

Article V

PROCUREMENT ARRANGEMENTS

5.1. The DOD (acting through the Department of the Navy) shall be responsible for all procurement for Project ULYSSES in accordance with U.S. laws, regulations, and procedures.

5.2. The National Project Coordinators shall be responsible for the coordination of activities relating to the Project and for providing resources, financial and otherwise, to the Project Study Director in accordance with the approved payments schedule.

5.3. The Naval Air Warfare Center - Weapons Division (NAWC-WD), China Lake, a U.S. DoN field activity, shall be the primary activity for conduct of the study. Funding and tasking shall be provided to the Project Study Director, through NAWC-WD, in accordance with standard U.S. Navy procedures utilizing Work Request documents. The Project Study Director shall coordinate all tasking to ensure the study is completed within allotted resources and schedule. If the Project Study Director determines that support is required from laboratories, facilities or Contractors other than NAWC-WD, China Lake, he shall obtain such support using Work Requests or Contracts, as appropriate. If the Project Study Director determines that support is required from Italian MoD laboratories or facilities, such support shall be obtained through the Italian National Project Coordinator and the cost of such support shall be considered as part of the Italian share of the Financial Costs of the Project as described in Article VI (Financial Provisions) paragraph 6.1.1.

5.4. The Project Study Director shall immediately advise the National Project Coordinators of any cost growth, schedule change, or performance problems of any Work Request or Contract for which the Project Study Director is responsible.

Article VI

FINANCIAL PROVISIONS

6.1. General

- 6.1.1. Each Party shall contribute an equal share of the full Financial Costs of the Project, including overhead costs, administrative costs, and costs of claims, and each Party shall receive an equal share of the results of the Project.
- 6.1.2. Each Party shall fund the full extent of its participation in this Project. The ceiling cost of the Project shall not exceed U.S. \$2,000,000. This amount represents the maximum financial liability of the Parties and shall not be exceeded. The estimated cost for each major task of the Project is provided in Annex B. The Project Study Director is authorized to reallocate funding among the major Project tasks or to other necessary related tasks provided that the ceiling cost is not exceeded. The U.S. dollar shall be the reference currency for the Project and the Project fiscal year shall be the U.S. fiscal year.
- 6.1.3. The Host Nation shall provide suitable office accommodations and equipment at NAWC-WD and relevant services (including funding for Project travel and related per diem) for the Senior Study Representative as part of the shared costs of the Project.
- 6.1.4. The following costs shall be borne entirely by the Party incurring the costs:
 - 6.1.4.1. salaries, living expenses, and relocation costs of its personnel;
 - 6.1.4.2. costs associated with national representation at meetings;
 - 6.1.4.3. costs associated with any unique requirements identified by a Party;

6.1.4.4. any other costs outside the scope of this MOU.

6.2. Funding Procedures

6.2.1. The Host Nation National Project Coordinator, in consultation with the National Project Coordinator of the other Party, shall prepare and circulate a Project budget and a payments schedule not less than three months prior to the start of the studies for subsequent approval by the appropriate national authorities of the Parties. Subsequent revisions, if necessary, shall also be approved by the appropriate national authorities of the Parties.

6.2.2. The Parties shall make their financial contributions in the currency of the Host Nation. The Host Nation National Project Coordinator shall administer those funds using appropriate financial management procedures of the Host Nation. Should any interest accrue to a Party's contribution, it shall be returned to that Party.

6.2.3. The Italian financial share shall be made available through a letter of credit opened in an Italian bank in the U.S. The payments, in accordance with the approved payment schedule, shall be authorized by the Italian Naval Attaché in Washington upon request by the Host Nation National Project Coordinator.

6.3. Accounting Procedures

6.3.1. The Host Nation National Project Coordinator shall maintain separate accounting records for each Party's contribution. An accounting of funds in the currency of the Host Nation shall be made available on request of a Party and shall routinely be forwarded to each Party on a quarterly basis.

6.3.2. The Host Nation National Project Coordinator, in coordination with the National Project Coordinator of the other Party, shall maintain full and complete records of all work performed, goods received, obligations and commitments incurred, funds received and all disbursements certified and made.

6.3.3. At the conclusion of the Project, the National Project Coordinators shall certify that the work has been properly performed and the goods and services have been provided and accepted in accordance with the Work Requests and Contracts.

6.3.4. At the conclusion of the Project, all financial obligations shall be settled, a financial balance shall be obtained, and a statement thereof shall be submitted to each Party as soon as possible. Any remaining Italian funds shall be promptly refunded.

6.4. Auditing Procedures

6.4.1. The financial records of the Project shall be audited by the appropriate authority of the Host Nation in accordance with its usual auditing practices. A final audit report shall be transmitted to each Party.

6.4.2. Where national auditors of the other Party need to obtain or to inspect specific financial data relevant to that Party to be able to fulfill its national obligations, the U.S. DoD shall grant access to such specific financial information.

Article VII

DISCLOSURE AND USE OF PROJECT INFORMATION

7.1. General

Both Parties recognize that successful collaboration depends on full and prompt exchange of information necessary for carrying out this Project. The Parties intend to acquire sufficient Project Information and rights to use such information to enable consideration of alternatives for the development of a new generation ASOW. The nature and amount of Project Information to be acquired shall be consistent with the objectives stated in Article II (Objectives) and Article III (Scope of Work).

7.2. Project Foreground Information

7.2.1. Disclosure: Project Foreground Information in the Parties' possession shall be made available without charge to both Parties.

7.2.2. Use: Each Party may use this Project Foreground Information without charge for Defense Purposes.

7.3. Project Background Information

7.3.1. Disclosure: Each Party, upon request, shall disclose to the other Party any relevant Project Background Information provided that:

7.3.1.1. such Project Background Information is necessary to or useful in the Project, with the Party in possession of the information determining in consultation with the other Party whether it is "necessary to" or "useful in" the Project;

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

7.3.1.3. disclosure is consistent with national disclosure policies and regulations of the furnishing Party.

7.3.2. Use: Project Background Information disclosed by one Party to the other may be used without charge by the other Party for Project Purposes only and may be subject to further restrictions by holders of proprietary rights; however, the furnishing Party shall retain all its rights with respect to such Project Background Information.

7.4. Proprietary Project Information

7.4.1. All Project Information subject to proprietary interests shall be identified and marked, and it shall be handled as Controlled Unclassified Information.

7.4.2. The provisions of the NATO Agreement on the Communication of Technical Information for Defence Purposes, done at Brussels on 19 October 1970, and the Implementing Procedures for the NATO Agreement on the Communication of Technical Information for Defence Purposes, approved by the North Atlantic Council on 1 January 1971, shall apply to proprietary Project Information related to this MOU.

Article VIII

CONTROLLED UNCLASSIFIED INFORMATION

8.1. Except as otherwise provided in this MOU or as authorized in writing by the originating Party, Controlled Unclassified Information provided or generated pursuant to this MOU 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 MOU 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 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 country. 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 MOU.

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 with the established visit procedures of the host country. Requests for visits shall bear the name of the Project.

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 or material provided or generated pursuant to this MOU shall be stored, handled, transmitted, and safeguarded in accordance with the General Security Agreement between Italy and the United States of America, of 4 August 1964, amended 2 September 1982, and including the Industrial Security Annex thereto, of 27 November 1985, amended 27 January 1988.

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

10.3. Each Party shall take all lawful steps available to it to ensure that information provided or generated pursuant to this MOU is protected from further disclosure, except as permitted by paragraph 10.8., 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 MOU.

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

10.4. The Parties shall investigate all cases in which it is known or where there are grounds for suspecting that Classified Information or material provided or generated pursuant to this MOU has been lost or disclosed to unauthorized persons. Each 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 National Project Coordinators 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 Instruction and Guide shall be developed by the National Project Coordinators within three months after this MOU 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.

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

10.7. For any facility wherein Classified Information or material 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 or material pertaining to this MOU.

These officials shall be responsible for limiting access to Classified Information or material involved in this MOU to those persons who have been properly approved for access and have a need-to-know.

10.8. 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 the Project.

Article XI

THIRD PARTY SALES AND TRANSFERS

11.1. The Parties shall not sell, transfer title to, disclose, or transfer possession of Project Foreground Information to any Third Party without the prior written consent of the other Party.

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. 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 information provided; and

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

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