

ARTICLE VIII

CONTROLLED UNCLASSIFIED INFORMATION

8.1. Except as otherwise provided in this Agreement or as authorized in writing by the originating Party, Controlled Unclassified Information provided or generated pursuant to this Agreement shall be controlled as follows:

- 8.1.1. Such information shall be used only for the purposes authorized for use of Project Information as specified in Article VII (Disclosure and Use of Project Information).
- 8.1.2. Access to such information shall be limited to personnel whose access is necessary for the permitted use under subparagraph 8.1.1., and shall be subject to the provisions of Article XI (Third Party Sales and Transfers).
- 8.1.3. Each Party shall 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 8.1.2., unless the originating Party consents to such disclosure. In the event of unauthorized disclosure, or if it becomes probable that the information may have to be further disclosed under any legislative provision, immediate notification shall be given to the originating Party.

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

8.3. Controlled Unclassified Information provided or generated pursuant to this Agreement shall be handled in a manner that ensures control as provided for in paragraph 8.1.

8.4. Prior to authorizing the release of Controlled Unclassified Information to Contractors, the Parties shall ensure that the Contractors are legally bound to control such information in accordance with the provisions of this Article.

ARTICLE IX

VISITS TO ESTABLISHMENTS

9.1. Each Party shall permit visits to its government establishments, agencies and laboratories, and Contractor industrial facilities by employees of the other Party or by employees of the other Party's Contractor(s), provided that the visit is authorized by both Parties and the employees have any necessary and appropriate security clearances and a need to know.

9.2. All visiting personnel shall be required to comply with security regulations of the host Party. Any information disclosed or made available to visitors shall be treated as if supplied to the Party sponsoring the visiting personnel, and shall be subject to the provisions of this Agreement.

9.3. Requests for visits by personnel of one Party to a facility of the other Party shall be coordinated through official channels, and shall conform to the established visit procedures of the host country. Requests for visits shall bear the name of this Agreement.

9.4. Lists of personnel of each Party required to visit, on a continuing basis, facilities of the other Party shall be submitted through official channels in accordance with recurring international visit procedures.

ARTICLE X

SECURITY

10.1. All Classified Information provided or generated pursuant to this Agreement shall be stored, handled, transmitted, and safeguarded in accordance with the General Security of Information Agreement between the Government of the United States of America and Government of the Republic of France of 7 September 1977, and the Industrial Security Procedures between the Secretary of Defense of the United States and the French Minister of Defense of 21 May 1985.

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

10.3. Each Party shall take all lawful steps available to it to ensure that information provided or generated pursuant to this Agreement is protected from further disclosure, except as permitted by paragraph 10.4., unless the other Party consents to such disclosure. Accordingly, each Party shall ensure that:

- 10.3.1. The recipient shall not release the Classified Information to any government, national, organization, or other entity of a Third Party without the prior written consent of the originating Party in accordance with the procedures set forth in Article XI (Third Party Sales and Transfers).
- 10.3.2. The recipient shall not use the Classified Information for other than the purposes provided for in this Agreement.
- 10.3.3. The recipient shall comply with any distribution and access restrictions on information that is provided under this Agreement and its Annex.

10.4. The Parties shall investigate all cases in which it is known or where there are grounds for suspecting that Classified Information provided or generated pursuant to this Agreement has been lost or disclosed to unauthorized persons or other entities. Each Party also shall promptly and fully inform the other Party of the details of any such occurrences, and of the final results of the investigation and of the corrective action taken to preclude recurrences.

10.5. The Designated Security Authority (DSA) of a Party that awards a classified Contract under this Agreement shall assume responsibility for administering within its territory security measures for the protection of the Classified Information, in accordance with its laws and regulations. Prior to the release to a Contractor, prospective Contractor, or subcontractor of any Classified Information provided or generated under this Agreement, the recipient Party shall:

- 10.5.1. Ensure that such Contractor, prospective Contractor, or subcontractor and its facility(ies) has the capability to protect the Classified Information adequately.
- 10.5.2. Grant a security clearance to the facility(ies), if appropriate.
- 10.5.3. Grant a security clearance for all personnel whose duties require access to the Classified Information, if appropriate.
- 10.5.4. Ensure that all persons having access to the information are informed of their responsibilities to protect the information in accordance with national security laws and regulations, and the provisions of this Agreement.
- 10.5.5. Carry out periodic security inspections of cleared facilities to ensure that the Classified Information is properly protected.
- 10.5.6. Ensure that access to the Classified Information is limited to those persons who have a need-to-know for purposes of the Project.

10.6. The POs shall prepare a Project Security Instruction and a Classification Guide for the Project. The Project Security Instruction and the Classification Guide shall describe the methods by which Project Information and material shall be classified, marked, used, transmitted, and safeguarded. The Project Security Instruction and Classification Guide shall be developed by the POs within three months after this Agreement enters into force. They shall be reviewed and forwarded to the appropriate DSA and shall be applicable to all government and Contractor personnel participating in the Project. The Classification Guide shall be subject to regular review and revision with the aim of downgrading the classification whenever this is appropriate. The Project Security Instruction and the Classification Guide shall be approved by the appropriate DSA prior to the transfer of any Classified Information or Controlled Unclassified Information.

10.7. Contractors, prospective Contractors, or subcontractors which are determined by DSAs to be under financial, administrative, policy or management control of nationals or entities of a Third Party, may participate in a Contract or subcontract requiring access to Classified Information provided or generated pursuant to this Agreement only when enforceable measures are in effect to ensure that nationals or other entities of a Third Party shall 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 Party shall be consulted for approval prior to permitting such access.

10.8. For any facility wherein Classified Information is to be used, the responsible Party or Contractor shall approve the appointment of a person or persons to exercise effectively the responsibilities for safeguarding at such facility the information pertaining to this Agreement. These officials shall be responsible for limiting access to Classified Information involved in this Agreement to those persons who have been properly approved for access and have a need to know.

10.9. Each Party shall ensure that access to the Classified Information is limited to those persons who possess requisite security clearances and have a specific need for access to the information in order to participate in this Agreement.

10.10. Information or material provided or generated pursuant to this Agreement may be classified as high as Secret. The existence of this Agreement is UNCLASSIFIED and the contents are UNCLASSIFIED.

ARTICLE XI

THIRD PARTY SALES AND TRANSFERS

11.1. Except to the extent permitted in paragraph 11.2, the Parties shall not sell, transfer title to, disclose, or transfer possession of Project Foreground Information (or any item produced either wholly or in part from the Project Foreground Information) to any Third Party without the prior written consent of the other Party's government. Furthermore, neither Party shall permit any such sale, disclosure, or transfer, including by the owner of the item, without the prior written consent of the other Party's Government. Such consent shall not be given unless the government of the intended recipient agrees in writing with the Parties that it shall:

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

11.1.2. use, or permit the use of, the equipment or information provided only for the purposes specified by the Parties.

11.2. Each Party shall retain the right to sell, transfer title to, disclose, or transfer possession of Project Foreground Information:

11.2.1. generated solely by either Party or that Party's Contractors in the performance of that Party's work allocation under Article III (Scope of Work); and

11.2.2. which does not include any Project Foreground Information or Project Background Information of the other Party.

11.3. In the event questions arise whether the Project Foreground Information (or any item produced either wholly or in part from the Project Foreground Information) that a Party intends to sell, transfer title to, disclose, or transfer possession of to a Third Party is within the scope of paragraph 11.2., the matter shall be brought to the immediate attention of the other Party's PO. The Parties shall resolve the matter prior to any sale or other transfer of such Project Foreground Information (or any item produced either wholly or in part from the Project Foreground Information) to a Third Party.

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

ARTICLE XII

LIABILITY AND CLAIMS

12.1. Claims against either Party or its personnel shall be dealt with in accordance with Article VIII of the Agreement between the Parties to the North Atlantic Treaty Regarding the Status of their Forces, signed in London on June 19th, 1951 (NATO SOFA). Employees and agents of Contractors shall not be considered to be civilian personnel employed by a Party.

12.2. Claims arising under or related to any contract awarded pursuant to Article VI (Contractual Arrangements) shall be dealt with in accordance with the provisions of the contract.

ARTICLE XIII

CUSTOMS DUTIES, TAXES, AND SIMILAR CHARGES

13.1. Customs duties, import and export taxes, and similar charges shall be administered in accordance with each Party's respective laws and regulations. Insofar as existing national laws and regulations permit, the Parties shall 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 Agreement.

13.2. Each Party shall 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 Party in whose country they are levied shall bear such costs.

13.3. If it is necessary to levy duties in order to comply with European Union (EU) laws, regulations, or policies, then these duties will be met by the EU member. To this end, parts of the components of the equipment coming from outside the EU will proceed to their final destination accompanied by the relevant customs document enabling settlement of duties to take place. The duties will be levied as a cost over and above the EU member Party's shared cost.

ARTICLE XIV

SETTLEMENT OF DISPUTES

14.1. Disputes between the Parties arising under or relating to this Agreement shall be resolved only by consultation between the Parties and shall not be referred to a national court, an international tribunal, or to any other person or entity for settlement.

ARTICLE XV

LANGUAGE

- 15.1. The working language for the Project shall be the English language.
- 15.2. Official decision sheets, meeting records, and official reports issued in the performance of this Project by SCs and POs will be issued in the English language.
- 15.3. Contracts shall be drawn up in the language of the Party awarding the Contract.

ARTICLE XVI

AMENDMENT, TERMINATION, ENTRY INTO FORCE, AND DURATION

- 16.1. All activities of the Parties under this Agreement shall be carried out in accordance with their national laws. The obligations of the Parties shall be subject to the availability of funds for such purposes.
- 16.2. In the event of a conflict between an article of this Agreement and any annex to this Agreement, the article shall control.
- 16.3. This Agreement and Annex B may be amended by the mutual written consent of the Parties. Annex A may be amended by the SC.
- 16.4. This Agreement may be terminated at any time by the written consent of the Parties. In the event both Parties consent to terminate this Agreement, the Parties shall consult prior to the date of termination to ensure termination on the most economical and equitable terms.
- 16.5. Either Party may terminate this Agreement upon 90 days written notice of its intent to terminate to the other Party. Such notice shall be the subject of immediate consultation by the SC to decide upon the appropriate course of action to conclude the activities under this Agreement. In the event of such termination, the following rules apply:
- 16.5.1. The terminating Party shall continue participation, financial or otherwise, up to the effective date of termination.
 - 16.5.2. Each Party shall be responsible for its own Project-related costs associated with termination of the Project.
 - 16.5.3. All Project Information and rights therein received under the provisions of this Agreement prior to termination of the Agreement shall be retained by the Parties, subject to the provisions of this Agreement.
- 16.6. The respective rights and obligations of the Parties regarding Article VII (Disclosure and Use of Project Information), Article VIII (Controlled Unclassified Information), Article X (Security), Article XI (Third Party Sales and Transfers), Article XII (Liability and Claims) and this Article XVI (Amendment, Termination Entry Into Force, and Duration) shall continue notwithstanding termination or expiration of this Agreement.
- 16.7. This Agreement, which consists of sixteen (16) Articles and two Annexes, shall enter into force upon signature by both Parties and shall remain in force for 4 years unless terminated by either Party. It may be extended by written agreement of the Parties.

ANNEX A

MANAGEMENT AND ORGANIZATIONS

1. The SC Members are:

Michael W. Morgan
SPAWAR Systems San Diego
619-553-4104

Barry S. Siegel
SPAWAR Systems Center San Diego
619-553-4081

Gary Toth
US Office of Naval Research
703-696-4961

2. The POs are:

U.S. PO

Title/Position	Senior Scientist
Organization	SPAWAR Systems Center San Diego
Address	San Diego, CA 92152-5001

French PO

Title/Position	Direction Des Systemes D'Armes
Organization	Service Des Programmes Navals
Address	Paris 00303 Armees, France

3. The principal organizations involved are:

U.S. DoD:

SPAWAR Systems Center San Diego
San Diego, CA 92152

French MoD:

Direction Des Systemes D'Armes
Service Des Programmes Navals
Paris 00303 Armees, France

ANNEX B

FINANCIAL MATTERS

1. The Cost Target of this Project is no more than the sum of \$2.48 million U.S. dollars (2.34 million Euros).

The U.S. DoD tasks shall not cost more than: 1.24M U.S. \$.

The French MoD tasks shall not cost more than: 1.17M Euros.

Party	Financial	Non-Financial	Total
U.S. DoD	1.20M U.S.\$	0.04M U.S.\$	1.24M U.S.\$
French MoD	1.13M Euros	0.04M Euros	1.17M Euros

The value of the non-financial contributions identified above will constitute the Parties use of their own hardware/software testbeds.