

## FINAL

8.27 Unless otherwise specified in the relevant TA, the disclosure of Background and Foreground Information under a TDP will take place in accordance with Paragraphs 8.9 to 8.25 above.

8.28 Unless otherwise specified in the relevant TA, any loans of equipment or material will take place in accordance with SECTION XII (LOANS AND TRANSFERS OF EQUIPMENT AND MATERIAL) of this ERG arrangement.

8.29 Where a TDP is carried out and equipment or materials (including items of software media) are produced as part of the results, the relevant TA will contain details of the ownership, holding, maintenance and rights of use by the Contributing Members and their contractors. Any changes in those details will either require an amendment to the TA in question, or the establishment of a new arrangement between the Contributing Members, as appropriate.

### INVENTIONS AND PATENTS

8.30 Each Contributing Member will include in all its contracts a provision governing the disposition of rights in regard to inventions arising from R&T Projects and patents relating thereto, which either:

- a) provides that the Contributing Member will hold title to all inventions under those contracts, together with the right to make Patent applications for the same, free of encumbrance from the contractor, or
- b) provides that the contractor will hold title (or may elect to retain title) to inventions under those contracts, together with the right to make patent applications for the same, whilst securing for Contributing Members non-exclusive royalty-free licences under all patents secured for those inventions to practice or have practiced the patented inventions for Defence Purposes throughout the world.

8.31 The provisions of paragraphs 8.32 to 8.38 will apply in regard to patent rights for all inventions made by a Contributing Member's military or civilian personnel in performance of their work under a R&T Project including those within Government facilities and for all inventions resulting from contracts placed by a Contributing Member for which the Contributing Member holds title or is entitled to acquire title. Where no R&T Project is involved, the provisions of paragraphs 8.39 to 8.42 will apply.

8.32 Where a Contributing Member has or can secure the right to file a patent application with regard to an invention, the Contributing Member will consult the other Contributing Member(s) regarding the filing of such patent application. If a Contributing Member, having filed or caused to be filed a patent application in the country of one of the other Contributing Members, decides to stop prosecution of the application, that Contributing Member will notify the other Contributing Member(s) of that decision and permit the other Contributing Member(s) to continue the prosecution.

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8.33 Where an invention is made jointly by or on behalf of more than one Contributing Member in an R&T Project the Contributing Members may mutually decide that one Contributing Member should hold all patent rights therein. In this event the other Contributing Member(s) will take all steps necessary at their own expense to assign their rights in the invention to the filing Contributing Member for the purpose of the patent application. Decisions on filing and prosecuting such patent applications, maintaining and enforcing patent rights, exploiting patent rights and allocating costs associated with these activities will be made by mutual consent of the Contributing Members.

8.34 Each Contributing Member will furnish the other Contributing Member(s) with copies of any patent applications filed and patents granted.

8.35 Unless otherwise mutually decided in writing by the Contributing Members, each Contributing Member will grant to the other Contributing Member(s) a non-exclusive, irrevocable, royalty-free licence under its patents for inventions made in R&T Projects to practice and have practised the patented inventions for Defence Purposes throughout the world.

8.36 Each Contributing Member will notify the other Contributing Member(s) of any patent infringement claims made in its territory arising in the course of work performed under R&T Projects. Insofar as possible, the other Contributing Members will provide Information available to them that may assist in defending the claim. Each Contributing Member will be responsible for handling all patent infringement claims made in its territory and will consult with the other Contributing Member(s) during the handling and prior to any settlement, of such claims. The Contributing Members will in accordance with their national laws and practice give their authorization and consent for all use and manufacture in the course of work performed of any invention covered by a patent issued by their respective countries.

8.37 Other than as provided for in paragraph 8.33 above, no transfer of ownership of Information will take place between the Contributing Members under this ERG arrangement.

### STAFF ATTACHMENTS OR EXCHANGES

8.38 Where an attachment or exchange is arranged under a TA covering an R&T Project, paragraphs 8.9 to 8.37 will apply to all Information, inventions and patents resulting from the work of the attached person, while engaged on the R&T Project, whether generated solely or jointly. In such circumstances, solely generated Information, inventions and patents will be considered to be Foreground Information belonging to the Host Contributing Member.

8.39 Where a staff attachment or exchange is established outside the context of a specific R&T Project, or work by the attached person takes place outside a specific R&T Project, the following provisions will apply.

8.40 Information generated by personnel during an attachment or exchange, and any rights therein, will belong to the Host Contributing Member who may use the Information for any purpose.

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8.41 The Host Contributing Member will disclose, promptly and without charge, all Information generated by attached or exchanged personnel to the Parent Contributing Member. This Contributing Member will be entitled to use such Information and have it used without charge for its Defence Purposes, unless both Contributing Members mutually decide otherwise.

8.42 The right to secure patents in all countries of the world for inventions made by attached or exchanged personnel during an exchange will fall to the Host Contributing Member subject to that Contributing Member's national laws and regulations. The Host Contributing Member will grant to the Parent Contributing Member non exclusive, irrevocable, royalty-free licence under its Patents for such inventions made by attached or exchanged personnel during an attachment or exchange, to practice or have practised such patented inventions for Defence Purposes throughout the world.

### **SECTION IX - SALES AND TRANSFERS TO ERG 1 THIRD PARTIES**

#### **INFORMATION EXCHANGE**

9.1 The following provisions will apply to Information Exchanges established under paragraph 2.5a) of the EUROPA MOU, unless specific alternative provisions are included in the relevant TA.

9.2 A Contributing Member will not sell, transfer title to, transfer possession of or otherwise disclose Information received under a TA to any ERG 1 Third Party without the prior written consent of the Disclosing Contributing Member or his contractor if the contractor owns the information. The Disclosing Contributing Member or where relevant, his contractor will be solely responsible for authorising any transfers and where applicable, specifying the method and conditions for implementing any transfers.

#### **CO-OPERATIVE PROJECTS**

9.3 The following provisions will apply to R&T Projects established under paragraphs 2.5b) to 2.5g) of the EUROPA MOU, unless specific alternative provisions are included in the relevant TA.

9.4 Each Contributing Member will retain the right to sell, transfer title to, disclose or transfer possession of Foreground Information which:

- a) is generated solely by either that Contributing Member or by that Contributing Member's contractors in the performance of that Contributing Member's work allocation as described in the relevant TA, where that Contributing Member has secured sufficient rights in the relevant contracts.
- b) does not include any Background Information of the other Contributing Member(s) or the other Contributing Member's contractors.

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9.5 In the event questions arise whether the Foreground Information that a Contributing Member intends to sell, transfer title to, disclose or transfer to an ERG 1 Third Party is within the scope of paragraph 9.4a) above, the matter will be brought to the immediate attention of the other Contributing Member(s). Those Contributing Members will resolve the matter prior to any sale or other transfer of such Foreground Information to an ERG 1 Third Party. Where work has been carried out on behalf of two or more Contributing Members, it will be assumed that Foreground Information was not generated solely by one Contributing Member, unless that Contributing Member can demonstrate otherwise.

9.6 Except to the extent permitted in paragraph 9.4 above, Contributing Members taking part in an R&T Project will not sell, transfer title to, disclose or transfer possession of Foreground Information to an ERG 1 Third Party without the prior written consent of the other Contributing Member(s). Furthermore, Contributing Members will not permit any such sale, disclosure, or transfer, including by the owner of the item, without the prior written consent of the other Contributing Member(s). Such consent will not be given unless the government of the intended recipient agrees in writing with the disclosing Contributing Member that it will:

- a) not retransfer, or permit the further retransfer of, any equipment or Information provided; and
- b) only use, or permit the use of, the equipment or Information provided for the purposes specified by the Contributing Members.

9.7 A Contributing Member will not sell, transfer title to, disclose or transfer possession of equipment or Background Information provided by another Contributing Member or their contractor(s) to a ERG 1 Third Party without the prior written consent of the Contributing Member which provided such equipment or Information. The originating Contributing Member or their contractor(s) will be solely responsible for authorising such transfers and, as applicable, specifying the method and conditions for implementing such transfers.

9.8 Consent for ERG 1 Third Party sales and transfers of Foreground Information will not be withheld except for reasons of foreign policy, national security, or national laws. No Contributing Member will refuse approval of a sale or transfer to an ERG 1 Third Party when it would be willing to sell or transfer such Information to the same ERG 1 Third Party.

### **SECTION X - CUSTOMS DUTIES, TAXES AND SIMILAR CHARGES**

10.1 Unless otherwise specified in a TA to this ERG arrangement, the provisions of SECTION X of the EUROPA MOU will apply to this ERG arrangement and any TA under it.

**FINAL****SECTION XI - ATTACHMENT AND EXCHANGE OF PERSONNEL**

11.1 All attachments or exchanges of personnel to be carried out under a TA to this ERG arrangement will be subject to the provisions of this Section.

11.2 Attachments and exchanges will be restricted to the military and civilian employees of the Contributing Members.

11.3 Attached or exchanged personnel will not act in a liaison capacity, but will perform work and duties as mutually determined by each Contributing Member.

11.4 The Host Contributing Member will be responsible for the following:

- a) travel and subsistence costs in connection with the performance of any duty carried out pursuant to a requirement of the Host Contributing Member;
- b) costs incurred as a result of a change in location of work ordered by the Host Contributing Member.

11.5 The Parent Contributing Member's responsibilities will include all other costs and expenses of attached personnel including:

- a) all pay and allowances;
- b) travel to and from the country of the Host Contributing Member, except for travel covered by sub-paragraph 11.4a);
- c) all temporary duty costs, including travel costs, when the duty is carried out at the request of the Parent Contributing Member;
- d) compensation for loss of, or damage to, the personal property of attached or exchanged personnel or their dependants;
- e) the movement of dependants and household effects of attached or exchanged personnel;
- f) all expenses in connection with the return of attached or exchanged personnel whose assignment has been terminated, along with their dependants;
- g) preparation and shipment of remains and funeral expenses in the event of the death of attached or exchanged personnel or their dependants.

11.6 The Host Contributing Member will not charge for the use of facilities and equipment necessary for the performance of tasks assigned by the Host Contributing Member to attached or exchanged personnel.

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11.7 Attached or exchanged personnel will at all times be required to comply with the security laws, regulations and procedures of the government of the Host Contributing Member, and all classified Information made available to attached or exchanged personnel will be subject to all the provisions and safeguards of SECTION VI (SECURITY AND VISITS) of this ERG arrangement together with any relevant security and classification guide relating to the activity upon which the attached officer is engaged.

11.8 The Host Contributing Member will advise the Parent Contributing Member in advance of medical and dental care (if any) that may be afforded to attached or exchanged personnel and/or their dependants.

11.9 Consistent with the laws and regulations applicable on the territory of the Host Contributing Member, the Host Contributing Member will provide, if available, housing and messing facilities for attached or exchanged personnel and their dependants. Attached or exchanged personnel will pay housing and messing charges to the same extent as personnel of the Host Contributing Member. At locations where facilities are not provided by the Host Contributing Member for its own personnel, the Parent Contributing Member will make suitable arrangements for attached or exchanged personnel.

11.10 The general restrictions, conditions and privileges applicable to attached or exchanged personnel (such as leave entitlements) will be mutually determined in advance by the Contributing Members. The Host Contributing Member will be responsible for advising attached or exchanged personnel of any orders, regulations, customs or practices with which they will be required to comply by virtue of their exchange.

11.11 The Host Contributing Member will ensure that attached or exchanged personnel are fully cognisant of applicable laws and regulations concerning the protection of proprietary Information (such as patents, copyrights, know-how and trade secrets), and classified information to which access might be gained both during and after termination of an attachment or exchange.

11.12 Attached or exchanged personnel and their dependants will be required to obtain motor vehicle liability insurance coverage in accordance with applicable laws and regulations of the government of the Host Contributing Member, or its political subdivision, in which they are located.



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### **SECTION XII - LOANS AND TRANSFERS OF EQUIPMENT AND MATERIAL**

12.1 Any loan of equipment and material will be described in a TA to this arrangement. Each Contributing Member may loan, in accordance with its national regulations, without charge to other Contributing Member(s), equipment and material necessary for carrying out activities within the scope of this ERG arrangement.

12.2 Equipment and material loaned will be used by the receiving Contributing Member only for the purposes of that activity. Equipment and material will remain the property of the providing Contributing Member. In addition, the receiving Contributing Member will maintain the equipment and material in good working order and state of repair, and return it in as good condition as received, normal wear and tear excepted, unless the providing Contributing Member has approved the expenditure or consumption of the equipment or material as necessary for the purposes of that activity. Such expenditure or consumption will be without reimbursement to the providing Contributing Member. However, the receiving Contributing Member will bear the cost of any damage to (other than normal wear and tear) or loss of the equipment or material loaned to it that is not approved for expenditure or consumption. In no event will such cost exceed replacement cost less an amount determined by the Contributing Members concerned to represent reasonable wear and tear.

12.3 Contributing Members will make every effort to ensure that the equipment and material is furnished in a serviceable and usable condition according to its intended purpose. However, the providing Contributing Member makes no warranty or guarantee of fitness of the equipment or material for a particular purpose or use, and makes no commitment to alter, improve or adapt the equipment or material or any part thereof.

12.4 The providing Contributing Member will transfer the equipment or material for the stated loan period. The providing Contributing Member may terminate a loan at any time.

12.5 The providing Contributing Member will make available the equipment and material to the receiving Contributing Member at the location(s) mutually approved. Responsibility for the equipment and material will pass from the providing Contributing Member to the receiving Contributing Member at the time of receipt. Any further transportation is the responsibility of the receiving Contributing Member. The responsibility for meeting any costs arising from this process will be detailed in the relevant TA.

12.6 The providing Contributing Member will furnish the receiving Contributing Member with Information necessary to enable the equipment and material to be used.

12.7 The receiving Contributing Member will inspect and inventory the equipment and material upon receipt. The receiving Contributing Member will also inspect and inventory the equipment and material prior to its return (unless the equipment and material is to be expended or consumed).

12.8 The receiving Contributing Member will provide written notice of consumption or expenditure of the equipment or material. In the event that intended consumption or expenditure does not occur, or upon expiry or termination of the loan, the receiving

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Contributing Member will, unless otherwise determined by the providing Contributing Member, return the equipment and material to the providing Contributing Member at the mutually approved location.

12.9 Any equipment and material which is jointly acquired for use under a TA to this ERG arrangement will be disposed of as mutually approved by the Contributing Members.

12.10 The loan or transfer of equipment or material in support of a Technology Demonstrator Project will be carried out in accordance with paragraphs 12.1 to 12.9 above, unless otherwise specified in the relevant TA. Ownership and use of equipment or material (including software media) that is incorporated in a technology demonstrator will be subject to the provisions of SECTION VIII (DISCLOSURE AND USE OF INFORMATION) and SECTION IX (SALES AND TRANSFERS TO ERG 1 THIRD PARTIES) of this ERG arrangement.

### **SECTION XIII - ADMISSION OF NEW MEMBERS**

13.1 Any Participant in the EUROPA MOU may become a signatory to this ERG arrangement, provided that the existing ERG Members give their unanimous consent. A new ERG Member will be admitted by the signature of an amendment to this ERG arrangement to be signed by the existing and new ERG Members.

### **SECTION XIV – ENTRY INTO EFFECT, DURATION, AMENDMENT, TERMINATION AND WITHDRAWAL**

#### **ENTRY INTO EFFECT, DURATION**

14.1 This ERG arrangement consolidates all previous versions and amendments to the ERG arrangement and will come into effect on the date of last signature. However, when signing this arrangement, an ERG Member may declare that in respect of that ERG Member, this ERG arrangement will come into effect upon notification that Parliamentary approval/necessary domestic legal procedures have taken place. It will continue in effect until terminated by unanimous written consent of the ERG Members or upon termination of the EUROPA MOU, whichever is the sooner. Similar arrangements will apply to each TA under this ERG arrangement, unless otherwise specified in the TA itself.

14.2 The ERG Members will regularly review the status of this ERG arrangement and will decide at each review whether it should continue or be terminated.



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### AMENDMENT

14.3 This ERG arrangement may be amended at any time by the mutual written consent of the ERG Members. Any TA under this arrangement may likewise be amended by mutual written consent of the Contributing Members.

### TERMINATION

14.4 This ERG arrangement may be terminated by mutual written consent of the ERG Members, in which case all TAs under it will terminate also. Any TA under this ERG arrangement may be terminated by mutual written consent of the Contributing Members. In such cases each Contributing Member will be responsible for the termination of its own national contracts, or other arrangements, for work undertaken in accordance with SECTION V (CONTRACTING) of this ERG arrangement. The responsibility for, and cost of, termination of joint contracts, of contracts let on behalf of one Contributing Member by the other, or of contracts let by an international organisation on behalf of the Contributing Members will be mutually determined by the Contributing Members concerned before termination of the TA can take place.

### WITHDRAWAL

14.5 If an ERG Member decides to withdraw from this ERG arrangement, it will give the other ERG Members at least six months advance notification, in writing, of its intentions and will consult with the other ERG Members about the most satisfactory arrangements to be made for continuation, transfer, and completion of any continuing work. In order to achieve satisfactory arrangements for withdrawal, the withdrawing ERG Member will, until the effective date of withdrawal, make available to the other ERG Members all Foreground Information arising from R&T Projects in which it has participated.

14.6 If a Contributing Member wishes to withdraw from one or more TA under this ERG arrangement, but not from the ERG arrangement itself, that Contributing Member will give three months written notice to the other Contributing Member(s). The principles outlined in paragraphs 14.4 and 14.5 will apply. If the withdrawing Member has let a contract on behalf of other Contributing Member(s) in accordance with the provisions of Section V paragraph 5.4 of this ERG arrangement, the Contributing Members will consult to determine whether the contract should be allowed to continue on the same basis, and the level of contract support (if any) required to be provided by the withdrawing Member.

14.7 From the effective date of withdrawal from a TA, a Contributing Member will no longer be permitted to receive further Information but it will continue to enjoy the benefits it has acquired up to that date.

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14.8 The provisions of this ERG arrangement in respect of SECTION VI (SECURITY AND VISITS), SECTION VII (CLAIMS AND LIABILITIES), SECTION VIII (DISCLOSURE AND USE OF INFORMATION), SECTION IX (SALES AND TRANSFERS TO ERG 1 THIRD PARTIES), and SECTION XV (SETTLEMENT OF DISPUTES), and any responsibilities which may arise under paragraphs 14.5 or 14.6 above will remain in effect notwithstanding withdrawal from, termination, or expiry of this ERG arrangement or any TA under it.

### **SECTION XV - SETTLEMENT OF DISPUTES**

15.1 Any disputes regarding the interpretation or application of this ERG arrangement will be resolved by consultation between the ERG Members and will not be referred to any national or international tribunal or any other third party for settlement.

### **SECTION XVI - SIGNATURE**

16.1 The foregoing represents the understandings reached among the ERG Members and is signed in two copies, one in the French language and one in the English language, both texts being equally valid.

16.2 The original texts will be retained, for administrative convenience, by the United Kingdom Ministry of Defence as the depository of this consolidated arrangement. A certified true copy of both texts will be sent to all ERG Members.

**FINAL**

**For the Minister of National Defence of the Kingdom of Belgium**

**Name**.....

**Date**.....

**Location**.....

**FINAL**

**For the Ministry of Defence of the Czech Republic**

**Name.....**

**Date.....**

**Location.....**

**FINAL**

**For the Minister of Defence of the Kingdom of Denmark**

**Name.....**

**Date.....**

**Location.....**



**FINAL**

**For the Minister of Defence of the Republic of Finland**

**Name**.....

**Date**.....

**Location**.....

**FINAL**

**For the Minister of Defence of the French Republic**

**Name**.....

**Date**.....

**Location**.....

**FINAL**

**For the Federal Ministry of Defence of the Federal Republic of Germany**

**Name.....**

**Date.....**

**Location.....**

## FINAL

For the Minister of Defence of the Hellenic Republic

Name..... EVANGELOS V. VASILAKOS *EVK*

Date..... 11 OCTOBER 2006

Location..... ATHENS, GREECE

**FINAL**

**The Government of the Republic of Hungary represented by the Minister of Defence**

**Name**.....

**Date**.....

**Location**.....



**FINAL**

**For the Ministry of Defence of the Italian Republic**

**Name.....**

**Date.....**

**Location.....**

**FINAL**

**For the Minister of Defence of the Kingdom of the Netherlands**

**Name.....**

**Date.....**

**Location.....**