

**SECTION V  
FINANCIAL PROVISIONS**

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

5.2. Each Participant will fund the full extent of its participation in the Project CATALYST II. The Participants estimate that the performance of the responsibilities under this MOU will not cost more than a Financial Cost Ceiling of \$ 43.0 million fiscal year 2003 U.S. dollars for fiscal years 2003 through 2006 (exchange rate U.S.\$1.55=GBP1.00). The U.S. dollar will be the reference currency for the Project and the Project fiscal year will be the U.S. fiscal year.

5.3. The full Financial Costs and Non-Financial Costs of the Project, as identified in this Section and in Annex C (Financial Matters) of this MOU, will be shared according to the following percentages:

Participant	Percentage Share
U. S. Secretary of Defense	50 percent
U.K. Secretary of State for Defence	50 percent

5.4. The Participants will use their best efforts to perform, or to have performed, the work specified in Section III (Scope of Work) of this MOU; and fulfill all their responsibilities under this MOU within a Financial Cost Ceiling specified in paragraph 5.2.

5.5. Each Participant will bear the full Financial Costs and Non Financial 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 contributions to the Project. These costs include financial and non-financial contributions (e.g., salaries, travel, and per diem costs for its Project personnel), as well as any Contract costs. Values have been mutually determined for Project non-financial contributions. Both financial and non-financial contributions are detailed in Annex C (Financial Matters) of this MOU.

5.6. Cooperative efforts of the Participants over and above the jointly determined work detailed in Section III (Scope of Work) of this MOU will be subject to future mutual consent of the Participants.

5.7. The following costs will be borne entirely by the Participant incurring the costs:

5.7.1. Costs associated with any unique national requirements identified by a Participant.

5.7.2. Any other costs outside the scope of this MOU.

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

## SECTION VI CONTRACTUAL 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.

6.2. When one Participant individually contracts to perform a task under this MOU 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. For all Contracting activities performed by either Participant, 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.

6.4. 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 IX (Disclosure and Use of Project Information), Section X (Controlled Unclassified Information), Section XII (Security) and Section XIII (Third Party Sales and Transfers) of this MOU. Each Participant's Contracting Agency will negotiate to obtain the rights to use and disclose Project Information required by Section IX (Disclosure and Use of Project Information) of this MOU. During the Contracting process, each Participant 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.

6.5. In the event a Participant's Contracting Agency is unable to secure adequate rights to use and disclose Project Information as required by Section IX (Disclosure and Use of Project Information) of this MOU, or is notified by Contractors or potential Contractors of any restrictions on the disclosure and use of Project Information, that Participant's PM will notify the other Participant's PM of the restrictions.

6.6. Each Participant's PM will promptly advise the other Participant's PM of any cost growth, schedule delay, or performance problems of any Contractor for which its Contracting Agency is responsible.

**SECTION VII  
WORK SHARING**

7.1. 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 VIII PROJECT EQUIPMENT

8.1. Each Participant may provide Project Equipment identified as being necessary for executing the MOU to the other Participant. Project Equipment will remain the property of the providing Participant. A list of all Project Equipment provided by one Participant to the other Participant will be developed and maintained by the PM, approved by the SC and incorporated into Annex F (Inventory of Project Equipment Exchanges) in accordance with Section IV (Management) of this MOU prior to such transfers.

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

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

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

8.5. Project Equipment transferred to one Participant under this MOU will be returned to the providing Participant prior to the termination or expiration of this MOU.

**SECTION IX  
DISCLOSURE AND USE OF PROJECT INFORMATION**

9.1. General

Both Participants recognize that successful collaboration depends on full and prompt exchange of information necessary for carrying out the **Project CATALYST II**. The Participants intend to acquire sufficient Project Information and rights to use such information to enable the development and integration of technology enhancements to and operation and support of the PROPHET and SOOTHSAYER Systems. The nature and amount of Project Information to be acquired will be consistent with the objectives stated in Section II (Objectives), Section III (Scope of Work), and the operational requirements detailed in Annex A (System Requirements) of this MOU.

9.2. Government Project Foreground Information

9.2.1 Disclosure: Project Foreground Information generated by a Participant's military or civilian employees will be disclosed without charge to both Participants.

9.2.2. Use: Each Participant may use all Government Project Foreground Information without charge for Defense Purposes. The 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 XIII (Third Party Sales and Transfers) of this MOU.

9.3. Government Project Background Information

9.3.1. Disclosure: Each Participant upon, request, will disclose to the other Participant any relevant Government Project Background Information generated by its military and civilian employees, provided that:

9.3.1.1. such Project Background Information is necessary to or useful in the Project. The originating Participant will determine whether it is "necessary to" or "useful in" the Project;

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

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

9.3.2. Use: Government Project Background Information disclosed by one Participant to the other may be used without charge by the other

Participant for Project Purposes only; however, the furnishing Participant will retain all its rights with respect to such Project Background Information.

#### 9.4. Contractor Project Foreground Information

9.4.1 Disclosure: Project Foreground Information generated and delivered by Contractors, will be disclosed without charge to both Participants.

9.4.2 Use: Each Participant may use without charge for its Defense Purposes all Contractor Project Foreground Information generated and delivered by Contractors of the other Participant. The 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 XIII (Third Party Sales and Transfers) of this MOU.

#### 9.5. Contractor Project Background Information

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

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

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

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

9.5.2 Use: Project Background Information furnished by one Participant's Contractors and disclosed to the other Participant may be used without charge by the other Participant for Project Purposes only, and may be subject to further restrictions by holders of proprietary rights; however, the furnishing Participant will retain all its rights with respect to such Project Background Information.

9.6. Alternative Uses of Project Information

Any Project 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.

9.7. Proprietary Project Information

9.7.1. All unclassified Project Information subject to proprietary rights will be identified, marked, and handled as Controlled Unclassified Information. All classified Project Information subject to proprietary rights will be identified, marked and handled as Classified Information.

9.7.2. 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.

9.8. Patents

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

9.8.1.1. provides that the Participant will hold title to all Project Inventions together with the right to make Patent application for the same, free of encumbrance from the Contractor; or

9.8.1.2. provides that the Contractor will hold title (or may elect to retain title) for Project Inventions together with the right to make Patent applications for the same, while securing for the Participant a license for the Project Inventions, and any Patents therefore, on terms in compliance with the provisions of paragraph 9.8.2 below.

9.8.2. In the event that a Contractor holds title (or elects to retain title) for a Project Invention, the contracting Participant will secure for the Participants non-exclusive, irrevocable, royalty-free licenses under all Patents secured for that invention, to practice or have practiced the patented Project Invention for Defense Purposes throughout the world.

9.8.3. The provisions of sub-paragraphs 9.8.4 through 9.8.7 below will apply in regard to Patent rights for all Project Inventions made by any Participants' military or civilian employees, including those within Government-owned

facilities, and for all Project Inventions made by Contractors for which the contracting Participant holds title or is entitled to acquire title.

- 9.8.4. Where a Participant has or can secure the right to file a Patent application with regard to a Project Invention, that Participant will consult the other Participant regarding the filing of such Patent application. The Participant having such rights 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 such rights, or its Contractors, as appropriate, Patent applications covering any such Project Invention. If a Participant having filed or caused to be filed a Patent application decides to stop prosecution of the application, that Participant will notify the other Participant of that decision and permit the other Participant to continue the prosecution.
- 9.8.5. Each Participant will be furnished with copies of Patent applications filed and Patents granted with regard to Project Inventions.
- 9.8.6. Each Participant will grant to the other Participant a non-exclusive, irrevocable, royalty-free license under its Patents for Project Inventions, to practice or have practiced the Patent Project Invention for Defense Purposes throughout the world.
- 9.8.7. Patent applications which contain Classified Information, to be filed under this MOU, 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, signed on 21 September 1960, and its Implementing Procedures.
- 9.8.8. Each Participant Party will notify the other Participant of any Patent infringement claims made in its territory arising in the course of work performed under the Project. 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 percentage as they share the full Financial Costs and Non-financial Costs of the Project or mutually consent to alternative language. 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 Project of any invention covered by a Patent issued by their respective countries.

**SECTION X  
CONTROLLED UNCLASSIFIED INFORMATION**

10.1. 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:

- 10.1.1. Such information will be used only for the purposes authorized for use of Project Information as specified in Section IX (Disclosure and Use of Project Information) of this MOU.
- 10.1.2. Access to such information will be limited to personnel whose access is necessary for the permitted use under subparagraph 10.1.1., and will be subject to the provisions of Section XIII (Third Party Sales and Transfers) of this MOU.
- 10.1.3. 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 10.1.2., 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.

10.2. 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.

10.3. *Controlled Unclassified Information* provided or generated pursuant to this MOU will be handled in a manner that ensures control as provided for in paragraph 10.1.

10.4. 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 XI  
VISITS TO ESTABLISHMENTS**

11.1. 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.

11.2. 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.

11.3. 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 Project.

11.4. 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 XII SECURITY

12.1. All Collateral Classified Information or material exchanged or generated pursuant to this MOU will be stored, handled, transmitted, and safeguarded in accordance with the U.K./U.S. General Security Agreement of 14 April 1961, as amended and including the Security Implementing Arrangement dated 27 January 2003 thereto. All sensitive compartmented information or material provided under or generated pursuant to this arrangement will be stored, handled, transmitted, and safeguarded in accordance with the U.K./U.S. Agreement of 1946, as amended and amplified by the Melbourne Tripartite Conference of 1953.

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

12.3. Each Participant will take all lawful steps available to ensure that information provided or generated pursuant to this MOU is protected from further disclosure, except as permitted by paragraph 12.8, unless the other Participant consents to such disclosure. Accordingly, each Participant will ensure that:

12.3.1. 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 detailed in Section XIII (Third Party Sales and Transfers) of this MOU.

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

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

12.4. The Participants will investigate all cases in which it is known or where there are grounds for suspecting that Classified Information or material 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.

12.5. The Project **CATALYST II** PMs will prepare a Project Security Instruction and a Security Classification Guide for the Project. The Project Security Instruction and the Classification Guide will describe the methods by which Project Information and material

will be classified, marked, used, transmitted, and safeguarded. The Instruction will be developed by the PMs within three months after this MOU enters into effect. They will be reviewed and forwarded to the appropriate DSAs 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 DSAs prior to the transfer of any classified or Controlled Unclassified Information.

12.6. 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:

- 12.6.1. Ensure that such Contractor, prospective Contractor or subcontractor and their facility(ies) have the capability to protect the Classified Information adequately.
- 12.6.2. Grant a security clearance to the facility(ies), if appropriate.
- 12.6.3. Grant a security clearance for all personnel whose duties require access to Classified Information, if appropriate.
- 12.6.4. 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.
- 12.6.5. Carry out periodic security inspections of cleared facilities to ensure that the Classified Information is properly protected.
- 12.6.6. Ensure that access to the Classified Information is limited to those persons who have a need-to-know for purposes of the MOU.

12.7. 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.

12.8. For any facility wherein Classified Information or material 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 or material pertaining to this MOU. These officials will be responsible for limiting access to Classified Information or material involved in this MOU to those persons who have been properly approved for access and have a need-to-know.

12.9. 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 information in order to participate in the Project.

12.10. Information or material provided or generated pursuant to this MOU may be classified as high as U.S./U.K. TOP SECRET/SCI. The existence of this MOU is Unclassified and the contents are Unclassified.

**SECTION XIII  
THIRD PARTY SALES AND TRANSFERS**

13.1. Except to the extent permitted in paragraph 13.2, the Participants will not sell, transfer title to, disclose, or transfer possession of Project Foreground Information to any Third Party without the prior written consent of the other Participant. Furthermore, neither Participant will permit any such sale, disclosure, or transfer, including by the owner, without the prior consent of the other Participant. Such consent will not be given unless the government of the intended recipient confirms in writing to the Participants that it will:

13.1.1. not retransfer, or permit the further retransfer of, any equipment or information provided; and

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

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

13.2.1. which is generated solely by that Participant in performance of its work allocation under Section III (Scope of Work) of this MOU, and

13.2.2. which does not include any Project Background Information of the other Participant, and whose generation, test, or evaluation has not relied on the use of Project Equipment of the other Participant.

13.3. In the event questions arise as to whether the Project Foreground Information (or any item produced either wholly or in part from the Project Foreground Information) that a Participant intends to sell, transfer title to, disclose, or transfer to a Third Party is within the scope of paragraph 13.2., the matter will be brought to the immediate attention of the other Participant's PM. The 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.

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

13.5. Consent for Third Party sales and transfers of Project Foreground Information or jointly acquired Project Equipment, or any item produced either wholly or in part from Project Foreground Information will not be withheld except for reasons of foreign policy, national security, or national laws. A Participant's Government's approval of the other

Participant's Government's sale or transfer to a Third Party takes into account its willingness to sell or transfer such equipment or information to the same Third Party.

**SECTION XIV  
LIABILITY AND CLAIMS**

14.1. Claims arising under this MOU will be dealt with under paragraph 1 of the Agreement Concerning Defense Co-operation Arrangements of 27 May 1993. The cost sharing arrangements under sub-paragraph 1(b)(ii) will be 50/50 percentage.