

GENERAL PROVISIONS
APPLICABLE TO AD HOC RESEARCH & TECHNOLOGY PROJECTS AND
PROGRAMMES OF THE EUROPEAN DEFENCE AGENCY

Approved by the Steering Board of the European Defence Agency
on 10 June 2010 (SBD No 2010-19)

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SECTION I DEFINITIONS AND ABBREVIATIONS

The following definitions will apply to these General Provisions. Additional definitions or glossaries of terms may be added in individual PAs, as required.

Agency	the European Defence Agency established under the Joint Action
Background Information	any Information not generated or conceived under a specific Ad Hoc R&T Project or Programme.
CapTech	Capability Technology area of the Agency.
Contractor	any entity undertaking work under a contract under a PA. This term includes sub-Contractors.
Contractor Support Personnel	persons specifically identified in support contracts who provide administrative, managerial, scientific, or technical support services to a Contributing Member.
Contributing Member (cM)	a participating Member State, the European Union, a Third State or other third organisation or entity that contributes resources to an Ad Hoc R&T Project or Programme through signature of a PA.
Defence Purposes	the use by or for the armed forces, including military intelligence, of a Contributing Member in any part of the world. It includes, but is not limited to, study, evaluation, assessment, research, design, development, manufacture, improvement, modification, maintenance, repair, refurbishment, and product acceptance and certification, operation, training, disposal and other post design services and product deployment. This does not include any sale, loan or transfer to a Third Party.
Disclosing Contributing Member	a Contributing Member who discloses information to a Receiving Contributing Member under a specific PA.
Foreground Information	any Information which is generated or conceived under a specific Ad Hoc R&T Project or Programme.
General Rules and Procedures (GR&P)	General Rules and Procedures applicable to Ad Hoc Research & Technology Projects and Programmes of the European Defence Agency approved in the Steering Board Decision 2010 No 2010-19.

General Provisions (GP)	General Provisions applicable to Ad Hoc Research & Technology Projects and Programmes of the European Defence Agency approved in the Steering Board Decision 2010 No 2010-19.
Government Purposes	the use by or for any government organisation of a Contributing Member. This does not include any sale, loan or transfer to a Third Party.
Host Contributing Member	a Contributing Member receiving personnel for attachments or exchanges under a specific PA.
Information	any information, knowledge or data, regardless of form or characteristics including but not limited to: that of a scientific or technical nature, experimental and test data, designs, improvements, photographs, software (including source code), reports, manuals, specifications, processes, techniques, inventions (whether patented or not), technical writings, sound recordings, semi-conductor topography, pictorial reproductions, drawings and other graphical representations, whether on magnetic tape, in computer memory, or in whatever form presented, and whether or not subject to copyright or other legal protection.
Information Exchange	a formalised exchange of specific Background Information over a pre-determined period of time, in order to increase the Contributing Members' collective knowledge or understanding of a particular research topic. Formal Information Exchanges will normally require the completion of a PA.
Joint Investment Programme (JIP)	an Ad Hoc Category A or B Project or Programme, which includes a joint budget to which all Contributing Members contribute funds, and normally contracting arrangements based upon either open competition, or a competition among entities specified by the Contributing Members.
Parent Contributing Member	a Contributing Member providing personnel for attachments or exchanges under a specific PA.
Participating Member State (pMS)	a Member State of the European Union which participates in the Agency.
Receiving Contributing Member	a Contributing Member who receives Information under a specific PA.

Research & Technology (R&T) Programme (R&T Programme)	a range of co-operative research activities (usually made up of individual R&T Projects grouped by a common theme) on both exploratory and advanced technologies whose maturation may lead to the development of technologically superior conventional military capabilities.
Research & Technology (R&T) Project (R&T Project)	an individual co-operative research activity, which may be within a Research & Technology Programme, and which has a clearly defined objective, duration, cost, and expected output.
Security Purposes	the use by or for the appropriate authorities of a Contributing Member including, but not limited to, border control, the protection of citizens, critical infrastructure and transportation whether from deliberate acts (such as terrorism) or accidental or natural events (such as natural disasters). This does not include any sale, loan or transfer to a Third Party.
Steering Board	the Steering Board of the Agency.
Project or Programme Arrangement (PA)	a specific arrangement setting the principles applying to a specific Ad Hoc R&T Project or Programme These arrangements may refer only to the management of a Project or Programme, or may contain the full details of the work to be carried out.
PA Management Group (PAMG)	a Management Group made up of the Project Officers nominated by the Contributing Members in a PA.
Technology Demonstrator Project/Programme (TDP)	a Project or Programme in which a combination of technologies is intended to validate either a proposed technology capability or operational requirement. The products of a TDP may include, but are not necessarily limited to: equipment, materials and software (including system architecture and source codes).
Third Party	unless otherwise determined in a specific PA, any person or legal entity that is not a Contributing Member in that Project/Programme. Contractors will not be regarded as Third Parties for the purposes of the contract in which they are engaged. The term Third Party does not include the support personnel of Contributing Members.
Third State	any State that is not an EDA pMS.

SECTION II

FINANCE

- 2.1 Each Contributing Member will bear the costs of its share in any R&T Project or Programme as described in a PA, including the costs of its contracts, whether let by the Agency, let nationally, let on its behalf by the other Contributing Member(s) or let by any other contracting agency. The cost share will be determined by the Contributing Members on a case-by-case basis. Contributing Members may set cost shares on a basis of equality, or equitability, or any other ratio that they mutually determine. One Contributing Member will promptly notify the others if funds are not available to meet its commitments under any PA; the Contributing Members concerned will then consult with a view to continuing on a changed or reduced basis; this may include withdrawal from the project by the Contributing Member unable to meet its commitments. The currency exchange rates and economic conditions to be used when calculating the cost shares for each PA will be determined by the Contributing Members and stated in the relevant PA.
- 2.2 The Contributing Members will determine, on a case by case basis, whether the Agency will be entrusted (subject to a decision taken by the Contributing Members in the Steering Board) with the administrative and financial management of any Project or Programme to which these GP apply. A description of the role of the Agency in this regard will always be included in the relevant PA (including, if so decided by the Steering Board, modalities of collecting funds in advance from the Contributing Members to honour the contract(s) entered into).
- 2.3 Where a Contributing Member carries out work on behalf of the other(s) on a repayment basis, full details will be set out in the relevant PA.
- 2.4 If a Contributing Member and/or the Agency incur contractual obligations on behalf of other Contributing Member(s), the other(s) will pay their share of such obligations, and will make funds available in such amounts and at such times as may be required by the obligations.
- 2.5 For each PA, the relevant PAMG will be responsible for establishing adequate financial management procedures under which the work will be performed. These procedures will, if national policies and procedures of at least one of the Contributing Members require it, be detailed in a financial management policies and procedures document proposed by the PAMG and subject to the approval of the Contributing Members. The financial management policies

and procedures document will contain an estimated schedule of the financial contributions each Contributing Member will make to the R&T Project concerned.

- 2.6 When funds are transferred from one Contributing Member to the other(s) for the purpose of carrying out work under a PA, the Contributing Member who receives the funds will be responsible for the internal audit regarding their administration in accordance with its own national practices. Audit reports will be promptly made available to the other Contributing Member(s).
- 2.7 Where industrial part-funding of activities takes place, the Contributing Members must include the necessary provisions in the PA to cover their rights and obligations towards their industrial partners.

SECTION III

CONTRACTING

- 3.1 Competition will be the preferred method for letting contracts pursuant to these GP, taking into account the national regulations and procedures of the Contributing Members concerned, except when the Contributing Members in a PA mutually determine otherwise.
- 3.2 Contributing Members may decide that contracts will be let nationally or be let by one Contributing Member on behalf of the other(s) or be let by the Agency or be let by another international organisation with which they have an appropriate legal relationship.
- 3.3 Contracts may only be let by the Agency if prior authorisation to do so is given by the Steering Board in accordance with Article 17 of the Joint Action.
- 3.4 If a Contributing Member determines that national contracting is necessary to fulfil its responsibilities under a PA then that Contributing Member will contract in accordance with its respective national laws, regulations and practices with such waivers and deviations as its practices permit and as are deemed necessary to implement the provisions of the relevant PA.
- 3.5 When a Contributing Member contracts nationally to carry out a task that is part of its own work programme as specified in a PA, it will be solely responsible for its own contracting, and the other Contributing Member(s) will not be subject to any liability arising from such contracts without their prior written consent.
- 3.6 If the Contributing Members determine that one of them should let a contract on behalf of one or more of the other(s), that Contributing Member will let a contract in accordance with its own national laws, regulations and practices with such waivers and deviations as its practices permit and as are deemed necessary to implement the provisions of the relevant PA. The contractual arrangements will be detailed in the relevant PA. The Contributing Member letting the contract will nominate a contracting officer who will be the exclusive source for providing contractual direction and instruction to the Contractor(s). The PAMG however, will be responsible for the co-ordination of activities relating to contracting under the relevant PA, and will cooperate with the contracting officer in the area of evaluation of offers, contract procedures, and contract negotiations. The contracting officer will let the contract only with the approval of the PAMG. The contracting officer will keep the PAMG advised of all financial arrangements with Contractor(s).

- 3.7 Each Contributing Member will include in its contracts, and require its Contractor(s) to insert in their sub-contracts, suitable provisions to satisfy the requirements of the relevant PA. Contributing Members letting contracts will instruct prospective Contractor(s) that they should notify the Contributing Members if any license or agreement affecting the Contractor will limit the Contributing Members' freedom to disclose the Information or permit its use. A Contributing Member letting a contract will also instruct prospective Contractor(s) not to enter into any new agreement or arrangement that will result in such limitations without prior consultation with that Contributing Member.
- 3.8 In the event that a Contributing Member letting a contract is unable to secure suitable provisions to satisfy the requirements of the relevant PA as set out in paragraph 3.7 above, that Member will notify the other Contributing Member(s) of the restrictions, the matter being referred to the PAMG for resolution.
- 3.9 Each Contributing Member letting a contract will promptly advise the other Contributing Member(s) of any cost growth, schedule delay, or performance problems in connection with a contract placed by that Contributing Member.
- 3.10 Contributing Members may mutually determine that they wish contracts to be let on their behalf by the Agency. Provisions applicable to such contracting arrangements will be set out in the relevant PA.
- 3.11 Where a contract is let on behalf of Contributing Members by the Agency, those Contributing Members will determine how to meet the costs arising in any case of contractual liability for which the Agency itself is not responsible. Such costs will normally be borne on a prorate basis according to each Contributing Member's contribution to the Project, unless otherwise determined in the relevant PA.

SECTION IV

SECURITY AND VISITS

Security

General Provisions

- 4.1 All classified Information exchanged during an R&T Project or Programme will be used, transmitted, stored, handled and safeguarded in accordance with national rules on disclosure of information, and the EU Council Security Regulations 2001/264/EC, adopted on the 19 March 2001 and any amendments or additions thereto. The maximum level of security classification of material to be exchanged under these provisions will be EU Top Secret.
- 4.2 All those contributing or receiving classified Information under paragraph 4.1 above will take all lawful steps available to them to investigate all cases in which it is known or suspected that classified Information provided or generated pursuant to these GP has been lost or disclosed to unauthorised persons. All cases of loss or unauthorised disclosure will be notified to the Agency, which will be responsible for notifying the pMS or participating Third States concerned. All results of investigations and corrective action taken must also be reported to the Agency.

Projects And Programmes

- 4.3 All classified Information exchanged or generated in connection with any PA will be used, transmitted, stored, handled and safeguarded in accordance with the EU Council Security Regulations 2001/264/EC, plus the following provisions, which are intended to provide a minimum common standard of protection for classified material. However, where the Contributing Members in a PA are signatories to, and wish to use, a suitable Security Agreement or Arrangement other than the EU Council Security Regulations as the basis for the handling of classified Information they may do so, provided that an equivalent degree of protection is provided.
- 4.4 All classified Information exchanged by the Contributing Members pursuant to this GP will be transmitted in accordance with their national laws and regulations. Such Information will be marked with the level of classification and the country of origin.

- 4.5 Each Contributing Member will take all lawful steps available to ensure that all classified Information provided or generated pursuant to a PA to which these GP apply is protected from further disclosure, unless the other Contributing Member(s) consent to such disclosure.
- 4.6 Accordingly, each Disclosing Contributing Member will require that:
- a) a Receiving Contributing Member will not release the classified Information to any Third Party without consent. However, if disclosure is subject to the Receiving Contributing Member's national laws, regulations or procedures, prior consultation with the originator will take place to determine whether the Information remains subject to conditions that could prevent its release;
 - b) a Receiving Contributing Member does not use the classified Information for other than the purposes provided for in the relevant PA;
 - c) a Receiving Contributing Member complies with any distribution and access restrictions on classified Information that is provided under the relevant PA.
- 4.7 When a classified contract is awarded to a Contractor within the territory of one of the Contributing Members, the National Security Authority/Designated Security Authority (NSA/DSA) of the Contributing Member concerned will assume responsibility for administering within its territory security measures for the protection of the classified Information, in accordance with its national laws and regulations. Prior to the release to a Contractor, prospective Contractor, or sub-contractor of any classified Information received under any PA, the NSA/DSAs will:
- a) ensure that such a Contractor, prospective Contractor, or sub-Contractor and their facilities have the capability to protect the information adequately;
 - b) grant a security clearance to the facilities, if appropriate;
 - c) grant a security clearance for all personnel whose duties require access to classified Information, if appropriate;
 - d) ensure that all persons having access to the Information are informed of their responsibilities to protect the Information in accordance with national security laws and regulations, and the provisions of the relevant PA;
 - e) carry out periodic security inspections of cleared facilities to ensure that the classified Information is properly protected;

f) ensure that access to the classified Information is limited to those persons who have a need-to-know for the purposes of the relevant PA.

- 4.8 Classified contracts may be awarded to Contractors located outside the territory of the Contributing Members. In such a case, the Contractors, prospective Contractors, or sub-Contractors determined by the NSA/DSAs of the Contributing Members 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 only when enforceable measures are in effect to ensure that nationals or entities of the Third Party will not have access to classified Information, unless the Contributing Members mutually determine that they should have such access.
- 4.9 For any facility wherein classified Information is to be used, the responsible Contributing Member or Contractor will approve the appointment of a person or persons of sufficient rank to exercise effectively the responsibilities for safeguarding at such a facility the Information pertaining to relevant PA. These officials will be responsible for limiting access to classified Information under the relevant PA to those persons who have been properly approved for access and have a need-to-know. The Contributing Members will ensure that personnel who have a need for access to classified Information in order to participate in a R&T Project or Programme possess the requisite security clearances.
- 4.10 When taking part in a R&T Project or Programme, Contributing Members will require the PAMG to prepare a Project Security Instruction (PSI) and a Classification Guide for the R&T Project or Programme. The PSI and the Classification Guide will describe the methods by which Information will be classified, marked, used, transmitted, and safeguarded. The Contributing Members will review and forward the PSI and Classification Guide to the appropriate NSA/DSAs for approval. Upon approval, the documents will be applicable to all Contributing Members' and Contractors' personnel participating in the R&T Project or Programme, and subject to review and revision.
- 4.11 All classified Information exchanged or generated under any PA to which these GP apply will continue to be protected in the event of the withdrawal of a Contributing Member from a PA, or upon termination or expiry of the PA.
- 4.12 Unclassified matter resulting from any PA which may be suitable for publication in scientific or technical journals will first be specifically cleared for public disclosure by the PAMG.

Visits

- 4.13 Each Contributing Member will comply and will ensure that its visiting personnel will comply with the provisions of these GP.
- 4.14 Requests for visits by personnel of one Contributing Member to a facility of another Contributing Member will be coordinated through official channels and should conform to the established visit procedures of the Contributing Member hosting the visit. Requests for visits will bear the name of the relevant PA that is applicable to the visit. Arrangements for visits should at a minimum comply with Section IX of EU Council Security Regulations 2001/264/EC, and any subsequent amendments or additions thereto, or by any other appropriate visit procedures contained in any Security Agreement or Arrangement being used by the Contributing Members in the relevant PA provided these provide a level of protection that is equivalent to the EC Security Regulations.
- 4.15 Each Contributing Member will permit visits to its establishments, agencies, and laboratories, and Contractor industrial facilities, by employees of the other Contributing Member(s) or by employees of the other Contributing Members' Contractors provided that the visit is authorised and the employees have appropriate security clearances and a need-to-know. Where visits are to be made to Contractor's facilities, the permission of the relevant Contractor will be sought in advance.
- 4.16 All visiting personnel will comply with security regulations of the Host Contributing Member, and if visiting a Contractor's premises, with appropriate security or health and safety regulations applicable to those premises. Any Information, materials or equipment which is disclosed or made available to visitors will be treated as if supplied to the Contributing Member sponsoring the visiting personnel, and will be subject to the provisions of the relevant PA.
- 4.17 Lists of personnel of each Contributing Member required to visit, on a continuing basis, facilities of the other Contributing Member(s) will be submitted through official channels in accordance with the relevant visit procedures.

SECTION V
CLAIMS AND LIABILITIES

- 5.1 All claims and liabilities arising from or in connection with the execution of any PA to which these GP apply will be dealt with as described in these GP unless the relevant PA specifies changes.
- 5.2 Each Contributing Member waives any claim it may have against any other Contributing Member(s) in respect of loss or damage caused to its personnel and/or its property by personnel or agents (which do not include Contractors) of the other Contributing Member(s) arising out of, or in connection with the execution of any PA to which these GP apply of which it is a member. If, however, such loss or damage results from the reckless (culpa) acts or reckless omissions, wilful misconduct (dolus malus) or gross negligence (culpa lata) of a Contributing Member, its personnel or agents, the costs of any liability will be borne by that Contributing Member alone.
- 5.3 Unless otherwise specified in a PA, the costs incurred in satisfying claims from Third Parties for loss or damage of any kind arising out of, or in connection with the execution of a PA, caused by one of the Contributing Members' personnel or agents (which does not include Contractors) will be borne by the Contributing Members on a pro-rata basis reflecting the level of contributions by the Contributing Members to the activity in question. If, however, such liability results from the reckless (culpa) acts or reckless omissions, wilful misconduct (dolus malus) or gross negligence (culpa lata) of a Contributing Member, its personnel or agents, the costs of any liability will be borne by that Contributing Member alone.
- 5.4 In the case of loss or damage caused to or by the common property of the Contributing Members, where the cost of making good such damage is not recoverable from a Third Party, such cost will be borne by the Contributing Members in the same manner as set out in paragraph 5.3 above.

SECTION VI

DISCLOSURE AND USE OF INFORMATION

General

- 6.1 On completion of any Ad Hoc Project or Programme, a publishable executive summary will be produced and may be placed in the public domain.
- 6.2 Where a Contributing Member ('the Recipient') receiving Information from another ('the Discloser') is restricted by any of the provisions in this Section VI from disclosing all or any of such Information, such restriction will be subject to the Recipient's national laws and regulations concerning public access to information and connected national legislation. Where these require or are likely to require the Recipient to disclose such Information or any part of it, the Recipient will, where national legislation permits, promptly inform the Discloser and work with the Discloser to investigate ways of mitigating any harmful effects of the disclosure.

Ownership

- 6.3 The following provisions do not affect the ownership of any Background Information, unless otherwise stated in the relevant PA. Ownership of Foreground Information will vest in the originator of that Foreground Information, unless otherwise stated in the relevant PA.

Information Exchange

- 6.4 Background Information may be exchanged under any PA. No transfer of ownership of Background Information between Contributing Members will take place under a PA unless specific alternative provisions, which should take into account any applicable proprietary rights, are included in the relevant PA.
- 6.5 Background Information will only be exchanged where it may be so exchanged without infringing the proprietary rights of the holders and where disclosure is consistent with the disclosure procedures and regulations of the Disclosing Contributing Member(s).
- 6.6 The Receiving Contributing Member(s) may use Background Information received under a PA for information and evaluation purposes only, and will not use the Information for any purpose other than the purpose for which it was furnished without the prior written consent of the Disclosing Contributing Member(s). However, and subject to any pre-existing rights in the Background Information, where the Contributing Members mutually determine in advance that exchanged Background Information may be used for purposes other than information and

evaluation then the provisions determining such use will be included in the PA covering the Information exchange.

- 6.7 Should the Receiving Contributing Member(s) acknowledge, or should the Disclosing Contributing Member believe, that misuse of Background Information has occurred, then they will confer to investigate the matter and decide whether the Receiving Contributing Member(s) should make financial or other reparation to the injured owner of the Background Information (whether the Disclosing Contributing Member or its Contractor).

R&T Programme and Projects

- 6.8 The provisions below from 6.9 to 6.60, covering the disclosure and use of Foreground Information and Background Information in various kinds of R&T projects and programmes, will apply unless specific alternative provisions are included in the relevant PA.

COLLABORATIVE, FULLY FUNDED RESEARCH ARRANGEMENTS (non-JIP)

BACKGROUND INFORMATION

Disclosure

- 6.9 The Disclosing Contributing Member, upon request, will disclose to the Receiving Contributing Member(s) promptly and without charge, all Background Information which is or has been generated by it, or which has been delivered by its Contractors, which is necessary for the performance of that R&T Project and for the use of the Foreground Information of that R&T Project, provided that:
- a) the Background Information is required in the R&T Project, as determined by the Disclosing Contributing Member;
 - b) the Background Information may be made available without infringing the proprietary rights of the holders; and
 - c) disclosure of the Background Information is consistent with the national procedures and regulations of the Disclosing Contributing Member.
- 6.10 All Background Information that is exchanged during the performance of the project will be recorded in a list maintained by the PAMG in consultation with the Contractors.

Use

6.11 The Receiving Contributing Member(s), subject to any pre-existing rights in the Background Information, may use received Background Information or have it used as follows:

- a) for information and evaluation of the Foreground Information arising from the contract and for the purpose of performing work under the relevant PA, without charge;
- b) for disclosure with Foreground Information for tender purposes, without charge;
- c) for using Foreground Information for Defence Purposes, other than a) and b) above, without charge;
- d) for using Foreground Information for Security Purposes, other than a) and b) above, without charge;
- e) for using Foreground Information for Government purposes not covered in subparagraphs a) - d) above, on fair and reasonable terms;

6.12 Where Contractor's pre-existing proprietary rights would normally limit the use that the Contributing Member(s) can make of Background Information, they may be allowed to use the Background Information or have it used upon fair and reasonable terms to be agreed with the Contractor holding the proprietary rights.

Confidentiality

6.13 Where Background Information is disclosed in accordance with paragraphs 6.9 and 6.11 above, the recipient(s) of the Background Information will be placed under an appropriate obligation of confidentiality before it is disclosed, unless stated otherwise in the relevant PA.

FOREGROUND INFORMATION

Disclosure

6.14 All Foreground Information generated by or for a Disclosing Contributing Member will be disclosed to the Receiving Contributing Member(s) promptly and without charge.

Use

6.15 The Contributing Members may use, or have used, Foreground Information as follows:

- a) for information and evaluation, without charge;
- b) for the purpose of issuing tenders, without charge;
- c) for Defence Purposes, without charge;
- d) for Security Purposes, without charge;
- e) for Government Purposes, as set out in the relevant PA.

COLLABORATIVE, FULLY FUNDED RESEARCH ARRANGEMENTS (JIP)

Flexibility

6.16 The provisions on disclosure and use of Information set in paragraphs 6.17 to 6.31 are to be regarded as default provisions. However; in multi-contract JIP programmes, Contributing Members may decide whether to apply other provisions for disclosure and use of Information on a contract-by-contract basis. Such decisions will be made by consensus among the Contributing Members.

SUMMARIES OF PROPOSALS

6.17 The unclassified summaries of each proposal provided for distribution after the formal evaluations have taken place will be disclosed to the Contributing Members for information and evaluation purposes only, and all such summaries will be marked to indicate the following:

- a) that the Information is released under a specific JIP;
- b) that the Information may be used for information and evaluation purposes only;
- c) that recipients may not release the Information to Third Parties.

EVALUATION AND SELECTION OF PROPOSALS

6.18 The disclosure and use of Information during both the evaluation process and the selection of proposals will be dealt with in the evaluation code of behaviour that will be adopted as part of the evaluation process documentation.

BACKGROUND INFORMATION

Disclosure

- 6.19 The Agency will, on request and without charge, promptly secure and make available to the Contractor all Background Information in its possession or control which the Agency has determined is necessary for the performance of work under a specific JIP. Likewise, each Contributing Member will, on request and without charge, promptly secure and make available to the Contractor all Background Information in its possession or control which the Contributing Member has determined is necessary for the performance of such contracts. Release of such Background Information will in all cases be subject to the rights of Third Parties and any applicable security regulations, and in the case of Contributing Members will be done in accordance with any applicable national procedures and regulations.
- 6.20 In its contracts the Agency will require that all Background Information necessary for the use of the Foreground Information arising from the contract, as determined between the Agency and the holder of the Background Information, to be made available to all Contributing Members, provided that:
- a) the Background Information may be made available without infringing the proprietary rights of the holders; and
 - b) disclosure of the Background Information is consistent with the national procedures and regulations applicable to the entity disclosing the Information.
- 6.21 All Background Information exchanged during the performance of the work will be recorded in a list maintained by the Agency in consultation with the Contractors.

Use

- 6.22 The Contributing Member(s), subject to any pre-existing rights in the Background Information, and subject to any specific limitations on the use of the Background Information which have been included in the relevant call for proposals and contract(s), may use received Background Information or have it used as follows:
- a) for information and evaluation of the Foreground Information arising from the contract and for the purpose of performing work under the relevant PA, without charge;
 - b) for disclosure with Foreground Information for tender purposes, without charge;

- c) for using Foreground Information for Defence Purposes, other than a) and b) above, without charge;
- d) for using Foreground Information for Security Purposes, other than a) and b) above, without charge;
- e) for using Foreground Information for Government purposes not covered in subparagraphs a) - d) above, on fair and reasonable terms.

6.23 Where the Contractor can demonstrate that the granting of rights of use of Background Information under sub paragraphs 6.22 (c) to 6.22 (d) above would lead to significant commercial harm or substantial economic loss, use may be subject to commercial terms, or to other restrictions that may be agreed and set out in the relevant contract.

6.24 The Contributing Member will in all cases, either directly or through the Agency, give the Contractor 30 days notice of its intention to make use of received Background Information under sub-paragraphs 6.22 (c) to 6.22 (d) above and will consider any representations made by that Contractor with regard to the proposed use.

6.25 Where Contractor's pre-existing proprietary rights would normally limit the use that the Contributing Member(s) can make of Background Information, they may be allowed to use the Information or have it used upon fair and reasonable terms to be agreed with the Contractor holding the proprietary rights. If the Contributing Member concerned intends to use the Background Information for Defence and Security Purposes, and has made a fair and reasonable offer to the Contractor, use may commence 3 months from expiry of notice to the Contractor whilst negotiation of fair and reasonable terms continues.

Confidentiality

6.26 Where Background Information is disclosed in accordance with paragraphs 6.19 and 6.22 above, the recipient(s) of the Information will be placed under an appropriate obligation of confidentiality before it is disclosed, unless stated otherwise in the relevant PA.

Future work

6.27 The Contributing Member concerned will give that Contractor, if it is capable of doing so, the opportunity to bid for work that is part of the proposed use.

FOREGROUND INFORMATION

Disclosure

6.28 In its contracts the Agency will require that all Foreground Information arising from a fully-funded contract under a JIP will be made available for disclosure to the Contributing Members promptly and without charge.

Use

6.29 The Contributing Members may use, or have used, Foreground Information as follows:

- a) for information and evaluation, without charge;
- b) for the purpose of issuing tenders, without charge;
- c) for Defence Purposes, without charge;
- d) for Security Purposes, without charge;
- e) for Government Purposes as set out in the relevant contract.

Confidentiality

6.30 Where Foreground Information is disclosed in accordance with paragraphs 6.28 and 6.29 above, the recipient(s) of the Information will be placed under an appropriate obligation of confidentiality before it is disclosed.

COLLABORATIVE, JOINTLY FUNDED RESEARCH ARRANGEMENTS (non-JIP)

BACKGROUND INFORMATION

Disclosure

6.31 The Disclosing Contributing Member, upon request, will disclose to the Receiving Contributing Member(s) promptly and without charge, all Background Information which is or has been generated by it, or which has been delivered by its Contractors, which is necessary for the performance of that R&T Project and for the use of the Foreground Information of that R&T Project, provided that:

- a) the Background Information is required in the R&T Project, as determined by the Disclosing Contributing Member;
- b) the Background Information may be made available without infringing the proprietary rights of the holders; and
- c) disclosure of the Background Information is consistent with the national procedures and regulations of the Disclosing Contributing Member.

6.32 All Background Information exchanged during the performance of the project will be recorded in a list maintained by the PAMG in consultation with the Contractors.

Use

6.33 The Receiving Contributing Member(s), subject to any pre-existing rights in the Background Information, may use received Background Information or have it used as follows:

- a) for information and evaluation of the Foreground Information arising from the contract and for the purpose of performing work under the relevant PA, without charge;
- b) for disclosure with Foreground Information for tender purposes, without charge;
- c) for using Foreground Information for Defence Purposes, other than a) and b) above, on fair and reasonable terms;
- d) for using Foreground Information for Security Purposes, other than a) and b) above, on fair and reasonable terms;

e) for using Foreground Information for Government purposes not covered in subparagraphs a) - d) above, on fair and reasonable terms¹.

6.34 Where the Contractor can demonstrate that the granting of rights of use of Background Information under sub-paragraphs 6.33 (c) to (d) above would lead to significant commercial harm or substantial economic loss, use may be subject to commercial terms, or to other restrictions that may be agreed and set out in the relevant contract.

6.35 The Contributing Member will in all cases, either directly or through the Agency, give the Contractor 30 days notice of its intention to make use of received Background Information under sub-paragraphs 6.33 (c) to (d) above and will consider any representations made by that Contractor with regard to the proposed use.

6.36 Where Contractor's pre-existing proprietary rights would normally limit the use that the Contributing Member(s) can make of Background Information, they may be allowed to use the Information or have it used upon terms to be agreed with the Contractor holding the proprietary rights. If the Contributing Member concerned intends to use the Background Information for Defence and Security Purposes, and has made a fair and reasonable offer to the Contractor, use may commence 3 months from expiry of notice to the Contractor whilst negotiation of fair and reasonable terms continues.

Confidentiality

6.37 Where Background Information is disclosed in accordance with paragraphs 6.31 and 6.33 above, the recipient(s) of the Information will be placed under an appropriate obligation of confidentiality before it is disclosed.

Future work

6.38 The Contributing Member concerned will give that Contractor, if it is capable of doing so, the opportunity to bid for work that is part of the proposed use.

¹ Where mutually decided by Contributing Members and the Contractors, "commercial terms" maybe substituted for "fair and reasonable terms".

FOREGROUND INFORMATION

Disclosure

6.39 The Disclosing Contributing Member will require its Contractor(s) to make available to the Receiving Contributing Member(s), without charge, all Foreground Information generated by that Contractor under a PA.

Use

6.40 The Contributing Members may use, or have used, Foreground Information as follows:

- a) for information and evaluation, without charge;
- b) for the purpose of issuing tenders, without charge;
- c) for Defence Purposes, without charge;
- d) for Security Purposes, without charge;
- e) for Government Purposes on fair and reasonable terms.

Notice

6.41 The Contributing Member will in all cases, either directly or through the Agency, give the Contractor 30 days notice of its intention to make use of received Foreground Information under sub-paragraphs 6.40 from (c) to (d) above.

Confidentiality

6.42 Where Foreground Information is disclosed in accordance with paragraphs 6.39 and 6.40 above, the recipient(s) of the Information will be placed under an appropriate obligation of confidentiality before it is disclosed.

COLLABORATIVE, JOINTLY FUNDED RESEARCH ARRANGEMENTS (JIP)

Flexibility

6.43 The provisions on disclosure and use of Information set in paragraphs 6.44 to 6.58 are to be regarded as default provisions. However, in multi-contract JIP programmes, Contributing Members may decide whether to apply other provisions for disclosure and use of Information on a contract-by-contract basis. Such decisions will be made by consensus among the Contributing Members.

SUMMARIES OF PROPOSALS

6.44 The unclassified summaries of each proposal provided for distribution after the formal evaluations have taken place will be disclosed to the Contributing Members for information and evaluation purposes only, and all such summaries will be marked to indicate the following:

- a) that the Information is released under this JIP;
- b) that the Information may be used for information and evaluation purposes only;
- c) that recipients may not release the Information to Third Parties.

EVALUATION AND SELECTION OF PROPOSALS

6.45 The disclosure and use of Information during both the evaluation process and the selection of proposals will be dealt with in the evaluation code of behaviour that will be adopted as part of the evaluation process documentation.

BACKGROUND INFORMATION

Disclosure

6.46 The Agency will, on request and without charge, promptly secure and make available to the Contractor all Background Information in its possession or control which the Agency has determined is necessary for the performance of work under this JIP. Likewise, each Contributing Member will, on request and without charge, promptly secure and make

available to the Contractor all Background Information in its possession or control which the Contributing Member has determined is necessary for the performance of such contracts. Release of such Background Information will in all cases be subject to the rights of third parties and any applicable security regulations, and in the case of Contributing Members will be done in accordance with any applicable national procedures and regulations.

6.47 In its contracts the Agency will require that all Background Information necessary for the use of the Foreground Information arising from the contract, as determined between the Agency and the holder of the Background Information, to be made available to all Contributing Members, provided that:

- a) the Background Information may be made available without infringing the proprietary rights of the holders; and
- b) disclosure of the Background Information is consistent with the national procedures and regulations applicable to the entity disclosing the Information.

6.48 All Background Information that is exchanged during the performance of the work will be recorded in a list maintained by the Agency in consultation with the Contractors.

Use

6.49 The Contributing Member(s), subject to any pre-existing rights in the Background Information, and subject to any specific limitations on the use of the Background Information which have been included in the relevant call for proposals and contract(s), may use received Background Information or have it used as follows:

- a) for information and evaluation of the Foreground Information arising from the contract and for the purpose of performing work under the relevant PA, without charge;
- b) for disclosure with Foreground Information for tender purposes, without charge;
- c) for using Foreground Information for Defence Purposes, other than a) and b) above, on fair and reasonable terms;
- d) for using Foreground Information for Security Purposes, other than a) and b) above, on fair and reasonable terms;

e) for using Foreground Information for Government purposes not covered in subparagraphs a) - d) above, on fair and reasonable terms²;

6.50 Where the Contractor can demonstrate that the granting of rights of use of Background Information under sub paragraphs 6.49 (c) to (d) above would lead to significant commercial harm or substantial economic loss, use may be subject to commercial terms, or to other restrictions that may be agreed and set out in the relevant contract.

6.51 The Contributing Member will in all cases, either directly or through the Agency, give the Contractor 30 days notice of its intention to make use of received Background Information under sub-paragraphs 6.49 (c) to (d) above and will consider any representations made by that Contractor with regard to the proposed use.

6.52 Where Contractor's pre-existing proprietary rights would normally limit the use that the Contributing Member(s) can make of Background Information, they may be allowed to use the Information or have it used upon fair and reasonable terms to be agreed with the Contractor holding the proprietary rights. If the Contributing Member concerned intends to use the Background Information for Defence and Security Purposes, and has made a fair and reasonable offer to the Contractor, use may commence 3 months from expiry of notice to the Contractor whilst negotiation of fair and reasonable terms continues.

Confidentiality

6.53 Where Background Information is disclosed in accordance with paragraphs 6.47 and 6.51 above, the recipient(s) of the Information will be placed under an appropriate obligation of confidentiality before it is disclosed.

Future work

6.54 The Contributing Member concerned will give that Contractor, if it is capable of doing so, the opportunity to bid for work that is part of the proposed use.

² Where mutually decided by Contributing Members and the Contractors, "commercial terms" maybe substituted for "fair and reasonable terms".

FOREGROUND INFORMATION

Disclosure

6.55 In its contracts the Agency will require that all Foreground Information arising from a contract jointly funded under this JIP will be made available for disclosure to the Contributing Members promptly and without charge.

Use

6.56 The Contributing Members may use, or have used, Foreground Information as follows:

- a) for information and evaluation, without charge;
- b) for the purpose of issuing tenders, without charge;
- c) for Defence Purposes, without charge;
- d) for Security Purposes, without charge;
- e) for Government Purposes on fair and reasonable terms.

Notice

6.57 The Contributing Member will in all cases, either directly or through the Agency, give the Contractor 30 days notice of its intention to make use of received Foreground Information under sub-paragraphs 6.56 (c) to (d) above.

Confidentiality

6.58 Where Foreground Information is disclosed in accordance with paragraphs 6.55 and 6.56 above, the recipient(s) of the Information will be placed under an appropriate obligation of confidentiality before it is disclosed.

TECHNOLOGY DEMONSTRATOR PROJECTS AND PROGRAMMES

6.59 Detailed provisions covering Technology Demonstrator Projects and Programmes (TDP) will be set out in the relevant PA.

- 6.60 The disclosure of Background and Foreground Information under a TDP will take place in accordance with paragraphs from 6.9 to 6.58 above.
- 6.61 Any loans of equipment or material will take place in accordance with SECTION X (LOANS AND TRANSFERS OF EQUIPMENT AND MATERIAL) of these GP.
- 6.62 Where a TDP is carried out and equipment or materials (including items of software media) are produced as part of the results, the relevant PA 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 PA in question, or the establishment of a new arrangement between the Contributing Members, as appropriate.

SOFTWARE

- 6.63 Detailed provisions covering software will be set out in the relevant PA. They will address the elements of the software judged pertinent (from source codes to system architecture) both as Background and Foreground Information. In these provisions, the Contributing Members will decide upon the use, copying and modification of the software.

INVENTIONS AND PATENTS

- 6.64 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 practised the patented inventions for Defence and Security Purposes throughout the world.
- 6.65 The provisions of paragraphs 6.66 to 6.71 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 6.72 to 6.76 will apply.

- 6.66 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.
- 6.67 Where an invention is made jointly by or on behalf of more than one Contributing Member in a 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.
- 6.68 Each Contributing Member will furnish the other Contributing Member(s) with copies of any patent applications filed and patents granted.
- 6.69 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 and Security Purposes throughout the world.
- 6.70 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. Where it is in their power to do so, Contributing Members will give their

authorisation and consent for all use and manufacture in the course of work performed under R&T Projects of any invention covered by a patent issued by their respective countries.

6.71 Other than as provided for in paragraph 6.66 and 6.67 above, no transfer of ownership of Information will take place between the Contributing Members.

STAFF ATTACHMENTS OR EXCHANGES

6.72 Where an attachment or exchange is arranged under a PA, paragraphs 6.9 to 6.58 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.

6.73 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.

6.74 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.

6.75 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 and Security Purposes, unless both Contributing Members mutually decide otherwise.

6.76 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 and Security Purposes throughout the world.

SECTION VII
SALES AND TRANSFERS TO THIRD PARTIES

Information Exchange

- 7.1 The following provisions will apply to Information Exchanges, unless specific alternative provisions are included in the relevant PA.
- 7.2 A Contributing Member will not sell, transfer title to, or transfer possession of Information received under a PA to any 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.

R&T Programmes and Projects

- 7.3 The following provisions will apply to R&T Programmes and Projects, unless specific alternative provisions are included in the relevant PA.
- 7.4 Each Contributing Member will retain the right to sell, transfer title to, 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 PA, 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.
- 7.5 In the event questions arise whether the Foreground Information that a Contributing Member intends to sell, transfer title to, or transfer possession of to any Third Party is within the scope of 7.4a) 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 a 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.

- 7.6 Except to the extent permitted in paragraph 7.4 above, Contributing Members taking part in an R&T Project will not sell, transfer title to, or transfer possession of Foreground Information to any Third Party without the prior written consent of the other Contributing Member(s). Furthermore, Contributing Members will not permit any such sale 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.
- 7.7 A Contributing Member will not sell, transfer title to or transfer possession of equipment or Background Information provided by another Contributing Member or their Contractor(s) to a 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.
- 7.8 Consent for 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 Third Party when it would be willing to sell or transfer such Information to the same Third Party.

SECTION VIII
TAXES AND SIMILAR CHARGES

- 8.1 Unless otherwise determined in a PA, and insofar as existing laws and regulations of the Contributing Members permit, the Contributing Members will endeavour to ensure that readily identifiable taxes, customs duties and similar charges will not be imposed in connection with the relevant Project or Programme undertaken under these GPs.
- 8.2 However, if identifiable taxes duties or similar changes are to be levied the Contributing Members will determine how they are to be borne, and may insert specific arrangements describing this in the relevant PA.

SECTION IX
ATTACHMENT AND EXCHANGE OF PERSONNEL

- 9.1 All attachments or exchanges of personnel to be carried out under a PA will be subject to the provisions of this Section.
- 9.2 Attachments and exchanges will be restricted to the military and civilian employees of the Contributing Members.
- 9.3 Attached or exchanged personnel will not act in a liaison capacity, but will perform work and duties as mutually determined by each Contributing Member.
- 9.4 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.
- 9.5 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 9.4a);
 - 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.
- 9.6 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.

- 9.7 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 IV (SECURITY AND VISITS) of these GP together with any relevant security and classification guide relating to the activity upon which the attached officer is engaged.
- 9.8 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.
- 9.9 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.
- 9.10 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.
- 9.11 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.
- 9.12 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.

SECTION X
LOANS AND TRANSFERS OF EQUIPMENT AND MATERIAL

- 10.1 Any loan of equipment and material will be described in a PA. Each Contributing Member may loan, in accordance with its national regulations, to other Contributing Member(s), equipment and material necessary for carrying out activities within the scope of the relevant PA to which these GP apply.
- 10.2 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.
- 10.3 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.
- 10.4 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.
- 10.5 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 PA.

- 10.6 The providing Contributing Member will furnish the receiving Contributing Member with Information necessary to enable the equipment and material to be used.
- 10.7 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).
- 10.8 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 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.
- 10.9 Any equipment and material which is jointly acquired for use under a PA will be disposed of as mutually approved by the Contributing Members.
- 10.10 The loan or transfer of equipment or material in support of a Technology Demonstrator Project will be carried out in accordance with Paragraphs 10.1 to 10.9 above, unless otherwise specified in the relevant PA. 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 VI (DISCLOSURE AND USE OF INFORMATION AMONG CONTRIBUTING MEMBERS IN R&T PROJECTS AND PROGRAMMES) and SECTION VII (SALES AND TRANSFERS TO THIRD PARTIES) of these GP.

SECTION XI
AMENDMENT, TERMINATION AND WITHDRAWAL

Amendment

11.1 A PA may be amended at any time by written consent of the Contributing Members.

Termination

11.2 A PA may be terminated by the unanimous decision of the Contributing Members. The Contributing Members will be responsible for the termination of their own contracts or other arrangements for work undertaken under the PA. The responsibility for and cost of, the termination of contracts let on behalf of one Contributing Member by another, or of contracts let by the Agency or other contracting Agency on behalf of the Contributing Members will be mutually determined by the Contributing Members before the termination can take place.

Withdrawal from the PA

11.3 If one Contributing Member decides to withdraw from the PA, it will give the other Contributing Member(s) at least three months notice in writing of its intention to withdraw. During the period between notification of intention to withdraw and the effective date of withdrawal it will consult with the other Contributing Members about the most satisfactory arrangements to be made, as appropriate, for the continuation, transfer or completion of any outstanding work, and the return or disposal of any equipment which will remain the property of the withdrawing Contributing Member on the effective date for withdrawal. In circumstances where one Contributing Member incurs exceptional costs as a result of the unilateral withdrawal of another Contributing Member, special withdrawal provisions may be negotiated and will be set out in an amendment to the PA. The total cost to the withdrawing Contributing Member, however, will not exceed the amount of money it would have been liable to pay had it remained in the PA.

11.4 All Foreground Information and rights therein received under the provisions of these GP and/or any PA prior to termination of or withdrawal from the PA will be retained by the appropriate Contributing Members, subject to the provisions of the PA. Each Contributing Member will make available to the other Contributing Members, as appropriate, any

Foreground Information generated prior to termination or withdrawal and which has not been provided to the other Contributing Members.

11.5 All provisions of the PA will continue to apply during the period of notification of termination or withdrawal from the PA (except as otherwise provided therein).

11.6 The respective rights and responsibilities of the Contributing Members regarding Security and Visits, Claims and Liabilities, Disclosure and Use of Information, Sales and Transfers to Third Parties, and Settlement of Disputes, will remain in effect notwithstanding termination, or expiry of these GP or the withdrawal from, termination or expiry of any PA under them.

XII. INTERPRETATION AND DISPUTES

- 12.1 The Steering Board of the Agency will have general oversight of these GP and will be responsible for resolving any issues on general matters that arise under it. The Steering Board will consider any matter in connection with the compliance of any PA with these GP.
- 12.2 Any disputes regarding the interpretation or application of these GP will be resolved by consultation between the Agency and the participating Member States and will not be referred to any national or international tribunal or any other third party for settlement.