

**DEFENSE**

**Research and Development**

**Memorandum of Understanding between  
the UNITED STATES OF AMERICA  
and the UNITED KINGDOM**

Signed at Washington and London  
July 6 and September 1, 2005

*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.”

**UNITED KINGDOM**

**Defense: Research and Development**

*Memorandum of understanding signed at Washington and London  
July 6 and September 1, 2005;  
Entered into force September 1, 2005.  
With annex.*

MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE SECRETARY OF DEFENSE  
ON BEHALF OF  
THE DEPARTMENT OF DEFENSE  
OF THE UNITED STATES OF AMERICA  
AND  
THE SECRETARY OF STATE FOR DEFENCE  
OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND  
CONCERNING  
COMBATING TERRORISM  
RESEARCH AND DEVELOPMENT

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## INTRODUCTION

The Secretary of Defense on behalf of the Department of Defense of the United States of America (U.S. DoD) and the Secretary of State for Defence of the United Kingdom of Great Britain and Northern Ireland (UK MOD), hereinafter referred to as the "Participants":

Recognizing the Agreement Concerning Defense Cooperation Arrangements of 27 May 1993 between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland will apply to this MOU;

Having a common interest in combating terrorism research and development;

Recognizing the Participants' successful cooperation under the Memorandum of Understanding between the Secretary of Defense on Behalf of the Department of Defense of the United States of America and the Secretary of State for Defence of the United Kingdom of Great Britain and Northern Ireland Concerning Counterterrorism Research and Development of 18 April 1995;

Seeking to make the best use of their respective research and development capacities, eliminate unnecessary duplication of work, and obtain the most efficient and cost-effective results through cooperation in combating terrorism research and development;

Aiming to share both the costs and benefits resulting from the efforts under this MOU; and

Desiring to improve combating terrorism capabilities through the application of state-of-the-art and emerging technology;

Have reached the following understandings:

## SECTION I

### DEFINITIONS

The Participants have jointly decided upon the following definitions for terms used in this MOU:

Classified Information	Official information or material 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 which obligates a Contractor to furnish supplies or services, and obligates one or both of the Participants to pay for them.
Contracting	The obtaining of supplies or services by Contract from sources outside the government organizations of the Participants. 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 government organization of a Participant, which has authority to enter into, administer, or terminate Contracts.
Contracting Officer	A person representing a Contracting Agency of a Participant who has the authority to enter into, administer, or terminate Contracts.
Contractor	Any entity awarded a Contract by a Participant's Contracting Agency.

Contractor Support Personnel	Persons specifically identified for support Contracts who provide administrative, managerial, scientific, or technical support services to a Participant under a Contract with that Participant that prohibits using information received under the Contract for any purpose other than those authorized under this MOU.
Controlled Unclassified Information	Unclassified information to which access or distribution limitations have been applied in accordance with applicable national laws or regulations. It could include information that has been declassified but remains controlled.
Cost Ceiling	The maximum amount of financial and non-financial contributions which will be dedicated to the Program.
Government Purposes	Research, development, evaluation, testing, manufacture, or other use by or for the armed forces of the Participants, or by or for the law enforcement, national security, and intelligence agencies of the Participants' respective national governments.
Designated Security Authority (DSA)	The security office approved by national authorities to be responsible for the security aspects of this MOU.
Financial Costs	Program costs met with monetary contributions.
Non-financial Costs	Program costs met with non-monetary contributions.
Participant	A signatory to this MOU represented by its military and civilian personnel. Contractors and Contractor Support Personnel will not be representatives of a Participant under this MOU.

Patent	Legal protection of the right to exclude others from making, using, or selling an invention. The term refers to any and all Patents including, but not limited to, Patents of implementation, improvement or addition, petty Patents, utility models, appearance design Patents, registered designs, and inventor certificates or like statutory protection as well as divisions, reissues, continuations, renewals, and extensions of any of these.
Program	The cooperative efforts of the Participants under this MOU to achieve the objectives in Section II (Objective(s)) and to accomplish the activities described in Section III (Scope of Work).
Program Background Information	Information not generated in the performance of the Program.
Program Equipment	Any material, equipment, end item, subsystem, component, Special Tooling or test equipment jointly acquired or provided for use in the Program.
Program Foreground Information	Information generated in the performance of the Program.
Program Information	Any information provided to, generated in, or used in this Program 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 (including source code and object code), 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 copyright, Patent, or other legal protection.

Program Invention Any invention or discovery formulated or made (conceived or first actually reduced to practice) in the course of work performed under a Program. The term, "first actually reduced to practice", means the first demonstration, sufficient to establish to one skilled in the art to which the invention pertains, of the operability of an invention for its intended purpose and in its intended environment.

Special Tooling Jigs, dies, fixtures, molds, patterns, tapes, gauges, other equipment and manufacturing aids, and all components of these items, which are of such a specialized nature that without substantial modification or alteration their use is limited to the development or production of particular supplies or parts thereof or to the performance of particular services and excluding material, special test equipment, facilities (except foundations and similar improvements necessary for installing Special Tooling), general or special machine tools or similar capital items.

Task A cooperative research and development effort under this MOU that complies with the objectives in Section II (Objectives) and the scope of work in Section III (Scope of Work) of this MOU, and which is executed in accordance with a Task Plan.

Task Plan A detailed description of a Task to be accomplished under this MOU, including a statement of work and provisions regarding the sharing of work, work schedule, costs, and management.

Then Year (TY) Dollars U.S. Dollars which reflect purchasing power at the time expenditures are actually made. Then Year U.S. Dollars are projected actual amounts to be paid.

Third Party

A government other than the government of a Participant and any person or other entity whose government is not the government of a Participant.

## SECTION II

### OBJECTIVE(S)

2.1. The objectives of this Program are:

- 2.1.1. To develop technology and prototype capabilities for combating terrorism, and to undertake research towards the development of equipment, and systems that will help deter, detect, surveil, and identify potential terrorists, neutralize their weapons, and reduce the probability of terrorist incidents.
- 2.1.2. To evaluate and test existing and newly developed prototype capabilities, equipment and systems.
- 2.1.3. To integrate or adapt existing and newly developed prototype capabilities, equipment and systems to reduce overall developmental costs.

## SECTION III

### SCOPE OF WORK

3.1. Activities under this MOU will include co-operation on any aspect of research, development, test and evaluation of prototype combating terrorism technology in the following areas:

- 3.1.1. Developing countermeasures to prevent, deter, and respond effectively to terrorist acts;
- 3.1.2. Developing capabilities that reduce the vulnerability and enable better preparation and response to terrorist attacks; and
- 3.1.3. For Tasks decided by the Steering Committee to be suitable, planning to transition these efforts identified in paragraphs 3.1.1. and 3.1.2. to formal acquisition programs. Such acquisition programs will be subject to separate arrangements and are outside the scope of this MOU.

3.2. Both Participants will test and evaluate existing and newly developed prototype technology in laboratory, field and operationally relevant settings. Final detailed test reports, to include test data, will be provided to both Participants.

3.3. Simulated operational exercises and user evaluations may be performed to evaluate and/or define the state of existing and prototype technology.

3.4. Tasks will be accomplished under Task Plans and will generally conform to the model in Annex A (Sample Task Plan). Each Task Plan will include specific provisions, consistent with this MOU, concerning the objectives, classification, statement of work, sharing of work, breakdown and schedule of work, financial provisions, management, special arrangements (including contractual, intellectual property rights, or information re-transfer) and principle organizations involved for the applicable Task Plan.

## SECTION IV

### MANAGEMENT (ORGANIZATION AND RESPONSIBILITY)

4.1. This Program will be directed and administered on behalf of the Participants by an organization consisting of a Steering Committee (SC) and National Program Managers (PMs), appointed by the Participants. The SC will provide policy oversight for the Program. The National PMs will be responsible for the technical execution of the Program. The Participants will maintain and fund their own organizations for managing this program.

4.2. The SC will consist of one representative appointed by each Participant. The SC will meet annually, with additional meetings held at the request of either representative. Each meeting of the SC will be chaired by the representative of the Participant hosting the meeting. Decisions of the SC will be made unanimously. In the event that the SC is unable to reach a timely decision on an issue, each SC representative will refer the issue to its higher authority for resolution. In the meantime, the approved Task Plan will continue to be implemented without interruption under the direction of the National PMs while the issue is being resolved by higher authority.

4.3. The SC will be responsible for:

- 4.3.1. Exercising executive-level policy oversight of the overall Program.
- 4.3.2. Approving the Task Plans and amendments thereto developed by the National PMs.
- 4.3.3. Reviewing the technical progress of the Task Plans against the Program.
- 4.3.4. Reviewing the financial status of the Program to ensure compliance with the provisions of Section V (Financial Provisions).
- 4.3.5. Approving the Financial Management Procedures Document (FMPD) required in paragraph 5.7. of Section V (Financial Provisions)
- 4.3.6. Approving plans developed by the National PMs to manage and control the transfer of Program Equipment provided by either Participant to

support the execution of the Program in accordance with Section VII (Program Equipment).

- 4.3.7. Approving plans developed by the National PMs for the disposal of property jointly acquired under this MOU in accordance with Section VII (Program Equipment).
- 4.3.8. Monitoring Third Party sales and transfers authorized in accordance with Section XII (Third Party Sales and Transfers).
- 4.3.9. Resolving Program issues brought forth by the National PMs.
- 4.3.10. Reviewing and forwarding to the Participants for approval recommended amendments to this MOU in accordance with Section XVII (Amendment, Termination, Entry Into Effect, and Duration).
- 4.3.11. Reviewing the biannual status report submitted by the National PMs.
- 4.3.12. Providing oversight of the security aspects of the Program, including reviewing and obtaining approval from the appropriate Designated Security Authority of a Program Security Instruction and a Classification Guide prior to the transfer of Classified Information or Controlled Unclassified Information.

4.4. Program offices will be established in Combating Terrorism Technology Support Office, Arlington, Virginia, U.S.A. and in the Ministry of Defence, London, UK to manage the Program. The Assistant Secretary of Defense for Special Operations/Low Intensity Conflict will appoint the U.S. National PM, and the Ministry of Defence (UK) will appoint the UK National PM. The National PMs will be responsible for implementing this MOU and for carrying out the overall Program.

4.5. The National PMs will be responsible for:

- 4.5.1. Managing the cost, schedule, performance requirements, and the technical, security, and financial aspects of the overall Program.

- 4.5.2. Developing Task Plans and any amendments thereto for the SC's approval.
- 4.5.3. Executing the financial aspects of the Program in accordance with Section V (Financial Provisions).
- 4.5.4. Preparing and submitting the FMPD for SC approval.
- 4.5.5. Providing the biannual status report to the SC, and other such reports as directed by the SC.
- 4.5.6. Developing and forwarding to the SC a Program Security Instruction and a Classification Guide for the Program within three months after MOU signature, and implementing them upon final approval.
- 4.5.7. Developing and implementing SC-approved plans to manage and control the transfer of Program Equipment provided by either Participant in accordance with Section VII (Program Equipment).
- 4.5.8. Developing and implementing SC-approved plans for the disposal of property jointly acquired under this MOU in accordance with Section VII (Program Equipment).
- 4.5.9. Referring Program issues to the SC that cannot be resolved by the National PMs.

4.6. For each Task, each Participant will appoint a Task Manager, who will be identified in the Task Plan. The Task Managers will be responsible for the day-to-day execution of the Task Plan and will submit quarterly status reports to each National PM.

## SECTION V

### FINANCIAL PROVISIONS

5.1. The Participants estimate that the performance of the responsibilities of the Participants under this MOU will not cost more than a total Cost Ceiling of 250 million Then Year (TY) U.S. dollars. The Cost Ceiling may be changed only upon the written consent of the Participants. The U.S. dollar will be the reference currency for the Program, and the Program fiscal year will be the U.S. fiscal year.

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

5.3. The full Financial Costs and Non-financial Costs of the Program, as identified in this Section of this MOU, will be shared according to the following percentages:

Participant	Percentage Share
U.S. DoD	50%
UK MoD	50%

The Participants recognize that each Task may not reflect the overall 50/50 cost share for the Program. However, over the duration of the Program, the Program will reflect the 50/50 cost share on the basis of financial and non-financial contributions.

5.4. Participation in the Program will include both financial and non-financial contributions to directly support Program efforts. The financial contributions and non-financial contributions for each Task will be specified in the Task Plan for that Task.

5.5. Each Participant will bear the costs it incurs for performing, managing, and administering its activities under this MOU and all such costs will be included as part of each Participant's contribution to the Program. These costs include salaries, travel and per diem for its Program personnel, as well as any Contract costs.

5.6. The following costs will be borne entirely by the Participant incurring the costs or on whose behalf the costs are incurred:

- 5.6.1. Costs associated with any unique national requirements identified by a Participant.
- 5.6.2. Any other costs not expressly stated as shared costs or any costs that are outside the scope of this MOU.

5.7. The National PM's will be responsible for establishing the detailed financial management procedures under which the Program will operate. These procedures, which must accord with the national accounting and audit requirements of the Participants, will be detailed in a Financial Management Procedures Document (FMPD) prepared by the National PM's and subject to the approval of the SC. Each Participant will fund the Task Plans in accordance with the estimated schedule of financial contributions contained in the FMPD which will be consistent with paragraph 5.9.

5.8 A Participant will promptly notify the other Participant if available funds are not adequate to fulfill its responsibilities under the Program. If a Participant notifies the other Participant that it is terminating or reducing its funding for the Program, both Participants will immediately consult with a view toward continuation on a modified basis.

5.9. The Participants recognize that it may become necessary for one Participant to incur contractual or other responsibilities for the benefit of the other Participant, as identified in SC-approved Task Plans, prior to the receipt of the other Participant's funds. In the event that one Participant incurs such responsibilities, the other Participant will make such funds available in such amounts and at such times as may be required by the Contract or other responsibility, and will pay any damages and costs that may accrue from the performance of or cancellation of the Contract or other responsibility in advance of the time such payments, damages, or costs are due.

## SECTION VI

### CONTRACTING PROVISIONS

6.1. If either Participant determines that Contracting is necessary to fulfill that Participant's responsibilities under Section III (Scope of Work) of this MOU, that Participant will contract in accordance with its respective national laws, regulations and procedures, with such waivers and deviations from its national regulations as its procedures permit and as deemed necessary to implement this MOU. Sources from both Participants' industries will be allowed to compete on an equal basis for such Contracts.

6.2. When one Participant individually contracts to perform a task under this MOU in accordance with paragraph 6.1. of this Section, it will be solely responsible for its own Contracting, and the other Participant will not be subject to any liability arising from such Contracts.

6.3. Each Participant may, upon request, make use of the other Participant's Contracting Agency in the event that Contracting on behalf of the requesting Participant or both Participants is required to implement this MOU. The Contracting Agency so used will place Contracts in accordance with its respective national laws, regulations, and procedures, with such waivers and deviations from its national regulations as its procedures permit and as deemed necessary to implement this MOU. Sources from both Participants' industries will be allowed to compete on an equal basis for such Contracts. The Contracting Participant's Contracting Officer will be the exclusive source for providing contractual directions and instructions to the Contractors.

6.4. For all Contracting activities performed by either Participant, the National PMs will, upon request, be provided a copy of all Contracts at least 10 working days prior to Contract award to ensure that that they are consistent with the provisions of this MOU.

6.5. Each Participant's Contracting Agency will negotiate to obtain the rights to use and disclose Program Information required by Section VIII (Disclosure and Use of Program Information). Each Participant's Contracting Agency will insert into its prospective Contracts (and require its subcontractors to insert in subcontracts) suitable provisions to satisfy the requirements of this MOU, including Section VIII (Disclosure and Use of Program Information), Section IX (Controlled Unclassified

Information), Section XI (Security), Section XII (Third Party Sales and Transfers) and Section XVII (Amendment, Termination, Entry Into Effect, and Duration), including suitable provisions to ensure compliance with the Participants' export control laws and regulations, and any corresponding provisions in the Task Plans. During the Contracting process, each Participant's Contracting Officer will advise prospective Contractors of their responsibility to immediately notify the Contracting Agency, before Contract award, if they are subject to any license or agreement that will restrict that Participant's freedom to disclose information or permit its use. The Contracting Officer will also advise prospective Contractors to employ their best efforts not to enter into any new agreement or arrangement that will result in restrictions.

6.6. In the event a Participant's Contracting Agency is unable to secure adequate rights to use and disclose Program Information as required by Section VIII (Disclosure and Use of Program Information), or is notified by Contractors or potential Contractors of any restrictions on the disclosure and use of information, that Participant's National PM will notify the other Participant's National PM of the restriction(s), and the National PMs will submit the matter to the SC for resolution.

6.7. The transfer of export-controlled information furnished by one Participant will be authorized by the Government of the furnishing Participant only to those Contractors of the other Participant who will limit the end use of the Information received for the sole purpose of furthering the purposes authorized under this MOU. The Participants will establish legal arrangements with their Contractors to ensure that their Contractors do not retransfer or otherwise use export-controlled information for any purpose other than the purposes authorized under this MOU. Such legal arrangements will also provide that the Contractor will not re-transfer the export-controlled information to another Contractor without the Government of the furnishing Participant's consent.

6.8. Each Participant's National PM will promptly advise the other Participant's National PM of any cost growth, schedule delay, or performance problems of any Contractor for which its Contracting Agency is responsible. Each Participant's National PM will also consult with the other Participant's National PM prior to cancellation of any Contract entered into on behalf of the other Participant in accordance with paragraph 5.9. of Section V (Financial Provisions).

## SECTION VII

### PROGRAM EQUIPMENT

7.1. Each Participant may provide Program Equipment identified as being necessary for executing the MOU to the other Participant. Program Equipment will remain the property of the providing Participant. A list of all Program Equipment provided by one Participant to another Participant will be developed and maintained by the National PMs, approved by the SC, and incorporated into the Task Plans in accordance with Annex A (Sample Task Plan).

7.2 The providing Participant will furnish the receiving Participant such operation and maintenance information as is necessary to enable use of the Program Equipment.

7.3 The receiving Participant will inspect and record the condition of the Program Equipment upon receipt. The receiving Participant will also inspect and record the condition of the Program Equipment prior to its return (unless the Program Equipment is to be expended or consumed).

7.4. The receiving Participant will maintain any such Program Equipment in good order, repair, and operable condition. Unless the providing Participant has authorized the Program Equipment to be expended or otherwise consumed without reimbursement to the providing Participant, the receiving Participant will return the Program Equipment to the providing Participant in as good a condition as received, normal wear and tear excepted, or return the Program Equipment and pay the cost to restore it. If the Program Equipment is damaged beyond economical repair, the receiving Participant will return the Program Equipment to the providing Participant (unless otherwise specified in writing by the providing Participant) and pay the replacement value, which will be computed pursuant to the providing Participant's national laws and regulations. If the Program Equipment is lost while in the custody of the receiving Participant, the receiving Participant will issue a certificate of loss to the providing Participant and pay the replacement value. If known at the time of development of the Task Plan, the replacement value of the Program Equipment will be specified in the Task Plan.

7.5. The providing Participant will deliver, at its expense, Program Equipment to the receiving Participant at a mutually determined location. Possession of the Program Equipment will pass from the providing Participant to the receiving Participant.

at the time of receipt of the Program Equipment. Any further transportation is the responsibility of the receiving Participant.

7.6. All Program Equipment that is transferred will be used by the receiving Participant only for the purposes of carrying out Task Plans under this MOU, unless otherwise consented to in writing by the providing Participant. In addition, in accordance with Section XII (Third Party Sales and Transfers), Program Equipment will not be retransferred to a Third Party without the prior written consent of the providing Participant.

7.7. Prior to the completion of work under the applicable Task Plan or termination or expiration of this MOU (whichever occurs first), the receiving Participant will return, at its expense, Program Equipment to the providing Participant at a location mutually approved by the National PMs. Any further transportation is the responsibility of the providing Participant.

7.8. The receiving Participant will provide written notice of consumption or expenditure of Program Equipment approved for such consumption or expenditure. In the event the intended consumption or expenditure does not occur, the receiving Participant will, unless otherwise determined by the providing Participant, return the Program Equipment, at its expense, to the providing Participant to the location mutually approved by the National PMs. Any further transportation is the responsibility of the providing Participant.

7.9. The Participants will ensure, by all reasonable means, the protection of intellectual property rights in Program Equipment.

7.10. Any Program Equipment that is jointly acquired on behalf of both Participants for use under this MOU will be disposed of during this Program or when the Program ceases, as determined by the SC.

7.11. Disposal of jointly acquired Program Equipment may include a transfer of the interest of one Participant in such Program Equipment to the other Participant, or the sale of such equipment to a Third Party in accordance with Section XII (Third Party Sales and Transfers) of this MOU. The Participants will share the consideration from jointly acquired Program Equipment transferred or sold to a Third Party in the same ratio as costs are shared under this MOU.

## SECTION VIII

### DISCLOSURE AND USE OF PROGRAM INFORMATION

#### 8.1. General

8.1.1. Both Participants recognize that successful collaboration depends on full and prompt exchange of information necessary for carrying out this Program. The Participants intend to acquire sufficient Program Information and rights to use such information to enable the development of technology and prototype equipment. The nature and amount of Program Information to be acquired will be consistent with the objectives stated in Section II (Objectives) and Section III (Scope of Work). Transfer of such Information to Contractors will be consistent with each Participant's export control laws and regulations.

#### 8.2. Government Program Foreground Information

8.2.1. Disclosure: All Program Foreground Information generated by a Participant's military personnel or civilian employees will be disclosed promptly and without charge to both Participants.

8.2.2. Use: Each Participant may use or have used all Government Program Foreground Information without charge for Government Purposes. The Participant generating Government Program Foreground Information will also retain its rights of use thereto. Any sale or other transfer to a Third Party will be subject to the provisions of Section XII (Third Party Sales and Transfers) of this MOU.

#### 8.3. Government Program Background Information

8.3.1. Disclosure: Each Participant, upon request, will disclose promptly and without charge to the other Participant any relevant Government Program Background Information generated by its military personnel or civilian employees, provided that:

8.3.1.1. Such Program Background Information is necessary to or useful in the Program, with

the Participant in possession of the information determining, after consulting with the requesting Participant, whether it is "necessary to" or "useful in" the Program;

- 8.3.1.2. Such Program Background Information may be made available without incurring liability to holders of proprietary rights;
  - 8.3.1.3. Disclosure is consistent with national disclosure policies and regulations of the furnishing Participant; and
  - 8.3.1.4. The furnishing Participant determines that any disclosure or transfer of such Government Program Background Information to Contractors is consistent with its export control laws and regulations.
- 8.3.2. Use: Government Program Background Information furnished by one Participant to the other may be used without charge by or for the other Participant for Program Purposes. However, subject to proprietary rights held by entities other than the Participants and subject to the provisions of paragraph 12.2. of Section XII (Third Party Sales and Transfers), such Project Background Information furnished by a Participant may be used for Government Purposes by the other Participant, without charge, when such information is necessary for the use of the Project Foreground Information. The furnishing Participant, in consultation with the other Participant, will determine whether the Project Background Information is necessary for the use of the Project Foreground Information. The furnishing Participant will retain all its rights with respect to such Program Background Information.

#### 8.4. Contractor Program Foreground Information

- 8.4.1. Disclosure: Program Foreground Information generated and delivered by Contractors will be disclosed promptly and without charge to both Participants. Program Foreground Information

generated by a Contractor, but not delivered, will be made available upon the request of the Participants at the cost of the Information's conversion into the prescribed form and the cost of reproduction and delivery as permitted in accordance with the provisions of the applicable Contract.

- 8.4.2. Use: Each Participant may use or have used without charge for its Government Purposes all Contractor Program Foreground Information generated and delivered by Contractors of the other Participant. The Participant whose Contractors generate and deliver Contractor Program Foreground Information will 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 Program Foreground Information will be subject to the provisions of Section XII (Third Party Sales and Transfers) of this MOU.

#### 8.5. Contractor Program Background Information

- 8.5.1. Disclosure: A Contracting Participant will make available to the other Participant promptly and without charge all Contractor-generated Program Background Information which is delivered under Contracts awarded in accordance with this MOU. Any other Program Background Information which is generated by Contractors under Contracts awarded outside of this MOU will be made available promptly and without charge to the other Participant upon its request, provided the following provisions are met:

- 8.5.1.1. Such Program Background Information is necessary to or useful in the Program, with the Participant in possession of the information determining, after consultation with the other Participant, whether it is "necessary to" or "useful in" the Program;
- 8.5.1.2. Such Program Background Information may be made available without incurring liability to holders of proprietary rights;

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

8.5.1.4 The furnishing Participant determines that any disclosure or transfer of such Contractor Program Background Information to Contractors is consistent with its export control laws and regulations.

8.5.2. Use: All Program Background Information delivered by Contractors under Contracts awarded in accordance with this MOU may be used by or for a receiving Participant without charge for Program Purposes, subject to any restrictions by holders of proprietary rights other than the Participants, and for Government Purposes, subject to such fair and reasonable terms as may be necessary to be arranged with the Contractor. Any other Program Background Information furnished by one Participant's Contractors and disclosed to the other Participant may be used without charge by or for the other Participant for Program Purposes, subject to any restrictions by holders of proprietary rights other than the Participants; also, when necessary for the use of Project Foreground Information, such other Program Background Information may be used for Government Purposes, subject to such fair and reasonable terms as may be necessary to be arranged with the Contractor. The furnishing Participant, in consultation with the other Participant, will determine whether such other Program Background Information is necessary for the use of Project Foreground Information. The furnishing Participant will retain all its rights with respect to Program Background Information.

## 8.6. Alternative Uses of Program Information

8.6.1. The prior written consent of each Participant will be required for the use of Program Foreground Information for purposes other than those provided for in this MOU.

8.6.2. Any Program Background Information provided by one Participant will be used by the other Participant only for the purposes set forth in this MOU, unless otherwise consented to in writing by the providing Participant.

#### 8.7. Proprietary Program Information

8.7.1. All Program Information subject to proprietary interests will be identified and marked, and it will be handled as Controlled Unclassified Information.

8.7.2. The provisions of the NATO Agreement on the Communication of Technical Information for Defence Purposes, signed in Brussels on 19 October 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 1 January 1971, will apply to the communication of proprietary Information between the Participants under this MOU.

#### 8.8. Patents

8.8.1. Each Participant will include in all its Contracts for the Program a provision governing the disposition of rights in regard to Program Inventions and Patent rights relating thereto, which either:

8.8.1.1. Provides that the Participant will hold title to all such Program Inventions together with the right to make Patent applications for the same, free of encumbrance from the Contractor concerned; or

8.8.1.2. Provides that the Contractor will hold title (or may elect to retain title) for such Program Inventions together with the right to make Patent applications for the same, while securing for the Participants a license for the Program Inventions, and any Patents thereto, on provisions in compliance with the provisions of paragraph 8.8.2. below.

- 8.8.2. In the event that a Contractor holds title (or elects to retain title) for any Program Invention, the Contracting Participant will secure for the other Participant non-exclusive, irrevocable, royalty-free licenses under all Patents secured for that invention, to practice or have practiced the patented Program Invention for Government Purposes.
- 8.8.3. The provisions of subparagraphs 8.8.4. through 8.8.8. below will apply in regard to Patent rights for all Program Inventions made by the Participant's military personnel or civilian employees, including those within Government-owned facilities, and for all Program Inventions made by Contractors for which the Contracting Participant holds title or is entitled to acquire title.
- 8.8.4. Where a Participant has or can secure the right to file a Patent application with regard to a Program Invention, that Participant will consult with the other Participant regarding the filing of a Patent application for such Program Invention. The Participant which has or receives title to such Program Invention will, in other countries, file, cause to be filed, or provide the other Participant with the opportunity to file on behalf of the Participant holding title, Patent applications covering that Program Invention. If a Participant, having filed or caused to be filed a Patent application, decides to stop prosecution of the application or ceases to maintain a Patent which has been granted or issued on that application, that Participant will notify the other Participant of that decision and permit the other Participant to continue the prosecution, or maintain the Patent as the case may be.
- 8.8.5. Each Participant will be furnished with copies of the Patent applications filed and Patents granted with regard to Program Inventions.
- 8.8.6. Each Participant will grant to the other Participant a non-exclusive, irrevocable, royalty-free license under its Patents for

Program Inventions, to practice or have practiced the Program Inventions throughout the world for Government Purposes.

- 8.8.7. Patent applications to be filed under this MOU which contain Classified Information, will be protected and safeguarded in accordance with the requirements contained in the Agreement for Interchange of Patent Rights and Technical Information, dated 19 January 1953, and its implementing procedures.
- 8.8.8. Each Participant will notify the other Participant of any Patent infringement claims made in its territory arising in the course of work performed under the Program. Insofar as possible, the other Participant will provide information available to it that may assist in defending the claim. Each Participant will be responsible for handling all Patent infringement claims made in its territory, and will consult with the other Participant during the handling, and prior to any settlement, of such claims. The Participants will share the costs of resolving Patent infringement claims in the same ratio for cost sharing as established in paragraph 5.3. of Section V (Financial Provisions). The Participants will, 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 the Program of any invention covered by a Patent issued by their respective countries.

## SECTION IX

### CONTROLLED UNCLASSIFIED INFORMATION

9.1. Except as otherwise provided in this MOU or as authorized in writing by the originating Participant, Controlled Unclassified Information provided or generated pursuant to this MOU will be controlled as follows:

- 9.1.1. Such information will be used only for the purposes authorized for use of Program Information as specified in Section VIII (Disclosure and Use of Program Information).
- 9.1.2. Access to such information will be limited to personnel whose access is necessary for the permitted use under subparagraph 9.1.1., and will be subject to the provisions of Section XII (Third Party Sales and Transfers).
- 9.1.3. Each Participant will 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., unless the originating Participant 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 will be given to the originating Participant.

9.2. To assist in providing the appropriate controls, the originating Participant will ensure that Controlled Unclassified Information is appropriately marked to ensure its "in confidence" nature. U.S. export-controlled information will be marked as "International Traffic in Arms Regulations (ITAR)-Controlled." UK export-controlled information will be marked as "UK Export-Controlled." The Participants will decide, in advance and in writing, on the markings to be placed on any other types of Controlled Unclassified Information. The appropriate markings for all Controlled Unclassified Information will be reflected in the Project Security Instruction.

9.3. Controlled Unclassified Information provided or generated pursuant to this MOU will be handled in a manner that ensures control as provided for in paragraph 9.1.

9.4. Prior to authorizing the release of Controlled Unclassified Information to Contractors, the Participants will ensure the Contractors are legally bound to control such information in accordance with the provisions of this Section.

## SECTION X

### VISITS TO ESTABLISHMENTS

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

10.2. All visiting personnel will be required to comply with security regulations of the hosting Participant. Any information disclosed or made available to visitors will be treated as if supplied to the Participant sponsoring the visiting personnel, and will be subject to the provisions of this MOU.

10.3. Requests for visits by personnel of one Participant to a facility of the other Participant will be coordinated through official channels, and will conform with the established visit procedures of the host country. Requests for visits will bear the name of the Program.

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

## SECTION XI

### SECURITY

11.1. All Classified Information provided or generated pursuant to this MOU will be stored, handled, transmitted, and safeguarded in accordance with the U.S./UK General Security Agreement dated 14 April 1961, as amended, and including the Security Implementing Arrangement dated 27 January 2003 thereto.

11.2. Classified Information will be transferred only through official government-to-government channels or through channels approved by the Designated Security Authorities (DSAs) of the Participants. Such Classified Information will bear the level of classification, denote the country of origin, the provisions of release, and the fact that the information relates to this MOU.

11.3. Each Participant will take all lawful steps available to it to ensure that Classified Information provided or generated pursuant to this MOU is protected from further disclosure, except as permitted by paragraph 11.8., unless the other Participant consents to such disclosure. Accordingly, each Participant will ensure that:

11.3.1. The recipient will not release the Classified Information to any government, national, organization, or other entity of a Third Party except as permitted under the procedures set forth in Section XII (Third Party Sales and Transfers).

11.3.2. The recipient will not use the Classified Information for other than the purposes provided for in this MOU.

11.3.3. The recipient will comply with any distribution and access restrictions on information that is provided under this MOU.

11.4. The Participants will investigate all cases in which it is known or where there are grounds for suspecting that Classified Information provided or generated pursuant to this MOU has been lost or disclosed to unauthorized persons. Each Participant also will promptly and fully inform the other Participant of the details of any such occurrences, and of the

final results of the investigation and of the corrective action taken to preclude recurrences.

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

11.6. The DSA of the Participant in which a classified Contract is awarded will 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 MOU, the DSAs will:

- 11.6.1. Ensure that such Contractor, prospective Contractor or subcontractor and their facility(ies) have the capability to protect the Classified Information adequately.
- 11.6.2. Grant a security clearance to the facility(ies), if appropriate.
- 11.6.3. Grant a security clearance for all personnel whose duties require access to 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 provisions of this MOU.

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

11.6.6. Ensure that access to the Classified Information is limited to those persons who have a need-to-know for purposes of the MOU.

11.7. Contractors, prospective Contractors, or subcontractors which 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 MOU only when enforceable measures are in effect to ensure that nationals or other entities of a Third Party will 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 Participant will be consulted for approval prior to permitting such access.

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

11.9. Each Participant will ensure that access to the Classified Information is limited to those persons who possess requisite security clearances and have a specific need for access to the Classified Information in order to participate in the Program.

11.10. Information provided or generated pursuant to this MOU may be classified as high as TOP SECRET. The existence of this MOU is UNCLASSIFIED and the contents are UNCLASSIFIED.

## SECTION XII

### THIRD PARTY SALES AND TRANSFERS

12.1. The Participants will not sell, transfer title to, disclose, or transfer possession of Program Foreground Information, jointly acquired Program Equipment, or any item produced either wholly or in part from Program Foreground Information to any Third Party without the prior written consent of the Government of the other Participant. Furthermore, neither Participant will permit any such sale, disclosure, or transfer, including by the owner of the item, without the prior written consent of the Government of the other Participant. Such consent will not be given unless the Government of the intended recipient consents in writing with the Participants that it will:

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 Participants.

12.2. A Participant will not sell, transfer title to, disclose, or transfer possession of Program Equipment or Program Background Information provided by the other Participant to any Third Party without the prior written consent of the Government of the Participant which provided such equipment or information. The providing Participant's Government will be solely responsible for authorizing such transfers and, as applicable, specifying the method and provisions for implementing such transfers.

## SECTION XIII

### LIABILITY AND CLAIMS

13.1. Claims arising under this MOU will be dealt with under paragraph 1 of the Agreement Concerning Defence Cooperation Arrangements of 27 May 1993. The cost of claims addressed in paragraph 1.(b)(ii) of that Agreement will be shared in the same ratio for cost sharing as established in paragraph 5.3. of Section V (Financial Provisions).

## SECTION XIV

### CUSTOMS DUTIES, TAXES, AND SIMILAR CHARGES

14.1. Customs duties, import and export taxes, and similar charges will be administered in accordance with each Participant's respective laws and regulations (including, as to the UK MOD, European Community laws, where appropriate). Insofar as existing national laws and regulations permit, the Participants will 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 MOU.

14.2. Each Participant will 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 Participant in whose country they are levied will bear such costs.

## SECTION XV

### SETTLEMENT OF DISPUTES

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

## SECTION XVI

### GENERAL PROVISIONS

16.1. All activities of the Participants under this MOU will be carried out in accordance with their national laws and regulations, including their export control laws and regulations. The responsibilities of the Participants will be subject to the availability of funds for such purposes.

16.2. No requirement will be imposed by either Participant for work sharing or other industrial or commercial compensation in connection with this MOU that is not in accordance with this MOU.

## SECTION XVII

### AMENDMENT, TERMINATION, ENTRY INTO EFFECT, AND DURATION

17.1. Except as otherwise provided, this MOU may be amended by the mutual written consent of the Participants. Annex A (Sample Task Plan) of this MOU may be amended by the written approval of the SC.

17.2. This MOU may be terminated at any time upon the written consent of the Participants. In the event both Participants consent to terminate this MOU, the Participants will consult prior to the date of termination to ensure termination on the most economical and equitable provisions.

17.3. Either Participant may terminate this MOU upon 90 days written notification of its intent to terminate to the other Participant. Such notice will be the subject of immediate consultation by the SC to decide upon the appropriate course of action to conclude the activities under this MOU. In the event of such termination, the following rules apply:

17.3.1. The terminating Participant will continue participation, financial or otherwise, up to the effective date of termination.

17.3.2. Except as to Contracts awarded on behalf of both Participants, each Participant will be responsible for its own Program-related costs associated with termination of the Program. For Contracts awarded on behalf of both Participants, the terminating Participant will pay all Contract modification or termination costs that would not otherwise have been incurred but for the decision to terminate; in no event, however, will a terminating Participant's total financial contribution, including Contract termination costs, exceed that the sum of that Participant's financial contributions as set forth in each of the Task Plans.

17.3.3. All Program Information and rights therein received under the provisions of this MOU prior to the termination will be retained by the Participants, subject to the provisions of this MOU.

17.4. The respective benefits and responsibilities of the Participants regarding Section VII (Program Equipment), Section VIII (Disclosure and Use of Program Information), Section IX (Controlled Unclassified Information), Section XI (Security), Section XII (Third Party Sales and Transfers), Section XIII (Liability and Claims), and this Section XVII (Amendment, Termination, Entry into Effect, and Duration) will continue to apply, notwithstanding termination or expiration of this MOU.

17.5. This MOU, which consists of seventeen (17) Sections and one (1) Annex, will enter into effect upon signature by both Participants and will remain in effect for fourteen (14) years. It may be extended by the written consent of the Participants.

The foregoing represents the understandings reached between the Secretary of Defense on behalf of the Department of Defense of the United States of America and the Secretary of State for Defence of the United Kingdom of Great Britain and Northern Ireland upon matters referred to herein.

Signed, in duplicate, by authorized representatives.

FOR THE SECRETARY OF DEFENSE  
ON BEHALF OF THE DEPARTMENT OF  
DEFENSE OF THE UNITED STATES  
OF AMERICA

*Thomas W. O'Connell*

Signature

THOMAS W. O'CONNELL

Name

ASSISTANT SECRETARY OF DEFENSE

Title

6 JULY 2005

Date

WASHINGTON, D.C.

Location

FOR THE SECRETARY OF STATE  
FOR DEFENCE OF THE UNITED  
KINGDOM OF GREAT BRITAIN AND  
NORTHERN IRELAND

*Martin Howard*

Signature

MARTIN H. HOWARD

Name

DIRECTOR GENERAL OPERATIONAL POLICY

Title

1ST SEPTEMBER 2005

Date

LONDON

Location

ANNEX A

SAMPLE TASK PLAN

TASK PLAN ###

UNDER

THE UNITED STATES/UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN  
IRELAND MEMORANDUM OF UNDERSTANDING (MOU)

CONCERNING COMBATING TERRORISM RESEARCH AND DEVELOPMENT

SIGNED \_\_\_\_\_

BETWEEN

THE SECRETARY OF DEFENSE

ON BEHALF OF

THE DEPARTMENT OF DEFENSE

OF THE UNITED STATES OF AMERICA

AND

THE SECRETARY OF STATE FOR DEFENCE OF THE UNITED KINGDOM OF  
GREAT BRITAIN AND NORTHERN IRELAND  
CONCERNING

(FULL DESIGNATION OF THE TASK)

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SHARING OF WORK	X
BREAKDOWN AND SCHEDULE OF WORK	X
FINANCIAL PROVISIONS	X
MANAGEMENT	X
PRINCIPAL ORGANIZATIONS INVOLVED	X
LOAN OF MATERIALS, SUPPLIES AND EQUIPMENT	X
DISPOSITION OF DELIVERIES	X
SPECIAL ARRANGEMENTS	X

## INTRODUCTION

This Task Plan ### governs the Task entitled \_\_\_\_\_ in accordance with the Combating Terrorism Research and Development (CTRD) MOU between the Secretary of Defense on behalf of the Department of Defense of the United States of America and the Secretary of State for Defence of the United Kingdom of Great Britain and Northern Ireland.

(Describe the Task requirements.)

## DEFINITION OF TERMS AND ABBREVIATIONS

(Define only those terms used in this Task Plan that are not defined in the CTRD MOU.)

TERM	DEFINITION/ABBREVIATION
------	-------------------------

## OBJECTIVES

The objectives of the Task entitled \_\_\_\_\_ are:

- 1.
- 2.

## CLASSIFICATION

The highest level of Classified Information that may be exchanged under this Task Plan is:

## STATEMENT OF WORK

(Describe how the Participants will attain their objectives.)

## SHARING OF WORK

The allocation of the work is as follows:

The U.S. DoD will:



	Address	_____
	Telephone	_____
	Facsimile	_____
	E-mail	_____
United Kingdom:	Name	_____
	Organization	_____
	Address	_____
	Telephone	_____
	Facsimile	_____
	E-mail	_____

PRINCIPAL ORGANIZATIONS INVOLVED

United States:

United Kingdom:

LOAN OF MATERIALS, SUPPLIES AND EQUIPMENT

(Identify any Program Equipment to be transferred under this Task Plan.)

DISPOSITION OF DELIVERIES

(Identify the disposition of the prototype or any other product developed under this Task.)

SPECIAL ARRANGEMENTS

(Optional - include any special contractual, intellectual property rights, or other provisions relevant to the specific Task Plan.)



Proposed by:

Task Manager for the U.S. DoD:

Task Manager for UK MOD:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
Location

\_\_\_\_\_  
Location

Endorsed by:

The National Program Manager  
for the U.S. DoD:

The National Program Manager  
for the UK MOD:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
Location

\_\_\_\_\_  
Location

Approved by:

The SC Representative for the  
U.S. DoD:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Location

The SC Representative for the  
UK MOD:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Location