AGREEMENT

BETWEEN

THE GOVERNMENT

OF THE FEDERATIVE REPUBLIC OF BRAZIL

AND

THE GOVERNMENT

OF THE UNITED STATES OF AMERICA

FOR

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION PROJECTS

(Short Title: RDT&E Agreement)

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PREAMBLE

The Government of the Federative Republic of Brazil, as represented by the Ministry of Defense of the Federative Republic of Brazil (BR MOD), and the Government of the United States of America, as represented by the Department of Defense of the United States of America (U.S. DoD), hereinafter referred to as the "Parties":

Having a common interest in defense;

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

Seeking to make the best use of their respective research and technology development capacities, eliminate unnecessary duplication of work, encourage interoperability, and obtain the most efficient and cost-effective results through cooperation in research, development, test, and evaluation (RDT&E) Projects;

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

Recognizing the Agreement Between the Government of the United States of America and the Government of the Federative Republic of Brazil Regarding Defense Cooperation, which entered into force June 26, 2015 ("DCA"); and

Recognizing the Agreement Between the Government of the United States of America and the Government of the Federative Republic of Brazil Concerning Security Measures for the Protection of Classified Military Information, which entered into force June 26, 2015, as amended ("CMI Agreement");

Have reached the following agreement:

ARTICLE I

DEFINITIONS

For the purposes of this RDT&E Agreement and its RDT&E Agreement Activities, including Project Agreements (PAs), the following definitions shall apply:

Classified Military Information	Information that is generated, by or for the Department of Defense of the United States of America or the Ministry of Defense of the Federative Republic of Brazil, or that is under their jurisdiction or control, and which requires protection in the interests of national security of the Party, or Parties, by or for whom the Information was generated, and is so designated by the application of a security classification marking, in accordance with the CMI Agreement. The Information may be in oral, visual, electronic, magnetic, or documentary form, or in the form of equipment, material, or technology.
Computer Database	A collection of data recorded in a form capable of being processed by a computer. This definition does not include Computer Software.
Computer Program	A set of instructions, rules, or routines recorded in a form that is capable of causing a computer to perform a specific operation or series of operations.
Computer Software	Computer Programs, source code, source code listings, design details, algorithms, processes, flow charts, formulae, and related materials that would enable the software to be reproduced, recreated, or recompiled. Computer Software does not include Computer Databases or Computer Software Documentation.
Computer Software Documentation	Owner's manuals, user's manuals, installation instructions, operating instructions, and other similar items, regardless of storage medium, that explain the capabilities of the Computer Software or provide instructions for using the Computer Software.
Contract	Any mutually binding legal relationship under national laws that obligates a Contractor to furnish supplies or services, and obligates one or both of the Parties to pay for them.

Contracting	The obtaining of supplies or services by Contract from sources outside the governmental organizations of the Parties. Contracting includes a 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 governmental organization of a Party that has authority to enter into, administer, or terminate Contracts.
Contracting Officer	A person representing a Contracting Agency of a Party who has the authority to enter into, administer, or terminate Contracts.
Contractor	Any entity awarded a Contract by a Party's Contracting Agency.
Contractor Support Personnel	Persons specifically identified as providing administrative, managerial, scientific, or technical support services to a Party under a support Contract.
Controlled Unclassified Information	Unclassified Information, which includes Restricted Access Information as designated by the Government of the Federative Republic of Brazil, that requires safeguarding or dissemination controls pursuant to and consistent with applicable national laws, regulations, or Government-wide policies. It could include Information that has been declassified, but remains controlled.
Cooperative Project Personnel (CPP)	Military members or civilian employees of a Parent Party assigned to a Cooperative Project Office (CPO) or the other Party's facilities who perform managerial, engineering, technical, administrative, Contracting, logistics, financial, planning, or other functions in furtherance of a Project.
Defense Purposes	Manufacture or other use in any part of the world by or for the armed forces of either Party.
Designated Security Authority (DSA)	The security authority designated by national authorities to be responsible for the coordination and implementation of national industrial security aspects of this RDT&E Agreement.
Equipment and Material	Any material, equipment, supplies, end item, subsystem, component, special tooling, or test equipment jointly acquired or provided for use in the performance of a PA under this RDT&E Agreement.

Executive Agent	A Party's representative for the implementation of this RDT&E Agreement. The Executive Agent for the United States shall be the Department of Defense of the United States of America, and the Executive Agent for Brazil shall be the Ministry of Defense of the Federative Republic of Brazil.
Financial Costs	Project costs met with monetary contributions.
Host Party	The Party whose nation serves as the location of the CPO or to whose facilities Cooperative Project Personnel (CPP) are assigned.
Information	Knowledge that can be communicated by any means, 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, Computer Software, 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.
Intellectual Property	The subject matter listed in Article 2 of the Convention Establishing the World Intellectual Property Organization, done at Stockholm, July 14, 1967, as amended, and other subject matter as agreed by the Parties.
Non-financial Costs	Project costs met with non-monetary contributions.
Parent Party	The Party that sends its CPP to the CPO located in the nation of the other Party or to the facilities of the other Party.
Party	A signatory to this RDT&E Agreement, or in the case of PAs, a signatory to a PA under this RDT&E Agreement, represented by its military or civilian personnel. Contractors and Contractor Support Personnel shall not be representatives of a Party under this RDT&E Agreement or PAs under this RDT&E Agreement.
Patent	A grant by any government or a regional office acting for more than one government of the right to exclude others from making, using, importing, selling, or offering to sell 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 protections, as well as divisions, reissues, continuations, renewals, and extensions of any of these.

Project	Specific collaboration conducted pursuant to a PA established under this RDT&E Agreement.
Project Agreement (PA)	A separate implementing agreement between the Executive Agents, concluded under this RDT&E Agreement, that specifies the terms of collaboration between the Parties in that PA.
Project Background Information	Information not generated in the performance of a Project.
Project Foreground Information	Information generated in the performance of a Project.
Project Information	Any Information provided to, generated in, or used in a Project.
Project Invention	Any invention in any field of technology, provided it is new, involves an inventive step, is capable of industrial application, and is formulated or made (conceived or "first actually reduced to practice") in the course of work performed under a Project. 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 Plan	A document that provides a detailed description of a Project, including, but not limited to, its tasks, work schedule, delivery requirements, and milestones, that is updated as necessary by the Project Officers throughout the life of a Project. The Project Plan also includes guidance on the marking of Controlled Unclassified Information and references to applicable acquisition approval processes and documents, as appropriate.
Project Security Instruction (PSI)	A document that details a Project's security-related standard operating procedures and harmonizes, clarifies, and articulates the Parties' national security policies and practices.
Prospective Contractor	Any entity that seeks to enter into a Contract to be awarded by a Party's Contracting Agency and that, in the case of a solicitation involving the release of export-controlled Information, is eligible to receive such Information.
RDT&E Agreement Activity	Any collaboration by the Parties in accordance with the objective in Article II (Objective) and the work in Article III (Scope of Work) of this RDT&E Agreement.

Third Party	A government other than a Party and any person or other entity whose government is not a Party.

ARTICLE II

OBJECTIVE

2.1. The objective of this RDT&E Agreement is to define and establish the general terms and conditions that shall apply to the initiation, conduct, and management of research, development, test, and evaluation activities as detailed in separate Project Agreements (PAs) that are authorized in accordance with the respective national procedures, laws, and regulations of the Parties. These PAs shall be entered into by the Executive Agents pursuant to this RDT&E Agreement and shall incorporate by reference the terms of this RDT&E Agreement. Additionally, this RDT&E Agreement shall allow the exchange of Information, including through Working Groups (WGs) established by the Executive Agents, for the purpose of harmonizing the Parties' military requirements to assist in better defining potential future cooperative efforts under this RDT&E Agreement.

2.2. Detailed terms and conditions of each individual PA shall be consistent with this RDT&E Agreement. Each PA shall include specific provisions concerning the objectives, scope of work, sharing of work, management structure, financial agreements, and security classification for the applicable PA in accordance with the format set forth in Annex A (Model Project Agreement) to this RDT&E Agreement, to the extent applicable and practical.

ARTICLE III

SCOPE OF WORK

3.1. The scope of work for this RDT&E Agreement shall encompass collaboration in research, development, testing, and evaluation, potentially leading to new or improved military capabilities. PAs may encompass one or more of the following activities: basic research; applied research; advanced technology development; advanced component development and prototypes; concept of operation studies and analysis; advanced concept technology demonstrations; system prototypes; system development and demonstration (engineering and manufacturing development); operational system development; loan of Equipment and Material under a PA for the purposes of research, development, testing, evaluation, or prototyping; developmental testing and evaluation of system and subsystem efforts; and evolutionary acquisition or spiral development efforts associated with low-rate initial production or production programs.

3.2. Information may be exchanged for the purpose of identifying cooperative opportunities, harmonizing the Parties' military requirements, and for facilitating the formulation, development, and negotiation of PAs under this RDT&E Agreement. Information exchanged shall take place on an equitable basis, but need not necessarily coincide in time, technical field, or form of the Information. If Information is exchanged but no PA is signed, or before a PA is signed, the receiving Party shall use such exchanged Information only for information and evaluation purposes. The receiving Party shall not disclose or transfer such Information to a Third Party or to Contractors or any other persons, other than its Contractor Support Personnel, without the specific prior written consent of the furnishing Party.

3.3. WGs may be established to explore, study, and report on specific issues or to attempt to harmonize the Parties' research, development, test, and evaluation requirements. WGs shall be limited in scope to a well-defined area and shall endeavor to assess issues based on Information provided by both Parties in such a way as to arrive at a jointly determined position within a set time period. WGs shall have their own written terms of reference (TOR), using the format set out in Annex C (Model Working Group Terms of Reference) to this RDT&E Agreement. The Information exchanged in WGs shall be subject to the disclosure and use limitations on Information that are described in paragraph 3.2. of this Article.

3.4. This RDT&E Agreement does not preclude the Parties from entering into any other agreement in the area of research, development, testing, and evaluation.

ARTICLE IV

MANAGEMENT (ORGANIZATION AND RESPONSIBILITY)

4.1. The Director, International Cooperation, in the Office of the Under Secretary of Defense (Acquisition and Sustainment) (or successor in the event of reorganization), is designated as the U.S. Agreement Director (U.S. AD). The Director, Department of Science, Technology and Innovation, in the Secretary of Defense Products of the Ministry of Defense (or successor in the event of reorganization) is designated as the Brazil Agreement Director (Brazil AD). The ADs shall be responsible for:

4.1.1. Monitoring implementation of this RDT&E Agreement and exercising senior-level oversight;

4.1.2. Monitoring the overall use and effectiveness of this RDT&E Agreement;

4.1.3. Recommending to the Parties amendments to this RDT&E Agreement to be developed in accordance with their respective national laws, regulations, policies, and staffing procedures, and in accordance with Article XVII (Amendment, Termination, Entry Into Force, and Duration) of this RDT&E Agreement; and

4.1.4. Resolving issues brought forth by the Management Agents (MAs).

4.2. The appropriate U.S. military department international program office or defense agency director (or designee) is designated the U.S. MA for those PAs and other RDT&E Agreement Activities within the respective military department or defense agency. The BR MOD shall designate the Brazil MA on a case-by-case basis. The MAs shall be responsible for:

4.2.1. Establishing PAs in accordance with this RDT&E Agreement and national policies and procedures;

4.2.2. Establishing a management structure for each PA considering its scope and the requirement for a Steering Committee (SC);

4.2.3. Appointing a Project Officer (PO) from each Party and, as appropriate, SC members;

4.2.4. Providing administrative direction for a Project to SCs, if established, or POs, if there is no SC;

4.2.5. Designating a representative for exchange of Information to harmonize requirements for the formulation, development, and negotiation of potential PAs,

in accordance with paragraph 3.2. of Article III (Scope of Work) of this RDT&E Agreement;

4.2.6. Approving and signing TORs and designating principals for WGs in accordance with paragraph 3.3. of Article III (Scope of Work) of this RDT&E Agreement, subject to any applicable national requirements for authorization of TOR signature;

4.2.7. Maintaining oversight of the security aspects of RDT&E Agreement Activities under their purview;

4.2.8. Resolving issues brought forth by the SC or, if no SC is established, by the POs;

4.2.9. Monitoring Third Party sales and transfers authorized in accordance with Article XII (Third Party Sales and Transfers) of this RDT&E Agreement if no SC is established;

4.2.10. Approving plans for disposal of jointly acquired Equipment and Material if no SC is established; and

4.2.11. Forwarding issues, when necessary, to the ADs for resolution.

4.3. For PAs in which one Party contracts on behalf of the other Party or on behalf of both Parties for tasks under that PA, an SC will be established. An SC also may be established for any PA as mutually agreed. If an SC is established under a particular PA, it shall be responsible for:

4.3.1. Providing policy and management direction to the POs during PA execution;

4.3.2. Monitoring overall PA implementation, including technical, cost, and schedule performance against requirements;

4.3.3. Approving plans for transfers of Equipment and Material or disposal of jointly acquired Equipment and Material, in accordance with Article VII (Equipment and Material) and Article XII (Third Party Sales and Transfers) of this RDT&E Agreement;

4.3.4. Resolving issues brought forth by the POs, or raising the issues to the MA;

4.3.5. Maintaining oversight of the security aspects of a Project, including reviewing and obtaining approval for the Project Security Instruction (PSI) and Classification Guide (CG) by each Party's respective Designated Security Authority (DSA) prior to any transfer of Classified Military Information;

4.3.6. Approving assignment of Cooperative Project Personnel (CPP) working on a Project at a Cooperative Project Office (CPO) or at the other Party's facilities in

accordance with the provisions set out in Appendix 1 (Assignment of Cooperative Project Personnel) to Annex A (Model Project Agreement) to this RDT&E Agreement;

4.3.7. Appointing a Project security officer;

4.3.8. Establishing the detailed financial procedures of a PA in a Financial Management Procedures Document (FMPD) in the event that one Party contracts on behalf of the other Party or on behalf of both Parties;

4.3.9. Reporting status and activity of assigned PAs on an annual basis to the MAs and ADs;

4.3.10. Employing its best efforts to resolve, in consultation with the import and export control authorities of the Party concerned, any export control issues raised by the POs in accordance with paragraph 4.4. of this Article or raised by a Party's SC representative in accordance with subparagraph 8.1.2.4. of Article VIII (Disclosure and Use of Information) of this RDT&E Agreement;

4.3.11. Monitoring Third Party sales and transfers authorized in accordance with Article XII (Third Party Sales and Transfers) of this RDT&E Agreement; and

4.3.12. Approving the Project Plan submitted by the POs in accordance with subparagraph 4.4.5. of this Article, and any revisions thereto, and reviewing the technical progress of the Project against the Project Plan.

4.4. In accordance with the terms of each PA, the POs shall have primary responsibility for effective implementation, efficient management, and direction of the applicable PA, including managing technical, cost, and schedule performance against requirements. Additionally, the POs shall be responsible for:

4.4.1. Monitoring export control arrangements required to implement each PA and, if applicable, immediately referring to the SC (or the MAs if there is no SC) any export control issues that could adversely affect the implementation of the PA;

4.4.2. For PAs involving the generation or exchange of Classified Military Information, developing and forwarding for review to the SC, if one is established, a PSI and CG within ninety (90) days of entry into force of the applicable PA, obtaining subsequent approval by each Party's respective DSA, and implementing them upon final approval;

4.4.3. Maintaining a list of all Equipment and Material transferred by either of the Parties;

4.4.4. Carrying out the responsibilities under paragraph 4.3. of this Article if no SC is established for their PA, except that the MAs shall be responsible for resolving issues brought forth by the POs, for approving plans for the disposal of jointly acquired Equipment and Material, approving CPP assignments, and for monitoring Third Party sales and transfers; and

4.4.5. Developing a Project Plan, and any necessary revisions thereto; submitting the Project Plan for SC approval; and implementing the Project Plan and any revisions upon SC approval.

4.5. In accordance with the terms of a PA concluded under this RDT&E Agreement that includes the provisions set out in Appendix 1 (Assignment of Cooperative Project Personnel) to Annex A (Model Project Agreement) to this RDT&E Agreement, a Party may assign CPP to a CPO or to the other Party's facilities to assist in the implementation of the PA.

4.6. The MAs, SCs, POs, and WG principals shall meet as required, alternately in the United States and Brazil. The chairperson for each meeting shall be the senior official of the Party hosting the meeting. During such meetings, all decisions shall be made unanimously with each Party having one vote. In the event that the Parties are unable to reach a timely decision on an issue, each Party shall refer the issue to its higher authority for resolution. In the meantime, the applicable RDT&E Agreement Activity shall continue to be implemented without interruption under the direction of the Parties' applicable representatives while the issue is being resolved by a higher authority.

ARTICLE V

FINANCIAL PROVISIONS

5.1. This RDT&E Agreement itself creates no financial obligations regarding any RDT&E Agreement Activity. Each Party shall contribute its equitable share of the full Financial Costs and Non-financial Costs of each PA, including overhead costs, administrative costs, and costs of claims (consistent with Article XIII (Liability and Claims) of this RDT&E Agreement), and shall receive an equitable share of the results of each PA.

5.2. The financial provisions for a PA, including the total cost of the PA and each Party's share of the total cost, shall be included in the PA in accordance with Annex A (Model Project Agreement) to this RDT&E Agreement.

5.3. Both Parties shall perform, or have performed, their tasks and shall use their best efforts to perform the tasks within the cost estimates specified in each PA. Both Parties shall bear the full Financial Costs and Non-financial Costs they incur for performing, managing, and administering their own activities under this RDT&E Agreement and participation in each PA, including their share of the costs of any Contracts under paragraph 5.11. of this Article.

5.4. The following costs shall be borne entirely by the Party incurring the costs or on whose behalf the costs are incurred and shall not be considered to be part of the total cost of a PA:

5.4.1. Costs associated with any unique national requirements identified by a Party; and

5.4.2. Any other costs not expressly stated as shared costs or any other costs outside the scope of this RDT&E Agreement and its PAs.

5.5. For PAs with shared costs that involve the establishment of a CPO with CPP assignments, the PA shall address the financial and non-financial contributions required for CPO administration and associated support services including, but not limited to, CPP costs of travel incurred in support of Project efforts, CPP training costs, Contract award, Contract administration, office space, security services, information technology services, communications services, and supplies.

5.6. In addition to the shared costs of CPO administration and associated support services costs described in paragraph 5.5. of this Article, the cost of personnel in the CPO or assigned to the other Party's facilities shall be borne as follows:

5.6.1. The Host Party shall bear the costs of all pay and allowances of Host Party personnel assigned to the CPO.

5.6.2. The Parent Party shall bear the following CPP-related costs:

5.6.2.1. All pay and allowances of CPP assigned to the CPO or to the other Party's facilities;

5.6.2.2. Transportation of the CPP, the CPP's dependents, and their personal property to the place of assignment in the Host Party's nation prior to the CPP's commencement of a tour of duty in the CPO or the other Party's facilities, and return transportation of the foregoing from the place of assignment in the Host Party's nation upon completion or termination of the CPP assignment;

5.6.2.3. Compensation for loss of, or damage to, the personal property of CPP or the CPP's dependents, subject to the laws and regulations of the Parent Party's Government; and

5.6.2.4. Preparation and shipment of remains and funeral expenses in the event of the death of the CPP or the CPP's dependents.

5.7. For PAs without shared costs that involve the assignment of one Party's CPP to the facilities of the other Party, the Parties shall bear the costs as set forth in paragraph 5.6. of this Article, except that the Host Party shall also bear the assignment-related administrative and support costs such as CPP costs of travel incurred in support of a PA, CPP-related training, office space, security services, information technology services, communications services, and supplies.

5.8. A Party shall notify the other Party promptly if available funds will not be adequate to fulfill its obligations as agreed under a PA, or it appears that the cost ceilings of a PA will be exceeded, or if a Party is terminating or reducing its funding for a Project. In such circumstances, both Parties shall consult immediately with a view toward continuation on a modified basis.

5.9. For each PA, the POs shall be responsible for establishing the detailed financial management procedures under which the Project shall operate. In the event that a Party contracts on behalf of the other Party or on behalf of both Parties, those procedures, which must accord with the national accounting and auditing requirements of the Parties, shall be detailed in an FMPD prepared by the POs and subject to the approval of the SC.

5.10. If one Party contracts on behalf of the other Party or on behalf of both Parties for a Project, each Party shall provide its funds for the applicable Contracts in accordance with the estimated schedule of financial contributions contained in the FMPD, which shall be consistent with paragraph 5.11. of this Article.

5.11. The Parties recognize that, in performing Contracting responsibilities for the other Party or both Parties in accordance with a PA, it may become necessary for the Contracting Party to incur contractual or other obligations for the benefit of the other Party or both of the Parties prior to the receipt of the other Party's funds. In the event that the Contracting Party incurs such contractual or other obligations, the other Party shall pay its equitable share of the Contract or other obligation, and shall make such funds available in such amounts and at such times as required by the Contract

or other obligation and shall pay its share of any damages in accordance with Article XIII (Liability and Claims) of this RDT&E Agreement and its equitable share of any costs that may accrue from the performance of or cancellation of the Contract or other obligation in advance of the time such payments, damages, or costs are due.

5.12. Each Party shall be responsible for the audit of the procurement activities for which it is responsible under a Project in accordance with its national practices. For PAs under which funds are transferred between the Parties, the receiving Party shall be responsible for the internal audit regarding administration of the other Party's Project funds in accordance with the receiving Party's national practices. Audit reports of such funds shall be made available promptly by the receiving Party to the other Party.

ARTICLE VI

CONTRACTING PROVISIONS

6.1. If either Party determines that Contracting is necessary to fulfill that Party's obligations under the scope of work of a PA, that Party shall contract in accordance with its respective national laws, regulations, and procedures.

6.2. When one Party individually contracts to carry out a task under a PA under this RDT&E Agreement, it shall be solely responsible for its own Contracting, and the other Party shall not be subject to any liability arising from such Contracts without its prior written consent.

6.3. For all Contracting activities performed by either Party for the benefit of the other Party or both Parties, the POs shall, upon request, be provided a copy of all statements of work prior to the issuance of solicitations to ensure that they are consistent with the provisions of this RDT&E Agreement and the applicable PA. The Contracting Officer shall keep the POs advised of all significant developments associated with award and performance of Project Contracts awarded for the other Party or both Parties, and shall keep the POs advised of all financial arrangements with the prime Contractor.

6.4. The POs may make use of a Party's Contracting Agency in the event that Contracting on behalf of the other Party or both Parties is required to implement a PA. The Contracting Agency so used shall award Contracts in accordance with its respective national laws, regulations, and procedures with such waivers and deviations from those regulations and procedures as its procedures permit and as deemed necessary to implement the PA. The Contracting Party's Contracting Officer shall be the exclusive source for providing contractual direction and instructions to the Contractors for Contracts awarded by that Party.

6.5. For all Contracting activities performed by either Party, each Party's Contracting Agency shall insert into its prospective Contracts (and require its Contractors to insert in subcontracts) suitable conditions to satisfy the requirements of this RDT&E Agreement, including Article VIII (Disclosure and Use of Information), Article IX (Controlled Unclassified Information), Article XI (Security), Article XII (Third Party Sales and Transfers), and Article XVII (Amendment, Termination, Entry Into Force, and Duration), and including export control provisions in accordance with this RDT&E Agreement, in particular paragraphs 6.6. and 6.7. of this Article. Each Party's Contracting Officer shall negotiate to obtain the rights to use and disclose Project Information required by Article VIII (Disclosure and Use of Information) of this RDT&E Agreement. During the Contracting process, each Party's Contracting Officer shall advise Prospective Contractors of their responsibility to notify the Contracting Agency, before Contract award, if they are subject to any license or agreement that will restrict their freedom to disclose Information or permit its use. The Contracting Officer shall also advise Prospective Contractors to employ their best efforts not to enter into any new agreement or arrangement that would result in such restrictions.

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

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

6.8. In the event a Party's Contracting Agency is unable to secure adequate rights to use and disclose Project Information as required by Article VIII (Disclosure and Use of Information) of this RDT&E Agreement, or is notified by Contractors or Prospective Contractors of any restrictions on the disclosure and use of Project Information, that Party's PO shall notify the other Party's PO of the restrictions, and the POs shall submit the matter to the SC (or the MAs if no SC is established) for resolution.

6.9. Each Party's PO shall advise the other Party's PO promptly of any cost growth, schedule changes, delay, or performance problems under any Contract for which its Contracting Agency is responsible.

6.10. No requirement shall be imposed by either Party for work sharing or other industrial or commercial compensation in connection with this RDT&E Agreement or its PAs that is not in accordance with this RDT&E Agreement or its PAs.

6.11. Upon mutual written consent, consistent with Article II (Objective) of this RDT&E Agreement, a Party may contract for the unique national requirements of the other Party.

ARTICLE VII

EQUIPMENT AND MATERIAL

7.1. Each Party may provide Equipment and Material identified as being necessary for executing a specific PA to the other Party. Such Equipment and Material shall remain the property of the providing Party. A list of all Equipment and Material provided by one Party to the other Party shall be developed and maintained by the POs and approved by the SC (if an SC is established).

7.2. The receiving Party shall maintain any such Equipment and Material in good order, repair, and operable condition. Unless the providing Party has authorized the Equipment and Material to be expended or otherwise consumed without reimbursement to the providing Party, the receiving Party shall return the Equipment and Material to the providing Party in as good condition as received, normal wear and tear excepted, or return the Equipment and Material and pay the cost to restore it. If the Equipment and Material is damaged beyond economical repair, the receiving Party shall return the Equipment and Material to the providing Party (unless otherwise specified in writing by the providing Party) and pay its replacement value, which shall be computed pursuant to the providing Party's national laws and regulations. If the Equipment and Material is lost while in the custody of the receiving Party, the receiving Party shall issue a certificate of loss to the providing Party and pay the replacement value as computed pursuant to the providing Party's national laws and regulations. If known at the time of entry into force, the replacement value of the Equipment and Material shall be specified in the PA.

7.3. The providing Party shall deliver Equipment and Material to the receiving Party at a mutually agreed location. Possession of the Equipment and Material shall pass from the providing Party to the receiving Party at the time of receipt of the Equipment and Material. Any further transportation is the responsibility of the receiving Party unless otherwise specified in the applicable PA.

7.4. All Equipment and Material that is transferred shall be used by the receiving Party only for the purposes of carrying out a PA, unless otherwise agreed to in writing by the providing Party. In addition, in accordance with Article XII (Third Party Sales and Transfers) of this RDT&E Agreement, Equipment and Material shall not be re-transferred or sold to a Third Party without the prior written consent of the providing Party.

7.5. Equipment and Material transferred to one Party under a PA shall be returned to the providing Party prior to the termination or expiration of that PA, subject to paragraph 7.2. of this Article.

7.6. Any Equipment and Material that is jointly acquired on behalf of both Parties for use under a PA shall be disposed of during the period of the PA or when the PA ceases, as determined by the SC or, if no SC is established, as determined by the MAs.

7.7. Disposal of jointly acquired Equipment and Material may include a transfer of the interest of one Party in such Equipment and Material to the other Party, or the sale of such Equipment and Material to a Third Party in accordance with Article XII (Third Party Sales and Transfers) of this RDT&E Agreement. The Parties shall share the consideration from jointly acquired Equipment and Material transferred or sold to a Third Party in the same ratio as costs are shared under the applicable PA.

ARTICLE VIII

DISCLOSURE AND USE OF INFORMATION

8.1. General

8.1.1. Both Parties recognize that successful collaboration depends on full and prompt exchange of Information necessary for carrying out each PA or any other RDT&E Agreement Activity. The Parties intend to acquire sufficient Information and rights to use such Information to enable collaboration on basic, exploratory, and advanced technologies, the maturation of which may lead to the development of technologically superior systems. The nature and amount of Information to be exchanged or acquired shall be consistent with the provisions of Article II (Objective) and Article III (Scope of Work) of this RDT&E Agreement and with the objectives and scope of work in the applicable PA.

8.1.2. The following export control provisions shall apply to the transfer of Information furnished or generated under this RDT&E Agreement:

8.1.2.1. Transfer of such Information shall be consistent with the furnishing Party's applicable export control laws and regulations.

8.1.2.2. Unless otherwise restricted by duly authorized officials of the furnishing Party at the time of transfer to the other Party, all export-controlled Information furnished by one Party to the other Party may be retransferred to the other Party's Contractors, subcontractors, Prospective Contractors, and prospective subcontractors, subject to the requirements of paragraphs 6.6. and 6.7. of Article VI (Contracting Provisions) of this RDT&E Agreement.

8.1.2.3. Export-controlled Information may be furnished by Contractors, subcontractors, Prospective Contractors, and prospective subcontractors of one Party's nation to the Contractors, subcontractors, Prospective Contractors, and prospective subcontractors of the other Party's nation pursuant to a PA under this RDT&E Agreement, subject to the conditions established in licenses or other approvals issued by the Government of the furnishing Party in accordance with its applicable export control laws and regulations.

8.1.2.4. If a Party finds it necessary to exercise a restriction on the retransfer of export-controlled Information as set out in subparagraph 8.1.2.2. of this Article, it shall inform the other Party promptly. If a restriction is then exercised and the affected Party objects, that Party's SC representative (or PO, if no SC is established under a PA) shall notify

the other Party's SC representative promptly (or PO, if no SC is established), and they shall consult immediately in order to discuss ways to resolve such issues or mitigate any adverse effects.

8.1.3. Pursuant to paragraphs 3.2. and 3.3. of Article III (Scope of Work) of this RDT&E Agreement, the Parties may exchange Information under this RDT&E Agreement for the objectives of harmonizing the Parties' requirements and formulating, developing, and negotiating potential PAs. The Party furnishing such Information shall indicate clearly to the receiving Party that it is furnishing such Information for such objectives. Until a PA is signed, or if no PA is signed, a Party may use Information received pursuant to paragraphs 3.2. and 3.3. of Article III (Scope of Work) of this RDT&E Agreement only for information and evaluation purposes and shall not disclose or transfer such Information to a Third Party. The receiving Party shall not disclose Information to Contractors or any other persons, other than its Contractor Support Personnel, without the specific prior written consent of the furnishing Party.

8.2. Government Project Foreground Information

8.2.1. Disclosure: All Project Foreground Information generated by a Party's military or civilian employees (hereinafter referred to as "Government Project Foreground Information") shall be disclosed promptly and without charge to the Parties.

8.2.2. Use: Each Party may use or have used all Government Project Foreground Information without charge for Defense Purposes. The Party generating Government Project Foreground Information shall also retain all its rights of use thereto. Any sale or other transfer to a Third Party shall be subject to the conditions of Article XII (Third Party Sales and Transfers) of this RDT&E Agreement.

8.3. Government Project Background Information

8.3.1. Disclosure: Each Party, upon request, shall disclose promptly and without charge to the other Party any relevant Project Background Information generated by its military or civilian employees (hereinafter referred to as "Government Project Background Information"), provided that:

8.3.1.1. Such Government Project Background Information is necessary to or useful in a specific Project, with the Party in possession of the Information determining, after consulting with the requesting Party, whether it is "necessary to" or "useful in" the Project;

8.3.1.2. The rights of holders of Intellectual Property are not infringed;

8.3.1.3. Disclosure of such Government Project Background Information is consistent with national disclosure policies and regulations of the furnishing Party; and

8.3.1.4. Any disclosure or transfer of such Government Project Background Information to Contractors is consistent with the furnishing Party's export control laws and regulations.

8.3.2. Use: Government Project Background Information furnished by one Party to the requesting Party may be used without charge by or for the requesting Party for Project purposes. However, subject to Intellectual Property rights held by entities other than the Parties, such Government Project Background Information may be used for Project purposes by the requesting Party, without charge, when such Information is necessary for the use of Project Foreground Information. The furnishing Party, in consultation with the other Party, shall determine whether the Government Project Background Information is necessary for the use of Project Foreground Information. The furnishing Party shall retain all its rights with respect to such Government Project Background Information.

8.4. Contractor Project Foreground Information

8.4.1. Disclosure: Project Foreground Information generated and delivered by Contractors (hereinafter referred to as "Contractor Project Foreground Information") shall be disclosed promptly and without charge to both Parties.

8.4.2. Use: Each Party may use or have used without charge for Defense Purposes all Contractor Project Foreground Information generated and delivered by Contractors of the Parties. The Party whose Contractors generate and deliver Contractor Project Foreground Information shall retain all its rights of use thereto in accordance with the applicable Contracts. Any sale or other transfer to a Third Party of Contractor Project Foreground Information shall be subject to the conditions of Article XII (Third Party Sales and Transfers) of this RDT&E Agreement.

8.5. Contractor Project Background Information

8.5.1. Disclosure: A Contracting Party shall make available to the other Party promptly and without charge all Project Background Information generated by Contractors (hereinafter referred to as "Contractor Project Background Information") that is delivered under Contracts awarded in accordance with a specific PA. Any other Contractor Project Background Information that is in the possession of one Party shall be made available promptly and without charge to the other Party, upon its request, provided the following conditions are met:

8.5.1.1. Such Contractor Project Background Information is necessary to or useful in a specific Project. The Party in possession of the Contractor Project Background Information will determine, after consultation with the requesting Party, whether it is "necessary to" or "useful in" the Project;

8.5.1.2. The rights of holders of Intellectual Property are not infringed;

8.5.1.3. Disclosure of such Contractor Project Background Information is consistent with national disclosure policies and regulations of the furnishing Party; and

8.5.1.4. Any disclosure or transfer of such Contractor Project Background Information to Contractors is consistent with the furnishing Party's export control laws and regulations.

8.5.2. Use:

8.5.2.1. All Contractor Project Background Information delivered by Contractors under Contracts awarded in accordance with this RDT&E Agreement may be used by or for the receiving Party, without charge, for Project purposes, subject to any restrictions by holders of Intellectual Property rights other than the Parties. Also, when necessary for the use of Project Foreground Information, such Contractor Project Background Information may be used with the Project Foreground Information by the Parties for Defense Purposes, subject to the terms of the Contract.

8.5.2.2. Any other Contractor Project Background Information furnished by one Party's Contractors and disclosed to a requesting Party may be used without charge by the requesting Party for Project purposes, subject to any restrictions by holders of Intellectual Property rights other than the Parties. Also, when necessary for the use of Project Foreground Information, such other Contractor Project Background Information may be used by the requesting Party for Defense Purposes, subject to such fair and reasonable terms as may be necessary to be arranged with the Contractor. The furnishing Party, in consultation with the requesting Party, shall determine whether such other Contractor Project Background Information is necessary for the use of Project Foreground Information. The furnishing Party shall retain all its rights with respect to Contractor Project Background Information.

8.6. Alternative Uses of Project Information

8.6.1. Any Project Background Information provided by one Party shall be used by the other Party only for the purposes set forth in this RDT&E Agreement, unless otherwise agreed to in writing by the providing Party.

8.6.2. The prior written consent of each Party shall be required for the use of Project Foreground Information for purposes other than those provided for in this RDT&E Agreement.

8.7. Proprietary Information

8.7.1. All Information that is subject to disclosure and use restrictions with respect to Intellectual Property rights shall be identified and marked, and it shall be handled as Controlled Unclassified Information or as Classified Military Information, depending on its security classification.

8.7.2. The PSI, or Project Plan if no PSI is required, shall contain such provisions as are necessary to ensure the protected communication of Project Information that is subject to Intellectual Property rights.

8.8. Project Inventions and Patents

8.8.1. Each Party shall include in all its Contracts for a Project a provision governing the disposition of rights in regard to Project Inventions and Patent rights relating thereto that either:

8.8.1.1. Provides that the Party shall hold title to all such Project Inventions together with the right to make Patent applications for the same, free of encumbrance from the Contractor concerned; or

8.8.1.2. Provides that the Contractor shall hold title (or may elect to retain title) for such Project Inventions together with the right to make Patent applications for the same, while securing for the Parties a license for the Project Inventions, and any Patents thereto, on terms in compliance with the conditions of subparagraph 8.8.2. of this Article.

8.8.2. In the event that a Contractor owns title (or elects to retain title) to any Project Invention, the Contracting Party shall secure for the other Party non-exclusive, irrevocable, royalty-free licenses under all Patents secured for that Project Invention, to practice or have practiced the patented Project Invention throughout the world for Defense Purposes.

8.8.3. The conditions of subparagraphs 8.8.4. through 8.8.7. of this Article shall apply in regard to Patent rights for all Project Inventions made by the Parties' military

or civilian employees, including those within Government-owned facilities, and for all Project Inventions made by Contractors for which the Contracting Party holds title or is entitled to acquire title.

8.8.4. When a Party has secured or can secure the right to file a Patent application with regard to a Project Invention, then that Party shall consult with the other Party regarding the filing of such Patent application. The Party that has or receives title to such Project Invention shall, in other countries, file, cause to be filed, or provide the other Party with the opportunity to file on behalf of the Party holding title, Patent applications covering that Project Invention. A Party shall notify the other Party immediately that a Patent application has been filed. If a Party, having filed or caused to be filed a Patent application, abandons prosecution of the application or ceases maintaining the Patent granted or issued on the application, that Party shall notify the other Party of that decision and permit the other Party to continue the prosecution or maintain the Patent as the case may be.

8.8.5. Each Party shall be furnished with copies of Patent applications filed and Patents granted with regard to Project Inventions.

8.8.6. Each Party shall grant to the other Party a non-exclusive, irrevocable, royalty-free license under its Patents for Project Inventions, to practice or have practiced the Project Invention throughout the world for Defense Purposes.

8.8.7. Patent applications to be filed, or assertions of other Intellectual Property rights, under this RDT&E Agreement that contain Classified Military Information shall be protected and safeguarded in accordance with the provisions of Article XI (Security) of this RDT&E Agreement.

8.9. Each Party shall notify the other Party of any Intellectual Property infringement claims brought against that Party arising in the course of work performed under a Project on behalf of the other Party. Insofar as possible, the other applicable Party shall provide Information available to it that may assist in defending such claims. Each Party shall be responsible for handling such Intellectual Property infringement claims brought against it, and shall consult with the other Party during the handling, and prior to any settlement, of such claims. The Parties shall share the costs of resolving such Intellectual Property infringement claims in proportion to their financial contributions for that work specified in the Article concerning financial provisions in the applicable PA under this RDT&E Agreement.

ARTICLE IX

CONTROLLED UNCLASSIFIED INFORMATION

9.1. Except as otherwise provided in this RDT&E Agreement or as authorized in writing by the originating Party, Controlled Unclassified Information provided or generated pursuant to this RDT&E Agreement and any of its RDT&E Agreement Activities shall be controlled as follows:

9.1.1. Such Information shall be used only for the purposes authorized for use of Information as specified in Article VIII (Disclosure and Use of Information) of this RDT&E Agreement.

9.1.2. Access to such Information shall be limited to personnel whose access is necessary for the permitted use under subparagraph 9.1.1. of this Article, and shall be subject to the provisions of Article XII (Third Party Sales and Transfers) of this RDT&E Agreement.

9.1.3. Each Party shall take all lawful steps available to it, including national classification, to keep such Information free from further disclosure (including requests under any legislative provisions), except as provided in subparagraph 9.1.2. of this Article, 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.

9.2. To assist in providing the appropriate controls, the originating Party shall ensure that Controlled Unclassified Information is appropriately marked to ensure its "in confidence" nature. The Parties' export-controlled Information shall be marked in accordance with the applicable Party's export control markings as documented in the PSI or, if no PSI is required, the Project Plan, for the applicable PA. The Parties shall also decide, in advance and in writing, on the markings to be placed on any other types of Controlled Unclassified Information and describe such markings in the PSI or, if no PSI is required, the Project Plan for the applicable PA.

9.3. Controlled Unclassified Information provided or generated pursuant to this RDT&E Agreement and any of its PAs shall be handled in a manner that ensures control as provided for in paragraph 9.1. of this Article.

9.4. 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 conditions of this Article.

ARTICLE X

VISITS TO ESTABLISHMENTS

10.1. 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 Contractors, provided that the visit is authorized by both Parties and the employees have any necessary and appropriate security clearances and a need-to-know.

10.2. 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 RDT&E Agreement.

10.3. 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 Party. Requests for visits shall bear the name of this RDT&E Agreement and applicable Project or other RDT&E Agreement Activity.

10.4. 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 XI

SECURITY

11.1. All Classified Military Information provided or generated pursuant to this RDT&E Agreement shall be stored, handled, transmitted, and safeguarded in accordance with the CMI Agreement.

11.2. Classified Military Information shall be transferred only through official government-to-government channels or through channels approved by the DSAs of the Parties. Such Classified Military Information shall bear the level of classification and denote the country of origin, the conditions of release, and the fact that the Classified Military Information relates to this RDT&E Agreement and the applicable PA or any other RDT&E Agreement Activity.

11.3. Each Party shall take all lawful steps available to it to ensure that Classified Military Information provided or generated pursuant to this RDT&E Agreement and its PAs or any other RDT&E Agreement Activity is protected from further disclosure, except as permitted by this Article, unless the other Party consents to such disclosure. Accordingly, each Party shall ensure that:

11.3.1. Such Classified Military Information is not released to any Third Party except as permitted under the procedures set forth in Article XII (Third Party Sales and Transfers) of this RDT&E Agreement;

11.3.2. Such Classified Military Information is not used for purposes other than those provided for in this RDT&E Agreement and any of its PAs or any other RDT&E Agreement Activity; and

11.3.3. The recipient complies with any distribution and access restrictions on such Classified Military Information that are provided for under this RDT&E Agreement and its PAs or any other RDT&E Agreement Activity.

11.4. The Parties shall investigate all cases in which it is known or when there are grounds for suspecting that Classified Military Information provided or generated pursuant to this RDT&E Agreement and its PAs or any other RDT&E Agreement Activity 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 occurrence, of the final results of the investigation, and of the corrective action taken to preclude recurrence.

11.5. POs shall prepare a PSI and a CG for their respective PAs that require the exchange or generation of Classified Military Information. The PSI and the CG shall describe the methods by which Classified Military Information shall be classified, marked (where practicable), used, transmitted, and safeguarded, and shall require that markings for all export-controlled Classified Military Information shall include the applicable export control markings identified in the PSI in accordance with paragraph 9.2. of Article IX (Controlled Unclassified Information) of this

RDT&E Agreement. The PSI and CG shall be developed by the POs within three (3) months after the applicable PA enters into force. They shall be reviewed and forwarded to the Parties' DSAs for approval and shall be applicable to all Government and Contractor personnel participating in the PA. The CG shall be subject to regular review and revision with the aim of downgrading the classification whenever this is appropriate. The PSI and CG shall be approved by both DSAs prior to the transfer of any Classified Military Information.

11.6. The DSA of the Party that awards a classified Contract shall assume responsibility for administering within its territory security measures for the protection of the Classified Military Information, in accordance with its laws and regulations. Prior to the release to a Contractor, Prospective Contractor, or subcontractor of any Classified Military Information received or generated under this RDT&E Agreement and its PAs, the DSAs or their designees shall:

11.6.1. Ensure that such Contractor, Prospective Contractor, or subcontractor (and its facilities) has the capability to protect the Classified Military Information adequately;

11.6.2. Grant an appropriate security clearance to the facilities;

11.6.3. Grant an appropriate security clearance for all personnel with duties that require access to Classified Military Information;

11.6.4. Ensure that all persons having access to the Classified Military Information are informed of their obligations to protect the Classified Military Information in accordance with national security laws and regulations and the conditions of this RDT&E Agreement;

11.6.5. Carry out security inspections of the cleared facilities, as appropriate, to ensure that the Classified Military Information is properly protected; and

11.6.6. Ensure that access to the Classified Military Information is limited to those persons who have a need-to-know for purposes of this RDT&E Agreement and its PAs.

11.7. Contractors, Prospective Contractors, or subcontractors that are determined by either or both of the 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 Military Information provided or generated pursuant to this RDT&E Agreement and its PAs only when the DSA of the Party that awards a classified Contract determines that enforceable measures are in effect to ensure that nationals or other entities of a Third Party shall not have access to Classified Military Information. If enforceable measures are not in effect to preclude access by nationals or other entities of a Third Party, the consent of the other Party shall be obtained prior to permitting such access.

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

11.9. Each Party shall ensure that access to the Classified Military Information received or generated pursuant to the RDT&E Agreement is limited to those persons who possess requisite security clearances and have a specific need for access to the Classified Military Information in order to participate in this RDT&E Agreement and its PAs or any other RDT&E Agreement Activities.

11.10. Information provided or generated pursuant to this RDT&E Agreement and its PAs, or any other RDT&E Agreement Activity, may be classified as high as SECRET. The existence of this RDT&E Agreement is unclassified and the contents are unclassified. The classification of the existence of a PA and its contents shall be stated in the PA.

ARTICLE XII

THIRD PARTY SALES AND TRANSFERS

12.1. Except to the extent permitted in paragraph 12.2. of this Article, the Parties shall not sell, transfer title to, disclose, or transfer possession of Project Foreground Information, any item produced either wholly or in part from Project Foreground Information, jointly acquired or produced Equipment and Material, to any Third Party without the prior written consent of the Government 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 Government of the other Party. Such consent shall not be given unless the government of the intended recipient confirms in writing with the Parties that it shall:

12.1.1. Not retransfer, or permit the further retransfer of, any Equipment and Material or Information provided; and

12.1.2. Use, or permit the use of, the Equipment and Material or Information provided only for the purposes specified by the Parties.

12.2. Each Party shall retain the right to sell, transfer title to, disclose, or transfer possession of Project Foreground Information or any item produced either wholly, or in part, from Project Foreground Information:

12.2.1. That is generated solely by either that Party or that Party's Contractors in the performance of that Party's work allocation under a PA; and

12.2.2. That does not include any Project Foreground Information or Project Background Information of the other Party and whose generation, test, or evaluation has not relied on the use of Equipment and Material of the other Party.

12.3. In the event that 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 12.2. of this Article, 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.

12.4. A Party shall not sell, transfer title to, disclose, or transfer possession of Equipment and Material or Project Background Information provided by the other Party to any Third Party without the prior written consent of the Government of the other Party that provided such Equipment and Material or Information. The providing Party's Government shall be solely responsible for authorizing the transfers described in this paragraph and, as applicable, specifying the method and conditions for implementing such transfers.

ARTICLE XIII

LIABILITY AND CLAIMS

13.1. For liability arising out of, or in connection with, activities undertaken in the performance of official duty in the execution of this RDT&E Agreement, the following conditions shall apply:

13.1.1. Claims against a Party or its military or civilian personnel shall be dealt with in accordance with the terms of applicable multilateral or bilateral treaties and agreements of the Parties.

13.1.2. For those claims for which multilateral or bilateral treaties or agreements do not apply, the following conditions shall apply:

13.1.2.1. With the exception of claims for loss of or damage to Equipment and Material, which are addressed in Article VII (Equipment and Material) of this RDT&E Agreement, each Party waives all claims against the other Party in respect to injury to or death of its military or civilian personnel and for damage to or loss of its property (including its interest in jointly acquired Equipment and Material) caused by such personnel of the other Party. However, if the Parties determine that such injury, death, damage, or loss results from reckless acts or reckless omissions, willful misconduct or gross negligence of a Party's military or civilian personnel, the costs of any liability shall be borne by that Party alone.

13.1.2.2. Claims from any other persons for injury, death, damage, or loss of any kind caused by one of the Parties' military or civilian personnel shall be processed by the most appropriate Party, as determined by the Parties, in accordance with the appropriate Party's national laws and regulations. Any costs determined to be owed the claimant shall be borne by the Parties in the same ratios as their financial and non-financial contributions specified in the PA under this RDT&E Agreement. However, if, after consultation, the Parties determine that such injury, death, damage, or loss results from reckless acts or reckless omissions, willful misconduct, or gross negligence of a Party's military or civilian personnel, the costs of any liability shall be borne by that Party alone.

13.2. If a person or entity, other than the Party's military or civilian personnel, damages Equipment and Material jointly acquired under a PA, and the cost of making good such damage is not recoverable from such person or entity, such cost shall be borne by the Parties in the same ratios as their financial and non-financial contributions specified in the applicable PA under this RDT&E Agreement.

13.3. Claims arising under any Contract awarded under this RDT&E Agreement shall be resolved in accordance with the terms of that Contract.

13.4. Employees and agents of Contractors are not considered civilian personnel of a Party for the purposes of this Article.

ARTICLE XIV

CUSTOMS DUTIES, TAXES, AND SIMILAR CHARGES

14.1. 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 customs duties, import and export 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 each PA under this RDT&E Agreement.

14.2. 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 carried out under each PA. If any such duties, taxes, or similar charges are levied in connection with a Project, the Party in whose country they are levied shall bear such costs over and above that Party's shared costs of the Project.

ARTICLE XV

SETTLEMENT OF DISPUTES

15.1. Disputes between the Parties arising under or relating to this RDT&E Agreement and any of its PAs or any other RDT&E Agreement Activity shall be resolved only by direct 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 XVI

GENERAL PROVISIONS

16.1. The Parties agree that the provisions of this RDT&E Agreement and PAs under this RDT&E Agreement shall constitute legally binding obligations under international law.

16.2. All RDT&E Agreement Activities, including PAs, shall be carried out in accordance with the Party's respective national laws and regulations, including their respective export control laws and regulations. The obligations of the Parties, with the exception of those responsibilities regarding the security of Information and protection of Intellectual Property rights, shall be subject to the availability of funds for such purposes.

16.3. In the event of a conflict between an Article of this RDT&E Agreement and any Annex to this RDT&E Agreement, the Article of the RDT&E Agreement shall control.

16.4. In the event of a conflict between the terms of this RDT&E Agreement and any PA under this RDT&E Agreement, the RDT&E Agreement shall govern.

ARTICLE XVII

AMENDMENT, TERMINATION, ENTRY INTO FORCE, AND DURATION

17.1. This RDT&E Agreement and its PAs may be amended by the mutual written consent of the Parties. Annexes to the PAs may be amended by the SC, or if there is no SC, the POs, except for Appendix 1 (Assignment of Cooperative Project Personnel) to Annex A (Model Project Agreement) to this RDT&E Agreement, which may be amended only by the Parties. Amendments to the Annexes of a PA by the SC (or the POs if there is no SC) shall be consistent with the Articles of the PA.

17.2. This RDT&E Agreement and its PAs may be terminated at any time by the written consent of the Parties. In the event both Parties consent to terminate this RDT&E Agreement, or decide to terminate any PA, the Parties shall consult prior to the date of termination to ensure termination in the most economical and equitable manner.

17.3. Either Party may terminate this RDT&E Agreement or any of its PAs upon ninety (90) days written notification to the other Party of its intent to terminate. Such notice shall be the subject of immediate consultation by the ADs, in the case of termination of the RDT&E Agreement, to decide upon the appropriate course of action to conclude the activities under this RDT&E Agreement and the subject of immediate consultation by the SC (or the MAs if no SC is established) to discuss how to conclude any terminated PAs in the most economical and equitable manner. In the event of such termination, the following rules apply:

17.3.1. The Party terminating this RDT&E Agreement or any of its PAs shall continue participation, financial or otherwise, in the RDT&E Agreement or the PAs affected by the notification of termination, up to the effective date of termination.

17.3.2. Except as to Contracts awarded on behalf of both Parties, each Party shall be responsible for its own costs associated with termination of the PA. For Contracts awarded on behalf of both Parties, the Party responsible for terminating the PA shall pay all Contract modification or cancellation costs that would not otherwise have been incurred but for the decision to terminate. Except for damages related to claims arising from such termination, which are addressed in accordance with Article XIII (Liability and Claims) of this RDT&E Agreement, a terminating Party's total Financial Costs, including Contract modification or cancellation costs, shall not exceed that Party's total Financial Costs as established in the PA being terminated.

17.3.3. All Information and rights therein received under the provisions of this RDT&E Agreement and its PAs prior to termination of this RDT&E Agreement or its PAs shall be retained by the Parties, subject to the provisions of this RDT&E Agreement and its PAs.

17.3.4. If requested by the other Party, the terminating Party may continue to administer any Project Contracts that it awarded on behalf of the other Party on a reimbursable basis.

17.4. The respective rights and obligations of the Parties regarding Article VII (Equipment and Material), Article VIII (Disclosure and Use of Information), Article IX (Controlled Unclassified Information), Article XI (Security), Article XII (Third Party Sales and Transfers), Article XIII (Liability and Claims), Article XV (Settlement of Disputes), and this Article XVII (Amendment, Termination, Entry Into Force, and Duration) of this RDT&E Agreement shall continue to apply notwithstanding termination or expiration of this RDT&E Agreement and any of its PAs.

17.5. This RDT&E Agreement, which consists of seventeen (17) Articles and two (2) Annexes, shall be signed by both Parties and shall enter into force upon the date of the last written notification by which the Parties inform each other, through diplomatic channels, of the completion of their respective internal procedures required to bring this RDT&E Agreement into force, and shall remain in force for twenty (20) years. It may be extended by written agreement of the Parties.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Parties, have signed this RDT&E Agreement.

DONE, in duplicate, in the Portuguese and English languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE FEDERATIVE REPUBLIC OF BRAZIL	FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA
Signature	Signature
GEN RAUL BOTELHO	ADM CRAIG S. FALLER, ALTE, USN
Name	Name
CHAIRMAN OF THE JOINT CHIEFS OF STAFF	COMMANDER UNITED STATES SOUTHERN COMMAND
Title	Title
8 MARCH 2020	8 MARCH 2020
Date	Date
MIAMI, FL	MIAMI, FL
Location	Location

ANNEX A

MODEL PROJECT AGREEMENT

PROJECT AGREEMENT (PA) XX-NN-nnnn*

BETWEEN

THE DEPARTMENT OF DEFENSE OF THE UNITED STATES OF AMERICA

AND

THE MINISTRY OF DEFENSE OF THE FEDERATIVE REPUBLIC OF BRAZIL

UNDER THE

AGREEMENT BETWEEN

THE GOVERNMENT OF THE UNITED STATES OF AMERICA

AND

THE GOVERNMENT OF THE FEDERATIVE REPUBLIC OF BRAZIL

FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION PROJECTS

CONCERNING

(FULL DESIGNATION OF THE PROJECT)

(Short Title: _____)

* **The Project Agreement Numbers will be structured as follows:**

XX-NN-nnnn where XX is a U.S. Military Department or Defense Agency designator such as N for Navy, A for Army, AF for Air Force, DA for DARPA, etc.; NN is the calendar year; and nnnn is a sequential number.

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PREAMBLE

Pursuant to the Agreement Between the Government of the United States of America and the Government of the Federative Republic of Brazil for Research, Development, Test, and Evaluation Projects (hereinafter referred to as the "RDT&E Agreement"), which entered into force on (date), the _____ **(enter full title of PA)** Project Agreement (PA) is hereby entered into Between the Department of Defense of the United States of America (U.S. DoD) and the Ministry of Defense of the Federative Republic of Brazil (BR MOD), hereinafter referred to, for the purposes of this PA, as the "Parties."

ARTICLE I

DEFINITION OF TERMS AND ABBREVIATIONS

(Define only those terms used in this PA that have not been defined in the RDT&E Agreement.)

ARTICLE II

OBJECTIVES

2.1. The objectives of this _____ PA are:

(For example:

2.1.1. The development of _____
_____; and

2.1.2. The improvement of _____
_____.)

ARTICLE III

SCOPE OF WORK

3.1. The following work shall be undertaken under this PA:

(For example:

3.1.1. Develop _____
_____;

3.1.2. Evaluate _____
_____; and

3.1.3. Design, fabricate, and test_____
_____.)

ARTICLE IV

SHARING OF TASKS

4.1. The sharing of tasks shall be as follows:

(For example:

4.1.1. The U.S. DoD shall _____
_____.

4.1.2. The BR MOD shall _____
_____.

4.1.3. The U.S. DoD and BR MOD shall jointly _____
_____.

4.1.3.x. Develop and approve a Project Plan;

4.1.3.y. Prepare a final report of the Project.)

(For PAs involving the generation or exchange of Classified Military Information, the following provision shall be included:

4.1.3.z. Develop a Project Security Instruction and Classification Guide and obtain its approval by each Party's respective Designated Security Authority;)

ARTICLE V

MANAGEMENT

(If a PA does not require a Steering Committee, use the following format to set forth how the PA shall be managed.)

Alternative 1

5.1. This PA shall be directed and administered on behalf of the Parties by one Project Officer (PO) from each Party. The POs are:

U.S. DoD PO Title/Position: _____

Organization: _____

Address: _____
_____
_____

BR MOD PO Title/Position: _____

Organization: _____

Address: _____
_____
_____

5.2. Project offices shall be established in _____ **(name of U.S. location)** and in _____ **(name of the Brazil location)**. The POs are responsible for management of those tasks listed as national obligations in Article IV (Sharing of Tasks) of this PA.

5.3. The Project shall proceed according to the schedule in the Project Plan developed and approved by the POs.

5.4. The final report of the Project shall be transmitted to the Management Agents (MAs) six (6) months prior to the expiration date of this PA.

5.5. Particular Management Procedures:

(Mention only those additional management responsibilities not covered under Article IV (Management (Organization and Responsibility)) of the RDT&E Agreement. For example, if Cooperative Project Personnel (CPP) are to be provided by a Parent Party, the number of CPP and location(s) of assignment for those CPP should be noted in this Article. In this regard, if a PA will be administered by a CPO that will include CPP, the following subparagraph should be added:

> **5.5.X. A Parent Party may assign (fill in number) Cooperative Project Personnel (CPP) to the CPO to assist in administering this PA. The Host Party shall provide office space and administrative support to those CPP of the other Party in accordance with the Host Party's customary practice. The conduct of the CPP shall be subject to the provisions of Appendix 1 (Assignment of Cooperative Project Personnel) to this PA.**

(If a Project requires the establishment of a Steering Committee, use the following format to set forth how the Project shall be managed.)

Alternative 2

5.1. This PA shall be directed and administered on behalf of the Parties by an organization consisting of a Steering Committee (SC) and one Project Officer (PO) from each Party. The SC members are:

U.S. DoD Co-Chairperson Title/Position: _____

Organization: _____

Address: _____

_____

_____

BR MOD Co-Chairperson Title/Position: _____

Organization: _____

Address: _____

_____

_____

5.2. The POs are:

U.S. DoD PO Title/Position: _____

Organization: _____

Address: _____

_____

_____

BR MOD PO Title/Position: _____

Organization: _____

Address: _____

_____

_____

5.3. Project offices shall be established in _____ **(name of U.S. location)** and in _____ **(name of Brazil location)**. The POs are responsible for management of those tasks listed as national obligations in Article IV (Sharing of Tasks) of this PA.

5.4. The Project shall proceed according to the schedule in the Project Plan developed by the POs and approved by the SC.

5.5. The final report of the Project shall be transmitted to the Management Agents (MAs) six months prior to the expiration date of this PA.

5.6. Particular Management Procedures:

(Mention only those additional management responsibilities not covered under Article IV (Management (Organization and Responsibility)) of the RDT&E Agreement. For example, if Cooperative Project Personnel (CPP) are to be provided by a Parent Party, the number of CPP and location(s) of assignment for those CPP should be noted in this Article. In this regard, if a PA will be administered by a CPO that will include CPP, the following subparagraph should be added:

5.6.X. A Parent Party may assign (fill in number) Cooperative Project Personnel (CPP) to the CPO to assist in administering this PA. The Host Party shall provide office space and administrative support to those CPP of the other Party in accordance with the Host Party's customary practice. The conduct of the CPP shall be subject to the provisions of Appendix 1 (Assignment of Cooperative Project Personnel) to this PA.

ARTICLE VI

FINANCIAL PROVISIONS

6.1. The Parties estimate that the cost of performance of the tasks under this PA shall not exceed ___ U.S. dollars ($) or ___ Brazilian Reals.

6.2. Cooperative efforts of the Parties over and above the jointly agreed tasks set forth in Article III (Scope of Work) and Article IV (Sharing of Tasks) of this PA shall be subject to amendment of this PA or entry into force of a new PA.

(If a PA will involve the assignment of CPP, the PA shall include a provision that refers to paragraphs 5.5. - 5.7. of Article V (Financial Provisions) of the RDT&E Agreement, identifies which Party is sending or hosting CPP, and specifies the number of CPP to be assigned. In addition, the PA shall include the amount of financial and non-financial contributions related to CPP in one of the two alternatives below in this Article.)

(If a PA will not involve one Party Contracting for the other Party or for both Parties, and no funds will be exchanged between the Parties, use the following

format for the financial arrangements. Both financial and non-financial contributions should be included in the total U.S. DoD and BR MOD costs.)

Alternative 1

6.2.1. The U.S. DoD tasks shall not cost more than: _____ U.S. dollars ($).

6.2.2. The BR MOD tasks shall not cost more than: _____ Brazilian Reals.

Or:

(If a PA will involve one Party Contracting for the other Party or both Parties, or the Parties will transfer or exchange funds between them, use the following format for the Financial Provisions.)

Alternative 2

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

	Financial Costs	Non-financial Costs	Total
U.S. DoD			
BR MOD			
Total			

(Using the above table and whatever description is necessary, explain and demonstrate how the PA shall be funded. Identify both financial (monetary) and non-financial (Project Background Information, facility use, test, range time, use of Equipment and Material, etc.) contributions and identify the amount of funds to be transferred between the Parties.)

6.3. A Financial Management Procedures Document (FMPD) shall be developed by the POs and submitted to the SC for approval. The FMPD shall include, as a minimum, a schedule of contributions, procedures for handling of funds, funding levels by year, and auditing procedures for monetary contributions anticipated for this PA.

ARTICLE VII

CLASSIFICATION

7.1. The existence of this PA and its contents are unclassified.

Only one of the following possibilities will be selected:

7.1.1. No Classified Military Information shall be exchanged under this PA; or

7.1.2. The highest level of Classified Military Information to be exchanged under this PA is Secret.

ARTICLE VIII

PRINCIPAL ORGANIZATIONS INVOLVED

8.1. The principal U.S. DoD organizations involved in the implementation of this PA are: (insert list of facilities/organizations names and locations).

8.2. The principal BR MOD organizations involved in the implementation of this PA are: (insert list of facilities/organizations names and locations).

ARTICLE IX

EQUIPMENT AND MATERIAL

9.1. In accordance with paragraph 7.1. of Article VII (Equipment and Material) of the RDT&E Agreement, in the event that the cooperative efforts under this PA require the provision of Equipment and Material to either Party, the POs shall develop and maintain a list of such Equipment and Material in accordance with the following table:

Providing Party	Receiving Party	Quantity	Description	Part/ Stock #	Consumable/ Non-Consumable	Estimated Replacement Value

(If Equipment and Material is to be jointly acquired under this PA, then provisions for the disposal of such jointly acquired Equipment and Material must be included in this PA.)

ARTICLE X

SPECIAL PROVISIONS

10.1. In accordance with paragraph 16.1. of Article XVI (General Provisions) of the RDT&E Agreement, the provisions of this PA shall constitute legally binding obligations under international law.

10.2. All activities of the Parties under this PA shall be carried out in accordance with their respective national laws and regulations, including their respective export control laws and regulations.

(Also identify any provisions (e.g., Contracting, etc.) necessary for the implementation for the Project that are particular to the circumstances of the specific PA and are not otherwise addressed in other PA Articles.)

ARTICLE XI

ENTRY INTO FORCE, DURATION, AMENDMENT, AND TERMINATION

This _____ PA, a Project under the Agreement Between the Government of the United States of America and the Government of the Federative Republic of Brazil for Research, Development, Test, and Evaluation Projects, which entered into force (date), shall enter into force upon signature by the Parties, and shall remain in force for _____ years unless terminated by either Party. It may be amended by written agreement of the Parties.

DONE, in duplicate, in the English and Portuguese language, both texts being equally authentic.

FOR THE DEPARTMENT OF DEFENSE OF THE UNITED STATES OF AMERICA:	FOR THE MINISTRY OF DEFENSE OF THE FEDERATIVE REPUBLIC OF BRAZIL
_____	_____
Signature	Signature
_____	_____
Name	Name
_____	_____
Title	Title
_____	_____
Date	Date
_____	_____
Location	Location

APPENDIX 1

ASSIGNMENT OF COOPERATIVE PROJECT PERSONNEL

1.0. Purpose and Scope.

1.1. This Appendix to the **(title of PA)** Project Agreement (PA) establishes the provisions that shall govern the conduct of Cooperative Project Personnel (CPP) assigned for work in accordance with the RDT&E Agreement and Article V (Management) of this PA. CPP must be able to perform all the responsibilities assigned to them under this PA. Commencement of assignments shall be subject to any requirements that may be imposed by the Host Party or its Government regarding acceptance of CPP, such as, but not limited to, visas and visit request documentation. The SC, or in the event no SC is established, the POs, shall determine the length of tour for the positions at the time of initial assignment.

1.2. CPP shall be assigned to the CPO or to other U.S. DoD or BR MOD facilities for Project work and shall report to a supervisor to be identified by the Host Party. The Host Party PO shall be responsible for the creation of a document describing the duties of each CPP position, which shall be subject to approval by the SC in the event an SC is established. CPP shall not act as liaison officers for their Parent Party. CPP may act from time to time on behalf of their respective SC* representative (or PO as applicable), if the latter so authorizes in writing.

* **Revise terminology as appropriate if a term other than "SC" is used.**

1.3. CPP shall 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 Party's Government.

2.0. Security.

2.1. The SC (or POs as applicable) shall establish the maximum level of security clearance required, if any, to permit CPP to have access to Classified Military Information and facilities in which Classified Military Information is used in accordance with the Project Security Instruction (PSI) and Classification Guide (CG). Access to Classified Military Information and facilities in which Classified Military Information is used shall be consistent with, and limited by, Article II (Objectives) and Article III (Scope of Work) of this PA, and shall be kept to the minimum required to accomplish the work assignments.

2.2. The Parent Party shall file visit requests through prescribed channels in compliance with the Host Party's procedures. As part of the visit request procedures, each Party shall provide security assurances, through the Embassy of the Federative Republic of Brazil in Washington, D.C. in the case of BR MOD personnel and through the U.S. Embassy in Brasilia, Brazil, in the case of U.S. DoD personnel, and specify the security clearances for the CPP being assigned.

2.3. The Host Party and the Parent Party shall use their best efforts to ensure that CPP assigned to the Host Party's facilities are aware of, and required to comply with, applicable laws and regulations as well as the requirements of Article IX (Controlled Unclassified Information), Article X (Visits to Establishments), Article XI (Security), and paragraph 17.1. of Article XVII (Amendment, Termination, Entry Into Force, and Duration) of the RDT&E Agreement, and the corresponding provisions of this PA, the PSI, and the CG. Prior to commencing assigned duties, CPP shall, if required by the Host Party Government's laws, regulations, policies, or procedures, sign a certification concerning the conditions and obligations of CPP.

2.4. CPP shall at all times be required to comply with the security and export-control laws, regulations, and procedures of the Host Party's Government. Any violation of security procedures by CPP during their assignment shall be reported to the Parent Party for appropriate action. CPP committing significant violations of security or export laws, regulations, or procedures during their assignments shall be withdrawn from the Project with a view toward appropriate administrative or disciplinary action by their Parent Party.

2.5. All Classified Military Information made available to CPP shall be considered as Classified Military Information furnished to the Parent Party, and shall be subject to all of the provisions and safeguards provided for in Article XI (Security) of the RDT&E Agreement.

2.6. CPP shall not have personal custody of Classified Military Information or Controlled Unclassified Information, unless approved by the Host Party and as authorized by the Parent Party. They shall be granted access to such Information in accordance with Article IX (Controlled Unclassified Information) and Article XI (Security) of the RDT&E Agreement during normal duty hours when access is necessary to perform Project work.

2.7. CPP assigned to a Host Party's facility to conduct Project work shall not serve as a conduit between the Host Party and Parent Party for requests and/or transmission of Classified Military Information and material or Controlled Unclassified Information outside the scope of their assignment, unless specifically authorized by the Parties.

3.0. Administrative Matters.

3.1. The tax treatment of income received by CPP from the Parent Party shall be determined by reference to the tax legislation of the Government of the Host Party and the Government of the Parent Party, subject to the terms of any double taxation agreement in force between the Government of the Host Party and the Government of the Parent Party.

3.2. Upon or shortly after arrival, CPP shall be informed by the Host Party's representatives about applicable laws, orders, regulations, and customs and the need to comply with them. CPP shall also be provided briefings arranged by the Host Party's representatives 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 local medical facilities, subject to the requirements of applicable laws and regulations, including reimbursement when required.

3.2.2. Purchasing and patronage privileges at military commissaries, exchanges, theaters, and clubs for CPP and their dependents, subject to the requirements of applicable laws and regulations.

3.2.3 Responsibility of CPP and their accompanying dependents to obtain motor vehicle liability insurance coverage in accordance with the laws and regulations applicable in the area where they are residing. In case of claims involving the use of private motor vehicles by CPP, the recourse shall be against such insurance.

3.3. The POs, through the Host Party supervisor, shall, in consultation with the CPP, 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 and civilian personnel regulations and practices of the Host Party and Parent Party.

3.3.3. Dress regulations, consistent to the extent possible with the military and civilian personnel regulations and practices of the Host Party and Parent Party.

3.3.4. Performance evaluations, recognizing that such evaluations shall be rendered in accordance with the Parent Party's military or civilian personnel regulations and practices.

3.4. CPP committing an offense under the laws of the Government of the Host Party or Parent Party may be withdrawn from the Project with a view toward further administrative or disciplinary action by the Parent Party. Disciplinary action, however, shall not be taken by the Host Party against CPP, nor shall CPP exercise disciplinary powers over the Host Party's personnel. In accordance with the laws and regulations of the Host Party's Government, the Host Party shall assist the Parent Party in carrying out investigations of offenses involving CPP.

3.5. During their assignment, CPP shall not be placed in the following duty status or environments unless mutually decided by the Host Party and Parent Party:

3.5.1. Areas of political sensitivity where their presence may jeopardize the interests of either the Host Party or Parent Party, or where, in the normal course of their duty, they may become involved in activities that may embarrass either Party.

3.5.2. Deployments in non-direct hostility situations, such as UN peacekeeping or multi-national operations, or third countries.

3.5.3. Duty assignments in which direct hostilities are likely. Should a Host Party's facility become involved in hostilities unexpectedly, CPP assigned to that facility shall not be involved in the hostilities. Any such CPP approved by the Host Party and Parent Party for involvement in hostilities shall be given specific guidance as to the conditions under which the assignment shall be carried out by the appropriate authorities of the Host Party and Parent Party.

APPENDIX 2

COOPERATIVE PROJECT PERSONNEL POSITION DESCRIPTION

1. Position Title: Cooperative Project Personnel – [INSERT TITLE OF PA]

2. Position Location:

3. Security Clearance Level Required for the Position:

4. Qualifications/Skills Required for Position: [***Insert appropriate data, e.g., accredited degree in a scientific or related subject, land staff and/or operational experience in land systems, military specialty similar to a program manager and/or acquisition engineering experience.]***

5. General Categories of Information to which access shall be required: ***[Insert appropriate categories, e.g., provided oral and visual access to Information required to perform the duties outlined in this Position Description.]***

6. Description of Specific Duties: The CPP shall perform the following tasks and responsibilities as mutually determined by the Project Officers (POs) of this PA.

a. CPP shall be primarily responsible for ***[insert responsibilities, e.g., coordinating the administration of the PA activity]. CPP will require Information access to [insert specific Information access requirements, e.g., research, development, and engineering programs involving manned systems]***;

b. Identify specific duties;

c. Identify anticipated travel requirements and locations;

d. Attend technical meetings and symposiums as required in performance of assigned duties;

e. Identify reporting requirements ***(e.g., provide a monthly summary of the PA activity to which the CPP is assigned);***

f. Attend U.S. DoD and BR MOD Project reviews; and

g. Provide administrative support and coordination for the SC and other Project meetings.

APPENDIX 3

CERTIFICATION OF COOPERATIVE PROJECT PERSONNEL (CPP)
CONDITIONS AND RESPONSIBILITIES

1. I understand and acknowledge that I have been assigned to [*name and location of organization to which assigned]* pursuant to Project Agreement (PA) [*insert number and name of respective PA*] under the Agreement Between the Government of the United States of America and the Government of the Federative Republic of Brazil for Research, Development, Test, and Evaluation Projects (RDT&E Agreement), which entered into force on [*insert month, day, year*]. In connection with this assignment, I further understand, acknowledge, and certify that I shall comply with the following provisions and responsibilities:

2. I understand that I have been assigned to work on the specific PA identified in paragraph 1., above, and as described in the Position Description (PD). There will be no access to Information except as required to perform the duties described in the PD for the PA to which I am assigned, as determined by my supervisor and the Project Officer (PO) of the [*insert the CPP's Parent Party*].

3. I shall perform only functions that are properly assigned to me as described in the PD for my assignment and will not act in any other capacity on behalf of my Parent Party.

4. All Information to which I may have access during this assignment shall be treated as Information provided to my government pursuant to the terms and provisions of the RDT&E Agreement.

5. When dealing with individuals outside of my immediate office of assignment on official matters, I shall inform such individuals that I am a foreign Cooperative Project Person.

6. I have been briefed on, understand, and shall comply with all applicable security regulations of the Host Party and the assigned organization; and with all applicable laws and regulations of the Host Party's Government concerning the protection, release, transfer, or export, both during and after the termination of my assignment, of Intellectual Property Information (such as Patents, copyrights, know-how, and trade secrets), Classified Military Information, Controlled Unclassified Information, and Information subject to export control laws and regulations, to which access might be granted under the RDT&E Agreement.

7. I shall immediately report to the POs of the PA all unauthorized attempts to obtain from me Classified Military Information, Controlled Unclassified Information, proprietary Information, or Information subject to export control laws and regulations to which I may have access as a result of this assignment.

_____

Signature

_____

Name

_____

Title

_____

Date

ANNEX B

MODEL WORKING GROUP TERMS OF REFERENCE

(Insert name of WG) WORKING GROUP (WG)

TERMS OF REFERENCE (TOR)

BETWEEN

THE DEPARTMENT OF DEFENSE OF THE UNITED STATES OF AMERICA

AND

THE MINISTRY OF DEFENSE OF THE FEDERATIVE REPUBLIC OF BRAZIL

UNDER THE AGREEMENT BETWEEN

THE GOVERNMENT OF THE UNITED STATES OF AMERICA

AND

THE GOVERNMENT OF THE FEDERATIVE REPUBLIC OF BRAZIL

FOR

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION PROJECTS

(DATE)

1. Authority. (*Mandatory*) The Agreement Between the Government of the United States of America and the Government of the Federative Republic of Brazil for Research, Development, Test, and Evaluation Projects (hereinafter referred to as the "RDT&E Agreement") fosters collaboration in research, development, testing, and evaluation potentially leading to new or improved military capability. The RDT&E Agreement provides for the establishment of Working Groups (WGs). This TOR establishes the (insert name of WG) WG between the Department of Defense of the United States of America and the Ministry of Defense of the Federative Republic of Brazil, together referred to as the Participants.

2. Definitions and Acronyms.

Definitions. *Provide any required definitions not already defined in the RDT&E Agreement.*

Acronyms. *Spell out any acronyms used.*

3. Purpose. *Provide a short paragraph identifying the purpose of the WG. A WG is to be established to explore, study, and report on specific research, development, test, or evaluation issues. The WG is to be limited in scope to a single, well-defined study or project area and is to endeavor to assess the research, development, test, or evaluation issue based on Information provided by both Participants in such a way as to arrive at a jointly determined position. Examples follow:*

The (insert name of WG) is to include activities covering the following areas:

The (insert name of WG) is to evaluate…,
monitor…,
identify…,
initiate…,
investigate…,
facilitate…,
activity beneficial to the Participants,
and identify potential technological solutions to those …

The (insert name of WG) is to provide a forum for the exchange of Information, the identification of potential Project Agreements (PAs) for (*name of specific weapon system, etc.),* and the harmonization of the Participants' requirements prior to the development and formal staffing of a potential PA.

The purpose of the (insert name of WG) is to review respective *(name specific weapon system, etc.)* programs in order to identify mutually beneficial research, development, test, or evaluation cooperative activities between the Participants.

(***Mandatory***) Specific collaborative activities identified by the (insert name of WG) may only be carried out under future PAs under the RDT&E Agreement or under other agreements entered into by the Participants.

(***Mandatory***) The (insert name of WG) is not intended to replace, duplicate, or inhibit activities under existing international agreements.

4. Objectives. *Provide details of the type of work to be accomplished under this TOR. Example follows:*

Information on research conducted by each Participant in the area of (*name specific technology)* technology and its potential for (*identify potential benefit*) is to be exchanged and the potential for a PA leading to application of the technology is to be discussed.

5. Management Structure. *Examples follow:*

The (insert name of WG) consists of representatives from *(name organizations)* and other representatives and supporting subject matter experts from *(name organizations)* as appropriate. *(Provide name of organization only. Do not name representatives.)*

(***Mandatory***) The *(insert name of WG)* principals designated by the MAs are: *Identify one U.S. DoD and one BR MOD principal for the WG. Include name, mailing address, email address, and phone number.*

Membership in the (insert name of WG) should be consistent with minimal turnover of personnel.

The importance of consultation with other agencies and organizations of the Participants' Governments is recognized. Representatives from specific technology areas may be invited to participate in technical discussions, but are not to become members of the (insert name of WG). They may, however, become members of a sub-group established under this WG for a specific technology area or Project.

(***Mandatory***) *Identify how often the WG is to meet, who is to host and chair.*
Example: WG meetings are to be held at intervals as mutually determined by the members, but at least annually. The Participants are to host and chair the meetings on a rotational basis. Minutes are to be prepared and provided to (insert name of WG) members, (*insert name of WG*) principals, and to the applicable MAs for the RDT&E Agreement within (specify timeframe) following the meetings. Administrative support for these meetings is to be the responsibility of the host Participant.

(***Mandatory***) *Identify how decisions are to be reached.*

Example: All decisions of the (insert name of WG) are to be unanimous.

(***Mandatory***) In accordance with subparagraph 4.2.6. of Article IV (Management (Organization and Responsibility)) of the RDT&E Agreement, the MAs of both Participants must approve and sign this TOR. The Agreement Directors (ADs) may provide guidance on issues that relate to the RDT&E Agreement objectives.

6. Exchange of Information.

(***Mandatory***) The (insert name of WG), along with its appropriate supporting subject matter experts, may exchange Information pertaining to (name area of discussion of the WG) activities in accordance with paragraphs 3.2. and 3.3. of Article III (Scope of Work) and subparagraph 8.1.3. of Article VIII (Disclosure and Use of Information) of the RDT&E Agreement. Information is to be furnished without charge and be used for information and evaluation purposes only.

(Mandatory if exchanging Classified Military Information or Controlled Unclassified Information) Pursuant to paragraph 11.2. of Article XI (Security) of the RDT&E Agreement, Classified Military Information is to be transferred only through official government-to-government channels or through channels approved by the Designated Security Authorities of both Participants. The provisions of Article IX (Controlled Unclassified Information) and Article XI (Security) of the RDT&E Agreement apply. No Equipment and Material may be transferred under the auspices of the (insert name of WG).

(***Mandatory***) The (insert name of WG) principals are to ensure that any Information provided in accordance with this TOR is used only by the Participants and then only for the purpose for which it has been provided. Information is not to be disclosed or released to any Third Party, or Contractors, including their personnel (with the exception of Contractor Support Personnel), and is not to be used for any other purpose without the prior written consent of the furnishing Participant.

(***Mandatory***) The (*insert name of WG*) principals are to produce and maintain a list of Information exchanged under this (*insert name of WG*). This list is to include name of document, date of document, identity of the entity that created the document, security classification/release restrictions, country of origin, originating point of contact, receiving point of contact, date provided, and any requirement to return the document to the originator. A current list is to be submitted annually to the MAs of both Participants.

7. General. (***Mandatory***) There is to be no transfer of funds between the Participants pursuant to this TOR. In those cases where a PA is determined to be required, the (*insert name of WG*) principals are to make every effort to prepare the necessary documentation and secure the required approvals as expeditiously as possible.

The TOR is to be drafted and approved in English, with copies signed by the MAs (or their designated representatives) of both Participants.

8. Legal Status. (***Mandatory***) This TOR constitutes an administrative procedure to coordinate research, development, test, and evaluation activities between the Participants. It is not the intent of the Participants that this TOR be considered legally binding under international law or domestic law. This TOR does not create any authority to perform any work, award any Contract, transfer funds, or otherwise obligate in any way either Participant to make or provide any financial or non-financial contribution to the other Participant for any purpose. Any collaborative activities identified by the (insert name of WG) may only be carried out under future PAs under the RDT&E Agreement or under other agreements entered into by the Participants.

9. Effective Date. (***Mandatory***) The TOR for the (*insert name of WG*) becomes effective upon signature of both MAs and remains in effect through (month, day, year)[*fill in before signature*], unless discontinued or extended. This TOR may be modified or extended by mutual written consent of the MAs. Either Participant may discontinue the (*insert name of WG*) upon forty-five (45) days written notification to the other Participant. Such notice is to be the subject of immediate consultation by the (*insert name of WG*) principals and MAs to decide upon the appropriate course of action.

U.S. DoD Management Agent	BR MOD Management Agent
_____	_____
Signature	Signature
_____	_____
Name	Name
_____	_____
Title	Title
_____	_____
Date	Date
_____	_____
Location	Location