

AMENDMENT 1  
TO THE  
AGREEMENT  
BETWEEN  
THE DEPARTMENT OF DEFENSE  
OF THE UNITED STATES OF AMERICA  
AND THE  
FEDERAL MINISTRY OF DEFENSE OF THE FEDERAL REPUBLIC  
OF GERMANY  
CONCERNING  
IN-SERVICE SUPPORT OF THE ROLLING AIRFRAME MISSILE MK-31 GUIDED MISSILE  
WEAPON SYSTEM

Certified to be a true copy:



Carmen Farro  
International Agreements Negotiator  
Navy International Programs Office

## **PREAMBLE**

The Department of Defense of the United States of America and the Federal Ministry of Defense of the Federal Republic of Germany, hereinafter referred to as the "Parties":

Considering the Agreement Between the Department of Defense of the United States of America and the Federal Ministry of Defense of the Federal Republic of Germany Concerning In-Service Support of the Rolling Airframe Missile MK-31 Guided Missile Weapon System (the Agreement), which entered into force February 9, 2001 (Agreement); and

Recognizing the need to amend the Agreement in order to continue successful in-service support of the RAM Guided Missile Weapon System (GMWS);

Have agreed as follows:

### **ARTICLE I PURPOSE**

The purpose of this amendment is to increase the Cost Ceiling, add funding for FY10-15 cooperative in-service support requirements, add export control text, and extend the duration of the Agreement to February 28, 2015 (fourteen years total).

### **ARTICLE II AMENDMENT**

The Agreement is amended as follows:

1. Add the following new definitions to Article I (Definitions):

"Contractor Support Personnel	Persons specifically identified as providing administrative, managerial, scientific, or technical support services to a Party under a support Contract."
"Party	A signatory to this Agreement represented by its military or civilian personnel. Contractors and Contractor Support Personnel shall not be representatives of a Party under this Agreement."
"Prospective Contractor	Any entity that seeks to enter into a Contract to be awarded by a Party's Contracting Agency and that, in the case of a solicitation involving the release of export-controlled information, is eligible to receive such information."

2. Add the following new responsibilities to Article IV (Management (Organization and Responsibility)):

“4.3.15. Employing its best efforts to resolve, in consultation with the export control authorities of the Parties, any export control issues raised by the RAMPO PM and DPM in accordance with subparagraph 4.6.13. of this Article, or raised by a Party’s SC representative in accordance with paragraph 4.8. of this Article.”

“4.6.13. Monitoring export control arrangements required to implement this Agreement and, if applicable, referring immediately to the SC any export control issues that could adversely affect the implementation of this Agreement.”

“4.7. If a Party finds it necessary to exercise a restriction on the retransfer of export-controlled information as set out in paragraph 8.1.1. of Article VIII (Disclosure and Use of Project Information) of this Agreement, it shall promptly notify the other Party. If a restriction is then exercised and the other Party objects, that Party’s SC representative shall promptly notify the other Party’s SC representative and they shall immediately consult in order to discuss ways to resolve such issues or mitigate any adverse effects.”

3. Delete paragraph 5.2. from Article V (Financial Provisions) and add a new paragraph 5.2. as follows:

“5.2. Costs of In-Service Support and RAMPO administration shall not exceed a Cost Ceiling of \$124.046 million 1999 U.S. dollars (\$124.046M). This Cost Ceiling may only be changed by amendment to this Agreement in accordance with Article XVIII (Amendment, Termination, Entry Into Force, and Duration). The maximum U.S. contribution to the Cost Ceiling is \$62.023M and the maximum German contribution is \$62.023M. The financial contributions required for these costs shall be shared as in accordance with Annex A (Financial Matters).”

4. Delete paragraph 6.5. from Article VI (Contracting Provisions) and add a new paragraph 6.5. as follows:

“6.5. The Contracting Officer shall negotiate to obtain the rights to use and disclose Project Information required by Article VIII (Disclosure and Use of Project Information) of this Agreement. The Contracting Officer shall insert into prospective Contracts (and require its Contractors to insert in subcontracts) suitable provisions to satisfy the requirements of this Agreement, including Article VIII (Disclosure and Use of Project Information), Article IX (Controlled Unclassified Information), Article XI (Security), Article XII (Third Party Sales and Transfers), and Article XVIII (Amendment, Termination, Entry Into Force, and Duration), including the export control provisions of this Agreement, in particular subparagraphs 6.5.1. and 6.5.2. of this Article. During the Contracting process, the Contracting Officer shall advise prospective Contractors of their responsibility to notify the Contracting Agency immediately, 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 shall also advise prospective Contractors to employ their best efforts not to enter into any new agreement or arrangement that will result in restrictions.

6.5.1. Each Party shall legally bind its Contractors to a requirement that the Contractor shall not retransfer or otherwise use export-controlled information furnished by the other Party for any purpose other than the purposes authorized under this Agreement. The Contractor shall also be legally bound not to retransfer the export-controlled information to another Contractor or subcontractor unless that Contractor or subcontractor has been legally bound to limit use of the information to the purposes authorized under this Agreement. Export-controlled information furnished by one Party under this Agreement may only be retransferred by the other Party to its Contractors if the legal arrangements required by this paragraph have been established.

6.5.2. Each Party shall legally bind its Prospective Contractors to a requirement that the Prospective Contractor shall not retransfer or otherwise use export-controlled information furnished by the other Party for any purpose other than responding to a solicitation issued in furtherance of the purposes authorized under this Agreement. Prospective Contractors shall not be authorized use for any other purpose if they are not awarded a Contract. The Prospective Contractors shall also be legally bound not to retransfer the export-controlled information to a prospective subcontractor unless that prospective subcontractor has been legally bound to limit use of the export-controlled information for the purpose of responding to the solicitation. Export-controlled information furnished by one Party under this Agreement may only be retransferred by the other Party to its Prospective Contractors if the legal arrangements required by this paragraph have been established. Upon request by the furnishing Party, the receiving Party shall identify its Prospective Contractors and prospective subcontractors receiving such export-controlled information.”

5. Add a new paragraph 8.1.1. after subparagraph 8.1. in Article VIII (Disclosure and Use of Project Information) as follows:

“8.1.1. Transfer of Project Information shall be consistent with the furnishing Party's applicable export control laws and regulations. Unless otherwise restricted by duly authorized officials of the furnishing Party at the time of transfer to the other Party, all export-controlled information furnished by one Party to the other Party may be retransferred to the other Party's Contractors, subcontractors, Prospective Contractors, and prospective subcontractors, subject to the above stated requirements of subparagraphs 6.5.1. and 6.5.2. of Article VI (Contracting Provisions) of this Agreement. Export-controlled information may be furnished by Contractors, subcontractors, Prospective Contractors, and prospective subcontractors of one Party's nation to Contractors, subcontractors, Prospective Contractors, and prospective subcontractors of the other Party's nation pursuant to this Agreement subject to the conditions established in licenses or other approvals issued by the

Government of the former Party in accordance with its export control laws and regulations.”

6. Delete the word “and” at the end of subparagraph 8.3.1.2., delete the period at the end of subparagraph 8.3.1.3. and insert “; and” in its place, and add a new subparagraph 8.3.1.4. after subparagraph 8.3.1.3. in Article VIII (Disclosure and Use of Project Information) as follows:

“8.3.1.4. any disclosure or transfer of such Project Background Information to Contractors is consistent with the furnishing Party’s export control laws and regulations.”

7. Delete the word “and” at the end of subparagraph 8.5.1.2., delete the period at the end of subparagraph 8.5.1.3. and insert “; and” in its place, and add a new subparagraph 8.5.1.4. after subparagraph 8.5.1.3. in Article VIII (Disclosure and Use of Project Information) as follows:

“8.5.1.4. any disclosure or transfer of such Project Background Information to Contractors is consistent with the furnishing Party’s export control laws and regulations.”

8. Delete paragraph 9.2. from Article IX (Controlled Unclassified Information) and add a new paragraph 9.2. as follows:

“9.2. To assist in providing the appropriate controls, the originating Party shall ensure that Controlled Unclassified Information is appropriately marked to ensure its “in confidence” nature. The Parties’ export-controlled information shall be marked in accordance with the applicable Party’s export control markings as documented in the Project Security Instruction. The Parties shall decide, in advance and in writing, on the markings to be placed on any other types of Controlled Unclassified Information and describe such markings in the Project Security Instruction.”

9. At the end of the second sentence of paragraph 11.5. of Article XI (Security), delete the period and add the following:

“, and shall require that markings for export-controlled Classified Information also include the applicable export markings identified in the Project Security Instruction in accordance with paragraph 9.2. of Article IX (Controlled Unclassified Information).”

10. Delete paragraph 18.1. from Article XVIII (Amendment, Termination, Entry Into Force, and Duration) and add a new paragraph 18.1. as follows:

“18.1. All activities of the Parties under this Agreement shall be carried out in accordance with their national laws and regulations, including their export control laws and regulations, and all obligations of the Parties shall be subject to the availability of funds for such purposes.”

11. Delete paragraph 18.8. from Article XVIII (Amendment, Termination, Entry Into Force, and Duration) and add a new paragraph 18.8. as follows:

“18.8. This Agreement, which consists of eighteen Articles and one Annex, shall enter into force upon signature by both parties and shall remain in force until February 28, 2015. It may be extended by written agreement of the Parties.”

12. Delete Annex A (Financial Matters) and add the new Annex A as follows:

**ANNEX A**

**FINANCIAL MATTERS**

	FY00 - FY09	FY10	FY11	FY12	FY13	FY14	FY15	TOTAL
<b>FINANCIAL CONTRIBUTIONS</b>								
U.S. (\$K)	33,941	4,341	4,472	4,606	4,744	4,886	5,033	62,023
GE (\$K)	33,941	4,341	4,472	4,606	4,744	4,886	5,033	62,023
<b>TOTAL CONTRIBUTIONS</b>	<b>67,882</b>	<b>8,682</b>	<b>8,944</b>	<b>9,212</b>	<b>9,488</b>	<b>9,772</b>	<b>10,066</b>	<b>124,046</b>

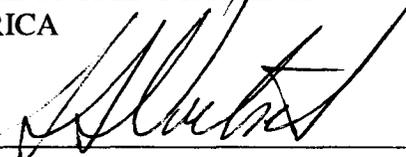
**ARTICLE III  
ENTRY INTO FORCE**

This Amendment One to the Agreement shall enter into force upon signature by both Parties. This Amendment shall remain in force for the same period as the Agreement that it amends. Unless specifically amended herein, all other provisions of the Agreement remain unchanged.

Done in duplicate, in the English language and German language, each text being equally authentic.

In witness whereof, the undersigned, being duly authorized by their Governments, have signed this Amendment.

FOR THE DEPARTMENT OF DEFENSE  
OF THE UNITED STATES OF  
AMERICA

  
\_\_\_\_\_  
Signature

S.S. VOETSCH  
Rear Admiral, U.S. Navy

\_\_\_\_\_  
Name

Deputy Assistant Secretary of the Navy  
(International Programs)

\_\_\_\_\_  
Title

22 APRIL 2010  
\_\_\_\_\_  
Date

Arlington, Virginia

\_\_\_\_\_  
Location

FOR THE FEDERAL MINISTRY OF  
DEFENSE OF THE FEDERAL  
REPUBLIC OF GERMANY

  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name Vizepräsident beim  
Bundesamt für Wehrtechnik  
und Beschaffung  
Dipl.-Ing. Reinhard Schütte

\_\_\_\_\_  
Title

18. Mai 2010  
\_\_\_\_\_  
Date

Koblenz  
\_\_\_\_\_  
Location