

**DEFENSE**

**Missiles**

**Memorandum of Understanding between  
the UNITED STATES OF AMERICA  
and AUSTRALIA**

Signed at Washington and Canberra  
August 3 and September 1, 2005

*with*

Annexes



NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89—497, approved July 8, 1966  
(80 Stat. 271; 1 U.S.C. 113)—

“ . . .the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof.”

## **AUSTRALIA**

### **Defense: Missiles**

*Memorandum of understanding signed at  
Washington and Canberra  
August 3 and September 1, 2005;  
Entered into force September 1, 2005.  
With annexes.*

MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE DEPARTMENT OF DEFENSE  
OF THE UNITED STATES OF AMERICA  
AND THE  
DEPARTMENT OF DEFENCE OF  
AUSTRALIA  
CONCERNING  
COLLABORATION ON  
TACTICAL MISSILE  
DESIGN, DEVELOPMENT, TEST AND EVALUATION

(SECRET) (U.S. EYES ONLY) (AUSTRALIAN EYES ONLY)

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## INTRODUCTION

The Department of Defense of the United States of America (U.S. DoD) and the Department of Defence of Australia (ADOD), hereinafter referred to as the “Participants”:

Recognizing the Exchange of Notes constituting an Agreement between the Government of the United States of America and the Government of Australia Concerning Certain Mutual Defense Commitments done at Sydney on December 1, 1995 (Chapeau Agreement) applies to this Memorandum of Understanding (MOU);

Having a common interest in defense;

Recognizing the benefits to be obtained from standardization, rationalization, and interoperability of military equipments;

Desiring to improve their mutual conventional defense capabilities through the application of emerging technology;

Having a potential mutual interest in the design, analysis, development, test and evaluation of the Tactical Missile Systems to satisfy national operational requirements;

Having independently conducted research and exploratory development of the applications of various technologies, recognize the benefits of cooperation in Tactical Missile programs of mutual interest;

Desiring to carry out collaborative design, analysis, development, test and evaluation of Tactical Missiles to address their needs;

Have reached the following understandings:

## SECTION I

### DEFINITIONS

The Participants have jointly decided upon the following definitions for terms used in this MOU:

Background Information	Information not generated in the performance of a Tactical Missile (TM) Activity.
Best Value	The value providing greatest benefit to both Participants.
Classified Information	Official information that requires protection in the interests of national security and is so designated by the application of a security classification marking. This information may be in oral, visual, magnetic or documentary form or in the form of equipment or technology.
Contract	Any mutually binding legal relationship under national laws which obligates a Contractor to furnish supplies or services, and obligates one or both of the Participants to pay for them.
Contracting	The obtaining of supplies or services by Contract from sources outside the government organizations of the Participants. Contracting includes description (but not determination) of supplies and services required, solicitation and selection of sources, preparation and award of Contracts, and all phases of Contract administration.
Contracting Agency	The entity within the government organization of a Participant, which has authority to enter into, administer, and/or terminate Contracts.
Contracting Officer	A person representing a Contracting Agency of a Participant who has the authority to enter into, administer, and/or terminate Contracts.
Contractor	Any entity awarded a Contract by a Participant's Contracting Agency.
Contractor Support Personnel	Persons specifically identified for support Contracts who provide administrative, managerial, scientific, or technical support services to a Participant under a Contract with that Participant that prohibits using information received under the contract for any purpose other than those authorized under

this MOU or the applicable PA.

Controlled Unclassified Information	Unclassified information to which access or distribution limitations have been applied in accordance with applicable national laws or regulations. It could include information, which has been declassified, but remains controlled. Whether the information is provided or generated under this MOU or its PAs, the information will be marked to identify its “in confidence” nature. U.S. export-controlled information will be marked as “International Traffic in Arms Regulations (ITAR)-Controlled”. AS export-controlled information will be marked as “Australian Export Controlled”.
Cooperative Project Personnel (CPP)	Military members or civilian employees of a Participant assigned under a specific Project Arrangement (PA) who perform managerial, engineering, technical, administrative, Contracting, logistics, financial, planning, or other functions in furtherance of a PA.
Cost Ceiling	The maximum amount to which the Cost Target for a TM PA may move without the prior written approval of the Participants.
Cost Target	The accepted planning figure of the total financial cost of a PA.
Defense Purposes	Manufacture or other use in any part of the world by or for the armed forces of either Participant.
Designated Security Authority (DSA)	The security office approved by national authorities to be responsible for the security aspects of this MOU.
Equipment and Material	Any material, equipment, end item, subsystem, component, special tooling or test equipment jointly acquired or provided for use in a PA or an Equipment and Material Transfer.
Financial Costs	Any costs that, due to their nature, will be paid using monetary contributions from the Participants.
Foreground Information	Information generated in the performance of a TM Activity.
Host Participant	The Participant whose nation serves as the location where CPP are assigned for duty pursuant to a PA under this MOU.
Information	Any information provided to, generated in, or used in a TM Activity regardless of form or type, including, but not limited

to, that of a scientific, technical, business, or financial nature, and also including photographs, reports, manuals, threat data, experimental data, test data, designs, specifications, processes, techniques, inventions, drawings, technical writings, sound recordings, pictorial representations, and other graphical presentations, whether in magnetic tape, computer memory, or any other form and whether or not subject to Intellectual Property Rights or other legal protection.

**Intellectual Property Rights**

All copyright and neighboring rights and all rights in relation to inventions (including Patent rights), registered and unregistered trademarks (including service marks), registered and unregistered designs, confidential information (including trade secrets and know-how), mask works fixed in semiconductor chip products, circuit layouts, and any other rights resulting from intellectual activity in the industrial, scientific, literary and artistic fields.

**Jointly Generated Foreground Information**

Information jointly generated by the Participants in the performance of a TM Activity.

**Non-financial Costs**

Any costs that, due to their nature, will be met using non-monetary contributions from the Participants.

**Patent**

Legal protection of the right to exclude others from making, using or selling an invention. The term refers to any and all patents including, but not limited to, patents of implementation, improvement, or addition; petty patents; utility models; appearance design patents; registered designs; and inventor certificates or like statutory protection as well as divisions, reissues, continuations, renewals, and extensions of any of these.

**Participant**

A signatory to this MOU represented by its military and civilian personnel. Contractors and Contractor Support Personnel will not be representatives of a Participant under this MOU or its PAs.

**Parent Participant**

The Participant that sends its CPP to the nation of the other Participant.

**Project Arrangement (PA)**

An implementing arrangement under this MOU that specifies the provisions for cooperation.

**Project Invention**

Any invention or discovery formulated or made (conceived or

first actually reduced to practice) in the course of work performed under a PA. The term first actually reduced to practice means the first demonstration, sufficient to establish to one skilled in the art to which the invention pertains, of the operability of an invention for its intended purpose and in its intended environment.

Project Manager (PM)	A representative of a Participant, appointed by the Participant(s), who has primary responsibility for effective implementation, efficient management, and direction of subsequently developed PAs.
Project Plan	Document that provides a description of a PA's major events, delivery requirements and milestones that is updated periodically.
Project Purposes	Any use by or for a Participant relating to a PA including all phases of the project carried out jointly or separately by the Participants.
Special Tooling	Jigs, dies, fixtures, molds, patterns, tapes, gauges, other equipment and manufacturing aids, and all components of these items, which are of such a specialized nature that without substantial modification or alteration their use is limited to the development or production of particular supplies or parts thereof or to the performance of particular services and excluding material, special test equipment, facilities (except foundations and similar improvements necessary for installing special tooling), general or special machine tools, or similar capital items.
Steering Committee (SC)	Representatives appointed by the Participants delegated executive-level responsibility for policy guidance and management oversight of the MOU and applicable PA(s).
Tactical Missile (TM)	A short to immediate range missile as distinguished from a strategic missile.
Tactical Missile Activity	Any activity in support of Section III (Scope of Work) of this MOU.
Tactical Missile System	The missile, canister, logistics, support and test equipment, training, and fire control mechanism.
Third Party	A government other than the government of a Participant and any person or other entity whose government is not the

government of a Participant.

**Working Group**

Any group established by the SC to explore, study and report on areas of mutual interest, in accordance with Sections III (Scope of Work) and IV (Management).

## SECTION II

### OBJECTIVES

- 2.1 This MOU establishes a comprehensive framework for implementing a program of cooperation on mutually determined topics related to the development and harmonization of requirements, design, research, development, testing, and certification of TM Systems. The specific level of cooperation will be determined through discussions conducted by the Participants under this MOU, consistent with their respective national interests. Information exchange for the specific purposes of identifying areas of potential cooperation, and for formulating, developing and negotiating TM Project Arrangements (PAs) is permitted under this MOU. Each Participant may transfer Equipment and Material to the other Participant for the purposes of carrying out TM Activities. Specific objectives of this MOU include:
  - 2.1.1 conducting information exchange for the specific purposes of identifying areas of potential cooperation, capability gaps, requirements harmonization, and for formulating, developing and negotiating TM PAs.
  - 2.1.2 establishing Working Groups to address specific TMs issues and capabilities, including but not limited to tactics, techniques, methods and procedures for the employment of TMs, and the identification of system modifications.
  - 2.1.3 establishing PAs for the conduct of cooperative TM System design, development, qualification and certification, and
  - 2.1.4 conducting Equipment and Material Transfers (E&MT).
- 2.2 The Participants intend to exercise their best efforts to accommodate the TM System requirements and capabilities of the other Participant. However, each Participant may decline to participate in a proposed TM Activity.
- 2.3 The Participants intend to consider future collaboration on production and follow-on support of TM Systems, which would be the subject of separate written arrangements.

## SECTION III

### SCOPE OF WORK

- 3.1 The overall work to be carried out under this MOU includes:
- 3.1.1 The identification of operational capabilities and the harmonization of operational requirements.
  - 3.1.2 The analysis and evaluation of operational requirements and programmatic options for achieving the required capability.
  - 3.1.3 The design and development of TM Systems that meet the required capability.
  - 3.1.4 Collaborating in the conduct of ACTDs.
  - 3.1.5 The testing and validation of TM Systems' performance.
- 3.2 The following mechanisms will be utilized to undertake the TM activities described in paragraph 3.1:
- 3.2.1 Information Exchange:
    - 3.2.1.1 Information exchange will take place on an equitable basis in all areas concerning TMs. This MOU permits the exchange of Information for any purpose under the scope of this MOU, including harmonization of TM capability requirements of the Participants and the formulating, developing, and negotiating of any TM Activity. Information exchange need not necessarily coincide in time, technical field, or in the form of Information.
    - 3.2.1.2 Computer data bases, computer software or computer software documentation associated with TM Activities may be transferred under this MOU in accordance with national procedures, subject to the following limitations:
      - 3.2.1.2.1 such transfers must be necessary or useful to the conduct of the TM activities as determined by the providing Participant; and
      - 3.2.1.2.2 such transfers may occur only where the providing Participant has obtained national authority for such release. Such

release may be subject to restrictions on use imposed by the providing Participant.

3.2.2 Working Groups (WGs):

WGs may be established to explore, study, and report on specific TM issues. A WG will be limited in scope to a single, well-defined area and will endeavor to assess the TM issue based on information provided by both Participants in such a way as to arrive at a jointly determined position within a set time limit. Each WG will have its own written Terms of Reference (TOR).

3.2.3 Project Arrangements:

This MOU may be implemented through PAs. Each PA will be subject to the terms and conditions of this MOU and may include provisions concerning the objectives, scope of work, sharing of tasks, management, financial arrangements, security classification, entry into effect, duration and termination and other special provisions as required.

3.2.4 Advanced Concept Technology Demonstrations (ACTDs):

The Participants recognize that it may be to their mutual advantage to conduct technology demonstrations, such as ACTDs, to evaluate evolving technology and TM concepts. The plan for the demonstrations will be documented in a TM PA (Annex A) tailored to meet the requirements of the project.

3.2.5 Equipment and Material Transfer:

The Participants recognize that it may be necessary to transfer Equipment and Material for the purpose of implementing this MOU, but not for the purposes of a specific PA. In such cases, the Participants may execute an Equipment and Material Transfer as identified at Annex C (Model Equipment and Material Transfer Form).

3.2.6 Familiarization Visits:

Familiarization visits may occur, in accordance with Section XII (Visits to Establishments).

3.2.7 Cooperative Project Personnel (CPP):

CPP may be assigned for PA work and will report to their designated supervisor regarding that work.

## SECTION IV

### MANAGEMENT (ORGANIZATION AND RESPONSIBILITIES)

- 4.1 This MOU and its PAs will be directed and administered on behalf of the Participants by an organization consisting of a Steering Committee (SC), and Project Managers (PMs) for PAs. A Joint Project Office (JPO) may be established for a PA when required. The SC will have overall authority over the PM(s).
- 4.2 The SC will consist of the US Army's Program Executive Officer for Tactical Missiles and the AS Director General Guided Weapons and Explosive Ordnance. The SC will meet at least annually with additional consultation as required at the request of either Participant. The representative hosting the meeting will chair the meeting. The Participants will alternate hosting SC meetings unless otherwise mutually determined. The host Participant will provide, without charge, appropriate meeting facilities, including secretarial and administrative support. Decisions of the SC will be made unanimously. In the event that the SC is unable to reach a timely decision on an issue, each SC representative will refer the issue to its higher authority for resolution. In the meantime, existing arrangements will continue to be implemented without interruption while the issue is being resolved by higher authority. The SC's responsibilities include, but are not limited to:
  - 4.2.1 Exercising executive-level oversight of the TM Activities, to include the approval of Working Group written Terms of Reference (TOR).
  - 4.2.2 Reviewing progress in meeting requirements of TM Activities.
  - 4.2.3 Reviewing the technical progress of TM Activities.
  - 4.2.4 Reviewing the financial status of PAs, to include the Financial Management Procedures Document (FMPD) when necessary, to ensure compliance with the provisions of Section V (Financial Provisions), and the financial provisions of the PA.
  - 4.2.5 Resolving issues brought forth by the PM(s).
  - 4.2.6 Reviewing and forwarding to the Participants for approval recommended amendments to this MOU in accordance with Section XVIII (Amendment, Termination, Entry Into Force, and Duration).
  - 4.2.7 Providing recommendations to the Participants as to the conditions under which a new participant may accede in accordance with Section XV (Participation of Additional Nations).

- 4.2.8 Monitoring Third Party sales and transfers authorized in accordance with Section XIII (Third Party Sales and Transfers).
- 4.2.9 Reviewing semi-annual status reports submitted by PM(s).
- 4.2.10 Approving plans for the transfer of Equipment and Material provided by either Participant in accordance with Section VIII(Equipment and Material Transfer).
- 4.2.11 Approving plans for the disposal of jointly acquired Equipment and Material under this MOU in accordance with Section VIII (Equipment and Material Transfer).
- 4.2.12 Maintaining oversight of the security aspects of TM Activities, including reviewing and obtaining approval from the appropriate Designated Security Authorities of an MOU implementing security instruction, a Project Security Instruction (PSI), and a Classification Guide prior to the transfer of Classified Information or Controlled Unclassified Information.
- 4.2.13 Reviewing and approving project documentation submitted by PM(s) to include Project Plans and their amendments.
- 4.2.14 Appointing and removing PM(s) and CPP when necessary.
- 4.2.15 Reviewing and submitting for approval PA proposals through national staffing channels.
- 4.3 PMs appointed by the SC will manage PAs. As mutually determined by the SC, there will be a PM from one Participant and a Deputy PM (DPM) from the other Participant. The Participants, working through the SC, may establish a JPO, when required. If a JPO is established, the PM will be appointed by the Host Participant and the DPM will be appointed by the other Participant. The PMs will be responsible for:
  - 4.3.1 Implementing, directing and managing their PA.
  - 4.3.2 Developing, submitting to the SC for approval, and executing the PA Project Plan and amendments thereto.
  - 4.3.3 Managing the schedule, performance requirements and technical aspects of the project described in the PAs under this MOU.
  - 4.3.4 Drafting PA WG TORs and submitting them to the SC for approval.

- 4.3.5 Executing the financial aspects of the PA, in accordance with Section V (Financial Provisions) of this MOU, including developing the FMPD for submission to the SC for approval.
- 4.3.6 Referring issues to the SC that cannot be resolved by the PM.
- 4.3.7 Providing a semi-annual PA status report to the SC.
- 4.3.8 Appointing a PA security officer to be approved by the SC.
- 4.3.9 Developing and forwarding to the SC a PSI and a Classification Guide (CG) in accordance with Section XII (Security).
- 4.3.10 Developing and implementing SC-approved plans to manage and control the transfer of Equipment and Material provided under the PA, in accordance with Section VIII (Equipment and Material Transfers).

#### 4.4 Working Groups

- 4.4.1 WGs may be established by the SC as necessary to examine areas of mutual interest under this MOU and/or to perform work under specific PAs. WGs will consist of representatives from both Participants. Each Participant will have one vote in WG matters, though a Participant may have as many representatives attend WG meetings as the Participant deems necessary. WGs will meet at least annually, and more often if deemed necessary. WGs meetings will normally be held virtually (VTC). When a physical meeting occurs, the location and chairmanship of meetings will alternate between the Participants, with the hosting Participant providing, without charge, appropriate meeting facilities, including security and administrative support.
- 4.4.2 WGs will be responsible for:
  - 4.4.2.1 Developing and submitting a TOR and any required changes, through the PMs, if applicable, to the SC for approval.
  - 4.4.2.2 Implementing the approved TOR.
  - 4.4.2.3 Recommending potential PAs to SC.
  - 4.4.2.4 Interacting with and providing information to other WGs, as directed by either the PM, if applicable, or the SC.
  - 4.4.2.5 Referring issues to the PM, if applicable, or the SC that cannot be resolved at the WG level.

## SECTION V

### FINANCIAL PROVISIONS

- 5.1 This MOU creates no financial commitments regarding individual PAs. Detailed descriptions of the financial provisions for a specific project, including the Cost Ceiling of the project and each Participant's cost share, will be contained in the specific PA.
- 5.2 Each Participant will contribute its equitable share of the full Financial Costs and Non-financial Costs of a PA, including overhead costs, administrative costs, and costs of claims, and will receive an equitable share of the results of each PA, as mutually determined.
- 5.3 The Financial and Non-financial provisions for a PA, including the Cost Ceiling, and each Participant's share of the Cost Ceiling, will be included in the PA.
- 5.4 For each PA, the PM will be responsible for establishing the detailed financial management procedures under which the project will operate. These procedures will be detailed in a FMPD proposed by the PM and subject to the approval of the SC.
- 5.5 Each Participant will perform, or have performed, its tasks and will use its best efforts to perform the tasks within the cost estimates specified in each PA. Each Participant will bear the full costs it incurs for performing, managing, and administering its own activities under this MOU and participation in each PA, including its share of the costs of any Contracts awarded pursuant to paragraph 5.11.
- 5.6 The following costs will be borne entirely by the Participant incurring the costs or on whose behalf the costs are incurred:
  - 5.6.1 costs associated with national representation at meetings.
  - 5.6.2 costs associated with any unique national requirements identified by a Participant.
  - 5.6.3 any other costs not expressly stated as shared costs or any costs that are outside the scope of this MOU and its PAs.
- 5.7 For PAs with shared costs that involve the establishment of a JPO with CPP assignments, the PA will address the Financial and Non-financial Costs contributions required for JPO administration and associated support services including, but not limited to, JPO costs of travel incurred in support of project efforts, JPO training costs, Contract award, Contract administration, office space,

security services, information technology services, communications services, and supplies.

5.8. In addition to the shared costs of JPO administration and associated support services costs described in paragraph 5.7, the cost of personnel in the JPO will be borne as follows:

5.8.1. The Host Participant will bear the costs of all pay and allowances of Host Participant personnel in the JPO.

5.8.2. The Parent Participant will bear the following CPP related costs:

5.8.2.1. All pay and allowances of CPP assigned to the JPO.

5.8.2.2. Transportation of CPP, CPP dependents, and their personal property to the JPO location prior to commencement of the CPP assignment in the JPO, and return transportation of the foregoing from the JPO location upon completion or termination of the CPP assignment.

5.8.2.3. Compensation for loss of, or damage to, the personal property of CPP or CPP dependents, subject to the laws and regulations of the Parent Participant's government.

5.8.2.4. Preparation and shipment of remains and funeral expenses in the event of the death of CPP or CPP dependents.

5.9. For PAs with shared costs that involve the establishment of one or more multinational offices with CPP assignments, the Participants will bear costs related to multinational offices established under such PAs as follows.

5.9.1. The Host Participant will bear the following costs:

5.9.1.1. All pay and allowances of Host Participant personnel assigned to the multinational office.

5.9.1.2. Multinational office costs including, but not limited to, CPP assignment-related administrative and support services costs such as CPP costs of travel incurred in support of Project efforts, CPP-related training costs, Contract award, Contract administration, office space, security services, information technology services, communications services, and supplies.

5.9.2. The Parent Participant will bear the following costs:

5.9.2.1. All pay and allowances of CPP assigned to the multinational office.

5.9.2.2. Transportation of CPP, CPP dependents, and their personal property to the multinational office location prior to commencement of the CPP assignment at a location specified by the Host Participant, and return transportation of the foregoing from this location upon completion or termination of the CPP assignment.

5.9.2.3. Compensation for loss of, or damage to, the personal property of CPP or CPP dependents, subject to the laws and regulations of the Parent Participant's government.

5.9.2.4. Preparation and shipment of remains and funeral expenses in the event of the death of CPP or CPP dependents.

- 5.10 A Participant will promptly notify the other Participant if available funds will not be adequate to fulfill its obligations as mutually determined under any PA to this MOU, or if it appears that the cost estimates in a PA will be exceeded. The Participants will immediately consult with a view toward continuation on a modified basis.
- 5.11 For a PA where a Participant contracts on behalf of the other Participant or on behalf of both Participants, the PM or SC, as appropriate, will be responsible for establishing the detailed financial management procedures under which the PA will operate prior to the transfer of funds between the Participants. The procedures, which will accord with national accounting and audit requirements of the Participants, will be detailed in an FMPD. Each Participant will provide funds in the amounts and at the times set forth in the estimated schedule for monetary contributions, as specified in the FMPD.
- 5.12 For PAs, the Participants recognize that, in performing Contracting responsibilities on behalf of the other Participant, it may become necessary for the Contracting Participant to incur contractual or other obligations for the benefit of the other Participant prior to the receipt of the other Participant's funds. In such event, the other Participant will make such funds available in such amounts and at such times as required by the Contract or other obligation and will pay its equitable share, as mutually determined, of any damages and costs that may accrue from the performance or cancellation of the Contract or other obligation, after consultation within the SC, in advance of the time such payments, damages, or costs are due.
- 5.13 Each Participant will be responsible for the audit of its activities or its Contractors' activities pursuant to a PA. A Participant's audits will be in accordance with its own national practices. For PAs where funds are transferred between the Participants, the receiving Participant will be responsible for the internal audit regarding administration of the other Participant's funds in accordance with the receiving Participant's national practices. Audit reports of such funds will be promptly made available by the receiving Participant to the other Participant.

## SECTION VI

### CONTRACTING PROVISIONS

- 6.1 If either Participant determines that Contracting is necessary to fulfill its obligations under the scope of work of any PA, that Participant will contract in accordance with its respective national laws, regulations and procedures. Sources from both Participants' industries will be allowed to compete on an equal basis for such Contracts.
- 6.2 When one Participant contracts on its own behalf to perform a task under a PA, 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 If the Participants determine that it is necessary under a PA that one Participant contract on behalf of the other Participant or for both Participants for tasks under that PA, the Contracting Agency will contract in accordance with its national laws, regulations, and procedures. Such contractual arrangements will be detailed in the particular PA. Sources from both Participants' industries will be allowed to compete on an equal basis for such Contracts. The Contracting Officer will be the exclusive source for providing contractual direction and instructions to Contractors and prospective Contractors. The PM will be responsible for the coordination of activities relating to this MOU and its PAs and will cooperate with the Contracting Officer in the areas of Contract procedures, Contract negotiation, evaluation of offers, and Contract award. The Contracting Officer will also keep the PM advised of all financial arrangements with Contractors.
- 6.4 Upon mutual consent, consistent with Section II (Objectives), a Participant may Contract for the unique national requirements of the other Participant.
- 6.5 For all Contracting activities performed by either Participant, the PM will, upon request, be provided 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 the applicable PA.
- 6.5 For all Contracting activities performed by either Participant, each Participant's Contracting Agency will negotiate to obtain the rights to use and disclose Information required by Section IX (Disclosure and Use of Information). Each Participant's Contracting Agency will insert into its prospective Contracts (and require its Contractors to insert in subcontracts) suitable provisions to satisfy the requirements of this MOU and the specific PA, including Section IX (Disclosure and Use of Information), Section XI (Controlled Unclassified Information), Section XII (Security), Section XIII (Third Party Sales and Transfers) and Section XVIII (Amendment, Termination, Entry Into Effect and Duration) including suitable

provisions to require compliance with the Participants' respective export control laws and regulations. During the Contracting process, each Participant's Contracting Officer will advise prospective Contractors of their obligation to notify the Contracting Agency immediately if they are subject to any license or agreement that will restrict that Participant's 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 such restrictions.

- 6.6 The transfer of export-controlled Information furnished by one Participant will be authorized by the Government of the furnishing Participant only to those Contractors of the other Participant who will limit the end use of the Information received for the sole purpose of furthering the purposes authorized under this MOU. The Participants will establish legal arrangements with their Contractors to require that their Contractors do not retransfer or otherwise use export-controlled Information for any purpose other than the purposes authorized under this MOU or the applicable PA. Such legal arrangements will also provide that the Contractor will not retransfer the export-controlled Information to another Contractor without the Government of the furnishing Participant's consent.
- 6.7 In the event a Participant's Contracting Agency is unable to secure adequate rights to use and disclose Information as required by Section IX (Disclosure and Use of Project Information), or is notified by Contractors or prospective Contractors of any restrictions on the disclosure and use of Information, that Participant will notify the other Participant of the restriction(s). The Participants will immediately consult, at the appropriate level, to assess the consequences and determine the way ahead.
- 6.8 The Contracting Officer will ensure that the PM is provided with sufficient information concerning the Contract and its execution, to enable them to fulfill their relevant responsibilities.
- 6.9 Should a Participant's Contracting Agency determine that quality assurance services, pricing or cost investigation services are required, such services will be obtained through the responsible national authorities of the Participant within whose territories the performing Contractor or subcontractor is located, consistent with any existing arrangements between the Participants in that regard.
- 6.10 Each Participant will promptly advise the other Participant 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 The work to be performed under this MOU will be awarded based on the concept of Best Value.
- 7.2 The industries of each Participant will be given equal opportunity to compete for, and equal chance of being awarded, work for which they have the capability.
- 7.3 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

### EQUIPMENT AND MATERIAL TRANSFER

- 8.1 For the purpose of carrying out a PA, each Participant may transfer, without charge to the other Participant, such Equipment and Material identified as being necessary for implementing a PA. The PA will provide specific details of any transfer of Equipment and Material. Equipment and Material identified at the time of PA signature will be detailed in the PA as set out in Annex A (Model PA). Equipment and Material which cannot be identified at the time of PA signature will be documented, when identified, in a list to be developed and maintained by the PM. Approval for all Equipment and Material Transfers (E&MTs) will be in accordance with national procedures.
- 8.2 For E&MTs concluded pursuant to Annex C, each Participant may transfer, without charge to the other Participant, Equipment and Material, in accordance with the model at Annex C (E&MT Form). Approval for all E&MTs will be in accordance with national procedures.
- 8.3 Equipment and Material transferred will be used by the receiving Participant for the purposes specified in the PA or E&MT Form only. Equipment and Material will remain the property of the providing Participant. In addition, the receiving Participant will maintain the Equipment and Material in good order, repair, and operable condition. Unless the providing Participant has consented that the transferred Equipment and Material may be expended or otherwise consumed without reimbursement to the providing Participant, the receiving Participant will return the Equipment and Material to the providing Participant in as good condition as received, reasonable wear and tear excepted, or return the Equipment and Material and pay the cost to restore the Equipment and Material to such condition. If the Equipment and Material is damaged beyond economical repair, the receiving Participant will return the Equipment and Material to the providing Participant (unless otherwise specified in writing by the providing Participant) and pay the replacement value as computed pursuant to the providing Participant's national laws, regulations, and procedures. If the Equipment and Material is lost or stolen 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. A good faith estimate of the replacement value will be calculated at the time of the loan. Should a loss occur, the actual replacement value will be computed by the providing Participant pursuant to the providing Participant's national laws, regulations, and procedures, in consultation with the receiving Participant.
- 8.4 The providing Participant will make every effort to ensure that the Equipment and Material is furnished in a serviceable and usable condition according to its intended

purpose. However, the providing Participant makes no warranty or guarantee of fitness of the Equipment and Material for a particular purpose or use, and makes no commitment to alter, improve, or adapt the Equipment and Material, or any part thereof.

- 8.5 The providing Participant will transfer the Equipment and Material for the approved period, unless extended by written amendment or terminated by either Participant. The duration of the transfer period will not exceed the effective period of the PA or E&MT Form.
- 8.6 The providing Participant, at its expense, will deliver the Equipment and Material, along with an equipment condition report and inventory, to the receiving Participant at a mutually determined location. Responsibility for Equipment and Material will pass from the providing Participant to the receiving Participant at time of receipt. Any further transportation will be the responsibility of the receiving Participant.
- 8.7 The providing Participant will furnish the receiving Participant such Information as is necessary to enable the Equipment and Material to be used.
- 8.8 Upon receipt of the equipment the receiving Participant will inspect and inventory the Equipment and Material. The receiving Participant will also inspect and inventory the Equipment and Material prior to its return (unless the Equipment and Material is to be expended or consumed).
- 8.9 Upon expiration or termination of the transfer period specified in the PA or the E&MT Form (taking into account any extension), the receiving Participant will return the Equipment and Material along with an equipment condition and inventory report, at its expense, to the providing Participant at a mutually determined location. Responsibility for the Equipment and Material will pass from the receiving Participant to the providing Participant at the time of its receipt. Any further transportation is the responsibility of the providing Participant.
- 8.10 The receiving Participant will provide written notice of consumption or expenditure of Equipment and Material approved for such consumption or expenditure. In the event the intended consumption or expenditure does not occur, the receiving Participant will, unless otherwise determined by the providing Participant, return the Equipment and Material, at its expense, to the providing Participant to a mutually determined location. Any further transportation is the responsibility of the providing Participant.
- 8.11 The Participants will ensure, by all reasonable means, the protection of Intellectual Property Rights in Equipment and Material.
- 8.12 Each Participant waives all claims against the other Participant for damage to or loss of jointly acquired or produced Equipment and Material arising from the performance of official duties. However, if the Participants mutually decide to repair damaged jointly acquired or produced Equipment and Material in order to

complete PA efforts, the cost of such repair will be shared in the same proportions established for the Participants' contributions under the PA. In any case, if the damage or loss is caused by reckless acts, reckless omission, willful misconduct or gross negligence, the costs of any liability, including the cost of repairs, will be borne by the responsible Participant.

- 8.13 Any Equipment and Material which is jointly acquired on behalf of both Participants will be disposed of during the PA or when the PA expires or is terminated, as approved or directed by the SC. Jointly acquired Equipment and Material will remain the property of both the Participants in the same ratio as Financial and Non-financial Costs are shared in the PA under which it is acquired. Disposal of jointly acquired or produced Equipment and Material may include a transfer of the interest of one of the Participants in such Equipment and Material to the other Participant, the sale or transfer of such Equipment and Material to a Third Party in accordance with Section XIII (Third Party Sales and Transfers), or sale or transfer to other entities. The Participants will share the consideration from jointly acquired or produced Equipment and Material transferred or sold to a Third Party or other entity in the same ratio as costs are shared in the PA.

## SECTION IX

### DISCLOSURE AND USE OF INFORMATION

9.1 Both Participants recognize that successful collaboration depends on full and prompt exchange of Information necessary for carrying out each TM Activity. The Participants intend to acquire sufficient Information and rights to use such Information to promote the objectives of this MOU. The nature and amount of Information to be acquired will be consistent with the objectives stated in Section III (Objectives) and Section IV (Scope of Work) of this MOU. Subject to the rights both Participants are accorded under this MOU, title to Foreground Information generated by a Participant or its Contractor will reside in that Participant and/or its Contractors, in accordance with that Participant's national laws, regulations, and policies. Nothing in this MOU will affect title to Background Information of the Participants or their Contractors. Transfer of such Information to Contractors will be consistent with each Participant's applicable respective export control laws and export control regulations.

#### Information Exchange, Working Groups, and Familiarization Visits

9.2 The disclosure and use provisions which govern exchange of Information, WGs, and Familiarization Visits authorized in Section II (Scope of Work), paragraphs 3.2.1, 3.2.2 and 3.2.5 are as follows in paragraphs 9.2.1, and 9.2.2:

9.2.1 Disclosure: Each Participant, upon request, will disclose to the other Participant any relevant Information, provided that:

9.2.1.1 such Information is necessary to or useful in a TM Activity, with the furnishing Participant determining whether it is "necessary to" or "useful in" the TM Activity;

9.2.1.2 such Information may be made available without incurring liability to holders of Intellectual Property Rights;

9.2.1.3 disclosure is consistent with national disclosure policies and regulations of the furnishing Participant; and

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

9.2.2 Use: Use of Information will be for information and evaluation purposes only. Written permission from the furnishing Participant will be required for any other use.

## Project Arrangements

### 9.3 Government Foreground Information.

- 9.3.1 Disclosure: Government Foreground Information generated by a Participant's military or civilian employees will be disclosed without charge to the other Participant.
- 9.3.2 Use: Each Participant may use all Government Foreground Information without charge for Defense Purposes only. The Participant generating Government 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.

### 9.4 Government Background Information.

- 9.4.1 Disclosure: Each Participant, upon request, will disclose to the other Participant any relevant Government Background Information generated by its military or civilian employees, provided that:
  - 9.4.1.1 such Government Background Information is necessary to or useful in the TM Activity, with the furnishing Participant determining whether it is "necessary to" or "useful in" the TM Activity;
  - 9.4.1.2 such Government Background Information may be made available without incurring liability to holders of Intellectual Property Rights;
  - 9.4.1.3 disclosure is consistent with national disclosure policies and regulations of the furnishing Participant; and
  - 9.4.1.4 any disclosure or transfer of such Government Background Information to Contractors is consistent with the furnishing Participant's export control laws and regulations.
- 9.4.2 Use: Government Background Information disclosed by one Participant to the other may be used without charge by the other Participant for Project Purposes only. However, subject to Intellectual Property Rights held by other than the Participant, Government Background Information may be used for Defense Purposes by the receiving Participant without charge when the use of such Government Background Information is necessary for the use of Government Foreground Information. The furnishing Participant (after consultation with the receiving Participant) will determine whether such use of Government Background Information is necessary. The furnishing Participant will retain all its rights with respect to such Background Information.

## 9.5 Contractor Foreground Information.

- 9.5.1 Disclosure: Contractor Foreground Information generated and delivered by Contractors, will be disclosed without charge to the other Participant.
- 9.5.2 Use: Each Participant may use all Contractor Foreground Information generated and delivered by Contractors of the other Participant without charge for Defense Purposes only. The Participant whose Contractors generate and deliver Contractor 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 Foreground Information will be subject to the provisions of Section XIII (Third Party Sales and Transfers) of the MOU.

## 9.6 Contractor Background Information.

- 9.6.1 Disclosure: Any Contractor Background Information, (including information subject to Intellectual Property Rights) which is or has been generated outside of a TM Activity and delivered by Contractors will be disclosed to the other Participant provided the following provisions are met:
  - 9.6.1.1 such Contractor Background Information is necessary to or useful in the TM Activity, with the furnishing Participant determining whether it is “necessary to” or “useful in” the TM Activity;
  - 9.6.1.2 such Contractor Background Information may be made available without incurring liability to holders of Intellectual Property Rights;
  - 9.6.1.3 disclosure is consistent with national disclosure policies and regulations of the furnishing Participant; and
  - 9.6.1.4 any disclosure or transfer of such Contractor Background Information to Contractors is consistent with the furnishing Participant’s export control laws and regulations.
- 9.6.2 Use: Contractor 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 Intellectual Property Rights. The furnishing Participant will retain all its rights with respect to such Contractor Background Information.

## 9.7 Jointly Generated Foreground Information.

- 9.7.1 Disclosure: All Jointly Generated Foreground Information generated under a TM Activity will be disclosed to both Participants promptly and without charge.
  - 9.7.2 Use: Each Participant generating or receiving Jointly Generated Foreground Information may use or have used such information without charge only for its Defense Purposes, unless mutually determined otherwise in writing.
  - 9.7.3 Information generated by PA WGs will be treated as Jointly Generated Foreground Information unless mutually determined otherwise in writing.
- 9.8 Alternative Uses of Information.
- 9.8.1 Any 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 furnishing Participant.
  - 9.8.2 The prior written consent of each Participant will be required for the use of Foreground Information for any purposes other than those provided for in this MOU.
- 9.9 Intellectual Property Rights.
- 9.9.1 All unclassified Information subject to Intellectual Property Rights will be identified and marked, and it will be handled as Controlled Unclassified Information in accordance with Section X (Controlled Unclassified Information).
  - 9.9.2 All Classified Information subject to Intellectual Property Rights will be identified, marked and handled in accordance with Section XII (Security).
- 9.10 Inventions and Patents.
- 9.10.1 Reporting of Inventions. A Participant will disclose to the other Participant any Invention made by its respective employees or Contractors as promptly as possible after the Invention is made. The disclosure will be in the form of a written report listing the inventor(s) and describing the manner and process of making and using the Invention in sufficient technical detail as to enable any person skilled in the art to which it pertains to make and use the Invention.
  - 9.10.2 Title to Inventions. Each Participant will retain title to each Invention made by its respective employees.

9.10.2.1 The Participant retaining title to such Inventions will grant to the other Participant at least a royalty-free, nonexclusive, irrevocable license to practice or have practiced worldwide for Defense Purposes by or on behalf of the other Participant such Inventions covered by any resulting Patents.

9.10.2.2 The Participant retaining title to such Inventions may, in its discretion, grant rights in such Inventions covered by any resulting Patents to the other Participant (in addition to the rights granted by 9.10.2.1), or any other person or entity, upon such terms and conditions as it deems appropriate.

9.10.3 Title to Joint Inventions. Title to Inventions made jointly by employees of both Participants will be held jointly by the Participants unless otherwise mutually determined.

9.10.3.1 The Participants may grant rights in such joint Inventions to any other person or entity, upon such terms and conditions, as the Participants mutually determine.

9.10.4 Contractor Generated Inventions. Title to Inventions made by Contractors will be held in accordance with the terms of the respective Contract. Where any Contract fails to specify how title in any Patent will be held, title will be determined in accordance with the national laws governing Inventions by Contractors of the Participant who awarded the Contract.

9.10.4.1 Contractor Generated Inventions in Unique National Variants. Where Inventions are made in connection with unique national variants, paid for fully by or on behalf of only one Participant, regardless of who is the Contracting Agency, the Contracting Agency must ensure that the Contract grants to the Participant funding the national variant any rights as directed by that Participant.

9.10.4.2 Contractor Generated Inventions of Participants. Where a Contract is awarded by a Participant on its own behalf or by a Contracting Agency on behalf of the other Participant or both Participants, the Contract so awarded must ensure that the owner of any Invention made by a Contractor will grant to the Participants at least a royalty-free, nonexclusive, irrevocable license to practice or have practiced worldwide for Defense Purposes by or on behalf of the Participants the Invention covered by any resulting Patents.

9.10.5 Patent Applications. A Participant having the right to hold title to an Invention may elect to file Patent applications or otherwise seek Patent protection thereon provided it so advises the other Participant of its intention to do so and the countries in which it intends to seek Patent

protection within 60 days from the date it reports the Invention to the other Participant.

9.10.5.1 If a Participant initially elects to seek Patent protection, but later decides not to continue seeking Patent protection, or if a Participant decides not to share the costs of seeking Patent protection of a joint Invention, then the other Participant may elect (but is not required) to seek Patent protection on such Invention in those countries in which the Participant has not elected to seek Patent protection.

9.10.5.2 If the other Participant elects to seek Patent protection in those countries, the Participant initially having the right to seek Patent protection on the Invention decides to consent to such filing by the other Participant and the Participants will equitably share, as mutually determined by the Participants, any royalties from the licensing of any resulting Patents taking into consideration the expenses incurred by each Participant in securing Patent protection.

9.10.5.3 A Participant will not file or cause to be filed any Patent application outside the United States of America and Australia, or publish or cause to be published any such application or Patent thereon anywhere, without the other Participant's prior written consent where the application contains either:

9.10.5.3.1 the other Participant's Background Information, or

9.10.5.3.2 Jointly Generated Foreground Information.

9.10.5.4 Patent applications on Inventions which contain Classified Information will be protected and safeguarded in accordance with the requirements contained in Section XII (Security).

#### 9.10.6 Patent Prosecution.

9.10.6.1 The expenses attendant to seeking Patent protection as specified above will be borne by the Participant seeking Patent protection. Where both Participants jointly seek Patent protection, the expenses attendant to seeking the Patent protection will be shared equally between the Participants, unless mutually determined otherwise.

9.10.6.2 Each Participant will provide the other Participant with copies of Patent applications it files in Patent offices, along with a power to inspect and make copies of all documents retained in the files of the applicable Patent office that are available for inspection and copying by a Participant seeking Patent protection.

9.10.6.3 A Participant seeking Patent protection will have the right to control the Patent prosecution where it is solely funding the expenses attendant to seeking the Patent protection. Where both Participants are seeking Patent protection, they will jointly control the Patent prosecution if each is funding a portion of the expenses attendant to seeking the Patent protection. The Participants will cooperate with each other in seeking Patent protection.

9.10.7 Maintenance Fees. The fees payable to a Patent office in order to maintain the Patent on an Invention will be paid by the Participant having title to the Patent or will be shared equally if title is held jointly by both Participants. If one Participant decides not to pay the required maintenance fees, it will immediately notify the other Participant, who may pay the maintenance fees if it desires to maintain the enforcement of the Patent. In this case, the Participant who has decided not to pay the maintenance fees will assign its rights to the other Participant.

9.10.8 Infringement. Each Participant will notify the other Participant of any Patent infringement claims made in its territory arising in the course of work performed under any PA of this MOU. 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. Unless the Participants otherwise mutually determine in writing, the costs of resolving Patent infringement claims will be handled as follows. The Participants will share in the costs of resolving Patent infringement claims in the same percentage as they share the full Financial and Non Financial Costs of the applicable PA. If the infringement claim does not arise under a PA, then the Participants will share in the costs of resolving Patent infringement claims equally. 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 a PA 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 and any of its PAs will be controlled as follows:
- 10.1.1 Such information will be used only for the purposes authorized for use of Information as specified in Section IX (Disclosure and Use of Information).
  - 10.1.2 Access to such information will be limited to personnel whose access is necessary for the permitted use under subparagraph 10.1.1.1 and will be subject to the provisions of Section XIII (Third Party Sales and Transfers).
  - 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 provisions, 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. Controlled Unclassified Information markings will be identified in a MOU implementing security instruction specifically for WG and E&MT. For PAs, Controlled Unclassified Information markings will be defined in the PSI.
- 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 Participant. Requests for visits will bear the name of this MOU and the applicable TM Activity.
- 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 Classified Information provided or generated pursuant to this MOU will be stored, handled, transmitted, and safeguarded in accordance with the Agreement between the Government of Australia and the Government of the United States of America concerning Security Measures for the Protection of Classified Information which entered into force on 7 November 2002.
- 12.2 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 information 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 and the applicable TM Activity.
- 12.3 Each Participant will take all lawful steps available to it to ensure that Classified Information provided or generated pursuant to this MOU is protected from further disclosure, except as permitted by paragraph 13.8, 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 any 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).
  - 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 Classified Information that is provided under this MOU.
  - 12.3.4 The recipient will not downgrade the national security classification assigned by the furnishing Participant without the prior written consent of the furnishing Participant.
- 12.4 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 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, of the final results of the investigation, and of the corrective action taken to preclude recurrences.

- 12.5 The PM will prepare a PSI and a CG for a PA. The PSI and the CG will describe the methods by which Information will be classified, marked, used, transmitted, and safeguarded. The PSI and CG will be developed by the PM within three months after the PA comes into effect. They will be reviewed and forwarded to the Participants' DSA for approval and will be applicable to all government and Contractor personnel participating in the project. The CG will be subject to regular review and revision with the aim of downgrading and classification whenever this is appropriate. The PSI and the CG will be approved by the appropriate DSA prior to the transfer of any Classified Information or Controlled Unclassified Information.
- 12.6 The DSA of the Participant in which a classified Contract is awarded pursuant to this MOU 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, subcontractor or prospective subcontractor of any Classified Information provided or generated under this MOU, the DSA will:
- 12.6.1 Ensure that such Contractor, prospective Contractor, subcontractor, or prospective subcontractor and their facility (ies) have the capability to protect the Classified Information adequately under each Participant's National Industrial Security Program.
  - 12.6.2 Grant a security clearance to the facility (ies).
  - 12.6.3 Grant a security clearance for all personnel whose duties require access to Classified Information.
  - 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 the purposes of the MOU and any TM Activities.
- 12.7 Contractors, prospective Contractors, subcontractors, or prospective 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 or any of its 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 Participant will be consulted for approval prior to permitting such access.

- 12.8 For any facility wherein Classified Information 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 Classified Information pertaining to this MOU and any TM Activity. These officials will be responsible for limiting access to Classified Information involved in this MOU and any TM Activity 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 Classified Information in order to participate in this MOU or any TM Activity.
- 12.10 Information provided or generated pursuant to this MOU may be classified as high as SECRET. The existence of this MOU is UNCLASSIFIED and the contents are UNCLASSIFIED. The classification of the existence of any PA and its contents will be stated in that PA.

## 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, transfer possession of Foreground Information (or any item produced either wholly or in part from Foreground Information) or jointly acquired or produced Equipment and Material, to any Third Party without the prior written consent of the Government of the other Participant. Furthermore, neither Participant will permit any such sale, disclosure, or transfer, including by the owner of the item, without the prior written consent of the Government of the other Participant. Such consent will not be given unless the Government of the intended recipient consents in writing with 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 Foreground Information that:
- 13.2.1 is generated solely by either that Participant or that Participant's Contractors in the performance of that Participant's work allocation under Section II (Scope of Work);
  - 13.2.2 does not include any Foreground Information or Background Information of the other Participant, and whose generation, test, or evaluation has not relied on the use of Equipment and Material of the other Participant.
- 13.3 In the event questions arise as to whether the Foreground Information (or any item produced either wholly or in part from the Foreground Information) that a Participant intends to sell, transfer title to, disclose, or transfer possession of to a Third Party is within the scope of paragraph 13.2, the matter will be brought to the immediate attention of the SC. The Participants will resolve the matter prior to any sale or other transfer of such Foreground Information (or any item produced either wholly or in part from the Foreground Information) to a Third Party.
- 13.4 The Participants will not sell, transfer title to, disclose, or transfer possession, grant, donate or transfer usage rights of Equipment and Material or Background Information provided by the other Participant to any Third Party without the prior written consent of the Government of the Participant that provided such equipment or information. The providing Participant's Government 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 Foreground Information, jointly acquired or produced Equipment and Material, or any item produced either wholly or in part from Foreground Information will be subject to foreign policy, national security considerations, and national laws, regulations and policies. A Participant's Government's approval of the other Participant's Government's proposed sale or transfer to a Third Party will take into account their 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 in accordance with paragraph 1 of the Chapeau Agreement.
- 14.2 The Participants will share any costs required to be shared under subparagraph 1(b)(ii) of the Chapeau Agreement in the same proportions as the Financial Costs and Non-financial Costs are shared in the PA.
- 14.3 The Participants will share any costs required to be shared under subparagraph 1(b)(iv) of the Chapeau Agreement on the following basis:
  - 14.3.1 For Contracts where one Participant contracts solely on its own behalf, the Participant awarding the Contract will pay the cost of claims arising under that Contract.
  - 14.3.2 For Contracts where one Participant contracts on behalf of the other Participant, the Participant on whose behalf the Contract was awarded will pay the cost of claims arising under that Contract. The contracting Participant will not indemnify Contractors against third party liability claims, unless otherwise mutually determined in a PA.
  - 14.3.3 For Contracts awarded on behalf of both Participants, the costs of claims arising under such Contracts will be shared in the same proportions as costs are shared in the PA. The contracting Participant will not indemnify Contractors against third party liability claims, unless otherwise mutually determined in a PA.

## SECTION XV

### PARTICIPATION OF ADDITIONAL NATIONS

- 15.1 The Participants recognize that other nations may wish to join this MOU.
- 15.2 Mutual consent of the Participants will be required to conduct discussions with potential additional participants. The Participants will discuss the arrangements under which another participant might join, including the furnishing of releasable Information for evaluation prior to joining. If the disclosure of Information is necessary to conduct discussions, such disclosure will be in accordance with Section IX (Disclosure and Use of Project Information), Section X (Controlled Unclassified Information), and Section XIII (Third Party Sales and Transfers).
- 15.3 The addition of new participants may require amendment to this MOU or the establishment of a new MOU.

## SECTION XVI

### CUSTOMS DUTIES, TAXES, AND SIMILAR CHARGES

- 16.1 Customs duties, import and export taxes, and similar charges will be administered in accordance with each Participant's respective laws and regulations. Insofar as existing national laws and regulations permit, the Participants will endeavor to ensure that such readily identifiable duties, taxes, and similar charges, as well as quantitative or other restrictions on imports and exports, are not imposed in connection with work carried out under this MOU.
- 16.2 Each Participant will use its best efforts to ensure that customs duties, import and export taxes, and similar charges are administered in a manner favorable to the efficient and economical conduct of the work. If any such duties, taxes, or similar charges are levied, the Participant in whose country they are levied will bear such costs as a cost to that Participant over and above that Participant's financial contribution under this MOU.

## SECTION XVII

### SETTLEMENT OF DISPUTES

Disputes between the Participants arising under or relating to this MOU or any of its PAs will be resolved only by consultation between the Participants and will not be referred to a national court, to an international tribunal, or to any other person or entity for settlement.

## SECTION XVIII

### AMENDMENT, TERMINATION, ENTRY INTO EFFECT, AND DURATION

- 18.1 All activities of the Participants under this MOU will be carried out in accordance with their respective national laws and regulations, including their respective export control laws and regulations. The obligations of the Participants will be subject to the availability of funds for such purposes.
- 18.2 In the event of a conflict between a Section of this MOU and any Annex to this MOU or subsequently established PAs or arrangements under this MOU, the MOU will take precedence.
- 18.3 This MOU, or PAs to this MOU, may be amended by the mutual written consent of the Participants.
- 18.4 This MOU, or any PA to this MOU, may be terminated at any time upon the mutual written consent of the Participants. In the event both Participants consent to terminate this MOU, or any PA to this MOU, the Participants will consult prior to the date of termination to ensure termination on the most economical and equitable provisions. Termination of this MOU will result in the termination of all PAs to this MOU.
- 18.5 Either Participant may terminate this MOU, or any PA to this MOU, upon 180 days written notification of its intent to terminate to the other Participant. Such notice will be the subject of immediate consultation by the SC to decide upon the appropriate course of action to conclude the activities under this MOU or any PA. In the event of such termination, the following rules apply:
- 18.5.1 The Participants will continue participation, financial or otherwise, up to the effective date of termination.
- 18.5.2 Except as to Contracts awarded on behalf of both Participants, each Participant will be responsible for its own project-related costs associated with termination of the PA. For Contracts awarded on behalf of both Participants, the terminating Participant will pay all Contract modification or termination costs that would not otherwise have been incurred but for the decision to terminate; in no event, however, will a terminating Participant's total financial contribution, including Contract termination costs, exceed that Participant's Total Cost Ceiling for financial contributions as established in Section V (Financial Provisions).
- 18.5.3 All Information and rights therein received under the provisions of this MOU or any PA prior to the termination, will be retained by the Participants, subject to the provisions of this MOU.

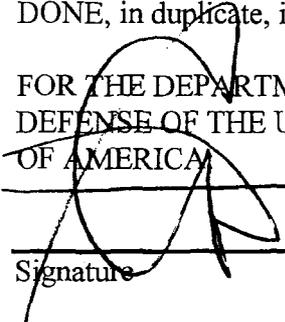
18.6 The respective rights and obligations of the Participants regarding Section VIII (Equipment and Material Transfer), Section IX (Disclosure and Use of Information), Section X (Controlled Unclassified Information, Section XII (Security), Section XIII (Third Party Sales and Transfers), Section XIV (Liability and Claims), Section XVII (Disputes), and this Section XVIII (Amendments, Termination, Entry into Effect, and Duration) will continue to apply notwithstanding termination or expiration of this MOU or any of its PAs.

18.7 This MOU, which consists of eighteen (18) Sections and three (3) Annexes, will come into effect on the date of last signature and will remain in effect for twenty (20) years unless terminated by either Participant. It may be extended by the written mutual determination of the Participants.

The foregoing represents the understandings reached between the Department of Defense of the United States of America and the Department of Defence of Australia upon the matters referred to herein.

DONE, in duplicate, in the English language.

FOR THE DEPARTMENT OF  
DEFENSE OF THE UNITED STATES  
OF AMERICA

  
\_\_\_\_\_  
Signature

Craig D. Hunter

\_\_\_\_\_  
Name

Deputy Assistant Secretary of the Army  
for Defense Exports and Cooperation

\_\_\_\_\_  
Title

3 AUG 2005  
\_\_\_\_\_  
Date

Washington, DC  
\_\_\_\_\_  
Location

FOR THE DEPARTMENT OF  
DEFENCE OF AUSTRALIA:

  
\_\_\_\_\_  
Signature

Shireane McKinnie

\_\_\_\_\_  
Name

HEAD ELECTRONIC AND  
WEAPON SYSTEMS DIVISION

\_\_\_\_\_  
Title

1 September 2005  
\_\_\_\_\_  
Date

CANBERRA, AUSTRALIA  
\_\_\_\_\_  
Location

ANNEX A

MODEL PROJECT ARRANGEMENT (PA)

TM PA NUMBER – (TM-XXXX\*)

UNDER THE  
U.S. DOD – ADOD  
TACTICAL MISSILE DESIGN, DEVELOPMENT, TEST AND EVALUATION  
MEMORANDUM OF UNDERSTANDING (MOU)

DATED

CONCERNING

*(FULL DESIGNATION OF THE PROJECT)*

**\*The U.S. DoD will assign the Project Arrangement number.**

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***(At a minimum, a PA should include the above sections. If additional topics need to be addressed, sections, annexes, or special provisions should be included as necessary and appropriate.)***

INTRODUCTION

This Tactical Missiles (TM) Project Arrangement (PA) is entered into pursuant to the MOU between the Department of Defense of the United States of America (U.S. DoD) and the Department of Defence of Australia (ADOD) concerning Collaboration on Tactical Missile Design, Development, Test and Evaluation, which came into effect on *(date)*.

SECTION I

DEFINITIONS

*(Define only those terms used in this PA that have not been defined in the MOU.)*

SECTION II

OBJECTIVES

The objectives of this \_\_\_\_\_ PA are:

- a. The development of \_\_\_\_\_.
- b. The improvement of \_\_\_\_\_.

SECTION III

SCOPE OF WORK

The following work will be undertaken under this PA.

- a. Develop \_\_\_\_\_.
- b. Evaluate \_\_\_\_\_.
- c. Design, fabricate and test \_\_\_\_\_.

SECTION IV

SHARING OF TASKS

The sharing of tasks will be as follows:

- a. The U.S. DoD will \_\_\_\_\_.
- b. The ADOD will \_\_\_\_\_.
- c. U.S. DoD and ADOD will jointly \_\_\_\_\_.

SECTION V

BREAKDOWN AND SCHEDULE OF TASKS  
(OPTIONAL)

*(Use this format when the tasks covered under this project may be performed using multiple phases, requiring milestones or decision points.)*

The project will proceed according to the following phases and schedule. Note that national priorities may pre-empt mutually determined schedules in PAs.

<u>Phase 1</u>	<u>Start</u>	<u>End</u>
Description of Phase 1	DD/MMM/YYYY	DD/MMM/YYYY

**(Milestone 1) (e.g., Transmittal of Feasibility Report)**

<u>Phase 2</u>	<u>Start</u>	<u>End</u>
Description of Phase 2	DD/MMM/YYYY	DD/MMM/YYYY

**(Milestone 2) (e.g., Decision to proceed to Phase 3)**

<u>Phase 3</u>	<u>Start</u>	<u>End</u>
Description of Phase 3	DD/MMM/YYYY	DD/MMM/YYYY

**(Milestone 3) (e.g., Evaluation, analysis of results)**

*(Add as many phases as necessary.)*

The final report must be transmitted to the SC six months before the termination date for this PA.

SECTION VI

MANAGEMENT

1. Project Manager:

PM Title/Position \_\_\_\_\_

Organization \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

DPM Title/Position \_\_\_\_\_

Organization \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

2. Project Offices will be established in \_\_\_\_\_ (*Name of U.S. location*) and in \_\_\_\_\_ (*Name of AS location*). (*The management structure and names, position, organization and address of key personnel*)

3. Particular Management Procedures:

*(Mention only those additional management responsibilities not covered under Section IV (Management) of the MOU.)*

SECTION VII

FINANCIAL PROVISIONS

The Cost Ceiling for the performance of the tasks under this PA is U.S. \$ \_\_\_\_\_.

Cooperative efforts of the Participants over and above the mutually determined tasks set forth in the SCOPE OF WORK and SHARING OF TASKS and FINANCIAL PROVISIONS Sections will be subject to amendment to this PA or signature of a new PA.

*(If a PA will involve the assignment of CPP, the PA will include a provision that refers to paragraphs 5.6 – 5.9 of the MOU, identifies which Participant is sending or hosting CPP, and specifies the number of CPP to be assigned. In addition, the PA will include the amount of financial and non-financial contribution related to CPP in one of the two alternatives below in this section.)*

*(If a PA will not involve one Participant contracting for the other or both Participants, and no funds will be exchanged between the Participants, use the following format for the Financial Arrangements. Both financial and non-financial contributions should be included in the total U.S. DoD and ADOD costs.)*

**Alternative 1**

The U.S. DoD tasks will not cost more than: \_\_\_\_\_ U.S. \$ or AS Dollars.

The ADOD tasks will not cost more than: \_\_\_\_\_ U.S. \$ or AS Dollars.

**Or:**

*(If a PA will involve one Participant contracting for the other Participant or both Participants, or the Participants will transfer or exchange funds between them, use the following format for the Financial Arrangements.)*

**Alternative 2**

*(Cost of performance includes Financial and Non-financial Costs.)*

	Year 1	Year 2	Year 3	Year 4	Year 5	Total
U.S. DoD						
ADOD						

*(Using the above table and whatever description is necessary, explain and demonstrate how the PA will be funded. Identify both financial (funds) and non-financial contributions and identify the amount of funds to be transferred between the Participants, as well as the rate of currency exchange.)*

*(The Financial Management Procedures Document (FMPD) should be developed by the PMs and submitted to the SC (if appropriate) for approval. The FMPD should include, as a minimum, schedule, handling, funding levels by year, and auditing procedures for monetary contributions anticipated for this PA.)*

SECTION VIII

SPECIAL DISCLOSURE AND USE OF INFORMATION PROVISIONS  
(OPTIONAL)

*(Insert any special disclosure and use of information provisions unique to the PA.)*

SECTION IX

CLASSIFICATION

*(Only one of the three following possibilities must be selected:)*

- a. No Classified Information will be exchanged under this PA;
- b. The highest level of Classified Information exchanged under this PA is CONFIDENTIAL; or
- c. The highest level of Classified Information exchanged under this PA is SECRET.

The existence of this PA is [**Insert classification**] and its contents are [**Insert classification**].

SECTION X

PRINCIPAL ORGANIZATIONS INVOLVED

*(List the organizations and facilities of the Participants.)*

SECTION XI

EQUIPMENT AND MATERIAL TRANSFERS

Providing Participant	Receiving Participant	QTY	Description	Part/ Stock #	Consumables/ Non-Consumables	Return Date	Estimated Replacement Value*

\* Estimated Replacement Value is a good faith estimate of the replacement value at the time of the loan. Should a loss occur, the actual replacement value will be determined by the providing Participant in consultation with the receiving Participant.

**(NOTES:**

1. *In the event that the cooperative efforts under the PA requires the provision of Equipment and Material to either Participant, a list of such Equipment and Material must be developed in general accordance with the proceeding table. (Equipment and Material that cannot be identified at the time of PA signature will be documented, when identified, in a list to be developed and maintained by the PM in the format above.)*
2. *If jointly acquired Equipment and Material is an aspect of the cooperative effort under the PA, terms and conditions for the disposal of such jointly acquired Equipment and Material must be included in the PA.)*

SECTION XII

SPECIAL PROVISIONS

*(Identify any procedures, specifications, or other necessary attributes of the project not delineated in other Sections).*

Articles and services provided under this PA will be in accordance with the Participants' respective national laws and regulations, including their respective export control laws and regulations, as well as with Section XII (Security) and Section XIII (Third Party Sales and Transfers) of the MOU.

SECTION XIII

ENTRY INTO EFFECT, DURATION AND TERMINATION

This \_\_\_\_\_ Tactical Missiles PA, a project under the MOU between the Department of Defense of the United States of America and the Australian Department of Defence concerning Collaboration on Tactical Missile Design, Development, Test and Evaluation, will come into effect on the date of last signature by the Participants, and will remain in effect for \_\_\_\_ years unless terminated by either Participant. It may be extended by the written mutual determination of the Participants.

FOR THE DEPARTMENT OF  
DEFENSE OF THE UNITED  
STATES OF AMERICA:

FOR THE DEPARTMENT OF  
DEFENCE OF AUSTRALIA:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
Location

\_\_\_\_\_  
Location

## ANNEX B

### COOPERATIVE PROJECT PERSONNEL (CPP)

#### ASSIGNMENT OF TACTICAL MISSILE COOPERATIVE PROJECT PERSONNEL

##### 1.0 Purpose and Scope.

- 1.1 This Annex to the TM MOU establishes the provisions that will govern the conduct of the U.S. DoD or ADOD Cooperative Project Personnel (CPP). During the term of the MOU, each Participant will be permitted to assign military members or civilian employees to a Joint Project Office (JPO) or other office or facility established under a PA. CPP will be able to perform all responsibilities for the positions assigned to them under a PA. Commencement of assignments will be subject to any requirements that may be imposed by the other Participant(s) or its Government regarding acceptance of CPP, such as, but not limited to, visas and visit request documentation. The Participants will determine the length of tour for the positions at the time of initial assignment.
- 1.2 CPP will be assigned to a JPO or other office or facility for project work (including work at Participant Contractor facilities) and will report to their designated supervisor within those organizations regarding that work. The PM will be responsible for the creation of a document describing the duties of each CPP position (Annex B-1), and submit to the SC for approval. CPP will not act in any other capacity on behalf of their Parent Participant or parent organization (such as liaison officers).
- 1.3 CPP will not be assigned to command or other positions that would require them to exercise responsibilities that are reserved by law or regulation to an officer or employee of the Host Participant's government.

##### 2.0 Security.

- 2.1 The Participants will establish the maximum level of security clearance required, if any, to permit CPP to have access to Classified Information and facilities in which Classified Information is used in accordance with the Project Security Instruction (PSI) and Classification Guide (CG). Access to Classified Information and facilities in which Classified Information is used will be consistent with, and limited by, Section II (Objectives) and Section III (Scope of Work) of the PA and the corresponding provisions of this Annex and the MOU, and will be kept to the minimum required to accomplish the work assignments.

- 2.2 The Parent Participant will file visit requests for the CPP through prescribed channels in compliance with the Host Participant's procedures. The Participants will cause security assurances to be filed, through their respective embassies, specifying the security clearances for the CPP being assigned. The security assurances will be prepared and forwarded through prescribed channels in compliance with established procedures.
- 2.3 The Participants will use their best efforts to ensure that personnel from all Participants that are assigned to a JPO or other office or facility are made aware of, and comply with, applicable laws and regulations, as well as the requirements of Section IX (Disclosure and Use of Project Information), Section X (Controlled Unclassified Information), and Section XII (Security) of the MOU, and the corresponding provisions of this Annex, and the PSI and CG. Prior to commencing assigned duties, CPP will, if required by the Host Participant's laws, regulations, policies, or procedures, sign a certification concerning the conditions and responsibilities of CPP.
- 2.4 CPP will at all times be required to comply with the security and export laws, regulations, and procedures of the Host Participant, as briefed in accordance with paragraph 3.2 of this Annex. Any violation of security or export procedures by CPP during their assignment will be reported to the Parent Participant for appropriate action. CPP committing willful violations of security or export laws, regulations, or procedures during their assignments will be withdrawn from the project with a view toward appropriate administrative or disciplinary action by the Parent Participant.
- 2.5 All Classified Information made available to CPP will be considered as Classified Information furnished to the Parent Participant, and will be subject to all of the provisions and safeguards provided for in a PA, this Annex, the MOU, the PSI and CG.
- 2.6 CPP will not have personal custody of Classified Information or Controlled Unclassified Information, unless approved by the JPO or Host Participant and as authorized by the Parent Participant. They will be granted access to such information in accordance with the provisions of the PSI during normal duty hours when access is necessary to perform project work. They may not have unsupervised access to classified libraries or operating centers, or to document catalogues, unless the information therein is releasable to the public.
- 2.7 CPP will not serve as a conduit between the Host Participant and the Parent Participant for requests for and/or transmissions of Classified Information or Controlled Unclassified Information unless specifically authorized by the PSI.

### 3.0 Administrative Matters.

- 3.1 Consistent with Host Participant's laws and regulations, and subject to applicable multilateral and bilateral treaties, agreements and arrangements, CPP will be subject to the same restrictions, conditions, and privileges as Host Participant personnel of comparable rank and in comparable assignments. Further, to the extent authorized by the Host Participant's laws and regulations, and applicable multilateral and bilateral treaties, agreements and arrangements, CPP and their authorized dependents will be accorded:
  - 3.1.1 Exemption from any Host Participant tax upon income received from their parent organization or government.
  - 3.1.2 Exemption from any Host Participant customs and import duties or similar charges levied on items entering the country for their official or personal use, including their baggage, household effects, and private motor vehicles.
- 3.2 Upon or shortly after arrival, CPP will be informed by the Host Participant duty station about applicable laws, orders, regulations, and customs and the need to comply with them. CPP will also be provided briefings arranged by Host Participant duty station regarding applicable entitlements, privileges, and obligations such as:
  - 3.2.1 Any medical or dental care that may be provided to CPP and their dependents at the Host Participant's medical facilities, subject to applicable laws and regulations, including reimbursement when required by such laws and regulations, and any bilateral or multilateral agreements or arrangements.
  - 3.2.2 Purchasing and patronage privileges at military commissaries, exchanges, theaters, and clubs for CPP and their dependents, subject to applicable laws and regulations, and any bilateral or multilateral agreements or arrangements.
  - 3.2.3 Responsibility of CPP and those dependents accompanying them to obtain motor vehicle liability insurance coverage in accordance with laws and regulations applicable in the area where they are residing. In case of claims involving the use of private motor vehicles by CPP and their dependents, the recourse will be against such insurance.
- 3.3 The PM will establish standard operating procedures for CPP in the following areas:
  - 3.3.1 Working hours, including holiday schedules.

- 3.3.2 Leave authorization, consistent to the extent possible with the military or civilian personnel regulations and practices of the Participants.
  - 3.3.3 Dress regulations, consistent to the extent possible with the military or civilian personnel regulations and practices of the Participants.
  - 3.3.4 Performance evaluations, recognizing that such evaluations must be rendered in accordance with the providing Participant's military or civilian personnel regulations and practices.
- 3.4 CPP committing an offense under the laws of the government of either the Parent or Host Participant may be withdrawn from the project with a view toward further administrative or disciplinary action by the Parent Participant. Disciplinary action, however, will not be taken by the Host Participant against CPP from the Parent Participant, nor will CPP from the Parent Participant exercise disciplinary authority over Host Participant personnel. In accordance with the Host Participant's laws, regulations, and procedures, the Host participant will assist the Parent Participant in carrying out investigations of offenses involving CPP.

## ANNEX B-1

### COOPERATIVE PROJECT POSITION DESCRIPTION

1. Position:

a. Title: Cooperative Project Personnel

2. Position Location:

3. Qualifications/Skills Required for Position: *(Insert appropriate data, e.g. Accredited degree in a scientific or aviation related subject, Aviation staff and/or operational experience in rotary-wing aircraft. Military specialty similar to U.S. Aviation Product Manager and/or acquisition engineering experience. Previous experience in tactical helicopter operations.)* The CPP will perform the following tasks and responsibilities as mutually determined by the Program Manager (PM) and the Deputy Program Manager (DPM).

4. General Categories of Information to which access will be required: *Insert appropriate categories, e.g. Provided oral and visual access to information required to perform the duties outlined in this position description.*

5. Description of Specific Duties:

a. The CPP Officer will be primarily responsible for *(Insert responsibilities, e.g. coordinating the administration and oversight of the TM MOU)*. CPP will require information access to *(Insert specific information access requirements, e.g. research, development and engineering programs involving the MLRS)*.

b. Identify specific duties.

c. The CPP requires access to computer word processing systems for preparing reports.

d. Identify anticipated travel requirements and locations.

e. The CPP will attend technical meetings and symposiums as required in performance of assigned duties.

f. Identify reporting requirements *(e.g., Provide a monthly summary of the US/AS MLRS programs that are undertaken as separate PA's under the MOU)* and any detail requirement *(e.g., This report is to cover upgrade plans and program execution, associated technology programs in the U.S. DoD, ADOD and industry, and in-service support and engineering issues. It should also include forecasts of forthcoming trials, tests and program reviews.)*

i. Attend AS and U.S. Project Reviews and provide a summary report of PA activities at that venue as required.

j. In support of the PA advise the PM on respective national procurement and fielding policy, support and logistics doctrine and organization.

k. Provide administrative support and coordination for Steering Committee and other project meetings. In particular to:

(1) Request inputs from PA Working Groups at least 2 weeks prior to each meeting.

(2) Provide written briefs to PM and DPM at least 1 week prior to each meeting.

(3) Provide draft minutes for each meeting within 10 days.

(4) Provide written briefs on PA activity to PM and DPM every 6 weeks.

(5) Coordinate with key players in all PAs so as to ensure timely progress.

(6) Act as focus for routing requests for information from both sides regarding PAs.

(7) Attend PA meetings and provide administrative support where necessary.

(8) Brief progress on PAs to PM and DPM as directed above.

ANNEX C

MODEL EQUIPMENT AND MATERIAL TRANSFER (E&MT) FORM

E&MT NUMBER (EMT-XXXX\*)

UNDER THE U.S. DoD – ADOD  
TACTICAL MISSILES  
DESIGN, DEVELOPMENT, TEST AND EVALUATION  
MEMORANDUM OF UNDERSTANDING (MOU)

BETWEEN

*(Insert titles of the Organizations participating in the transfer.)*

**\*The U.S. DoD will assign the EMT number.**

## INTRODUCTION

This Equipment and Material Transfer (E&MT) is entered into pursuant to the Memorandum of Understanding (MOU) between the Department of Defense of the United States of America and the Department of Defence of Australia concerning Tactical Missiles (TM) Design, Development, Test and Evaluation, which came into effect on *(Insert effective date of the TM MOU)*. This E&MT Form is being executed by authorized representatives of the providing and receiving Participants pursuant to Section VII (Equipment and Material Transfers) of the TM MOU.

### SECTION I

#### DESCRIPTION AND QUANTITY

1.1 The following Equipment and Material will be transferred by the providing Participant to the receiving Participant:

Providing Participant	Receiving Participant	QTY	Description	Part/ Stock #	Consumables/ Non-Consumables	Return Date	Estimated Replacement Value *

*(Fill in as appropriate)*

\* Estimated Replacement Value is a good faith estimate of the replacement value at the time of the loan. Should a loss occur, the actual replacement value will be determined by the providing Participant in consultation with the receiving Participant.

1.2 *(Choose one of the following alternatives, or use both if both situations apply.)*

***Alternative A – Use when return of Equipment and Material is planned.***

None of the Equipment and Material identified in paragraph 1.1 is intended to be consumed or expended during the course of the TM Activities described in paragraph 2.1.1.

***Alternative B – Use when return of Equipment and Material is not planned due to its consumption during the activity.***

The Equipment and Material (specify as appropriate by highlighting in paragraph 1.1) described in paragraph 1.1 is intended to be consumed or expended during the course of the TM Activities described in paragraph 2.1.1.

## SECTION II

### PURPOSE

2.1 The purpose of this E&MT is to support the following TM Activities.

2.1.1 *(Fill in as appropriate)*

## SECTION III

### MANAGEMENT AND RESPONSIBILITIES

3.1 Each Participant will establish a point of contact that will be responsible for implementing this E&MT.

3.1.1 For the providing Participant the point of contact is \*

3.1.2 for the receiving Participant the point of contact is \*

- *Insert the appropriate names, title/office symbols, addresses, and telephone numbers of the individuals assigned to implement the E&MT.*

3.2 Responsibilities of the Providing Participant

3.2.1 Transfer of the Equipment and Material – The providing Participant will transfer the Equipment and Material listed above for the duration of the transfer period specified in paragraph 6.4 unless extended by mutual written consent.

3.2.2 Equipment and Material Delivery – The providing Participant will deliver the Equipment and Material (*specify arrangements*). Responsibility for the Equipment and Material will pass from the providing Participant to the receiving Participant at the time of receipt of the Equipment and Material . Any further transportation is the responsibility of the receiving Participant unless otherwise specified in this paragraph.

3.2.3 Information – The providing Participant will furnish the receiving Participant such information as is necessary to enable the Equipment and Material to be used in the TM Activities described in paragraph 2.1.1 in accordance with Section X (Disclosure and Use of Information) of the MOU.

### 3.3 Responsibilities of the Receiving Participant

3.3.1 Inspection and Inventory – The receiving Participant will inspect and inventory the Equipment and Material upon receipt. The receiving Participant will also inspect and inventory the Equipment and Material prior to its return to the providing Participant, unless the Equipment and Material is consumed in accordance with paragraph 3.3.2.

3.3.2 *(Choose one of the following alternatives, or use both if both situations apply.)*

*Alternative A – Use when return of Equipment and Material is planned.*

Return of Equipment and Material – Upon expiration or termination of the transfer period specified in paragraph 6.4 (taking into account any approved extensions by the providing Participant), the receiving Participant will return the Equipment and Material to the providing Participant (**specify arrangements**). If the Equipment and Material is lost, unintentionally destroyed, or damaged beyond economical repair, while in the custody of the receiving Participant, the receiving Participant will issue a certificate of loss/destruction/irreparable damage to the providing Participant.

*Alternative B – Use when return of Equipment and Material is not planned due to its consumption during the activity.*

Consumption of Equipment and Material – It is intended that the receiving Participant will consume the Equipment and Material specified in paragraph 1.1 during the course of the TM Activities described in paragraph 2.1.1. If this does occur, the receiving Participant will provide written notice of its consumption to the providing Participant. In the event consumption does not occur prior to the end of the transfer period specified in paragraph 6.4, the receiving Participant will return the Equipment and Material to the providing Participant (**specify arrangements**). If the Equipment and Material is lost, unintentionally destroyed, or damaged beyond repair prior to its intended consumption while in the custody of the receiving Participant, the receiving Participant will issue a certificate of loss/destruction/irreparable damage to the providing Participant.

3.4 This TM E&MT Form provides only for transfer of Equipment and Material associated with the TM Activities described in paragraph 2.1.1. Signature of this TM E&MT Form does not imply any commitment by a Participant to participate in any activities beyond the E&MT described herein.

SECTION IV

SPECIAL PROVISIONS (OPTIONAL)

4.1 *(Insert any special provisions as required.)*

SECTION V

CLASSIFICATION

5.1 *(Insert only one of the two following paragraphs; note that one of these two options **must** be selected.)*

No classified Equipment and Material will be transferred under this TM E&MT Form.

or

The highest level of classified Equipment and Material under this TM E&MT Form is *(insert level of classification)*.

SECTION VI

MODIFICATION, TERMINATION, AND TRANSFER PERIOD

- 6.1 The provisions of this E&MT Form may be modified or extended by written mutual consent of authorized representatives of the Participants in accordance with Section IX (Equipment and Material Transfers) of the MOU.
- 6.2 The Equipment and Material Transfer described in this TM E&MT Form may be terminated at any time in accordance with the following provisions.
  - 6.2.1 Through the mutual written consent of the authorized representatives of the Participants.
  - 6.2.2 Unilaterally by the receiving Participant on 60 days written notice to the providing Participant.
  - 6.2.3 Unilaterally by the providing Participant at any time.
- 6.3 Responsibilities regarding security and protection against unauthorized use, disclosure, or transfer that accrued prior to termination or expiration of the transfer

period will continue to apply without limit of time in accordance with Section XIX (Amendment, Termination, Entry Into Effect, and Duration) of the TM MOU.

6.4 The transfer period for the Equipment and Material described herein begins on the date of the last signature below, and unless terminated or extended, will continue until (*enter date or amount of time*).

FOR THE DEPARTMENT OF  
DEFENSE OF THE UNITED  
STATES OF AMERICA

FOR THE DEPARTMENT OF  
DEFENCE OF AUSTRALIA

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
Location

\_\_\_\_\_  
Location