

**AMENDMENT ONE**

**TO THE**

**MEMORANDUM OF UNDERSTANDING**

**BETWEEN**

**THE SECRETARY OF DEFENSE ON BEHALF**

**OF**

**THE DEPARTMENT OF DEFENSE**

**OF**

**THE UNITED STATES OF AMERICA**

**AND**

**THE SECRETARY OF STATE FOR DEFENCE**

**OF**

**THE UNITED KINGDOM OF GREAT BRITAIN**

**AND NORTHERN IRELAND**

**CONCERNING COLLABORATION ON**

**LAND BATTLESPACE SYSTEMS**

**DATED DECEMBER 15, 2004**

**CERTIFICATION OF AUTHENTICITY**

I hereby certify this to be a true copy of Amendment One to the Memorandum of Understanding between the Secretary of Defense on behalf of the Department of Defense of the United States of America and the Secretary of State for Defence of the United Kingdom of Great Britain and Northern Ireland concerning on Land Battlespace Systems.

The Armaments Cooperation Directorate (SAAL-NC), Office of the Deputy Assistant Secretary of the Army for Defense Exports and Cooperation maintains custody of a signed copy of the MOU.

  
LAURA McMAHON  
DEPUTY, INTERNATIONAL AGREEMENTS

## INTRODUCTION

The Secretary of Defense on behalf of the Department of Defense (DoD) of the United States of America and the Secretary of State for Defence of the United Kingdom of Great Britain and Northern Ireland (UK) entered into a Memorandum of Understanding Concerning Collaboration on Land Battlespace Systems (LBS MOU) on December 15, 2004 for a period of 20 years. This Amendment One incorporates export control compliance text and definitions revised since December 15, 2004. All activities, including Project Arrangements (PAs) and other administrative actions established pursuant to the LBS MOU, will continue under the provisions of this Amendment. In accordance with paragraph 20.1 of Section XX (Entry into Effect, Duration, Amendment and Termination), the Participants hereby consent to amend the LBS MOU as follows:

1. In Section II (Definitions and Acronyms), amend the following definitions to read:

**Contractor Support Personnel:** Persons specifically identified as providing administrative, managerial, scientific, or technical support services to a Participant under a support Contract that prohibits those persons from using Information received under the Contract for any purpose other than those authorized under this MOU.

**Controlled Unclassified Information:** Unclassified Information to which access or distribution limitations have been applied in accordance with applicable national laws or regulations. It could include Information that has been declassified but remains controlled.

**Information:** Knowledge that can be communicated by any means, regardless of form or type, including, but not limited to, that of a scientific, technical, business, or financial nature, and also including photographs, reports, manuals, threat data, experimental data, test data, computer software, designs, specifications, processes, techniques, inventions, drawings, technical writings, sound recordings, pictorial representations, and other graphical presentations, whether in magnetic tape, computer memory, or any other form and whether or not subject to Intellectual Property Rights.

**Patent:** Grant by any Government or a regional office acting for more than one Government of the right to exclude others from making, using, importing, selling, or offering to sell an invention. The term refers to any and all patents, including, but not limited to, patents of implementation, improvement, or addition; petty patents; utility models; appearance design patents; registered designs; and inventor certificates or like statutory protection as well as divisions, reissues, continuations, renewals, and extensions of any of these.

**Project Invention:** Any invention in any field of technology, provided it is new, involves an inventive step, is capable of industrial application, and is formulated or made (conceived or "first actually reduced to practice") in the course of work performed under

the Project. The term, "first actually reduced to practice" means the first demonstration, sufficient to establish to one skilled in the art to which the invention pertains, of the operability of an invention for its intended purpose and in its intended environment.

Add the following definitions:

**Intellectual Property:** In accordance with the World Trade Organization Agreement on Trade-related Aspects of Intellectual Property Rights of April 15, 1994, all copyright and related rights, all rights in relation to inventions (including Patent rights), all rights in registered and unregistered trademarks (including service marks), registered and unregistered designs, undisclosed Information (including trade secrets and know-how), layout designs of integrated circuits, and geographical indications, and any other rights resulting from creative activity in the industrial, scientific, literary, and artistic fields.

**Prospective Contractor:** Any entity that seeks to enter into a Contract awarded by a Participant's Contracting Agency and that, in the case of a solicitation involving the release of export-controlled Information, is eligible to receive such Information.

2. In Section V (Management (Organization and Responsibilities)), change the following:

Insert new subparagraph 5.4.6.

5.4.6 Employing its best efforts to resolve, in consultation with the export control authorities of the Participants concerned, any export control issues raised by the PMs in accordance with paragraph 5.5.8 or raised by a Participant's SC representative in accordance paragraph 10.4 of Section X (Disclosure and Use of Project Information) of this MOU.

Renumber the original subparagraphs 5.4.6 through end.

In subparagraph 5.5.6, change lines 1 and 2 to read "Project Security Instruction (PSI) and a Classification Guide (CG)".

Insert the following as a new subparagraph 5.5.8.

5.5.8 Monitoring export control arrangements required to implement this MOU and, if applicable, referring immediately to the SC any export control issues that could adversely affect the implementation of this MOU.

Renumber the original subparagraphs 5.5.8 and 5.5.9 as subparagraphs 5.5.9 and 5.5.10, respectively.

3. In Section VII (Contracting Provisions), change the following:

In Paragraph 7.3, lines 8 and 9, replace "including suitable provisions for ensuring compliance with the Participants' respective export control laws and implementing regulations." with "including the export control provisions of this MOU, in particular paragraphs 7.4 and 7.5 of this Section."

Insert the following as new paragraphs 7.4 and 7.5:

7.4 Each Participant will legally bind its Contractors to a requirement that the Contractor will not retransfer or otherwise use export-controlled Information furnished by another Participant for any purpose other than the purposes authorized under this MOU.

7.4.1 The Contractor will also be legally bound not to retransfer the export-controlled Information to another Contractor or subcontractor unless that Contractor or subcontractor has been legally bound to limit use of the Information to the purposes authorized under this MOU.

7.4.2 Export-controlled Information furnished by one Participant under this MOU may only be retransferred by another Participant to its Contractors if the legal arrangements required by this paragraph have been established.

7.5 Each Participant will legally bind its Prospective Contractors to a requirement that the Prospective Contractor will not retransfer or otherwise use export-controlled Information furnished by another Participant for any purpose other than responding to a solicitation issued in furtherance of the purposes authorized under this MOU.

7.5.1 Prospective Contractors will not be authorized use or right to retransfer the export-controlled Information for any purpose if they are not awarded a Contract.

7.5.2 The Prospective Contractors will also be legally bound not to retransfer the export-controlled Information to a prospective subcontractor unless that prospective subcontractor has been legally bound to limit use of the export-controlled Information for the purpose of responding to the solicitation.

7.5.3 Export-controlled Information furnished by one Participant under this MOU may only be retransferred by another Participant to its Prospective Contractors if the legal arrangements required by this paragraph have been established.

7.5.4 Upon request by the furnishing Participant, the receiving Participant will identify its Prospective Contractors and prospective subcontractors receiving such export-controlled Information.

Renumber the original paragraph 7.4 as 7.6.

Delete the original paragraph 7.5 and renumber the remaining paragraphs 7.6 through 7.10 as new paragraphs 7.7 through 7.11.

4. In Section X (Disclosure and Use of Project Information), insert the following as new paragraphs 10.3 and 10.4:

10.3 Transfer of Project Information will be consistent with furnishing Participant's applicable export control laws and regulations.

10.3.1 Unless otherwise restricted by duly authorized officials of the furnishing Participant at the time of transfer to the other Participant, all export-controlled Information furnished by one Participant to the other Participant may be retransferred to the other Participant's Contractors, subcontractors, Prospective Contractors, and prospective subcontractors, subject to the requirements of paragraphs 7.4 and 7.5 of Section VII (Contracting Provisions) of this MOU.

10.3.2. Export-controlled Information furnished by the Contractors and subcontractors of one Participant's nation to those of the other pursuant to this MOU will be subject to the conditions established in export licenses or other approvals issued by the Government of the exporting Contractor or subcontractor in accordance with that exporting nation's applicable export control laws and regulations.

10.4 If a Participant finds it necessary to exercise a restriction on the retransfer of export-controlled Information as set out in paragraph 10.3 of this Section, it will promptly inform the other Participant. If a restriction is then exercised and the affected Participant objects, that Participant's SC representative will promptly notify the other Participant's SC representatives and they will immediately consult in order to discuss ways to resolve such issues or mitigate any adverse effects.

Renumber the original paragraphs 10.3 through 10.9 as new paragraphs 10.5 through 10.11).

In new subparagraph 10.6.1.2 (formerly subparagraph 10.4.1.2), line 2, replace "proprietary rights" with "Intellectual Property rights."

Insert the following as new subparagraph 10.6.1.3 (formerly subparagraph 10.4.1.3):

10.6.1.3 disclosure is consistent with national disclosure policies and export control laws and regulations of the furnishing Participant.

Delete original subparagraph 10.4.1.4.

In new subparagraph 10.8.1 (formerly subparagraph 10.6.1):

In line 1, capitalize the first letter of "Information"; and

In line 2, delete "proprietary" and insert "Intellectual Property".

In new subparagraph 10.8.1.1, line 2, capitalize the first letter of "Information".

In new subparagraph 10.8.1.2, line 2, replace "proprietary rights" with "Intellectual Property rights".

In new subparagraph 10.8.2 (formerly subparagraph 10.6.2), line 4, replace "proprietary rights" with "Intellectual Property rights".

In new subparagraph 10.10.1 (formerly subparagraph 10.8.1), delete "proprietary interests" and insert "disclosure and use restrictions with respect to Intellectual Property rights".

Insert the following as new subparagraph 10.10.2 (formerly subparagraph 10.8.2):

10.10.2 The provisions of the NATO Agreement on the Communication of Technical Information for Defence Purposes, signed at Brussels on 19 October 1970, and the Implementing Procedures for NATO Agreement on the Communication of Technical Information for Defence Purposes, approved by the North Atlantic Council on 1 January 1971 (or any successor agreement and procedures), will apply to Project Information referred to in paragraph 10.10.1 above.

In subparagraph 10.11.8 (formerly subparagraph 10.9.8), line 7, delete "The Participants will share in the costs of resolving Patent infringement claims in the same percentage as they share the full Financial and Non-financial Costs (taking account of each Participant's respective production off-take where relevant) of the Project or mutually consent to alternative arrangement."

In line 11, add the following sentence before the existing final sentence: "The Participants will share in the costs of resolving Patent infringement claims and Patent authorization and consent claims in the same percentage as they share the full Financial and Non-financial Costs (taking account of each Participant's respective production off-take where relevant) of the Project, or will mutually consent to an alternative arrangement."

5. In Section XI (Controlled Unclassified Information), delete the original paragraph 11.2 and insert the following as new paragraph 11.2:

11.2 To assist in providing the appropriate controls, the originating Participant will ensure that Controlled Unclassified Information is appropriately marked to ensure its "in confidence" nature. The Participants' export-controlled Information will be marked in accordance with the applicable Participant's export control markings as documented in the PSI. The Participants will also decide, in advance and in writing, on the markings to be placed on any other types of Controlled Unclassified Information and describe such markings in the PSI.

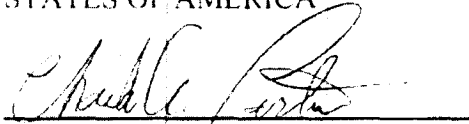
6. In Section XIII (Security), delete the original paragraph 13.5 and insert the following new paragraph 13.5:

13.5. The PMs will jointly prepare a PSI and a CG for the Project. The PSI and the CG will describe the methods by which Project Information will be classified, marked, used, transmitted, safeguarded, and will require that markings for all export-controlled Classified Information will include the applicable export control markings identified in the PSI in accordance with paragraph 11.2 of Section XI (Controlled Unclassified Information). The PSI and CG will be developed by the PM within three months after this MOU enters into effect. They will be reviewed and forwarded to the Participants' DSAs for approval and will be applicable to all government and Contractor personnel participating in the Project. The CG will be subject to regular review and revision with the aim of downgrading the classification whenever this is appropriate. The PSI and the CG will be approved by the appropriate DSA prior to the transfer of any Classified Information or Controlled Unclassified Information.

7. This Amendment will enter into effect upon signature by the Participants. All other provisions of the MOU remain unchanged.

8. The undersigned, being duly authorized, have signed this Amendment One in duplicate.

FOR THE SECRETARY OF DEFENSE  
ON BEHALF OF THE DEPARTMENT  
OF DEFENSE OF THE UNITED  
STATES OF AMERICA

  
Signature

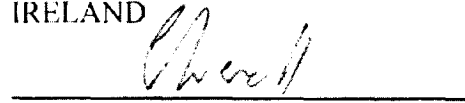
MG Charles A. Cartwright  
Name

PM Future Combat Systems (BCT)  
Title

September 8, 2008  
Date

St. Louis, MO.  
Place

FOR THE SECRETARY OF  
STATE FOR DEFENCE OF THE  
UNITED KINGDOM OF GREAT  
BRITAIN AND NORTHERN  
IRELAND

  
Signature

BRIG. CHRISTOPHER J. DEVEREAUX  
Name

EC GM-DEC  
Title

19/11/08  
Date

London, UK  
Place