

SECTION VII

WORKSHARE

7.1. The PA Participants will work toward the goal that the work to be performed under the PAs will be shared in proportion to the cost contribution of the PA Participants to the maximum extent possible, consistent with high technical merit, reasonable cost, and the need to achieve the timely, economical, and efficient execution of the Project. This work will encompass those requirements contained in the Scope of Work of the PAs that are common to the Participants and are funded under the Project.

7.2. Sources from all PA Participants will be permitted to bid on Project work. Each Participant will encourage its Contractors to provide competitive opportunities to sources from the other nations to participate in the work of the Project, provided that such participation does not adversely impact the Project.

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

SECTION VIII

CONTRACTING PROVISIONS

8.1. Each PA will detail each PA Participant's responsibility, if any, for Contracting for the purposes of that PA. Each PA Participant will Contract in accordance with its respective national laws, regulations, and procedures. The Contracting Agency's Contracting Officer will be the exclusive source for providing contractual direction and instructions to the Contractors.

8.2. 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.

8.3. For all Contracting activities performed by a PA Participant the POs will cooperate with the respective Contracting Agency in the areas of Contract procedures, Contract negotiation, evaluation of offers, and Contract award. The POs will be provided with a copy of all Statements of Work prior to the development of solicitations to ensure that they are consistent with the provisions of this MOU and associated PAs. In addition, the Contracting Agency will keep the POs advised of all financial arrangements with Contractors.

8.4. PA Participant(s) may make use of a PA Participant's Contracting Agency in the event that Contracting on their behalf is required to implement the PA. The Contracting Agency so used will place and manage Contracts in accordance with its respective national laws, regulations, and procedures. However, the Contracting Agency will, when it facilitates satisfying the objectives of this MOU, seek waivers of national regulations, procurement procedures and practices.

8.5. Each PA Participant's Contracting Agency will insert into its Contracts (and require its Contractors to insert in subcontracts) suitable provisions to satisfy the requirements of this MOU and the relevant PA(s) including, Section X (Disclosure and Use of Project Information), Section XI (Controlled Unclassified Information), Section XIII (Security) and Section XIV (Third Party Sales and Transfers) of this MOU. Each PA Participant's Contracting Agency will negotiate to obtain the rights to use and disclose Project Information required by Section X (Disclosure and Use of Project Information). During the Contracting process, the Contracting Agency will advise prospective Contractors of their responsibility to provide immediate notification, before Contract award, if they are subject to any license or agreement that will restrict their 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.

8.6. In the event a PA Participant's Contracting Agency prior to award is unable to secure adequate rights to use and disclose Project Information as required by Section X (Disclosure and Use of Project Information), or is notified by Contractors or prospective Contractors of any restrictions on the disclosure and use of Project Information, that PA Participant's Contracting Agency will refer the matter to the POs, who will refer the matter to the PA SMCC members as necessary.

8.7. A PO will promptly advise the other POs of any anticipated or actual cost growth, schedule changes, delay, or performance problems of any Contractor for which its Contracting Agency is responsible.

8.8. Upon mutual consent, consistent with Section II (Objectives) and the objectives of the applicable PA, a PA Participant may contract for the unique national requirements of another PA Participant.

SECTION IX

PROJECT EQUIPMENT

9.1. Each PA Participant may provide Project Equipment identified as being necessary for implementing a PA to another PA Participant. Project Equipment will remain the property of the providing Participant. A list of all Project Equipment, including replacement value, provided by one PA Participant to another PA Participant will be developed and maintained by the POs and approved by the PA SMMC.

9.2. The receiving PA Participant will maintain any such Project Equipment in good order, repair, and operable condition. Unless the providing PA Participant has authorized the Project Equipment to be expended or otherwise consumed without reimbursement to the providing PA Participant, the receiving PA Participant will return the Project Equipment to the providing 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 PA Participant will return the Project Equipment to the providing PA Participant (unless otherwise specified in writing by the providing PA Participant) and pay its replacement value as specified in the list mentioned in paragraph 9.1, which shall be computed pursuant to the providing PA Participant's national laws and regulations. If the Project Equipment is lost or stolen while in the custody of the receiving PA Participant, the receiving PA Participant will issue a certificate of loss to the providing PA Participant and pay the replacement value as specified in the list mentioned in paragraph 9.1.

9.3. The providing PA Participant will deliver Project Equipment to the receiving PA Participant at a mutually determined location. Possession of the Project Equipment will pass from the providing PA Participant to the receiving PA Participant at the time of receipt of the Project Equipment. Any further transportation is the responsibility of the receiving PA Participant.

9.4. All Project Equipment that is transferred will be used by the receiving PA Participant only for the purposes of carrying out the PA, unless otherwise consented to in writing by the providing PA Participant. In addition, in accordance with Section XIV (Third Party Sales and Transfers) Project Equipment will not be re-transferred to a Third Party without the prior written consent of the providing PA Participant.

9.5. Project Equipment transferred to one PA Participant will be returned to the providing PA Participant prior to withdrawal of either Participant or termination or expiration of the PA.

9.6. 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 determined by the POs.

9.7. Disposal of jointly acquired Project Equipment may include a transfer of the interest of one PA Participant in such Project Equipment to one of the other PA Participants, or the sale of such equipment to a Third Party in accordance with Section XIV (Third Party Sales and Transfers) of this MOU and, if applicable, 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 a PA.

SECTION X

DISCLOSURE AND USE OF INFORMATION

10.1. The Participants may exchange information under this MOU through the SMCC or SMCC designated representatives for the purposes of STANDARD Missile requirements harmonization, for observing national STANDARD Missile systems and related efforts of one Participant by the other Participants, and STANDARD Missile PA formulation, development, and negotiations in accordance with Section III (Scope of Work) of this MOU. The disclosure and use of information provisions that govern these information exchange activities are as follows:

- 10.1.1. A Participant may use the information exchanged under this MOU for information and evaluation purposes only. The specific prior written consent of the originating Participant is required for any other use or disclosure, including disclosure to Contractors.
- 10.1.2. A receiving Participant will ensure that Contractors to whom it discloses information received under this MOU are under a legally binding obligation not to further disclose such information, or to use such information for other than information and evaluation purposes, without prior written authorization.
- 10.1.3. No transfer of ownership of information exchanged under this MOU will occur via the provisions thereof, and hence such information will remain the property of the originating Participant or its Contractors.
- 10.1.4. The Participants may exchange information under this MOU only where both of the following conditions are met.
 - 10.1.4.1. Information may be exchanged without incurring a liability to holders of proprietary rights therein.
 - 10.1.4.2. Disclosure of the information is consistent with national disclosure policies and regulations of the originating Participant.

10.2. All MOU Participants recognize that successful collaboration in a PA depends on full and prompt exchange of information between PA Participants as necessary for carrying out the PAs. PA Participants intend to acquire sufficient Project Information and rights to use such information to enable research, development, test, evaluation, and transition to production activities related to upgrades and improvements to STANDARD Missile. The nature and amount of Project Information to be acquired under the PAs will be consistent with this MOU and the associated PA.

10.3. Government Project Foreground Information

- 10.3.1. Disclosure: Project Foreground Information generated by a PA Participant's military personnel or civilian employees will be disclosed without charge to the other PA Participants.
- 10.3.2. Use: Each PA Participant may use all Government Project Foreground Information without charge for Defense Purposes. The PA Participant generating Government Project 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 XIV (Third Party Sales and Transfers) of this MOU.

10.4. Government Project Background Information

- 10.4.1. Disclosure: Each PA Participant, upon request, will disclose to the other PA Participants any relevant Government Project Background Information generated by its military personnel or civilian employees, provided that:
- 10.4.1.1. such Project Background Information is necessary to or useful in the Project, with the PA Participant in possession of the information determining whether it is "necessary to" or "useful in" the Project;
 - 10.4.1.2. such Project Background Information may be made available without incurring liability to holders of proprietary rights; and
 - 10.4.1.3. disclosure is consistent with national disclosure policies and regulations of the furnishing PA Participant.
- 10.4.2. Use: Government Project Background Information disclosed by one PA Participant to another may be used without charge by the other PA Participants for Project Purposes only; however, the furnishing PA Participant will retain all its rights with respect to such Project Background Information. Where the use of Government Project Background Information is necessary to enable the use of Project Foreground Information, such Government Project Background Information may be used for Defense Purposes.

10.5. Contractor Project Foreground Information

- 10.5.1. Disclosure: Project Foreground Information generated and delivered by Contractors, will be disclosed without charge to the PA Participants.

10.5.2. Use: Each PA Participant may use without charge for its Defense Purposes all Contractor Project Foreground Information generated and delivered by Contractors of another PA Participant. The PA Participant whose Contractors generate and deliver Contractor Project 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 Project Foreground Information, will be subject to the provisions of Section XIV (Third Party Sales and Transfers) of this MOU.

10.6. Contractor Project Background Information

10.6.1. Disclosure: Any Project Background Information, (including information subject to proprietary rights) generated and delivered by Contractors will be made available to other PA Participants provided the following provisions are met:

10.6.1.1. such Project Background Information is necessary to or useful in the Project, with the PA Participant in possession of the information determining whether it is "necessary to" or "useful in" the Project;

10.6.1.2. such Project Background Information may be made available without incurring liability to holders of proprietary rights; and

10.6.1.3. disclosure is consistent with national disclosure policies and regulations of the furnishing PA Participant.

10.6.2. Use: Project Background Information furnished by one PA Participant's Contractors and disclosed to the other PA Participants may be used without charge by the other PA Participants for Project purposes only, and may be subject to further restrictions by holders of proprietary rights; however, the furnishing PA Participant will retain all its rights with respect to such Project Background Information. Where the use of Contractor Project Background Information is necessary to enable the use of Project Foreground Information, such Contractor Project Background Information may be used for Defense Purposes in accordance with such fair and reasonable terms as are arranged with the Contractor.

10.7. Alternative Uses of Project Background Information

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

10.8. Proprietary Project Information

- 10.8.1. All Project Information subject to proprietary interests will be identified and marked, and will be handled as Controlled Unclassified Information.
- 10.8.2. 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 Project Information related to this MOU.

10.9. Patents

- 10.9.1. Where a PA Participant owns title to a Project Invention, or has the right to receive title to a Project Invention, that PA Participant will consult with the other PA Participants regarding the filing of a Patent application for such Project Invention. The PA Participant which has or receives title to such Project Invention will, in other countries, file, cause to be filed, or provide the other PA Participants with the opportunity to file on behalf of the PA Participant holding title, or its Contractors, as appropriate, Patent applications covering that Project Invention. If a PA Participant having filed or caused to be filed a Patent application decides to stop prosecution of the application, that PA Participant will notify the other PA Participants of that decision and permit the other PA Participants to continue the prosecution.
- 10.9.2. The other PA Participants will be furnished with copies of Patent applications filed and Patents granted with regard to Project Inventions.
- 10.9.3. The other PA Participants will acquire a non-exclusive, irrevocable, royalty-free license to practice or have practiced, by or on behalf of the PA Participant, throughout the world for Defense Purposes, any Project Invention.
- 10.9.4. Patent applications to be filed under PAs which 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 Defense and for Which Applications for Patents Have Been Made, done in Paris on 21 September 1960, and its Implementing Procedures.
- 10.9.5. Each PA Participant will notify the other PA Participants of any Patent infringement claims made in its territory arising in the course of work performed under a Project. Insofar as possible, the other PA Participants will provide information available to it that may assist in defending the

claim. Each PA Participant will be responsible for handling all Patent infringement claims made in its territory, and will consult with the other PA Participants during the handling, and prior to any settlement, of such claims.

- 10.9.6. The PA Participants will share the costs of resolving Patent infringement claims according to the cost sharing arrangements in the applicable PA. The PA 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 Project of any invention covered by a Patent issued by their respective countries.

SECTION XI

CONTROLLED UNCLASSIFIED INFORMATION

11.1. 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:

- 11.1.1. Such information will be used only for the purposes authorized for use of Project Information as specified in Section X (Disclosure and Use of Project Information) and any applicable corresponding PA provisions.
- 11.1.2. Access to such information will be limited to personnel whose access is necessary for the permitted use under subparagraph 11.1.1, and will be subject to the provisions of Section XIV (Third Party Sales and Transfers) and any applicable corresponding PA provisions.
- 11.1.3. 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 11.1.2, 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.

11.2. To assist in providing the appropriate controls, the originating Participant will ensure that Controlled Unclassified Information is appropriately marked. The Participants will decide, in advance and in writing, on the markings to be placed on the Controlled Unclassified Information. The appropriate markings will be defined in the Project Security Instruction.

11.3. Controlled Unclassified Information provided or generated pursuant to this MOU will be handled in a manner that ensures control as provided for in paragraph 11.1.

11.4. 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 XII

VISITS TO ESTABLISHMENTS

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

12.2. All visiting personnel will be required to comply with security regulations of the host 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.

12.3. Requests for visits by personnel of one Participant to a facility of another 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 MOU and associated PA.

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

SECTION XIII

SECURITY

13.1. All Classified Information exchanged or generated in connection with this MOU and corresponding PAs will be used, transmitted, stored, handled, and safeguarded in accordance with the Participants' national security laws and regulations, to the extent that they provide a degree of protection no less stringent than they provide for NATO Classified Information as set forth in the document "Security Within the North Atlantic Treaty Organization" CM(2002)49, of 17 June 2002, and its subsequent amendments.

13.2. 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 and the associated PA.

13.3. Each Participant will take all lawful steps available to it to ensure that Classified Information provided or generated pursuant to this MOU and associated PAs are protected from further disclosure, except as permitted by paragraph 13.8; unless the other Participants consent to such disclosure. Accordingly, each Participant will ensure that:

- 13.3.1. The recipient will not release the Classified Information to any government, national, organization, or other entity of a Third Party without the prior written consent of the originating Participant in accordance with the procedures set forth in Section XIV (Third Party Sales and Transfers).
- 13.3.2. The recipient will not use the Classified Information for other than the purposes provided for in this MOU and associated PAs.
- 13.3.3. The recipient will comply with any distribution and access restrictions on information that is provided under this MOU and associated PAs.

13.4. 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 and associated PAs have been lost or disclosed to unauthorized persons. Each Participant also will promptly and fully inform the other Participants of the details of any such occurrences, and of the final results of the investigation and of the corrective action taken to preclude recurrences.

13.5. If necessary, the POs will prepare a Project Security Instruction and a Classification Guide for their respective PA. Such Project Security Instruction and Classification Guide will describe the methods by which Project Information and material will be classified, marked, used, transmitted, and safeguarded. The Instruction and Guide will be developed by the PMs within three months after a PA enters into effect. They will be reviewed and forwarded to the

Participants' DSA's for approval and will be applicable to all government and Contractor personnel participating in the Project. The Classification Guide will be subject to regular review and revision with the aim of downgrading the classification whenever this is appropriate. The Project Security Instruction and the Classification Guide will be approved by the appropriate DSA prior to the transfer of any Classified Information or Controlled Unclassified Information.

13.6. 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 or associated PAs, the DSAs will:

- 13.6.1. Ensure that such Contractor, prospective Contractor or subcontractor and their facility(ies) have the capability to protect the Classified Information adequately.
- 13.6.2. Grant a security clearance to the facility(ies), if appropriate.
- 13.6.3. Grant a security clearance for all personnel whose duties require access to Classified Information, if appropriate.
- 13.6.4. 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 and associated PAs.
- 13.6.5. Carry out periodic security inspections of cleared facilities to ensure that the Classified Information is properly protected.
- 13.6.6. Ensure that access to the Classified Information is limited to those persons who have a need-to-know for purposes of the MOU and associated PAs.

13.7. 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 the MOU and associated PAs 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 PA Participants will be consulted for approval prior to permitting such access.

13.8. For any facility wherein Classified Information is to be used, the responsible (PA) Participant or Contractor will approve the appointment of a person or persons to exercise effectively the responsibilities for safeguarding at such facility the information or material pertaining to this MOU and associated PAs. These officials will be responsible for limiting

access to Classified Information involved in this MOU and associated PAs to those persons who have been properly approved for access and have a need-to-know.

13.9. 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 a Project.

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

SECTION XIV

THIRD PARTY SALES AND TRANSFERS

14.1. The Third Party sales and transfer provisions that govern the information exchange activities under this MOU are in paragraph 14.2. Third Party sales and transfer provisions that govern the activities under the PAs under this MOU are provided in paragraphs 14.3-14.6.

14.2. The provisions governing transfer of Information described in paragraph 3.2 in Section III (Scope of Work) of this MOU are:

14.2.1. A Participant will not sell, transfer title to, transfer possession of, or otherwise disclose Information received under this MOU to any Third Party without the prior written consent of the originating Participant(s). The originating Participant will be solely responsible for authorizing any such sale, transfer, or disclosure and specifying the method and conditions for implementing any such transfer, or disclosure.

14.3. Except to the extent permitted in paragraph 14.4, a PA Participant will not sell, transfer title to, disclose, or transfer possession of Project Foreground Information (or any item produced either wholly or in part from the Project Foreground Information) to any Third Party without the prior written consent of the other PA Participants. Furthermore, no PA Participant will permit any such sale, disclosure, or transfer, including by the owner, without the prior written consent of the other PA Participants. Such consent will not be given unless the government of the intended recipient consents in writing with the other PA Participants that it will:

14.3.1. Not retransfer, or permit the further retransfer of, any equipment or information provided; and

14.3.2. Use, or permit the use of, the equipment or information provided only for the purposes specified by the PA Participants.

14.4. Each PA Participant will retain the right to sell, transfer title to, disclose, or transfer possession of Project Foreground Information:

14.4.1. Which is generated solely by either that PA Participant or that PA Participant's Contractors in the performance of that PA Participant's work allocation; and

14.4.2. Which does not include any Project Foreground Information or Project Background Information of another PA Participant, and whose generation, test, or evaluation has not relied on the use of Project Equipment of another PA Participant.

14.5. In the event questions arise as to whether the Project Foreground Information (or any item produced either wholly or in part from the Project Foreground Information) that a PA Participant intends to sell, transfer title to, disclose, or transfer possession of to a Third Party is within the scope of paragraph 14.4, the matter will be brought to the immediate attention of the other PA Participants' POs. The PA Participants will resolve the matter prior to any sale or other transfer of such Project Foreground Information (or any item produced either wholly or in part from the Project Foreground Information) to a Third Party.

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

14.7. Sales or any other transfers to Third Parties of Project Foreground Information or any equipment embodying such Information may attract a levy to be shared among PA Participants. Prior to any such sale or other transfer, the amount of the levy and the procedures for assessing and distributing such levy will be mutually determined by all PA Participants, taking into account their respective national laws, regulations, and procedures. Each PA Participant may reduce or waive its portion of the levy, but no PA Participant will be denied its prerogative to impose its portion of the levy.