

SECTION VI

INDUSTRIAL PARTICIPATION AND CONTRACTING PROVISIONS

INDUSTRIAL PARTICIPATION AND GENERAL PROVISIONS

6.1. The MOU Participants recognize that there are manufacturing and industrial capabilities within each of the MOU Participants' nations that may significantly contribute to the efficient and economical post-production support of their respective fleets.

6.2. The MOU Participants acknowledge that the commercial sources of Harrier-related articles and services located within each of the respective MOU Participant nations may compete for Contracts for these articles and services. The MOU Participants will be encouraged to offer opportunities for subcontracting to industries or entities of all of the MOU Participants' nations, whenever practicable.

6.3. In any competition for articles and services conducted to fulfill the scope of work of this MOU or a PA, the MOU Participant conducting the competition will make good faith efforts to furnish all known qualified sources for particular articles and/or services in each of the MOU Participants' nations with timely notification of published solicitations of offers.

6.4. In order to promote the achievement of best value in its competitions, it is the intent of the U.S. DoD, through its contracting activities at Headquarters, Naval Air Systems Command (NAVAIRSYSCOMHQ) and its field activities, such as the Naval Air Warfare Centers, or their successor organizations, to employ to the maximum extent practicable, "best value" source selection criteria in its competitions for the acquisition of articles and services and will consider the past performance of offerors as a significant factor in source selections.

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

6.6. In all NAVAIRSYSCOMHQ and NAWC TSD competitions, if the unsuccessful offeror(s) so request, the U.S. DoD will provide

debriefings within a reasonable time, in accordance with U.S. acquisition regulations and policies in effect at the time of such request. Following the Contract award, the MOU Participants acting through their JPO Deputies and DPMs may request and receive Information through the JPO regarding acquisition strategies and source selection procedures used by NAVAIRSYSCOMHQ and NAWCTSD for Contract awards employing competitive acquisition processes.

6.7. To the extent permitted by national laws and regulations, an MOU Participant contracting under the aegis of the MOU or a PA will make available to the other MOU Participants or PA Participants, copies of Contracts awarded on behalf of the MOU Participants or PA Participants, including any Contract modifications and non-proprietary content of audit reports and other relevant internal Contract documentation that represents a final agency action involving Contracts awarded on behalf of the MOU Participants or PA Participants.

6.8. When procuring the same type of articles or services for the national requirements of two or more of the MOU Participants under the aegis of this MOU or its PAs, the Contracting Officer will, to the extent practicable, utilize the same contractual vehicle for those MOU Participants' requirements.

CONTRACTING PROVISIONS FOR THE PROGRAM

6.9. The U.S. DoD (acting through the Department of the Navy) will be primarily responsible for Contracting for the Program in accordance with U.S. Contracting laws, regulations and procedures. However, the ESC or HMP may request that a MOU Participant other than the U.S. DoD issue Contracts for the Program in accordance with that MOU Participant's national Contracting laws, regulations and procedures. The Contracting Officer is the exclusive source for providing contractual direction and instructions to Contractors. The Contracting Officer will, when it facilitates satisfying the objectives of this MOU, seek waivers of national regulations, procurement procedures, and practices.

6.10. The JPO Director will be responsible for the coordination of activities relating to the Program, and the JPO Director will cooperate with the Contracting Officer in the areas of Contract procedures, Contract negotiation, evaluation of offers, and Contract award. The JPO Director will review statements of work prior to the development of solicitations to ensure that they are in accordance with this MOU. In addition, the Contracting

Officer will keep the JPO Director advised of all financial arrangements with the prime Contractor.

6.11. The Contracting Officer will negotiate to obtain the rights to use and disclose Program Information required by Section VIII (Disclosure and Use of Program Information). The Contracting Officer will insert into prospective Contracts (and require its Contractors 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 XVIII (Amendment, Termination, Entry into Effect, and Duration) concerning compliance with the MOU Participants' export control laws and export control regulations. During the Contracting process, the 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 their 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.

6.12. In the event the Contracting Officer is unable to secure adequate rights to use and disclose Project 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, the matter will be referred to the ESC for resolution.

6.13. The transfer of export-controlled Information furnished by one MOU Participant will be authorized by the government of the furnishing MOU Participant only to those Contractors of another MOU Participant who will limit the use of the Information received for the sole purpose of furthering the purposes authorized under this MOU. The MOU 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 retransfer the export-controlled Information to another Contractor without the consent of the furnishing MOU Participant's government.

6.14. For Contracts or Contract modifications which are awarded on behalf of the MOU Participants, the Contracting Officer will ensure that the JPO Director and JPO Deputies are provided with sufficient information and documentation to review and endorse Contract strategies, requests for proposals prior to release, and Contracts and Contract modifications prior to award of any such Contracts or issuance of Contract modifications. During the administration of such Contracts or Contract modifications, the Contracting Officer will immediately advise the JPO Director and the JPO Deputies of any cost growth, schedule change, or performance problems, as well as the Contracting Officer's intended measures for managing and resolving such issues, to include any contemplated Contract terminations. The Contracting Officer will take into consideration the interests of the MOU Participants in Contract administration decisions.

6.15. Upon mutual determination, consistent with Section II (Objectives), a Participant may contract for the unique national requirements of the other MOU Participants.

CONTRACTING PROVISIONS SPECIFICALLY APPLICABLE TO PAs

6.16. If a PA Participant determines that Contracting is necessary to fulfill that PA Participant's responsibilities under a PA, that PA Participant will contract in accordance with its respective national laws, regulations and procedures.

6.17. When one PA Participant individually contracts to perform a task under a PA, it will be solely responsible for its own Contracting, and the other PA Participants will not be subject to any liability arising from such Contracts without their prior written consent.

6.18. For all Contracting activities performed under a PA, the PMs will, upon request, be provided a copy of all statements of work prior to the development of solicitations to ensure they are consistent with the provisions of this MOU and the relevant PA.

6.19. The PM may make use of a PA Participant's Contracting Agency in the event that Contracting on behalf of another PA Participant or all PA Participants is required to implement the Project. The Contracting Agency so used will place Contracts in accordance with its respective national laws, regulations, and procedures. The Contracting Participant's Contracting Officer will be the exclusive source for providing contractual direction and instructions to the Contractors. The Contracting Officer

will, when it facilitates satisfying the objectives of the PA, seek waivers of national regulations, procurement procedures, and practices.

6.20. PA Participants may request that an MOU Participant perform the Contracting activities required to fulfill scope of work to be accomplished under a PA, even in those instances in which that MOU Participant is not a PA Participant under that PA. In the event that the MOU Participant consents to perform the Contracting activities under the PA, the Contracting Officer for each Contract will be the exclusive source for providing contractual direction and instructions to Contractors.

6.21. Contracting Officers will insert into prospective Contracts (and require its Contractors to insert in subcontracts) suitable provisions to satisfy the requirements of the PA, including Section VIII (Disclosure and Use of Program Information, Section IX (Controlled Unclassified Information) and Section XI (Security) and Section XII (Third Party Sales and Transfers), and Section XVIII (Amendment, Termination, Entry into Effect, and Duration) concerning compliance with the MOU Participants' export control laws and export control regulations, of this MOU, and the corresponding provisions of the PA. Contracting Officers will negotiate to obtain the rights to use and disclose Project Information required by Section VIII (Disclosure and Use of Program Information) of this MOU and the corresponding provisions of the PA. During the Contracting process, Contracting Officers will also 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 their government's freedom to disclose information or permit its use, and to employ their best efforts not to enter into any new agreement or arrangement that will result in restrictions.

6.22. The transfer of export-controlled Information furnished by one PA Participant will be authorized by the government of the furnishing PA Participant only to those Contractors of another PA Participant who will limit the use of the Information received for the sole purpose of furthering the purposes authorized under the PA. The PA 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 the PA. Such legal arrangements will also provide that the Contractor will not retransfer the export-controlled

Information to another Contractor without the consent of the furnishing PA Participant's government.

6.23. In the event a Contracting Officer is unable to secure adequate rights to use and disclose Information as required by Section VIII (Disclosure and Use of Program Information) and the corresponding provisions of the PA, or is notified by Contractors or prospective Contractors of any restrictions on the disclosure and use of Information, the matter will be referred to the PSC for resolution.

6.24. For Contracts or Contract modifications which are awarded on behalf of the PA Participants, the Contracting Officer will ensure that the PM and DPMs are provided with sufficient information and documentation to review and endorse Contract strategies, requests for proposals prior to release, and Contracts and Contract modifications prior to award of any such Contracts or issuance of Contract modifications. During the administration of such Contracts or Contract modifications, the Contracting Officer will promptly advise the PM and DPMs of any cost growth, schedule changes, delay, or performance problems, as well as the Contracting Officer's intended measures for managing and resolving such issues, to include any contemplated Contract terminations. The Contracting Officer will take into consideration the interests of the PA Participants in Contract administration decisions.

6.25. Upon mutual determination, consistent with the objectives section of a PA, a PA Participant may contract for the unique national requirements of another PA Participant.

SECTION VII

PROJECT EQUIPMENT

7.1. Project Equipment Acquired or Used under Previous MOUs

- 7.1.1. For the purpose of executing this MOU or its PAs, each MOU Participant consents to the use by the other MOU Participants of Project Equipment that meets the following criteria: (1) the Project Equipment is ST/STE that was acquired or used under the U.S.-UK AV-8B/GR5 Arrangement or the IT-SP-U.S. AV-8B Harrier II Plus Production, Remanufacture and In-Service Support MOU, and (2) the consenting MOU Participant has legal title or an equitable interest in the ST/STE. The SP MOD's use of such ST/STE will be subject to the provisions of paragraph 5.4.6 of Section V (Financial Provisions) of this MOU.
- 7.1.2. Each MOU Participant will provide the Project Equipment referenced in paragraph 7.1.1 to another MOU Participant in accordance with the ST/STE plan referenced in paragraphs 4.5.1.2 and 4.9.7 of Section IV (Management (Organization and Responsibility)). The providing Participant, as well as any other MOU Participant that has an interest in the Project Equipment, will retain all of its interest in such Project Equipment. A list of all such Project Equipment will be developed and maintained by the JPO Director, approved by the ESC, and incorporated into the ST/STE plan referenced in Section IV (Management (Organization and Responsibility)).
- 7.1.3. The receiving MOU Participant will maintain any such Project Equipment in good order, repair, and operable condition. Unless the providing MOU Participant and any other MOU Participant that has an interest in the Project Equipment have authorized the Project Equipment to be expended or otherwise consumed without reimbursement, the receiving MOU Participant will return the Project Equipment to the providing MOU Participant 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 MOU Participant will return the Project Equipment to the providing MOU Participant (unless otherwise specified in writing by the providing MOU Participant) and pay its replacement value, as computed by the providing MOU Participant pursuant to its national laws and regulations and as notified in writing to the receiving MOU Participant prior to the transfer of the Project Equipment. If the Project Equipment is lost while in the custody of the receiving MOU Participant, the receiving MOU Participant will issue a certificate of loss to the providing MOU Participant and pay the replacement value as notified by the providing MOU Participant in accordance with the requirements of this subparagraph.

- 7.1.4. The providing MOU Participant will deliver the Project Equipment described in paragraph 7.1.1 to the receiving MOU Participant at a mutually determined location. Possession of the Project Equipment will pass from the providing MOU Participant to the receiving MOU Participant at the time of receipt of the Project Equipment. Any further transportation is the responsibility of the receiving MOU Participant.
- 7.1.5. All Project Equipment that is transferred pursuant to paragraph 7.1.1 will be used by the receiving MOU Participant only for the purposes of carrying out this MOU or the relevant PA, unless otherwise consented to in writing by the providing MOU Participant and any other MOU Participant that has an interest in the Project Equipment. In addition, in accordance with Section XII (Third Party Sales and Transfers) and the corresponding section of the PA, Project Equipment will not be re-transferred to a Third Party without the prior written consent of the providing MOU Participant and any other MOU Participant that has an interest in the Project Equipment.
- 7.1.6. Project Equipment transferred to a MOU Participant under paragraph 7.1.1 will be returned to the providing MOU Participant prior to the termination

or expiration of this MOU or the relevant PA, as appropriate.

7.2. Other Project Equipment Provided by an MOU Participant

7.2.1. Each MOU Participant may provide Project Equipment that is identified as being necessary for executing this MOU and that is not described in paragraph 7.1.1 to another MOU Participant, and a PA Participant may provide Project Equipment that is identified as being necessary for executing a PA and that is not described in paragraph 7.1.1 to another PA Participant. Such Project Equipment will remain the property of the providing MOU or PA Participant. A list of all such Project Equipment provided by one MOU Participant to another MOU Participant under this MOU, or by one PA Participant to another PA Participant under a PA, will be developed and maintained by the JPO Director or PM, approved by the ESC or PSC, as appropriate, and incorporated into the PMP for this MOU or the Project Plan for the relevant PA in accordance with Section IV (Management (Organization and Responsibility)) prior to such transfers.

7.2.2. The receiving MOU or PA Participant will maintain any such Project Equipment in good order, repair, and operable condition. Unless the providing MOU or PA Participant has authorized the Project Equipment to be expended or otherwise consumed without reimbursement to the providing MOU or PA Participant, the receiving MOU or PA Participant will return the Project Equipment to the providing MOU or PA Participant 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 MOU or PA Participant will return the Project Equipment to the providing MOU or PA Participant (unless otherwise specified in writing by the providing MOU or PA Participant) and pay its replacement value as specified in the applicable PMP or Project Plan, which will be computed pursuant to the providing MOU or PA Participant's national laws and regulations. If

the Project Equipment is lost while in the custody of the receiving MOU or PA Participant, the receiving MOU or PA Participant will issue a certificate of loss to the providing MOU or PA Participant and pay the replacement value specified in the PMP or the Project Plan.

7.2.3. The providing MOU or PA Participant will deliver the Project Equipment described in paragraph 7.2.1 to the receiving MOU or PA Participant at a mutually determined location. Possession of the Project Equipment will pass from the providing MOU or PA Participant to the receiving MOU or PA Participant at the time of receipt of the Project Equipment. Any further transportation is the responsibility of the receiving MOU or PA Participant.

7.2.4. All Project Equipment that is transferred under paragraph 7.2.1 will be used by the receiving MOU or PA Participant only for the purposes of carrying out this MOU or the relevant PA, unless otherwise consented to in writing by the providing MOU or PA Participant. In addition, in accordance with Section XII (Third Party Sales and Transfers) and the corresponding section of the PA, Project Equipment will not be re-transferred to a Third Party without the prior written consent of the providing MOU or PA Participant.

7.2.5. Project Equipment transferred to a MOU Participant under this MOU, or to a PA Participant under a PA, will be returned to the providing MOU or PA Participant prior to the termination or expiration of this MOU or the relevant PA, as appropriate.

7.3. Project Equipment Jointly Acquired under this MOU or a PA

7.3.1. Any Project Equipment which is jointly acquired on behalf of the MOU Participants for use under this MOU will be disposed of during this Program or when the Program ceases, as determined by the ESC. Any Project Equipment which is jointly acquired on behalf of the PA Participants for use

under a PA will be disposed of during the Project or when the Project ceases, as agreed by the PSC.

7.3.2. Disposal of jointly acquired equipment under this MOU may include a transfer of the interest of one MOU Participant in such Project Equipment to another MOU 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 MOU Participants will share the consideration from jointly acquired Project Equipment transferred or sold to a Third Party in the same ratio as costs are shared under this MOU.

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

SECTION VIII

DISCLOSURE AND USE OF PROGRAM INFORMATION

8.1. The MOU Participants will exchange Information under this MOU through representatives designated by the HMP for the purposes of identification of opportunities for common post-production support efforts, requirements harmonization, and PA formulation, development and negotiation in accordance with paragraph 3.1 of Section III (Scope of Work) of this MOU. They may also exchange Information through representatives designated by the HMP for the purpose of maintaining airworthiness of the MOU Participants' Harrier fleets in accordance with paragraph 3.2 of Section III (Scope of Work) of this MOU. When furnishing Information pursuant to paragraph 3.1 or 3.2 of Section III (Scope of Work), the furnishing MOU Participant will clearly indicate to the receiving MOU Participant the applicable purposes for which the Information may be used. The disclosure and use of Information provisions which govern these Information exchange activities are as follows:

8.1.1. A MOU Participant (including its Contractor Support Personnel) may use the Information exchanged under paragraph 3.1 of Section III (Scope of Work) of this MOU for information and evaluation purposes only, and may only use the Information exchanged under paragraph 3.2 of that section for the purpose of maintaining airworthiness of the MOU Participants' Harrier fleets. The specific prior written consent of the furnishing MOU Participant is required for any other use or disclosure, including disclosure to Contractors. Transfer of such Information to Contractors will be consistent with each MOU Participant's applicable export control laws and export control regulations.

8.1.2. A receiving MOU Participant will ensure that Contractor Support Personnel or Contractors to whom it discloses Information received under paragraph 3.1 or 3.2 of Section III (Scope of Work) of this MOU are under a legally binding obligation not to further disclose such Information, or to use such Information for other than the purposes specified in paragraph 8.1.1 of this section.

8.1.3. The MOU Participants may exchange Information under paragraph 3.1 or 3.2 of Section III (Scope of Work) of this MOU only where the following conditions are met:

- 8.1.3.1. Information may be exchanged without incurring liability to holders of proprietary rights therein.
- 8.1.3.2. Disclosure of Information is consistent with national policies and regulations of the furnishing MOU Participant.
- 8.1.3.3. In the case of Information generated under a PA that is to be exchanged by a PA Participant to a non-PA Participant, the prior written consent of the other PA Participant(s) must be obtained, unless otherwise specified in that PA.

8.2. The MOU Participants recognize that successful collaboration depends on full and prompt exchange of Information necessary for carrying out paragraphs 3.3 and 3.4 of Section III (Scope of Work) of this MOU as well as PAs under this MOU. The MOU Participants intend to acquire sufficient Information and rights to use such Information to enable the conduct of this MOU and each PA to which they are signatories. The nature and amount of Information to be acquired will be consistent with the pertinent portions of Section II (Objectives), Section III (Scope of Work) and Section VI (Contracting Provisions) of this MOU and the corresponding sections of the PAs. The following provisions establish the arrangements for this MOU regarding the availability to the MOU Participants of Program Information, the use of Program Information, and Patent rights for Program Inventions, except that the use by the SP MOD of Program Foreground Information generated under paragraph 3.4 of Section III (Scope of Work) will be subject to paragraph 5.4.5 of Section V (Financial Provisions). Transfer of Program Information to Contractors will be consistent with each MOU Participant's applicable export control laws and export control regulations. Each PA will detail the arrangements regarding the availability to the PA Participants of Project Information, the use of Project Information, and Patents rights for Project Inventions.

8.3. Government Program Foreground Information

- 8.3.1. Disclosure: All Program Foreground Information generated by a MOU Participant's military or

civilian employees will be disclosed without charge to the other MOU Participants.

8.3.2. Use: Each MOU Participant may use or have used such Government Program Foreground Information without charge for Defense Purposes. The MOU 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.

8.4. Government Program Background Information

8.4.1. Disclosure: Each MOU Participant, upon request, will disclose to the other MOU Participants any relevant Government Program Background Information generated by its military or civilian employees, provided that:

8.4.1.1. such Program Background Information is necessary to or useful in the Program, with the MOU Participant in possession of the information determining whether it is "necessary to" or "useful in" the Program;

8.4.1.2. such Program Background Information may be made available without incurring liability to holders of proprietary rights;

8.4.1.3. disclosure is consistent with national disclosure policies and regulations of the furnishing MOU Participant; and

8.4.1.4. any disclosure or transfer of such Program Background Information to Contractors is consistent with the furnishing MOU Participant's export control laws and export control regulations.

8.4.2. Use: Government Program Background Information disclosed by one MOU Participant to the other MOU Participants may be used without charge by or for the other MOU Participants for Program purposes. The furnishing MOU Participant will retain all its rights with respect to such Program Background Information.

8.5. Contractor Program Foreground Information

- 8.5.1. Disclosure: Program Foreground Information generated and delivered by Contractors, will be disclosed without charge to the MOU Participants.
- 8.5.2. Use: Each MOU Participant may use or have used without charge for its Defense Purposes all Contractor Program Foreground Information generated and delivered by Contractors of the other MOU Participants. The MOU Participant whose Contractors generate and deliver Contractor Program Foreground Information will also retain 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.

8.6. Contractor Program Background Information

- 8.6.1. Disclosure: Any Program Background Information generated and delivered by Contractors will be made available to the other MOU Participants provided the following provisions are met:
- 8.6.1.1. such Program Background Information is necessary to or useful in the Program, with the MOU Participant in possession of the information determining whether it is "necessary to" or "useful in" the Program;
 - 8.6.1.2. such Program Background Information may be made available without incurring liability to holders of proprietary rights;
 - 8.6.1.3. disclosure is consistent with national disclosure policies and regulations of the furnishing MOU Participant; and
 - 8.6.1.4. any disclosure or transfer of such Program Background Information to Contractors is consistent with the furnishing MOU Participant's export control laws and export control regulations.
- 8.6.2. Use: Program Background Information furnished by one MOU Participant's Contractors and disclosed

to the other MOU Participants may be used without charge by or for the other MOU Participants for Program purposes only, and may be subject to further restrictions by holders of proprietary rights; however, the furnishing MOU Participant will retain all its rights with respect to such Program Background Information.

8.7. Alternative Uses of Program Information

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

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

8.8. Proprietary Program Information

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

8.8.2. The provisions of the NATO Agreement on the Communication of Technical Information for Defence Purposes, done at 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 proprietary Program Information related to this MOU.

8.9. Patents

8.9.1. Each MOU 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:

- 8.9.1.1. Provides that the MOU 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
- 8.9.1.2. 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 MOU Participants a license for the Program Inventions, and any Patents thereto, on terms in compliance with the provisions of paragraph 8.9.2 below.
- 8.9.2. In the event that a Contractor holds title (or elects to retain title) for any Program Invention, the Contracting MOU Participant will secure for the other MOU Participants non-exclusive, irrevocable, royalty-free licenses under all Patents secured for that invention, to practice or have practiced the patented Program Invention for Defense Purposes.
- 8.9.3. The provisions of subparagraphs 8.9.4 through 8.9.7 below will apply in regard to Patent rights for all Program Inventions made by the MOU Participants' military or civilian employees, including those within Government-owned facilities, and for all Program Inventions made by Contractors for which the Contracting MOU Participant holds title or is entitled to acquire title.
- 8.9.4. Where a MOU Participant has or can secure the right to file a Patent application with regard to a Program Invention, that MOU Participant will consult the other MOU Participants regarding the filing of such Patent application. The MOU Participant which has or receives title to such Program Invention will, in other countries, file, cause to be filed, or provide the other MOU Participants with the opportunity to file, on behalf of the MOU Participant holding title, Patent applications covering that Program Invention. If a MOU Participant, having filed or caused to be filed a Patent application, decides to stop prosecution of the application or to

cease maintaining the Patent granted or issued on the application, that MOU Participant will notify the other MOU Participants of that decision and permit the other MOU Participants to continue the prosecution, or maintain the Patent as the case may be.

- 8.9.5. Each MOU Participant will be furnished with copies of the Patent applications filed and Patents granted with regard to Program Inventions.
- 8.9.6. Each MOU Participant will grant to the other MOU Participants a non-exclusive, irrevocable, royalty-free license under its Patents for Program Inventions, to practice or have practiced the Program Invention for Defense Purposes.
- 8.9.7. Patent applications to be filed under this MOU that contain Classified Information will be protected and safeguarded in accordance with the requirements contained in the NATO Agreement for the Mutual Safeguarding of Secrecy of Inventions Relating to Defence and for which Applications for Patents have been Made, done in Paris on 21 September 1960, and its Implementing Procedures.
- 8.9.8. Each MOU Participant will notify the other MOU Participants of any Patent infringement claims made in its territory arising in the course of work performed under the Program. Insofar as possible, the other MOU Participants will provide Information available to them that may assist in defending the claim. Each MOU Participant will be responsible for handling all Patent infringement claims made in its territory, and will consult with the other MOU Participants during the handling, and prior to any settlement, of such claims. The MOU Participants will share the costs of resolving Patent infringement claims in the same ratios as specified for their financial contributions in this MOU. The MOU 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..