

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE REPUBLIC OF POLAND CONCERNING SECURITY MEASURES FOR THE PROTECTION OF CLASSIFIED INFORMATION IN THE MILITARY SPHERE

The Government of the United States of America and the Government of the Republic of Poland hereinafter referred to as Parties,

In furtherance of mutual cooperation to ensure the protection of classified information in the military sphere,

Have agreed as follows:

**CHAPTER I
DEFINITIONS**

ARTICLE 1

For the purposes of this Agreement:

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| 1) Classified Information in the Military Sphere | Information that is generated by or for the Department of Defense of the United States of America (in the United States referred to as "Classified Military Information"), or the Ministry of National Defense of the Republic of Poland, or that is under their jurisdiction or control, and which requires protection according to the internal laws and regulations of the Parties and the provisions of this Agreement, hereinafter referred to as "Classified Information". |
| 2) National Security Authority | The national authority of each Party responsible for the security of Classified Information as described in this Agreement. |
| 3) Contract | An agreement regulating enforceable rights and obligations under internal laws and regulations between the bodies concluding the agreement, performance of which involves access to Classified Information or origination of such information. |
| 4) Contracting Agency | The entity within the government organization of a Party, which has authority to enter into, administer, or terminate contracts. |
| 5) Contractor | Any entity awarded a Contract by a Party's Contracting Agency. |
| 6) 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. |

**CHAPTER II
APPLICABILITY**

ARTICLE 2

Classified Information provided directly or indirectly by one Party to the other Party, or to an officer or other authorized representative of the Parties, shall be protected according to the terms set forth herein and in accordance with the internal laws and regulations of the Parties.

ARTICLE 3

Each Party shall promptly notify the other of any changes to its internal laws and regulations that would affect the protection of Classified Information under this Agreement. In such case, the Parties shall consult as provided for in Chapter XIII, to consider possible changes to this Agreement. In the interim, Classified Information shall continue to be protected as described herein.

ARTICLE 4

1. Classified Information may be in oral, visual, or documentary form, or any other form including equipment or technology.

2. Classified Information is granted a security classification level in accordance to its content, pursuant to the internal laws and regulations of each Party. Each Party shall stamp or mark the name of the originating government on all Classified Information received from the other Party. The information shall be marked with a national security classification marking of the recipient Party that will afford a degree of protection equivalent to that afforded it by the originating Party.

3. The Parties agree that the following security classification levels are equivalent:

United States of America	Republic of Poland
TOP SECRET	ŚCIŚLE TAJNE
SECRET	TAJNE
CONFIDENTIAL	POUFNE
No U.S. equivalent; shall be protected as CONFIDENTIAL	ZASTRZEŻONE

**CHAPTER III
NATIONAL SECURITY AUTHORITIES**

ARTICLE 5

1. For the purpose of this Agreement, the National Security Authorities shall be:

1) for the United States of America: the Department of Defense;

2) for the Republic of Poland: the Head of the Internal Security Agency and the Head of the Military Counterintelligence Service.

2. The National Security Authorities may conclude supplemental implementing arrangements to this Agreement.

3. The Parties agree to notify each other regarding any changes to their National Security Authorities or their responsibilities under this Agreement.

**CHAPTER IV
ACCESS TO CLASSIFIED INFORMATION**

ARTICLE 6

Access to Classified Information shall be granted only to those persons who have a need-to-know, whose official duties require such access and who have been granted a personnel security clearance in accordance with the prescribed standards of the Parties, and have been briefed in the scope of Classified Information protection according to the internal laws and regulations of each Party. No individual shall be entitled access to the information solely by virtue of rank, appointment, or security clearance. The Parties shall ensure that:

- 1) the recipient Party will not release the information to a Third Party without the written approval of the originating Party;
- 2) the recipient Party will afford the information a degree of protection equivalent to that afforded it by the originating Party pursuant to Article 4, paragraph 3;
- 3) the recipient Party will not use the information for other than the purpose for which it was provided;
- 4) the recipient Party shall respect and protect private rights, such as patents, copyrights, or other rights which are involved in the information, and
- 5) all facilities that handle Classified Information will maintain a registry of the clearance of individuals at these facilities who are authorized to have access to such information.

**CHAPTER V
PERSONNEL SECURITY**

ARTICLE 7

The determination on the granting of a personnel security clearance to an individual shall be consistent with the interests of national security and shall be based upon an investigation in accordance with the internal laws and regulations of the granting Party to determine if the individual possesses the capability and intent to properly handle Classified Information.

ARTICLE 8

Before a representative of a Party releases Classified Information to an officer or authorized representative of the other Party, the receiving Party shall provide to the originating Party an assurance that the officer or the representative possesses the necessary level of security clearance and requires access for official purposes and that the information will be protected by the receiving Party.

**CHAPTER VI
VISITS**

ARTICLE 9

Authorizations for visits by representatives of one Party to facilities of the other Party, where access to Classified Information is required, shall be limited to those necessary for official purposes and shall be transmitted sufficiently in advance. Authorizations to visit the facilities shall be granted only by the Parties or government officials designated by the Parties. The Parties or their designee shall be responsible for notification of the proposed visit, and the scope and highest level of Classified Information that may be furnished to the visitor. Requests for visits by representatives of the Parties shall be submitted through the Embassy of the United States of America in Warsaw, in the case of United States visitors and through the Embassy of the Republic of Poland in Washington, D.C., in the case of Polish visitors. Requests for a visit shall include:

- 1) purpose and date of the visit, and associated program (if applicable);
- 2) name and surname of the visitor, date and place of birth, nationality, passport number or identity card number;
- 3) position of the visitor together with the name of the institution or facility which he or she represents;
- 4) certification of the level of Personnel Security Clearance held by the visitor;
- 5) name and address of the facility to be visited, and
- 6) name, surname and position of the person to be visited.

**CHAPTER VII
PHYSICAL SECURITY**

ARTICLE 10

The Parties shall be responsible for all Classified Information of the other Party during transmission or storage within their territory.

ARTICLE 11

The Parties shall be responsible for the security of all facilities where Classified Information of the other Party is kept and shall assure that qualified individuals are appointed for each such facility who shall have the responsibility and authority for the control and protection of the information.

ARTICLE 12

Classified Information shall be stored in a manner that assures access only by those individuals who have been authorized access pursuant to Chapter IV and Chapter V.

**CHAPTER VIII
MARKING AND TRANSMISSION OF CLASSIFIED INFORMATION**

ARTICLE 13

1. Classified Information shall be transmitted between the Parties through government-to-government channels. Each Party shall stamp or mark the name of the originating government on all Classified Information received from the other Party. The information shall be marked with a national security classification marking of the recipient Party that will afford a degree of protection equivalent to that afforded it by the originating Party, pursuant to Article 4, paragraph 3.

2. The minimum requirements for the security of Classified Information during transmission shall be as follows:

1) documents or other media containing Classified Information shall be transmitted in double, sealed envelopes, the innermost envelope bearing only the classification of the documents or other media and the organizational address of the intended recipient, and an outer envelope bearing the organizational address of the recipient, the organizational address of the sender, and the registry number if applicable. No indication of the classification of the enclosed documents or other media shall be on the outer envelope. The sealed envelope shall then be transmitted according to the prescribed procedures of the Parties. Receipts shall be prepared for packages containing classified documents or other media that are transmitted between the Parties, and a receipt for the enclosed documents or media shall be signed by the final recipient and returned to the sender;

2) classified equipment shall be transported in sealed covered vehicles, or be securely packaged or protected in order to prevent identification of its details, and kept under continuous control to prevent access by unauthorized persons;

3) classified equipment which must be stored temporarily awaiting shipment shall be placed in protected storage areas. The area shall be protected by intrusion-detection equipment or guards with security clearances who shall maintain continuous surveillance of the storage area. Only authorized personnel with the requisite security clearance shall have access to the storage area;

4) receipts shall be obtained on every occasion when classified equipment changes hands en route; and, a receipt shall be signed by the final recipient and returned to the sender, and

5) Classified Information may be transmitted via protected systems and IT networks, which have been authorized for such use according to the internal laws and regulations of the Parties. Classified Information transmitted by electronic means shall be encrypted.

**CHAPTER IX
DESTRUCTION, REPRODUCTION AND TRANSLATION**

ARTICLE 14

Classified documents and other media containing Classified Information shall be destroyed in a manner that prevents reconstruction of the Classified Information contained therein.

ARTICLE 15

Classified equipment shall be destroyed beyond recognition or modified so as to preclude reconstruction of the Classified Information in whole or in part.

ARTICLE 16

Classified Information classified as TOP SECRET or SECRET that may not be reproduced shall bear a restrictive marking according to the internal laws and regulations of the originating Party.

ARTICLE 17

When a classified document or other media are reproduced, all original security markings thereon also shall be reproduced or marked on each copy. Such reproduced documents or media shall be placed under the same controls as the original document or media. The number of copies shall be limited to that required for official purposes.

ARTICLE 18

All translations of Classified Information shall be made by individuals with security clearances pursuant to Chapter V. The number of copies shall be kept to a minimum and the distribution thereof shall be controlled. Such translations shall bear appropriate security classification markings and a suitable notation in the language into which it is translated, indicating that the document or media contains Classified Information of the originating Party.

**CHAPTER X
RELEASE TO CONTRACTORS**

ARTICLE 19

Prior to the release to a Contractor or prospective Contractor of any Classified Information received from the other Party, the recipient Party shall ensure that:

- 1) such Contractor or prospective Contractor and the contractor's facility have the capability to protect the Classified Information;
- 2) the appropriate facility security clearance has been granted;
- 3) appropriate personnel security clearances for all individuals whose duties require access to Classified Information have been granted;
- 4) all individuals having access to Classified Information are informed of their responsibilities to protect the Classified Information in accordance with applicable laws and regulations of the Parties;
- 5) periodic security inspections of cleared facilities are carried out to ensure that Classified Information is protected as required herein, and
- 6) access to Classified Information is limited to those persons who have a need-to-know for official purposes.

**CHAPTER XI
ACCOUNTABILITY AND CONTROL**

ARTICLE 20

1. The Parties shall ensure necessary accountability and control over Classified Information.
2. In accordance with this Agreement and their internal laws and regulations, the Parties shall adopt appropriate measures aimed at protection of Classified Information which is transmitted or originated as a result of mutual cooperation of both Parties, including Classified Information originated in connection with performance of a contract.

**CHAPTER XII
ACTION IN THE EVENT OF LOSS OR UNAUTHORIZED DISCLOSURE OR
POSSIBLE LOSS OR UNAUTHORIZED DISCLOSURE**

ARTICLE 21

The originating Party shall be informed immediately of all losses or unauthorized disclosures, as well as possible losses or unauthorized disclosures, of its Classified Information, and the recipient Party shall initiate an inquiry and if warranted further investigation to determine the circumstances. The results of such inquiry or investigation and information regarding measures taken to prevent recurrence shall be forwarded to the originating Party by the Party that conducts the inquiry or investigation.

**CHAPTER XIII
CONSULTATIONS AND REVIEW OF SECURITY PROCEDURES**

ARTICLE 22

1. The National Security Authorities of the Parties shall notify each other of any amendments to their internal laws and regulations concerning the protection of Classified Information.
2. The National Security Authorities of the Parties shall consult, upon the request of one of them, in order to ensure close cooperation in the implementation of the provisions hereof.
3. Implementation of the foregoing security requirements can be advanced through reciprocal visits by representatives of the National Security Authorities of the Parties. Accordingly, these representatives, after prior consultations, shall be permitted to visit the other Party, to discuss, and view firsthand, the implementing procedures of the other Party in the interest of achieving comparable security procedures. Each Party shall assist the other Party's National Security Authority representatives in determining whether Classified Information provided by the other Party is being adequately protected.

**CHAPTER XIV
COSTS**

ARTICLE 23

Each Party shall cover its own expenses resulting from the implementation of this Agreement.

**CHAPTER XV
SETTLEMENT OF DISPUTES**

ARTICLE 24

1. Any disputes concerning this Agreement shall be settled by direct negotiations between the National Security Authorities.
2. If the settlement of a dispute cannot be reached in the manner referred to in Paragraph 1, such dispute shall be settled through diplomatic channels and shall not be referred to a national court, international tribunal, or to any other person or entity for settlement.

**CHAPTER XVI
FINAL PROVISIONS**

ARTICLE 25

1. Upon this Agreement entering into force, the Agreement between the Government of the United States of America and the Government of the Republic of Poland on the protection of Classified Military Information done in Washington D.C., February 17, 1995 (hereinafter referred to as "1995 Agreement"), shall be superceded.
2. Classified Information that was previously exchanged by the Parties and to which the 1995 Agreement applied, shall be covered by this Agreement.

ARTICLE 26

1. This Agreement shall enter into force on the date of the later note exchanged by the Parties informing each other of the completion of all their internal processes necessary to bring the Agreement into force.
2. Amendments to the present Agreement shall be made by mutual consent of the Parties and shall enter into force in accordance with the provisions of Paragraph 1.
3. This Agreement shall remain in force for a period of five years and shall be automatically renewed for consecutive one year periods, unless either Party notifies the other in writing through diplomatic channels, ninety days in advance, of its intention to terminate the Agreement.
4. Notwithstanding the termination of this Agreement, all Classified Information provided pursuant to this Agreement shall continue to be protected in accordance with the provisions set forth herein.

DONE at Warsaw this 8th day of March, 2007, in the English and Polish languages, both texts being equally authentic.

FOR THE GOVERNMENT OF
THE UNITED STATES OF AMERICA:



FOR THE GOVERNMENT OF THE
REPUBLIC OF POLAND:

