Governments. However, such personnel may act from time to time on behalf of their SC representative (or PO as applicable), if the latter so authorizes in writing.

1.3. CPP shall not be assigned to command or other positions that would require them to exercise responsibilities that are reserved by law or regulation to an officer or employee of the Host Government.

2. Security

2.1. The U.S. DoD and German MoD SC representatives (or POs as applicable) shall establish the maximum level of security

clearance required, if any, to permit CPP to have access to Classified Information and facilities in which Classified Information is used in accordance with the Project Security Instruction (PSI) and Classification Guide (CG). Access to Classified Information and facilities in which Classified Information is used shall be consistent with, and limited by, Article II (Objectives) and Article III (Scope of Work) of this PA and the corresponding provisions of this Appendix, and shall be kept to the minimum required to accomplish the work assignments.

2.2. The Parent Party shall file visit requests for the CPP through prescribed channels in compliance with the Host Party's procedures. The Parties shall cause security assurances to be filed, through their respective embassies, specifying the security clearances for the CPP being assigned. The security assurances shall be prepared and forwarded through prescribed channels in compliance with established procedures.

2.3. The Parties shall ensure that both German MoD and U.S. DoD personnel assigned are made aware of, and required to comply with, applicable laws and regulations as well as the requirements of Article VIII (Disclosure and Use of Project Information), Article IX (Controlled Unclassified Information), and Article XI (Security) of the MOA, and the corresponding provisions of this Appendix, and the PSI and CG. Prior to commencing assigned duties, CPP shall, if required by the Host Party's laws, regulations, policies, or procedures, sign a certification concerning the conditions and responsibilities of CPP.

2.4. CPP shall at all times be required to comply with the security and export laws, regulations, and procedures of the Host Party. Any violation of security or export procedures by CPP during their assignment shall be reported to their Parent organization and Government for appropriate action. CPP committing willful violations of security or export laws, regulations, or procedures during their assignments shall be withdrawn from the Project with a view toward appropriate administrative or disciplinary action by their Parent organization and Government.

2.5. All Classified Information made available to CPP shall be considered as Classified Information furnished to the German MoD or U.S. DoD and shall be subject to all of the provisions and safeguards provided for in the MOA, this PA, this Annex, the PSI, and the CG.

2.6. CPP shall not have personal custody of Classified Information or Controlled Unclassified Information, unless approved by the Project Office and as authorized by the parent organization. They shall be granted access to such Information in accordance with the provisions of the PSI during normal duty hours when access is necessary to perform Project work. They may not have unsupervised access to classified libraries or operating centers, or to document catalogues, unless the Information therein is releasable to the public.

2.7. CPP shall not serve as a conduit between the U.S. DoD and the German MoD for requests for and/or transmission of Classified Information or Controlled Unclassified Information unless specifically authorized by the PSI.

3. Administrative Matters

3.1. Consistent with Host Party's laws and regulations, and subject to applicable multilateral and bilateral treaties, agreements and arrangements, CPP shall be subject to the same restrictions, conditions, and privileges as Host Party personnel of comparable rank and in comparable assignments. Further, to the extent authorized by the Host Party's laws and regulations, CPP and their authorized dependents shall be accorded:

3.1.1. Exemption from any Host Party tax upon income received from their parent organization or Government.

3.1.2. Exemption from any Host Party customs and import duties or similar charges levied on items entering the country for their official or personal use, including their baggage, household effects, and private motor vehicles.

3.2. Upon or shortly after arrival, CPP shall be informed by the Project Office or Host Party field activities about applicable laws, orders, regulations, and customs and the need to comply with them. CPP shall also be provided briefings arranged by the Project Office or Host Party field activities regarding applicable entitlements, privileges, and obligations such as:

3.2.1. Any medical or dental care that may be provided to CPP and their dependents at the Host Party's medical facilities, subject to applicable laws and regulations, including reimbursement when required by such laws and regulations.

3.2.2. Purchasing and patronage privileges at military commissaries, exchanges, theaters, and clubs for CPP and their dependents, subject to applicable laws and regulations.

3.2.3. Responsibility of CPP and those dependents accompanying them to obtain motor vehicle liability insurance coverage in accordance with laws and regulations applicable in the area where they are residing. In case of claims involving the use of private motor vehicles by CPP and their dependents, the recourse shall be against such insurance.

3.3. The POs, and Host Party facilities shall establish standard operating procedures for CPP in the following areas:

3.3.1. Working hours, including holiday schedules;

3.3.2. Leave authorization, consistent to the extent possible with the military or civilian personnel regulations and practices of both Parties;

3.3.3. Dress regulations, consistent to the extent possible with the military or civilian personnel regulations and practices of both Parties; and

3.3.4. Performance evaluations, recognizing that such evaluations must be rendered in accordance with the providing Party's military or civilian personnel regulations and practices.

3.4. CPP committing an offense under the laws of the Government of either Party may be withdrawn from this Project with a view toward further administrative or disciplinary action by the providing Party. Disciplinary action, however, shall not be taken by the Host Party against CPP from the providing Party, nor shall CPP from the providing Party exercise disciplinary authority over Host Party personnel. In accordance with the Host Party's laws, regulations, and procedures, the Host Party shall assist the providing Party in carrying out investigations of offenses involving CPP.