

MOU TEN

MEMORANDUM OF UNDERSTANDING

AMONG

THE FEDERAL MINISTRY OF DEFENCE OF  
THE FEDERAL REPUBLIC OF GERMANY

AND

THE MINISTER OF DEFENCE OF THE KINGDOM OF THE NETHERLANDS

CONCERNING THE

COMMON DEVELOPMENT, PROCUREMENT, OPERATION, MAINTENANCE AND  
IN-SERVICE SUPPORT OF

A TACTICAL EDGE NETWORKING SOLUTION

IN ORDER TO ACHIEVE DIGITAL INTEGRATION

(SHORT TITLE: MOU TEN)

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### SECTION I - INTRODUCTION

The Federal Ministry of Defence of the Federal Republic of Germany (DEU) and The Minister of Defence of the Kingdom of the Netherlands (NLD),

hereinafter together referred to as the "Participants" and each referred to as the "Participant",

RECOGNISING the importance of network-centric warfare and digitalisation of land-based operations;

RECOGNISING the impacts of the strategic environment with a more complex, diverse, and uncertain threat assessment on the cyber and information domain developments,

CONSIDERING a more effective use of mutual scarce capacity,

RECOGNISING the necessity of amplifying interoperability and integration,

CONSIDERING the existing DEU/NLD deep integration in the land environment;

RECOGNISING the common need to incorporate and improve interoperability and integration in the digitalisation of land-based operations;

NOTING the Agreement among The Minister of Defence of the Kingdom of the Netherlands and The Federal Ministry of Defence of the Federal Republic of Germany regarding the protection of Classified Information in force since 1<sup>st</sup> of March 2002;

NOTING the Defence Industry Strategy of The Ministry of Defence of the Kingdom of the Netherlands published 15<sup>th</sup> of November 2018 as well as the Strategy Paper of the Federal Government on Strengthening the Defence Industry in Germany published on 8<sup>th</sup> of July 2015;

CONSIDERING the Declaration of Intent (DoI) between The Federal Ministry of Defence of the Federal Republic of Germany and The Minister of Defence of the Kingdom of the Netherlands on further Enhancement of Bilateral Relations in the field of Defence signed on the 21<sup>th</sup> of May 2019;

and

CONSIDERING the Letter of Intent (LoI) between The Federal Ministry of Defence of the Federal Republic of Germany and The Minister of Defence of the Kingdom of the Netherlands regarding cooperation towards digital integration of their land forces signed on the 17<sup>th</sup> of May 2018,

have decided to participate in a co-operative armaments programme based on the national programmes D-LBO and FOXTROT concerning the common design, development, procurement, operation, maintenance, and in-service support of a Tactical Edge Networking solution (hereinafter referred to as the "Programme") in accordance with the provisions of this Framework Memorandum of Understanding (hereinafter referred to as the "MOU").

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SECTION II - DEFINITIONS AND ABBREVIATIONS

<b>Definitions</b>	
Background Information	Any Information which is not generated in the performance of this MOU.
Classified Information	Classified Information means any Information, regardless of its form and material, that under the laws and regulations of any Participant requires protection against loss, unauthorised disclosure, or other compromise which could cause prejudice to the interests of the Participants and which has been so designated and marked with a security classification.
Contract	Any mutually binding legal relationship under national laws that obligates a Contractor to provide supplies or services, and obligates one or both Participants to pay for it.
Contracting Participant	The Participant who provides the contracting and associated services called for under this MOU either on behalf of both participants or in the name and for the account of the other Participant.
Contractor	Any (private) industrial or governmental organisation undertaking work for the performance of this MOU under a Contract or equivalent arrangement.
Controlled Unclassified Information	Any unclassified Information to which access or distribution limitations are applied in accordance with national laws or regulations. Whether the Information is provided or generated under an MOU, the Information will be marked to indicate its "in confidence" nature. It could include Information which has been declassified, but remains controlled.
Defence Purposes	The use by or for the armed forces of a Participant in any part of the world which includes but is not limited to study, evaluation, assessment, research, design, development, manufacture, improvement, modification, maintenance, repair, and other post-design services as well as product deployment. This does not include sales or transfer to non-Participants.
Design and Development	The design and engineering work aimed at full validation of the technical approach to ensure complete system integration to the point where upscaling to production can take place.
D-LBO	Name of DEU programme to modernise IT in the mobile domain.
Feasibility Study	A study carried out, with the object of providing a technical appraisal of the feasibility regarding development and production of the Tactical Edge Network solution (TEN solution) with the performance required by the Participants.
Foreground Information	Information which is generated in the performance of this MOU.
FOXTROT	Name of NLD programme to modernise C4I in the mobile domain.
Implementing Arrangement	Arrangements between the Participants of this MOU to realise the Programme.
In-Service Support	The support necessary to enable the operational utilisation of the TEN solution by a Participant.
Information	Recorded or documented information of a scientific, technical, business, or financial nature whatever the format, documentary characteristics, or

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	other medium of presentation. The Information may include, but is not limited to, any of the following: experimental and test data, specifications, designs and design processes, inventions and discoveries whether patentable or not, technical descriptions and other works of a technical nature, semiconductor topography/mask works, technical and manufacturing data packages, know-how and trade secrets and information relating to industrial techniques, commercial and financial data. It may be presented in the form of documents, pictorial reproductions, drawings, and other graphic representations, disk and film recordings (magnetic, optical and laser), computer software both programmatic and data base, and computer memory printouts or data retained in computer memory, or any other form.
Observer	A Third Party posted in official capacity to monitor the activities under this MOU, as defined by the CSC.
Owner	The holder of legal title in Information or the holder of any other rights to control or authorise the use of such Information (e.g. licensee).
Participant(s)	Any signatory/ies to this MOU.
Prime Contractor	A Contractor who has overall responsibility to the Participants for completing the work specified in its Contract. Part of the work may be sub-contracted.
Procurement	The process of finding, agreeing terms, and acquiring goods, services, or works from a Contractor.
Programme	All (combined) activities of the FOXTROT and D-LBO programmes that together fall under the scope of this MOU.
Programme Equipment	Any physical assets other than Information, used in the Programme, irrespective of ownership, including special jigs, tooling, and factory test equipment.
Programme Purposes	The use by or for the Participants to meet the needs of the Programme.
Programme Security Instruction	The document produced by the CPO in coordination with and in approval of the Participants' appropriate NSAs/DSAs. The PSI will describe the compulsory security provisions required for the performance of the Programme including details of classification, marking, handling, processing, safeguarding, releasing, and transmission of Programme-related Classified Information or material. The PSI will include the Security Classification Guide(s) and may also include a transportation plan, etc. The provisions of a PSI supplement national security laws and regulations.
Proprietary Information	<p>All forms and types of scientific, technical, financial, or engineering Information, including patterns, plans, compilations, program devices, formulas, designs, prototypes, methods, techniques, processes, procedures, programs, or codes, whether tangible or intangible, and whether or how stored, compiled, or memorialised physically, electronically, graphically, photographically, or in writing if</p> <p>(a) the Owner therefore has taken reasonable measures to keep such Information secret, and</p> <p>(b) the Information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable through proper means by, the public.</p>

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Security Classification Guide	The document produced by the CPO in coordination with and approval of the Participants' NSAs/DSAs and issued to the Participants as part of the PSI. The SCG will determine the classified aspects of the Programme and the specific security classifications to be allocated to them.
Spiral	A set of capabilities (holistic view) that have to be materialised until they are "rollout-ready". For development of Spirals an agile approach will be used within the Programme. A Spiral contains phases 1 and 2.
Sub-Contractor	Any Contractor undertaking work under a Contract from a Prime Contractor or another Sub-Contractor.
Tactical Edge Networking	Command, control, and communications solution to achieve modernisation in the tactical domain.
Third Party	Any person or other entity who is neither a Participant nor a Contractor carrying out work under this MOU.

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<b>Abbreviations</b>	
AQAP	Allied Quality Assurance Publications
C2	Command and Control
C4I	Command, Control, Communications, Computers and Intelligence
CPO	Combined Programme Office
CSC	Combined Steering Committee
D-LBO	Digitalisation of Land-Based Operations
DEU	The Federal Republic of Germany
Dol	Declaration of Intent
DSA	Designated Security Authority
EU	European Union
FMN	Federated Mission Networking
IA	Implementing Arrangement(s)
IT	Information Technology
Lol	Letter of Intent
MISWG	Multinational Industrial Security Working Group
MOU	Memorandum of Understanding
NATO	North-Atlantic Treaty Organization
NLD	The Kingdom of the Netherlands
NSA	National Security Authority
PP	Programme Plan
PSI	Programme Security Instruction
RFP	Requests for Proposals
SOFA	Status of Forces Agreement
STANAG	Standardization Agreement
SPL	Shared Programme Lead
SCG	Security Classification Guide
TEN	Tactical Edge Networking
TOR	Terms of Reference

SECTION III - OBJECTIVES AND SCOPE

3.1 Programme Objective

The objective of the Programme is to have a TEN solution in operation. The Programme aims to achieve the required operational capabilities while avoiding costly duplicative programmes. The Programme merges the corresponding national programmes D-LBO and FOXTROT. A TEN solution will be developed for deployment within the armed forces of the Participants. This Programme is intended to result in co-operative production and integration of the TEN solution among the Participants. It is the aim of the Participants furthermore to secure the maximum benefits achievable through the pursuit of common doctrine, training, logistics, and support concepts, in order for the system to be integrated into the logistic support systems of the Participants. It is further envisioned that the Participants will co-operate for the development of future product improvements.

3.2 Programme Phases

The Programme consist of repeatedly iterating and possibly concurrent development and/or Procurement processes which will be implemented through Implementing Arrangements (IAs) and are aiming for a consistent set of capabilities to be rolled out to a certain set of forces.

The following phases will be covered by IA. In phases 1 and 2 (Spirals), capabilities are defined and developed. The results of one or more Spirals are the starting point for phase 3. As a result of phase 3 the developed and/or procured product(s) will be subject to phase 4.

3.2.1 Phase 1: FEASIBILITY STUDY / REQUIREMENTS AND PROJECT DEFINITION

3.2.2 Phase 2: DESIGN / DEVELOPMENT / VERIFICATION AND VALIDATION / PROTOTYPING

3.2.3 Phase 3: PROCUREMENT / ROLL-OUT / SERVICE INTRODUCTION / TRAINING

3.2.4 Phase 4: IN-SERVICE SUPPORT / OPERATIONAL USE

3.3 Scope

This framework MOU establishes the general principles to be applied throughout all phases of the Programme. The arrangements specific to each phase and/or Spiral will be addressed in IA(s). The scope of the Programme encompasses the complete tactical (mobile), dismounted, and on foot domains, as well as the organisation of the cooperation, C2 support doctrine in land-based operations and the Design and Development of IT solutions to enable C2 support in land-based operations.

The Participants concur on the application of the following general principles for the Programme:

- To implement common operational requirements, design, development, testing, evaluation, Procurement, integration, fielding/service introduction, operation, maintenance and In-Service-Support.
- To empower rapid prototyping of available technology, using actual operators (soldiers) and pre-series integrated fighting vehicles in an operationally representative environment.
- To use knowledge from industry experts through participating in experimentation efforts and working side by side with operators to achieve the best possible solutions.<sup>1</sup>
- To establish a common strategy in order to have timely application of fit-to-purpose innovative solutions.
- To acquire identical solutions to guarantee unlimited binational interoperability and to generate economy of scale with no use of interoperability interfaces, handled and operated in a common information and security domain, as far as achievable.
- To establish a combined security accreditation process with representatives of both

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<sup>1</sup> Lol signed 17<sup>th</sup> of May 2018 between GER and NLD regarding the cooperation towards digital integration of their land forces

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Participants.

- To implement components of the TEN solution with the same classification level.
- To apply NATO, FMN and open standards.

### SECTION IV - ORGANISATION AND MANAGEMENT

#### 4.1 General

The Programme will be directed and administered on behalf of the Participants by a programme organisation in order to guarantee the realisation of the general principles, as far as achievable. In an IA a Combined Programme Office (CPO), consisting of members of both Participants and headed by a Shared Programme Lead (SPL), will be established. The SPL will report to and work under supervision of the CSC. Until the CPO is established in an IA, the existing working groups will perform the tasks of the CPO. The CSC will have overall authority over the CPO including the SPL, in accordance with this MOU. The SPL will have day-to-day responsibility for effective implementation, efficient management, and direction of the Programme in accordance with this MOU.

#### 4.2 Combined Steering Committee

4.2.1 The CSC will be composed of one or more member(s) representing each Participant. Each Participant will be represented by an equal number of members. The CSC will meet quarterly with additional meetings held at the request of any representative. In principle, meetings will be held in the country of each Participant in turn. Each meeting of the CSC will be chaired by the representative of the Participant hosting the meeting. The CSC will take its decisions by unanimous consent of its members. Each participant will have one vote. The CSC amongst other will be responsible for:

4.2.1.1 Appointing the SPL.

4.2.1.2 Exercising executive-level oversight of the Programme.

4.2.1.3 Reviewing IA(s).

4.2.1.4 Approving the TOR for the CPO.

4.2.1.5 Reviewing to ensure that the Requests for Proposals (RFP) and any Contracts with regard to the implementation of this MOU are in conformity with this MOU.

4.2.1.6 Reviewing progress in meeting TEN solution requirements.

4.2.1.7 Approving the (initial) Programme Plan (PP); Reviewing the technical progress of the Programme against the PP.

4.2.1.8 Reviewing the (financial) status of the IA(s).

4.2.1.9 Resolving issues brought forward by the SPL.

4.2.1.10 Reviewing and forwarding to the Participants for approval recommended amendments to this MOU in accordance with Section XX (Amendment).

4.2.1.11 Approving plans for the disposition of Programme Equipment jointly acquired under this MOU in accordance with Section XIV (Programme Equipment).

4.2.1.12 Maintaining oversight of the security aspects of the Programme, including reviewing and obtaining approval from the appropriate National Security Authorities (NSAs) / Designated Security Authorities (DSAs) of a Programme

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Security Instruction (PSI) and a Security Classification Guide (SCG) prior to the transfer of classified or Controlled Unclassified Information.

- 4.2.1.13 Providing recommendations to the Participants for the admission of new Participants and/or Observers in accordance with Section XVII (Admission of Additional Participants and/or Observers).
- 4.2.1.14 Establishing rules of admission for Observers to any Programme activities in accordance with Section XVII (Admission of Additional Participants and/or Observers) and the participation of other Third Parties to any Programme activities.
- 4.2.1.15 Monitoring Third Party sales and transfers authorised in accordance with Section XII (Sales and Transfers to Third Parties and Levies).
- 4.2.1.16 Reviewing the quarter-annual status report submitted by the CPO.
- 4.2.1.17 Establishing a combined security accreditation board.
- 4.2.1.18 Establishing supporting organisations, e.g. an operational requirements centre, a design and prototype centre, an operational validation centre, a platform series integration centre, a solution introduction centre, and an operations centre, via different bi-national offices in different locations, as well as a financial and a legal working group, which will be arranged via IA(s). Manning for these offices will be provided by the Participants' respective national organisations elements, such as a possible future army system centre for the digitalisation of land-based forces.
- 4.2.1.19 The CSC can decide to install dedicated steering committee(s) in IA(s).

4.2.2 In the event, that the CSC is unable to reach a timely decision on an issue, each CSC representative will refer the issue to a higher authority for resolution. In the meantime, the approved PP will continue to be implemented without interruption under the direction of the SPL while the issue is being resolved.

### 4.3 Combined Programme Office

4.3.1 The CPO will be established in an IA. The CPO will be located in Koblenz/Lahnstein and is headed by the SPL. They will be responsible for implementing this MOU and the day-to-day management of the Programme.

4.3.2 The Participants will each provide personnel to the CPO. Such personnel will work for and at the direction of the SPL.

### 4.4 Shared Programme Lead

4.4.1 The SPL will consist of one representative of each Participant. The SPL will make decisions unanimously.

4.4.2 The appointment of the SPL takes place for a period of a minimum of three (3) years. The appointment of the representatives in the SPL will not change within one (1) year of each other.

4.4.3 The SPL will be responsible for:

4.4.3.1 Managing the cost, schedule, performance requirements, technical, and financial aspects of the Programme described in this MOU.

4.4.3.2 Drafting TOR for the CPO.

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- 4.4.3.3 Proposing and submitting the initial PP to the CSC for approval within six (6) months as well as executing the approved PP.
- 4.4.3.4 Developing and submitting any required changes to/of the approved PP to the CSC for approval.
- 4.4.3.5 Executing the financial aspects of the Programme, in accordance with the Section VII (Financial Arrangements and Cost Share).
- 4.4.3.6 Referring issues to the CSC that cannot be resolved by the SPL.
- 4.4.3.7 Recommending amendments to this MOU in accordance with Section XX (Amendment) as well as IA(s) to the CSC.
- 4.4.3.8 Developing and implementing CSC-approved plans for the disposal of Programme Equipment jointly acquired under this MOU, in accordance with Section XIV (Programme Equipment).
- 4.4.3.9 Developing and implementing CSC-approved plans to manage and control the transfer of Programme Equipment provided by any Participant in accordance with the Section XIV (Programme Equipment).
- 4.4.3.10 Developing and forwarding to the CSC a PSI and a SCG for the Programme within six (6) months after this MOU has come into effect, and implementing them upon final approval by the appropriate NSAs/DSAs.
- 4.4.3.11 Forwarding recommendations to the CSC for the admission of new Participants and/or Observers in accordance with the Section XVII (Admission of Additional Participants and/or Observers).
- 4.4.3.12 Providing quarterly status reports to the CSC.
- 4.4.3.13 Establishing and reviewing the necessary organisational structure.
- 4.4.3.14 Deciding on questions regarding the system design and enterprise architecture.
- 4.4.3.15 Maintaining oversight of all export controlled and Proprietary Information used for generating Foreground Information and ensuring that necessary licenses and export licenses are obtained before making sales and transfers and granting licenses under this MOU to Third Parties.

## SECTION V - CONTRACTUAL ARRANGEMENTS

- 5.1 Contracts under the Programme may be awarded and administered by a Contracting Participant as decided on in the respective IA on behalf of both Participants or in the name of and for the account of the other Participant ("common DEU/NLD procurement solution"). Alternatively, Contracts under the Programme may be awarded and administered by each Participant on its own ("national DEU/NLD procurement solution"). Contracts will be awarded in accordance with the applicable Contracting Participant's laws, its applicable procurement procedures and practices as well as the applicable EU-law and the provisions of this MOU.
- 5.2 The Contracts placed by the Contracting Participant will be written, according to the Contracting Participant's choice, either in the English language or bilingually with one language being English and with the Contracting Participant's preferred language being binding. Tenders will be issued, according to the Contracting Participant's choice, either in the English language or bilingually with one language being English. In case of a bilingual tender, tenderers will be able to reply in one of the two languages used in the tender.

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- 5.3 The Contracting Participant will not secure rights for itself beyond those which it secures for the other Participant. In the event that the Contracting Participant, by virtue of application of its laws, procedures, and practices, secures greater rights for itself than those accruing to the other Participants, it will require the consent of the other Participants in order to exercise such greater rights.
- 5.4 The Contracting Participant will insert into prospective Contracts (and require its Contractors to insert into sub-contracts) suitable terms and conditions to satisfy the provisions of this MOU, including but not limited to Sections IX (Disclosure and Use of Information), XII (Sales and Transfers to Third Parties and Levies), and XVI (Security). During the contracting process, the Contracting Participant will advise prospective Contractors of their obligation to immediately notify the Contracting Participant, 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 Participant will also advise prospective Contractors to employ their best efforts not to enter into any new agreement or arrangement that will result in such restrictions. In the event the Contracting Participant is unable to secure adequate rights to use and disclose programme Information as required by Section IX (Disclosure and Use of Information), or is notified by Contractors or potential Contractors of any restriction on the disclosure and use of Information, the matter will be referred to the CSC for resolution.
- 5.5 Should the Contracting Participant determine that pricing or audit services are required, such services will be obtained through the responsible national authorities of the Participant within whose territory the performing Contractor or Sub-Contractor is located, consistent with any existing arrangements between the Participants in that regard. Pricing practices should be those of the country in which the Contracts or sub-contracts are undertaken.
- 5.6 The fullest use practicable will be made of competition at both prime and sub-contract levels. Sources from the industries of the Participants and as many non-participants as appropriate will be invited to compete on an equal basis for the award of such Contracts and the selection of Contractors will be guided by technical and economic principles, i.e. minimising technical risk and maximising value for money.

## SECTION VI - WORK SHARING

It is the objective of the Participants that this collaborative effort will be concluded in the most economic manner feasible and with the maximum competition consistent with the need to control technical risk. In each IA, Participants will make specific commitments regarding workshare if applicable.

## SECTION VII - FINANCIAL ARRANGEMENTS AND COST SHARE

- 7.1 There are no financial commitments associated with this MOU.
- 7.2 Any future financial commitments will be detailed in IA(s).
- 7.3 Any future cost share commitments will be detailed in IA(s).
- 7.4 Meeting costs (except for salary, airfares, accommodation, etc.) will be borne by the host Participant.

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### SECTION VIII - TAXES, CUSTOMS DUTIES AND SIMILAR CHARGES

- 8.1 Insofar as existing laws and regulations of the Participants permit, the Participants will endeavour to ensure that readily identifiable taxes, customs duties, and similar charges or quantitative/qualitative restrictions on imports and exports will not be imposed in connection with the Programme.
- 8.2 The Participants concerned will endeavour to ensure that such taxes, customs duties, and similar charges from which relief is available as aforesaid do not enter into the price of Information or materials produced under the Programme. The Participants will administer such taxes, customs duties, and similar charges in the manner most favourable to the satisfactory execution of the arrangements described in this MOU.
- 8.3 If taxes, customs duties, or similar charges are levied, they will be borne by the Participant of the country in which they are levied as a cost to that Participant over and above that Participant's shared costs of the respective IA.
- 8.4 If, in order to apply EU regulations, it is necessary to levy duties, then these will be met by the EU member end recipient. To this end, parts or components of the equipment coming from outside the EU will proceed to their final destination accompanied by the relevant customs documents, enabling settlement of duties to take place. The method of apportionment of such duties between EU member Participants will be decided by consultation. They will be levied as a cost over and above the relevant Participant's shared costs of the Programme.

### SECTION IX - DISCLOSURE AND USE OF INFORMATION

- 9.1 The Participants recognise that successful collaboration depends on full and prompt exchange of Information necessary for carrying out this MOU. The Participants intend to acquire sufficient Information and rights to use such Information for the implementation of this MOU. The nature and amount of Information to be acquired will be consistent with the objectives stated in Section III (Objective and Scope).
  - 9.1.1 Title to Foreground Information will vest in the Participant(s) or the Contractor(s) who generated it.
- 9.2 The Participants recognise the effectiveness of the implementation of this MOU partly depends on the free exchange of Information and hardware between the Participants, Contractors, and Sub-Contractors, and to use such Information and hardware for generating Foreground Information. For export controlled Information and hardware as well as Proprietary Information, it is important to create oversight of such Information and hardware, taking into account export controlled Information may be controlled by more than one nation. For this Information and hardware, it is also important to create a clear view on the scope of work which has to be done (and by which Participants) to seek approval of those nations and to acquire the required licenses for the intended activities.
- 9.3 It is the Participant's intention to seek such approvals for the scope of this MOU and all IA(s) subject to this MOU, as well as the restriction free use of Information to generate Foreground Information in the most efficient and practical way. Using a trusted community framework for this MOU could be beneficial for obtaining more flexibility regarding export control related terms and conditions imposed on the Participants and their Contractors and Sub-Contractors.
- 9.4 Participant Foreground Information
  - 9.4.1 Disclosure  
Foreground Information generated by a Participant will be made available to the Participants and, if necessary, to Contractors for the implementation of this MOU and the respective IA(s) either in accordance with an agreed schedule or on request. Where the

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Participant is working as a Contractor, the Information will be treated as Contractor generated Foreground Information for the purpose of disclosure.

### 9.4.2 Use

#### 9.4.2.1 By the Participants.

All Foreground Information generated by a Participant may be used free of charge by other Participants for their Defence Purposes.

#### 9.4.2.2 By Contractors.

All Foreground Information generated by Participants may be used free of charge by Contractors where this is necessary for the implementation of this MOU.

## 9.5 Participant Background Information

### 9.5.1 Disclosure

#### 9.5.1.1 To the Participants.

Subject to the rights of Third Parties, the Participants will disclose to other Participants any of their Background Information which is necessary for implementation of this MOU and to implement future IA(s) or otherwise utilise the Foreground Information for Programme Purposes. The Participant providing the Information will be required to identify and properly mark any Information which is Background Information before it is introduced and/or used in the Programme.

#### 9.5.1.2 To Contractors.

Subject to the rights of Third Parties, the Participants will disclose any of their Background Information to Contractors where this is necessary for the implementation of the respective IA(s). Participants will be free to make arrangements with Contractors regarding the disclosure and protection of such Background Information subject to the terms of the holders of proprietary rights. The implementation of such arrangements will, however, not delay the work or result in additional cost to the Participants. Wherever possible the establishment and implementation of such arrangements will be the responsibility of the Participants and Contractors concerned.

9.5.1.3 Participants will identify as early as possible any Background Information which will be necessary for the implementation of this MOU together with any restrictions on its disclosure.

### 9.5.2 Use

#### 9.5.2.1 By the Participants.

- Such use will be free of charge for implementation of this MOU;
- when future IA(s) are to be implemented and the right to use such Background Information has not been secured under previous IA(s), such use will be on fair and reasonable terms, where the Owner does not perform the work itself. Such terms will take into account the type of use and the effect on the business interest of the Participant who owns the Background Information;
- for any other use of Background Information in connection with Foreground Information, use will be on fair and reasonable terms as agreed between the Owner and the potential user of the Background Information.

#### 9.5.2.2 By Contractors.

- Such use will be, for implementation of the respective IA(s), without cost to the Participants;
- for any other purpose, it will be subject to the prior written agreement of commercial terms with the Participant who owns the Background Information.

## 9.6 Contractor Foreground Information

### 9.6.1 Disclosure

#### 9.6.1.1 To the Participants.

Foreground Information generated by a Contractor and delivered under a Contract will be made available to the Participants. Foreground Information generated by a Contractor but not delivered will be made available by the Contractor upon request of the Participants at the cost of its compilation, reproduction, and delivery only.

#### 9.6.1.2 To other Contractors.

Contractor-generated Foreground Information will be exchanged between Contractors to enable the work under the respective IA(s) to be satisfactorily performed.

#### 9.6.1.3 The Contractor will be required to maintain a record of all Foreground Information.

### 9.6.2 Use

#### 9.6.2.1 By the Participants.

All Foreground Information delivered or made available under a Contract may be used free of charge by the Participants for Defence Purposes.

#### 9.6.2.2 By other Contractors.

All Foreground Information delivered or made available under a Contract may be used free of charge by other Contractors when it is necessary for the implementation of the respective IA(s).

#### 9.6.2.3 Limitation on the Use of Foreground Information.

Subject to the applicable security and export regulations of the Participant and the Sections XII (Sales and Transfers to Third Parties and Levies) and XVI (Security), a Contractor is entitled to use the Foreground Information generated by it. However, the Participants will consider in certain cases limiting the use of such Foreground Information by a Contractor and have the rights to raise levies. Any waiver of such limitation will be subject to prior written approval of the Participants.

## 9.7 Contractor Background Information

### 9.7.1 Disclosure

#### 9.7.1.1 To the Participants.

Subject to the rights of Third Parties, the Contractor will be required to disclose to the Participants any of their Background Information which is necessary for implementation of this MOU and to implement future IA(s) or otherwise utilise the Foreground Information for Defence Purposes. The Contractor will be required to identify and properly mark any Information which is Background Information before it is introduced and/or used in the Programme.

#### 9.7.1.2 To Contractors.

9.7.1.2.1 For disclosure to Contractors, who are acting in the area of the Participants' responsibilities on behalf and for the benefit of the Participants, the provisions of disclosure to Participants from paragraph 9.7.1.1 will apply.

#### 9.7.1.2.2 To other Contractors.

Contractors will be required to disclose any of their Background Information to other Contractors where this is necessary for implementation of the respective IA(s). Contractors will be free to make arrangements between themselves regarding the disclosure and protection of such Background Information. The implementation

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of such arrangements will, however, not delay the work or result in additional cost to the Participants. Wherever possible, the establishment and implementation of such arrangements will be the responsibility of the Contractors concerned.

9.7.1.3 Contractors will identify as early as possible any Background Information which will be necessary for the implementation of the respective IA(s) together with any restrictions on its disclosure.

### 9.7.2 Use

#### 9.7.2.1 By the Participants

- such use will be free of charge for implementation of this MOU;
- when future IA(s) are to be implemented and the right to use such Background Information has not been secured under previous IA(s), such use will be on fair and reasonable terms, where the Owner does not perform the work itself. Such terms will take into account the type of use and the effect on the business interests of the Contractor who owns the Background Information;
- for any other use of Background Information in connection with the Foreground Information, use will be on fair and reasonable terms as agreed between the Owner and the potential user of the Background Information.

#### 9.7.2.2 By other Contractors

- such use will be for implementation of the respective IA(s).
- without cost to the Participants;
- for any other purpose, it will be subject to the prior written agreement of commercial terms with the Contractor who owns the Background Information.

### 9.8 Proprietary Information

9.8.1 Before Proprietary Information or Information of which the use is restricted by export law is introduced and/or used in the Programme, it will be identified and appropriately marked.

9.8.2 Before release, all Proprietary Information subject to restricted rights of further disclosure and use will be identified and appropriately marked.

9.8.3 All Proprietary Information which is properly identified will be appropriately marked and handled as specified in the "NATO Agreement on the Communication of Technical Information for Defence Purposes", signed in Brussels on 19<sup>th</sup> of October 1970, and the "Implementing Procedures for the NATO Agreement on the Communication of Technical Information for Defence Purposes" approved by the North Atlantic Council on 1<sup>st</sup> of January 1971.

### 9.9 Patents

9.9.1 Where a Participant has or can secure the rights to file, or require to be filed, a patent application with regard to an invention in Foreground Information, that Participant will consult with the other Participants regarding the scope of filing of such a patent application. The Participants having such rights will in other countries, file, cause to be filed or provide the other Participants with the opportunity to file on behalf of the Participants holding such rights, or its Contractors, as appropriate, patent applications covering any such invention. If a Participant having filed, or caused to be filed, a patent application decides not to proceed with the application, that Participant will notify the other Participants of that decision and permit the other Participants to continue the process.

9.9.2 Each Participant will be furnished with copies of patent applications filed and patents granted with regard to inventions in Foreground Information.

9.9.3 Each Participant will be granted a non-exclusive, irrevocable, royalty free licence to practice, or have practised, by or on behalf of the Participants, throughout the world for Defence Purposes any such invention.

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9.9.4 Subject to the Participants' undertaking to share any liability incurred, and insofar as possible, each Participant will extend to the other Participants any relief from patent infringement claims arising in the course of work performed under this MOU that it may be able to claim on its own behalf. The Participants will, in accordance with their national laws and practices, give their authorisation and consent for all use and manufacture in the course of work performed under this MOU of any invention covered by a patent issued by their respective countries. Each Participant is responsible for handling all patent infringement claims made in its territory and to consult with the other Participants during the handling and prior to any settlement of such claims.

### 9.10 Background Information Not Owned by a Participant or a Contractor

#### 9.10.1 Disclosure

9.10.1.1 If the Participants decide or they are made aware of the need to use such Background Information they will seek to acquire or request that Contractors acquire access to this Background Information with the right to disclose it amongst themselves for implementation of the respective IA(s).

9.10.1.2 Participants and Contractors will be free to make arrangements with the Owners of such Background Information regarding the disclosure and protection of such Background Information. The implementation of such arrangements will, however, not delay the work or result in unauthorised cost to the Participants. Wherever possible the establishment and implementation of such arrangements will be the responsibility of the Participants and/or Contractors requiring the Information.

#### 9.10.2 Use

9.10.2.1 When such Background Information is disclosed in accordance with 9.10.1 above, the right to use it will be secured for implementation of the respective IA(s), on fair and reasonable terms. When future IA(s) are to be implemented and the right to use such Background Information has not been secured under previous IA(s), such use will be on fair and reasonable terms where the Owner does not perform the work itself. Such terms should be approved by the Participants on a case-by-case basis. For all other purposes use will be on commercial terms as agreed between the Third Party Owner and the potential user of the Background Information.

9.10.2.2 Whenever practicable, the Participants will require the Contractors to give notification of all Background Information including those of Third Parties which will be exercised in the performance of the Contract.

### 9.11 Indemnification

9.11.1 The Participants will secure an indemnity from the Contractor against any liability of the Participants arising from any use of Third Party rights not authorised by the Owner of the rights not directed by the Participants.

9.11.2 The Participants will accept liability for infringement of Third Party rights arising from the Contractor following specific instructions from the Participants.

9.11.3 The Participants will, in respect of any Background Information provided by a Participant to a Contractor for the performance of a Contract, indemnify the Contractor against any liability it may incur during such performance unless such liability arises from a breach of any restrictions notified by the Participant.

### 9.12 Improvement

The Contracts will contain an obligation, that for a period of five years after completion of all work under the respective IA(s), the Contractors will inform the Participants of any improvement made

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by or on behalf of the Contractors to the results of the work under the respective IA(s), including those which are the subject of patents or like legal protection, and will grant to the Participants a license to copy, use or have copied or used improvements for their Defence Purposes subject to the agreement of fair and reasonable terms.

### SECTION X - CLAIMS AND LIABILITY

- 10.1 For liability arising out of, or in connection with, activities carried out in the performance of official duty in the execution and for the benefit of the Programme, the following provisions will apply.
  - 10.1.1 Each Participant waives all claims against the other Participant in respect to damage caused to its military or civilian personnel or damage caused to its property by personnel or agents (which do not include Contractors) of the other Participant. If, however, such damage results from reckless acts or reckless omissions, wilful misconduct, or gross negligence of a Participant's personnel or agents, the costs of any liability will be borne by that Participant alone.
  - 10.1.2 Claims from Third Parties for damage of any kind caused by one of the Participant's personnel or agents will be processed by the most appropriate Participant. The cost incurred in satisfying such claims will be borne by the Participants as stated in the respective IA(s). If, however, such liability results from reckless acts or reckless omissions, wilful misconduct or gross negligence of a Participant's personnel or agents, the costs of any liability will be borne by that Participant alone.
- 10.2 In the case of damage caused by or to common property of the Participants, where the cost of making good such damage is not recoverable from a Third Party, such cost will be borne by the Participants as specified in the respective IA(s).
- 10.3 The Participants will not indemnify Contractors against Third Party liability claims. However, in exceptional circumstances (e.g. certain nuclear or unduly hazardous activity where the cost of insurance is excessively high), the Participants may consider whether to indemnify Contractors against Third Party liability claims.
- 10.4 Claims arising under any Contract awarded under the respective IA(s) will be resolved in accordance with the provisions of the Contract.

### SECTION XI - STATUS OF PERSONNEL

The military and civilian employees of a Participant, assigned to duty with its defence department or ministry, whilst present in the territory of another Participant, will, to the extent that they are so qualified, be members of a "force" and "civilian component" respectively, within the meaning of Article 1 of the "Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces", signed on 19<sup>th</sup> of June 1951 including the supplements thereto. Employees and agents of Contractors cannot constitute a civilian component and the NATO SOFA will not apply to them.

### SECTION XII - SALES AND TRANSFER TO THIRD PARTIES AND LEVIES

- 12.1 Sales and Transfers to Third Parties
  - 12.1.1 For the purpose of making sales and transfers and granting licenses in respect of the Programme, the Participants will seek to have their national laws and regulations

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governing the export of armament materials and technology applied in a spirit of co-operation and in accordance with any separate arrangements between the Participants.

12.1.2 The Participants will not sell, transfer title to, disclose, or transfer possession of Foreground Information or any equipment embodying such Information or jointly acquired Programme Equipment to any Third Party without the prior written consent of the other Participant. Furthermore, no Participant will permit any such sale, disclosure, or transfer, including by the Owner of the item, without the prior written consent of the other Participant. Such consent will not be given unless the government(s) of the intended recipient(s) jointly decide in writing that it will:

12.1.2.1 not re-transfer, or permit the further re-transfer of, such items or Information provided;

12.1.2.2 use, or permit the use of, such items or Information provided only for the purposes specified by the Participants.

12.1.3 A Participant will not sell, transfer title to, disclose, or transfer possession of equipment or Background Information provided by another Participant to any Third Party without the prior written consent of the Participant which provided such equipment or Information. The providing Participant will be solely responsible for authorising or obtaining authorisation for such transfers and, as applicable, specifying the method and provisions for implementing such transfers.

12.1.4 Any consent required under this section regarding the sale, disclosure or transfer of any Information or equipment will not be withheld except for reasons of foreign policy, national security, or national laws. No Participant will refuse such approval of a sale or transfer to any other country when that Participant would be prepared to approve a national sale, disclosure, or transfer of the same Information or equipment to that country.

### 12.2 Levies

12.2.1 Sales or other transfers of equipment developed or Foreground Information generated under this MOU may attract a levy to be shared among the Participants. Prior to any such sale or other transfer, the amounts of any levy and the procedure for assessing such levy will be determined by the Participants. However, each Participant may reduce or waive recovery of its share of levy in accordance with its national laws, regulations, and practices. Costs recovered by the Participants will be shared among them according to their contributions to the Programme, taking into account any Participant's reduction or waiver of such recovery.

12.2.2 The Participants will jointly decide on whether or not to ensure that Contractors which conclude sales, rental, or manufacturing license contracts with Third Parties are subject to the payment of levies, which will be fixed in the respective Contract after approval by the CSC.

## SECTION XIII - QUALITY ASSURANCE

13.1 The Participants will implement NATO Standardization Agreement (STANAG) 4107, Mutual Acceptance of Government Quality Assurance. If appropriate actions are required, other than envisaged in STANAG 4107, the Participants will task their national quality assurance services to draw them up.

13.2 The Participants will accept quality assurance services performed on their behalf by another government in accordance with STANAG 4107. The Contractors' representatives may participate in the quality assurance services pertaining to their Contract.

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- 13.3 The Participants will provide, free of charge, quality assurance services within their own countries upon request, in accordance with principles no less stringent than set out in the appropriate Allied Quality Assurance Publications (AQAPs) specified for such services in STANAG 4107.
- 13.4 The Participants, in accordance with STANAG 4107, will define the AQAPs appropriate to the complexities of the work or service undertaken by the Contractor/Sub-Contractor, and will ensure that the set-up of national control and quality assurance organisations will meet the requirements specified in the AQAP.

### SECTION XIV - PROGRAMME EQUIPMENT

- 14.1 Each Participant may provide Programme Equipment identified as being necessary for executing this MOU to the other Participant. Such Programme Equipment will remain the property of the providing Participant. A list of all Programme Equipment provided by one Participant to another will be developed and maintained by the CPO.
- 14.2 The receiving Participant will maintain any such Programme Equipment in good order, repair, and operable provisions, and return the items in as good condition as received, normal wear and tear excepted.
- 14.3 All Programme Equipment that is transferred will be used by the receiving Participant(s) only for the purposes set out in this MOU. In addition, in accordance with Section XII (Sales and Transfer to Third Parties and Levies), Programme Equipment will not be subsequently transferred to a Third Party without the prior written consent of the providing Participant.
- 14.4 Programme Equipment transferred to a Participant under this MOU will be returned to the providing Participant prior to the withdrawal, termination, or expiration of this MOU.
- 14.5 Any Programme Equipment which is jointly funded on behalf of the Participants for use under this MOU will be disposed of during the Programme, or when the Programme ceases, as approved by the CSC.
- 14.6 Disposal of jointly funded Programme Equipment may include a transfer of the interest of one Participant in such Programme Equipment to another Participant, or the sale of such Programme Equipment to a Third Party in accordance with Section XII (Sales and Transfers to Third Parties and Levies). The Participants will share the proceeds from jointly funded Programme Equipment transferred or sold to a Third Party in the same ratio as the contribution to the Programme.

### SECTION XV - LOGISTIC SUPPORT

The Participants may establish areas of common logistic support in IA taking account of any particular maintenance and supply aspects.

### SECTION XVI - SECURITY

- 16.1 All Classified Information exchanged or generated in connection with this MOU will be used, transmitted, stored, handled, and safeguarded in accordance with the Participants' applicable national security laws and the DEU/NLD Security Agreement in force since 1<sup>st</sup> of March 2002.

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- 16.2 Classified Information will be transferred only through government-to-government channels or through channels approved by the NSAs/DSAs of the Participants. Such Information will bear the level of classification and denote the country of origin.
- 16.3 Each Participant will take all lawful steps available to it to ensure that Information provided or generated pursuant to this MOU is protected from further disclosure except as provided by paragraph 16.8, below, unless the other Participants consent in writing to such disclosure. Accordingly, each Participant will ensure that:
- 16.3.1 The recipients will not release the Classified Information to any government, national organisation, or other entity of a Third Party without the prior written consent of the originating Participant, in accordance with the procedures set forth in Section XII (Sales and Transfers to Third Parties and Levies).
- 16.3.2 The recipients will not use the Classified Information for purposes other than provided for in this MOU.
- 16.3.3 The recipient will comply with any distribution and access restrictions on Information that are provided under this MOU.
- 16.4 The Participants will investigate all cases in which it is known or where there are grounds for suspecting that Classified Information provided or generated pursuant to this MOU has been lost or disclosed to unauthorised persons. Each Participant also will promptly and fully inform the other Participant of the details of such occurrences, and of the final results of the investigation and of the corrective action taken to preclude recurrences.
- 16.5 The NSA/DSA of the country in which a classified Contract is awarded will assume responsibility for administering within its territory security measures for the protection of the Classified Information, in accordance with its laws and regulations. Prior to the release to a Contractor, prospective Contractor, or Sub-Contractor of any Classified Information received under this MOU, the NSAs/DSAs will:
- 16.5.1 Ensure that such Contractors, prospective Contractor, or Sub-Contractors and their facilities have the capability to protect the Information adequately.
- 16.5.2 Grant a security clearance to the facilities, if appropriate.
- 16.5.3 Grant a security clearance for all personnel whose duties require access to Classified Information, if appropriate.
- 16.5.4 Ensure that all persons having access to the Classified Information are informed of their responsibilities to protect the Information in accordance with national security laws and regulations, and the provisions of this MOU.
- 16.5.5 Carry out periodic security inspections of cleared facilities to ensure that the Classified Information is properly protected.
- 16.5.6 Ensure that access to the Classified Information is limited to those persons who have a need-to-know for purposes of this MOU.
- 16.6 Contractors, prospective Contractors, or Sub-Contractors which are determined by the NSAs/DSAs to be under financial administrative, policy, or management control of nationals or entities of a Third Party may participate in a Contract or sub-contract requiring access to Classified Information provided or generated pursuant to this MOU only when enforceable measures are in effect to ensure that nationals or entities of a Third Party will not have access to Classified Information. If enforceable measures are not in effect to preclude access by nationals or other entities of a Third Party, the other Participant will be consulted for approval prior to permitting such access.
- 16.7 For any facility wherein Classified Information is to be used, the responsible Participant or Contractor will approve the appointment of a person or persons of sufficient rank to exercise

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effectively the responsibilities for safeguarding at such facility the Information pertaining to this MOU. These officials will be responsible for limiting access to Classified Information involved in this MOU to those persons who have been properly approved for access and have a need-to-know.

16.8 Each Participant will ensure that access to Classified Information is limited to those persons who possess requisite security clearances and have a specific need for access to the Classified Information in order to participate in the Programme.

16.9 The CPO will prepare a PSI and a SCG for the Programme. The PSI and the SCG will describe the methods by which Programme Information will be classified, marked, used, transmitted and safeguarded. The PSI and SCG will be completed by the CPO within six (6) months after this MOU comes into effect. The CPO will review and forward the PSI and SCG to the appropriate NSAs/DSAs for approval. Upon approval, the documents will be applicable to all government and Contractor personnel participating in the Programme and subject to regular review and revision.

### 16.10 Controlled Unclassified Information

16.10.1 Except as otherwise provided in this MOU or as authorised in writing by the originating Participant, Controlled Unclassified Information provided or generated pursuant to this MOU will be controlled as follows:

16.10.1.1 Such Information will be used only for Programme Purposes.

16.10.1.2 Access to such Information will be limited to personnel whose access is necessary for the permitted use, and will be subject to the provisions of Section XII (Sales and Transfers to Third Parties and Levies).

16.10.1.3 Each Participant will take all lawful steps, which may include national classification, available to it to keep such Information free from further disclosure (including requests under any legislative provisions), except as provided for in sub-paragraph 16.10.1.2 above, unless the originating Participant consents to such disclosure. In the event of unauthorised disclosure, or if it becomes probable that the Information may have to be further disclosed under any legislative provision, immediate notification will be given to the originating Participant.

16.10.2 To assist in providing the appropriate controls, the originating Participant will ensure that its Information is appropriately marked to indicate its "in-confidence" nature. The Participants will establish the markings to be placed on the Information. The appropriate markings will be defined in the PSI.

16.10.3 Controlled Unclassified Information provided or generated pursuant to this MOU will be handled in a manner that ensures control as provided for in paragraph 16.10.1 above.

16.10.4 Prior to authorising the release of Controlled Unclassified Information to Contractors, the Participants will ensure that the Contractors are contractually bound to control such Information in accordance with the provisions of this section.

### 16.11 Access to Establishments

16.11.1 Each Participant will permit visits to its government establishments, agencies, and laboratories, and Contractor industrial facilities by employees of the other Participant or by employees of the other Participants' Contractor(s), provided that the visit is authorised by the other Participant and the employees have a need-to-know and appropriate security clearances, if required.

16.11.2 All visiting personnel will comply with the security regulations of the host Participant. Any Information disclosed or made available to visitors will be treated as if supplied to the Participant sponsoring the visiting personnel, and will be subject to the provisions of this MOU.

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16.11.3 Requests for visits by personnel of one Participant to a facility of another Participant will be coordinated through official channels, and will conform with the established visit procedures of the host Participant. If necessary, requests for visits will bear the name of the Programme and will be submitted in accordance with International Visit Procedures as described by MISWG Document No 7.

16.11.4 List of personnel of each Participant required to visit, on a continuing basis, facilities of the other Participants will be submitted through official channels in accordance with the recurring International Visit Procedures.

### SECTION XVII - ADMISSION OF ADDITIONAL PARTICIPANTS AND/OR OBSERVERS

- 17.1 Should a non-participant apply to join the collaborative effort, the CSC will consider such an application, explore the possibility of establishing provisions for the proposed additional nation's participation either as a Participant or as an Observer and make recommendations to the Participants, having full regard to the provisions of the existing MOUs governing the collaborative effort and the contributions which have already been made by the Participants.
- 17.2 Admission of additional Participants or Observers will require an amendment to this MOU.
- 17.3 Relations between Observers and the Participants will be specified by the CSC in accordance with paragraphs 4.2.1.13 and 4.2.1.14 of this MOU.

### SECTION XVIII - DURATION, WITHDRAWAL, AND TERMINATION

- 18.1 This MOU will come to an end 30 years after the signing date unless the Participants unanimously decide to extend it or terminate it earlier.
- 18.2 IA(s) cannot have a longer duration than this MOU.
- 18.3 In the event that a Participant finds it necessary to withdraw wholly or partly from the Programme, withdrawal will be subject to the provisions of this MOU and to those of the relevant IA(s). A whole withdrawal of a Participant is only possible after withdrawal and/or ending of all IA(s) under this MOU.
- 18.4 In the event that a Participant finds it necessary to withdraw from IA(s), withdrawal will be subject to the provisions in the respective IA(s).
- 18.5 In the event that a Participant wishes to withdraw, the following procedure will apply:
- 18.5.1 before giving formal notice of withdrawal, detailed consultations will take place between the Participants on the consequences of withdrawal and possibility of avoiding it. A minimum period of time of at least six (6) months, will be specified for these consultations; and,
- 18.5.2 if a Participant still wishes to withdraw, the Participant will give notice of six (6) months in writing to the other Participant.
- 18.5.3 The Participant withdrawing will meet in full its commitments up to the effective date of withdrawal.
- 18.6 At the request of the other Participant, the withdrawing Participant will take all the necessary actions within its control to ensure that the Programme can be continued by the remaining Participant. All costs arising as a result of a withdrawal will be borne by the withdrawing Participant. The remaining Participant will determine, in consultation with the withdrawing

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Participant, the most economic arrangement in this respect. However, the cost to the withdrawing Participant will not exceed its commitment as set out in the respective IA(s), taking into account the amounts already contributed by the withdrawing Participant.

- 18.7 In the event that a Participant decides not to participate in an IA, no payment of compensation to the other Participant will be made.
- 18.8 If the Participants decide jointly to terminate the Programme, they will jointly meet the cost of termination in accordance with the financial arrangements to be specified in the respective IA(s).
- 18.9 The rights and responsibilities of the Participants regarding disclosure and use of Information, security, sales and transfers to Third Parties, settlement of disputes, claims and liabilities, and withdrawal and termination will continue irrespective of any Participant's withdrawal or termination or expiration of this MOU.

## SECTION XIX - SETTLEMENT OF DISPUTES

Any disputes regarding the interpretation or implementation of this MOU will be resolved only by consultation among the Participants and will not be referred to a national or international tribunal or other Third Party for settlement.

## SECTION XX - AMENDMENT

This MOU may be amended by written amendment signed by the Participants or their authorised representatives.

## SECTION XXI - PRESS RELEASE AND PUBLICITY

Neither Participant will issue press releases or other external publicity regarding the Programme or this MOU without written permission of the other Participant or their authorised representatives.

## SECTION XXII - GENERAL PROVISIONS

- 22.1 Fulfilling the provisions of this MOU is subject to national laws and regulations as well as EU laws and regulations, if applicable.
- 22.2 If a Participant becomes unable to fulfil the provisions of this MOU, it will promptly notify the other Participant. The Participants will immediately consult with a view to continuation on a changed or reduced basis. If this is not acceptable to the Participants, then the provisions of Section XVIII (Duration, Withdrawal, and Termination) will apply.
- 22.3 Participation in this MOU and respective IA(s) is subject to the availability of nationally appropriated funds.
- 22.4 All IA(s) will be signed by each Participant on the same level of jurisdiction.
- 22.5 The IA(s) will be an integral part of this MOU. In the event of any inconsistency between the wording of the respective IA(s) and the wording of this MOU, the wording of this MOU will prevail.

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22.6 Before sending letters or reports to parliament that will be published as publically accessible parliamentary documentation, a Participant will inform the other Participant, when possible, about content and timing of this Information.

SECTION XXIII - LANGUAGE

23.1 This MOU is written in English.

23.2 The languages, both oral and written, to be used in the execution of the Programme will be English. Language in Contracts is covered in Section V (Contractual Arrangements).

SECTION XXIV - EFFECTIVE DATE AND SIGNATURE

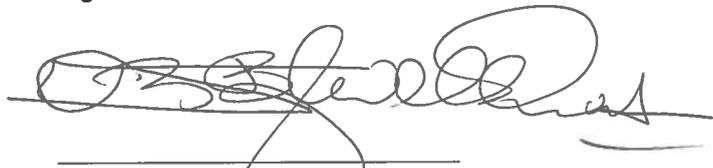
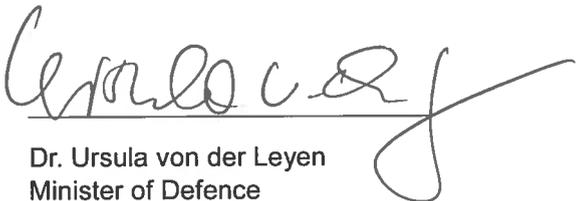
This MOU will come into effect upon the date of signature by the Participants.

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

The Minister of Defence of the Kingdom of the Netherlands

Signature

Signature



Dr. Ursula von der Leyen  
Minister of Defence

Ank Bijleveld-Schouten  
Minister of Defence

Berlin, 25<sup>th</sup> of June 2019

Berlin, 25<sup>th</sup> of June 2019