AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE STATE OF ISRAEL ON COOPERATION IN SCIENCE AND TECHNOLOGY FOR HOMELAND SECURITY MATTERS

THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE STATE OF ISRAEL (hereinafter referred to individually as a "Party" and collectively as the "Parties"):

HAVING a mutual interest in research, development, testing and evaluation relating to homeland security matters;

RECOGNIZING the usefulness of carrying out Cooperative Activities in the country of the Party that has a relative advantage in the specific scientific and technological area;

DESIRING to increase the exchanges of information and personnel in areas pertinent to the identification of homeland security threats and countermeasures and the development of technical standards, operational procedures and supporting methodologies that govern the use of relevant technologies;

STRESSING that physical and cyber-based critical infrastructures and other homeland security capabilities, both governmental and private, are essential to the operation and security of the Parties' and their respective economies;

NOTING that the Parties' economies are increasingly interdependent, and that infrastructure protection and homeland security are of paramount concern to the Parties;

BEING AWARE of research, development, testing, evaluation, development of technical standards and operations in both countries in chemical, biological, radiological, nuclear and explosive countermeasures and in other areas that could enhance homeland security;

NOTING the important work accomplished under other arrangements, such as agreements between the Government of the State of Israel and the Government of the United States of America;

RECOGNIZING a common desire to:

- expand the homeland security science and technology capabilities of each Party;
- minimize unnecessary duplication;
- obtain more efficient and cost-effective results; and
- adapt more flexibly to the dynamic threat environment

through cooperative activities that are mutually beneficial and that relate to the application of state-of-the-art and emerging security technologies, making best use of the Parties' respective research, development, testing and evaluation capacities;

AFFIRMING a common interest in enhancing the longstanding collaborative efforts of the Parties' respective agencies, private sector and governmental organizations and academic institutions in generating scientific and technological solutions to counter threats, reduce vulnerabilities and respond to and recover from incidents and emergencies in those areas having the potential for causing significant security, economic and/or social impacts;

DESIRING to set forth a vehicle for the conduct of cooperative scientific and technological research, development, testing and evaluation in the field of homeland security; and

RECALLING the intention of the Parties to enhance cooperation in the field of homeland security as set forth in the Memorandum of Mutual Understanding of 7 February 2007;

RESPECTING the applicable national law, legislation and regulation of the Parties;

HAVE AGREED as follows:

ARTICLE 1

Definitions

For purposes of this Agreement between the Government of the United States of America and the Government of the State of Israel on Cooperation in Science and Technology for Homeland Security Matters (hereinafter "the Agreement"), the Parties have adopted the following definitions:

Agreement Director	Has the meaning given to it in Article 5 (Management) of this Agreement.
Business Confidential Information	Has the meaning given to it in Section IV of Annex I of this Agreement.
Classified Contract	A Contract that requires, or will require, access to Classified Information by a Contractor or by its employees in the performance of a Contract.
Classified Information	Official information that requires protection for national security, law enforcement, domestic security or other reasons and is so designated by the application of the appropriate security classification markings in accordance with the national laws, regulations, policies, or directives of either Party. It may be in oral, visual, magnetic, electronic, or documentary form, or in the form of Equipment and Material or technology. Classified Information under this Agreement shall be deemed to have the same meaning as "Classified Information" in the Agreement

	Concerning the Protection of Classified Information between the Government of Israel and the Government of the United States effected by exchange of notes signed July 30 and December 10, 1982.
Contract	A legally enforceable agreement to provide goods and/or services.
Contracting Agency	Any entity within the government organization of a Party that has authority to enter into, administer and/or terminate contracts.
Contractor	An individual or entity, that agrees to provide commercial goods, services and/or technology.
Controlled Unclassified Information	Information that is not deemed to be Classified Information in the United States and/or Israel, but to which access or distribution limitations have been applied in accordance with national laws, regulations, policies or directives of either Party. Whether the information is provided or generated under this Agreement, will be marked to identify its sensitive character. This definition includes, but is not limited to, information marked "Sensitive Homeland Security Information", "Sensitive Security Information", "For Official Use Only", "Law Enforcement Sensitive Information", "Protected Critical Infrastructure Information", Sensitive but Unclassified (SBU), "Restricted" /Controlled Unclassified Information may include Business Confidential Information.
Cooperative Activity	Any form of activity described in Article 7 (Forms of Cooperative Activity) of this Agreement on which the Parties agree to cooperate to achieve the objectives of this Agreement. Such activity will normally take the form of a Project or a Program.
Critical Infrastructure	Governmental and/or private activities or sectors that are identified by each Party in its laws, executive orders, directives or policies as "Critical Infrastructure".
Designated Security Authority (DSA)	The governmental authority responsible for the development of policies and procedures governing security of Classified or Controlled Unclassified Information covered by this Agreement.

Equipment and Material	Any document, product or substance on or in which information may be recorded or embodied. Material shall encompass everything regardless of its physical character and/or makeup including documents, writing, hardware, equipment, machinery, apparatus, devices, models, photographs, recordings, reproductions, notes, sketches, plans, prototypes, designs, configurations, maps and letters, as well as all other products, substances or material from which information can be derived.
Government-to-Government Transfer	The principle that Classified Information and Controlled Unclassified Information will be transferred through official government-to-government channels or through other channels as may be mutually agreed, in writing, by the Parties in accordance with the requirements set forth by both Parties.
Intellectual Property	Has the meaning given in Article 2 of the Convention Establishing the World Intellectual Property Organization, done at Stockholm July 14, 1967, as amended, and may include other subject matter as agreed by the Parties.
Need-to-Know	A determination made by an authorized holder of Classified Information or Controlled Unclassified Information that a prospective recipient requires access to said specific information in order to perform or assist in a lawful and authorized governmental function.
Participant	Any non-federal or non-central government person or entity, including but not limited to a private sector organization, academic institution, or laboratory (or subsidiary thereof) engaged in accordance with Article 9 (Participants).
Project	A specific form of Cooperative Activity described in Article 8 (Projects).
Project Arrangement	The instrument setting out the scope of any Project to be carried out by the Parties as described in Article 8 (Projects).

Project Background Information	Any information furnished to a Project regardless of form or type, including that of a scientific, technical, business or financial nature and including photographs, reports, manuals, threat data, experimental data, test data, designs, specifications, processes, techniques, inventions, software, source codes, drawings, technical writings, sound recordings, pictorial representations, and other graphical presentations whether in magnetic tape, electronic media, computer memory, or in any other form and whether or not subject to intellectual property protections.
Project Development	That stage of a Project during which Project Foreground Information arises through the development of technologies, prototype equipment and other activities included in a Project.
Project Foreground Information	Any information created in a Project, regardless of form or type, including that of a scientific, technical, business or financial nature and including photographs, reports, manuals, threat data, experimental data, test data, designs, specifications, processes, techniques, inventions, software, source code, drawings, technical writings, sound recordings, pictorial representations, and other graphical presentations; whether in magnetic tape, electronic media, computer memory, or any other form and whether or not subject to intellectual property protections.
Receiving Party	The Party to which Classified or Controlled Unclassified Information is transferred.
Research, Development, Testing and Evaluation (RDT&E)	Programs and activities, including basic research, applied research, feasibility studies, advanced technology development, proof of principle(s), verification, validation, and development of technical standards of the Parties and/or Participants that seek to identify, develop, and implement technological and analytical solutions, tools and techniques to address the homeland security capability needs of each Party.
Sending Party	The Party that originates and/or transfers Classified or Controlled Unclassified Information to the Receiving Party.

Sponsorship Arrangement	A written arrangement between a Participant and a Party where the Party engages the Participant to carry out work on its behalf relating to a Cooperative Activity.
Technology Management Plan	A specific component of the Project Arrangement jointly developed by the Parties in which they agree on how Project Background and Foreground Information will be handled and which will discuss among other things, the rights of the Parties and their Contractors and/or Participants concerning Intellectual Property created under this Agreement, including how any royalties shall be shared, where such Intellectual Property shall be protected, and who shall be responsible for obtaining that protection and granting licenses.
Third Party	Any entity or person who is neither a Party to this Agreement nor a Participant in any of the Agreement's Cooperative Activities.

ARTICLE 2

Objective

The objective of this Agreement is to establish a framework to initiate, encourage, develop and facilitate bilateral Cooperative Activities in homeland security-related science and technology, or with respect to other homeland security matters, that contributes to the homeland security capabilities of both Parties in:

a) the prevention, detection, response, recovery and the forensics and attribution applied to, terrorist or other homeland security threats and/or indicators;

b) the protection of Critical Infrastructure;

c) the planning for an emergency, crises response, recovery and consequence management and mitigation for high-consequence events;

d) aviation security, to include passenger and cargo screening;

e) cyber security;

f) chemical, biological and nuclear/radiological security;

g) education, training and exchange of analytical personnel;

h) research, development, testing and evaluation, as well as standards and test protocol development, to include explosives' detection technology and techniques;

i) exchange of information regarding emergency planning, response, recovery and mitigation;

j) social problems and behavioral research in terrorism and homeland security matters; and

k) other homeland security-related activities as determined by the Parties.

ARTICLE 3

Means of Achieving Objective

1. The Parties shall seek to achieve the objective set out in Article 2 (Objective) by means which may include, but are not limited to:

a) facilitating a systematic exchange of technologies, personnel, and information derived from or applied to similar and complementary operational Research, Development, Testing and Evaluation;

b) collaborating to develop technologies and prototype systems that assist in countering present and anticipated terrorist actions in their respective territories and other homeland threats that satisfy their common strategic interests and requirements;

c) integrating or adapting the homeland security technologies of each Party to save development costs;

d) conducting evaluation and testing of prototype homeland security technologies;

e) developing an approach to identify shared priorities, including in areas of research for Cooperative Activity;

f) ensuring consistent and appropriate measures of effectiveness by development and implementation of appropriate standards and supporting test protocols and methodologies;

g) involving, as appropriate, a wide range of public and private sector research and development organizations in Cooperative Activity developed pursuant to this Agreement;

h) providing reciprocal opportunities to engage in Cooperative Activity, with shared responsibilities and contributions, which are commensurate with the Parties' or the Participants' respective resources;

i) providing comparable access to government-sponsored or government-supported programs and facilities for visiting researchers and experts, and comparable access to and exchange of information and Equipment and Material for topics/matters relating to this Agreement;

j) facilitating prompt exchange of information and Equipment and Material, which may affect Cooperative Activity, and facilitating the dissemination of information and Equipment and Material, consistent with applicable national laws, regulations, policies and directives; and

k) utilizing and applying Project Foreground Information derived from Cooperative Activity to benefit both Parties. The right to ownership and exploitation of Project Foreground Information are to be governed by the Articles of this Agreement and established in a Technology Management Plan, taking into account, among other things, the Parties' respective contributions to the Project.

2. All deliverables from Cooperative Activities and reports between the Parties will be in the English Language.

ARTICLE 4

Executive Agents

1. The Under Secretary of Science and Technology of the United States Department of Homeland Security is the primary official within the Government of the United States with responsibility for executive oversight of Cooperative Activity, as defined in this Agreement, within the United States and is hereby designated as the "U.S. Executive Agent" responsible for the administration of this Agreement. The duties of the U.S. Executive Agent may be delegated to other officials within the Department of Homeland Security.

2. The Chief Scientist of the Ministry of Public Security of the Government of the State of Israel is the primary official within the Government of the State of Israel with

responsibility for executive oversight of Cooperative Activity within Israel and is hereby designated as the "Israel Executive Agent" responsible for the administration of this Agreement. The duties of the Israel Executive Agent may be delegated to other officials within the Ministry of Public Security.

3. Prior to undertaking Cooperative Activity under this Agreement, the Parties shall agree in writing upon the nature, scope, and duration of the Cooperative Activity.

4. Where, because of changes in the administrative arrangements for either Party, responsibility for the oversight of this Agreement is no longer held by those currently designated as "U.S. Executive Agent" or "Israel Executive Agent", the relevant Party shall provide the other Party with the details in writing of its new Executive Agent without requiring amendment to this Agreement.

ARTICLE 5

Management

1. The Executive Agents shall appoint Agreement Directors who shall be responsible for the day-to-day management of this Agreement and its Cooperative Activities. In addition the Agreement Directors shall be responsible for:

   a) promoting Cooperative Activity under this Agreement;

   b) managing activities carried out under this Agreement and its Projects and exercising technical and financial oversight;

   c) serving as a repository for any and all documentation which is generated pursuant to this Agreement including Project Arrangements and any annexes thereto;

   d) monitoring the overall use and effectiveness of this Agreement;

   e) recommending amendments to this Agreement to the Parties;

   f) resolving issues arising under this Agreement;

   g) authorizing involvement by Participants in Cooperative Activities pursuant to this Agreement;

   h) establishing and maintaining security guidelines, including but not limited to procedures related to exchange, storage, and transmission of information and

equivalent security markings to be applied to exchanged information in accordance with Article 12 (Information Security);

i) ensuring that any requirements to exchange Classified Information in connection with any Project are fully identified in advance and specifically agreed to prior to the conclusion of any Project Arrangement;

j) developing and maintaining an outline of the Cooperative Activities and their associated costs. This outline will be known as the Annual Work Plan and will document the work to be carried out under each Project Arrangement; and

k) developing and maintaining a strategic plan setting out the objectives of the Cooperative Activities being carried out at any given time and the Parties' intentions for future cooperation.

2. The Agreement Directors shall meet at least annually to review implementation of the Agreement and at such other times as they consider necessary to implement this Agreement. The Agreement Directors shall be responsible for coordinating with other coordination bodies established by the Parties.

ARTICLE 6

Areas of Cooperative Activity

1. The Parties shall facilitate Cooperative Activity in broad areas related to homeland security. Areas of Cooperative Activity which may include, but are not limited to:

a) development and implementation of threat and vulnerability assessments, interdependency analyses, and methodologies related to potential threats to homeland security scenarios;

b) assessment of prior operational experiences and evaluation for the purposes of articulating operational deficiencies into definable technical requirements and appropriate standards and supporting methodologies to include limited cooperative operational engagements;

c) integration of existing technologies for use in monitoring and detection in support of permissible homeland security activities, or in defense against terrorism and other homeland security threats;

d) research and development of technologies and systems to meet user requirements or capability gaps and national needs;

e) testing and evaluation of specific prototype systems for homeland security applications in both laboratory environments and real or simulated operational settings. This includes technologies associated with enhanced detection and monitoring of potential terrorist activities and those associated with recovery and reconstitution of damaged or compromised systems;

f) preparation of detailed final test reports to allow either Party or their Participants to evaluate follow-on efforts individually or to allow the transition of successful prototypes into operational deployments;

g) system protection (including protection of automated infrastructure control systems) and information assurance (including protecting the integrity of data and information in control systems);

h) reciprocal education, training, and exchange of scientific, operational and technical personnel, and exchange of Equipment and Material in science and technology areas including Research, Development, Testing and Evaluation (RDT& E);

i) development and exchange of best practices, standards, and guidelines; and

j) commercialization and other exploitation of Project Foreground Information and any resulting Equipment and Material developed through Cooperative Activity to achieve the effective transition of technology from the research and development (R&D) environment to the operational environment.

ARTICLE 7

Forms of Cooperative Activity

1. Cooperation under this Agreement may include, but is not limited to, any of the following:

a) coordinated research Projects and joint research Projects;

b) joint task forces to examine emergent homeland security challenges;

c) joint studies and scientific or technical demonstrations;

d) joint organization and execution of field exercises, scientific seminars, conferences, symposia, and workshops;

e) training of scientists, operations and technical experts;

f) visits and exchanges of scientists, engineers, or other appropriate personnel;

g) exchanges or sharing of information and Equipment and Material;

h) exchange of information on practices, laws, regulations, standards, methods, and programs relevant to cooperation under this Agreement;

i) joint use of laboratory facilities and Equipment and Material, for conducting scientific and technological activities including Research, Development, Testing and Evaluation; and

j) joint management of the commercialization and exploitation of Equipment and Material and Project Foreground Information developed through Cooperative Activity.

2. Nothing in paragraph 1 shall preclude the Parties from facilitating other forms of Cooperative Activity that they may agree upon, nor shall Cooperative Activity pursuant to this Agreement be interpreted in such a manner as to interfere with any other arrangements between agencies, institutions, and private companies of the Parties.

ARTICLE 8

Projects

1. Cooperative Activity under this Agreement shall normally be implemented in the form of Projects or Programs to be conducted pursuant to Project Arrangements.

2. Project Arrangements shall ordinarily contain the following terms and conditions for each Project:

a) its nature;

b) its scope;

c) its duration;

d) the manner in which it will be funded;

e) specific details of any transfer of Equipment and Material and the identity of personnel and/or organizations, if any, to be committed to the Project;

f) Project Background Information to be used in the Project;

g) any specific provisions for terminating Participant involvement;

h) the dispute resolution process;

i) whether the use of Classified Information will be required or whether publication restrictions may need to be imposed;

j) any safety measures to be followed, including, where appropriate, specific procedures for dealing with hazardous and/or dangerous materials;

k) any applicable cost sharing provisions;

l) any applicable cost ceiling;

m) currency variation arrangements;

n) any necessary technical annexes;

o) the allocation of responsibility for any taxes, duties or other government charges which may arise;

p) provisions addressing the national law which shall apply to Contracts made in relation to the Project Arrangement;

q) a Technology Management Plan containing details concerning the sharing, allocation and protection and/or the benefits derived from the creation, use or exploitation of Intellectual Property under the Project;

r) any other consistent terms and/or conditions necessary to ensure the required development of the Project; and

s) any appropriate risk management provisions.

3. The Parties shall ensure that Project Arrangements incorporate the terms of this Agreement. In the case of any inconsistency, the terms of this Agreement shall prevail.

ARTICLE 9

Participants

1. Subject to the provisions of this Article, a Party may sponsor a Participant to carry out work relating to Cooperative Activity on its behalf. The engagement of any Participant in the implementation of any Cooperative Activity shall require the non-sponsoring Party's prior review and written approval.

2. Before engaging a Participant to carry out work, a Party must enter into a Sponsorship Arrangement that can support Cooperative Activities pursuant to this Agreement, unless such an agreement already exists.

3. The Party engaging a Participant shall ensure that the Participant agrees to:

   a) carry out any work relating to Cooperative Activity in accordance with the terms of this Agreement; and

   b) report to that Party's Agreement Director at least annually.

4. The Parties' Agreement Directors shall jointly determine the frequency and scope of the reporting requirement referred to in paragraph 3(b) of this Article.

5. In the event that a question arises with respect to a Participant and/or its activities under this Agreement, the Parties shall consult to consider the Participant's role in Cooperative Activity. If either Party objects to a Participant's continued participation and requests its termination, the Party that sponsored the Participant shall give the request sympathetic consideration, including as to the consequences of terminating the Participant's participation.

6. Nothing in this Agreement or any Project Arrangement precludes a Party who has sponsored a Participant from, as appropriate, suspending a Participant's activities or replacing the Participant in one or more of its Project Arrangements.

ARTICLE 10

Contracting

1. The Parties shall ensure that Project Arrangements are supported by Contracts wherever possible. The Contracts may be formed between the Parties, their Participants or Third Parties where appropriate.

2. All Contracts made pursuant to Project Arrangements shall include terms and conditions equivalent to the provisions of this Agreement, the relevant Project Arrangements, and their associated Technology Management Plans and in accordance with the laws, regulations and procedures of the respective Parties. Without limiting the foregoing each Party or its Contracting Agency shall negotiate to obtain the rights for both Parties to use and disclose Project Foreground Information as specified in Article 13 (Intellectual Property Management and Use of Information) and to obtain the rights contained in Article 14 (Publication of Research Results) unless the other Party agrees in writing that they are unnecessary in a particular case, and each Party's Contracting Agency shall insert into its Contracts, and require its subcontractors to insert in subcontracts, suitable provisions to satisfy the requirements of Article 12 (Information Security), Article 13 (Intellectual Property Management and Use of Information), Article 14 (Publication of Research Results) and Article 18 (Third Party Sales and Transfers).

3. The Parties recognize that their respective legislation and regulations may apply to activities undertaken in respect of Project Arrangements and supporting Contracts made under this Agreement.

4. The Parties will also collaborate, to the maximum extent practicable, on the establishment of research and development procurement requirements.

ARTICLE 11

Finance

1. Subject to the availability of appropriated funds for Cooperative Activity and to the provisions of this Article, each Party shall bear its own costs of discharging its responsibilities under this Agreement and its associated Project Arrangements.

2. Except as provided in paragraph 1 of this Article, this Agreement creates no standing financial commitments.

3. The Parties may agree to share costs for Cooperative Activity. Detailed descriptions of the financial provisions for a given Cooperative Activity, including the total cost of the activity and each Party's cost share, shall be agreed between the Parties and specified in Project Arrangements in accordance with the terms of this Agreement, in particular, paragraph 4 of this Article.

4. Funds designated for Cooperative Activities as specified in paragraph 3 of this Article, shall be, as appropriate, transferred to the engaging Party. All such transferred funds

shall be managed by the Party that is engaging a contractor or grantee on behalf of both Parties.

5. At the commencement of each Project, the Parties shall establish the equitable share of the total costs, including overhead costs and administrative costs. They shall also establish a cost target, a cost ceiling, and the apportionment of potential liability to be borne by each Party in the Project. In determining each Party's equitable share of total costs, the Parties may take into account:

    a) funds provided by one Party to the other for work under this Agreement ("financial contributions");

    b) material, personnel, use of Equipment and Material and facilities provided for the performance of work under this Agreement ("non-financial contributions") to directly support Agreement efforts. The Parties also recognize that prior work can constitute a non-financial contribution; and

    c) the ownership of Project Background Information utilized in the Project.

6. The following costs shall be borne entirely by the Party incurring the costs and are not included in the cost target, cost ceiling, or Project costs:

    a) costs associated with any unique national requirements identified by a Party; and/or

    b) any costs not expressly stated as shared costs or any costs that are outside the scope of this Agreement.

7. A Party shall promptly notify the other if available funds are not adequate to undertake activities arising as a result of this Agreement. If a Party notifies the other that it is terminating or reducing its funding for a Project, both Parties shall immediately consult with a view toward continuation on a changed or reduced basis. If this is not acceptable to both Parties, the respective rights and responsibilities of the Parties (and Participants) under Article 12 (Information Security), Article 13 (Intellectual Property Management and Use of Information) and Article 14 (Publication of Research Results) shall continue notwithstanding the termination or expiration of the Project.

8. At the commencement of each Project, the Parties shall jointly develop a Technology Management Plan.

9. Each Party shall be responsible for any audit of its activities in support of Cooperative Activities, including the activities of any of its Participants. Each Party's audits shall be in accordance with its own national practices. For Project Arrangements where funds are

transferred from one Party to the other Party, the receiving Party shall be responsible for the internal audit regarding administration of the other Party's funds in accordance with national practices. Audit reports of such funds shall be promptly made available by the receiving Party to the other.

10. The U.S. dollar shall be the reference currency for this Agreement, and the fiscal year for any Project shall be the U.S. fiscal year.

ARTICLE 12

Information Security

1. All exchanges of information and Equipment and Material, including Classified or Controlled Unclassified Information, between the Parties and between Parties and Participants, shall be carried out in accordance with the applicable laws and regulations of the Parties, including those relating to the unauthorized transfer or re-transfer of such information and Equipment and Material.

2. The transfer of technical data for the purpose of discharging the Parties' obligations with regard to interface, integration, and safety shall normally be made without restriction, except as required by national laws and regulations relating to export control or the control of classified data. If design, manufacturing, and processing data, and associated software, which is business confidential but not export controlled, is necessary for interface, integration, or safety purposes, the transfer shall be made and the data and associated software shall be appropriately marked. All activities of the Parties pursuant to this Agreement shall be carried out in accordance with their national laws and regulations, including their export control laws and regulations and those pertaining to the control of classified information.

3. This Agreement confers no right upon either Party to transfer Classified or Controlled Unclassified Information to a Third Party without specific authorization herein. All information, Equipment and Material subject to export controls shall not be transferred pursuant to this Agreement unless such transfers are compliant with the originating Party's export control laws, policies and regulations.

4. Classified Information:

    a) All Classified Information provided or generated pursuant to this Agreement and any of its Project Arrangements shall be stored, handled, transmitted, and safeguarded in accordance with the principles established in the Agreement Concerning the Protection of Classified Information between the Government of

Israel and the Government of the United States effected by exchange of notes signed July 30 and December 10, 1982.

b) The Parties specifically agree that the policies and safeguards established in the aforesaid agreement shall apply with equal force and effect to exchanges of Classified Information under this Agreement. The Parties shall agree on any implementing security arrangements that are deemed necessary. Prior to the sharing of Classified Information, the providing Party will ensure that the information is properly marked and the receiving Party is aware of the pending transfer.

c) The Parties shall appoint a Designated Security Authority (DSA) to establish implementing security arrangements and procedures consistent with this Agreement.

d) Each Party shall ensure that access to Classified Information is limited to those persons who possess requisite security clearances and have a specific Need-to–Know of the Classified Information in order to participate in a Cooperative Activity established pursuant to this Agreement.

5. Each Party shall ensure that it incorporates the provisions of this Article into Project Arrangements. In addition, if either Party deems it necessary, Project Arrangements shall include:

a) detailed provisions dealing with the prevention of unauthorized transfer or re-transfer, publication or re-publication of information and Equipment and Material; and/or

b) detailed distribution and access restrictions on information and Equipment and Material.

6. Each Party shall take all necessary lawful steps available to it to ensure that Classified Information provided or generated pursuant to this Agreement is protected from further disclosure, unless the other Party consents to such disclosure.

7. Classified Information shall be transferred only through official government-to-government channels or through channels approved by both Parties. Such Classified Information shall be given the equivalent level of classification in the country of receipt as it was given in the country of origin and shall be marked with a legend containing the country of origin, the conditions of release, and the fact that the information relates to this Agreement.

8. The Parties shall investigate all cases in which it is known or where there are reasonable grounds for suspecting that Classified Information provided or generated pursuant to this Agreement has been lost or disclosed to unauthorised persons. Each Party shall promptly and fully inform the other of the details of any such occurrences, and of the final results of the investigation and of the corrective action taken to preclude recurrences.

9. Unless both Parties agree in writing that it is unnecessary in a particular case, Contractors, prospective Contractors, subcontractors, or private sector Participants that are determined by either Party to be under financial, administrative, policy or management control of nationals or entities of any country which is not a Party to this Agreement may only participate in a Contract or subcontract requiring access to Classified Information that has been classified on grounds of national security if enforceable measures are in effect to ensure that the nationals or entities of that country do not have access to such Classified Information.

10. The highest level of Information or Equipment and Material that may be provided or generated pursuant to this Agreement is the "TOP SECRET" or "SODI BEYOTER" level.

11. Controlled Unclassified Information: The nature and amount of the Controlled Unclassified Information to be acquired and disseminated pursuant to this Agreement shall be consistent with the objectives of this Agreement and the following guidelines and procedures:

    a) Controlled Unclassified Information shall be used by the receiving Party only for the purposes directly related to Cooperative Activities conducted pursuant to this Agreement;

    b) access to Controlled Unclassified Information shall be limited to those personnel of the receiving Party whose access is necessary for the permitted use under this Agreement;

    c) all necessary lawful steps shall be taken, which may include national classification where appropriate, to keep Controlled Unclassified Information free from unauthorised disclosure, including requests under any public access provisions;

    d) Controlled Unclassified Information provided under this Agreement is to be marked by the Party providing it with a legend containing the country of origin, the conditions of release, the fact that it relates to this Agreement and a statement to the effect that access to the information is controlled; and

    e) Controlled Unclassified Information provided or generated pursuant to this Agreement shall be stored, handled, and transmitted in a manner that ensures proper control. Prior to authorising the release of Controlled Unclassified

Information to any Participant, the authorising Party shall ensure the Participant is legally required to control such information in accordance with the provisions of this Article.

12. Business Confidential Information:

a) Each Party shall safeguard and protect identified Business Confidential Information that is furnished or is created pursuant to this Agreement in accordance with Annex I to this Agreement. The receiving Party shall maintain security over such items, and they shall not be retransferred without the authority of the government that provided such items.

b) The Parties shall ensure that any Participants are legally required to control and safeguard Business Confidential Information in accordance with this Agreement.

Article 13

Intellectual Property Management and Use of Information

1. General: Both Parties recognize that successful collaboration depends on full and prompt exchange of information necessary for carrying out Cooperative Activities. The Parties intend to acquire sufficient Project Background Information and/or rights to use such information to enable the development of technologies, prototype equipment, and other activities included in a Project. The nature and amount of information to be acquired and disclosed shall be consistent with this Agreement and the terms of individual Project Arrangements.

2. Exploitation: Issues related to the management of Project Background Information and Project Foreground Information, including the allocation of any benefits (including royalties) derived from the creation and exploitation of Intellectual Property in Project Foreground/Program Information in respect of Cooperative Activities under this Agreement shall be governed by the Articles of this Agreement, including the provisions of Annex I, and any Technology Management Plans associated with a Project.

3. Government Furnished Project Background Information:

a) Disclosure: Unless a Project Arrangement provides otherwise, each Party shall disclose to the other Project Background Information in its possession or control, provided that:

(i) the Project Background Information is necessary to or useful in the implementation of a proposed or existing Project established pursuant to this Agreement. The Party in possession or control of the information shall

determine whether it is "necessary to" or "useful in" establishing new Projects or implementing existing ones;

(ii) the Project Background Information shall be made available without adversely affecting the rights of holders of Intellectual Property or Business Confidential Information; and

(iii) disclosure is consistent with national disclosure policies, laws, and regulations of the furnishing Party.

b) Use: Unless a Project Arrangement provides otherwise, Government Furnished Project Background Information disclosed by one Party to the other may be used without charge by the other Party for Project Development purposes only; and the furnishing Party shall retain all its rights with respect to such Government Furnished Project Background Information. Where the use of Government Furnished Project Background Information is necessary to enable the use of Project Foreground Information, such Government Furnished Project Background Information may be used by the receiving Party for homeland security purposes, upon agreement of the Parties and in accordance with applicable laws.

4. Participant Furnished Project Background Information:

a) Disclosure: Unless a Project Arrangement provides otherwise, Project Background Information furnished by a Participant sponsored by one Party shall be made available to the other Party provided the following conditions are met:

(i) the Project Background Information is necessary to or useful in the Arrangement. The Party in possession or having control of the information shall determine whether it is "necessary to" or "useful in" a Project;

(ii) the Project Background Information may be made available without adversely affecting the rights of holders of Business Confidential Information or Intellectual Property; and

(iii) disclosure is consistent with national disclosure policies, laws, and regulations of the furnishing Party.

b) Use: Project Background Information furnished by Participants may be subject to restrictions by holders of Intellectual Property. In the event that it is not subject to restrictions preventing its use, it may only be used by the Parties for Project Development purposes. If a Party wants to use Participant Furnished Project Background Information for purposes other than Project Development, (which other purposes shall include, without limitation, sales and licenses to Third

Parties), then the requesting Party must obtain any required licenses from the owner or owners of the rights to that information.

5. Project Foreground Information:

   a) Project Foreground Information may be commercialized where appropriate, in which case benefits derived from the utilization and application of such information shall be distributed according to the relative contributions of the Parties to the Project, the cost of commercialization, and the degree of commitment of the Parties to obtaining legal protection of Intellectual Property, as determined in a Technology Management Plan.

   b) Each of the Parties and Participants may own its Intellectual Property in Project Foreground Information in its own jurisdiction and in the jurisdiction of the other Party and may derive benefits from its exploitation and commercialization in those jurisdictions, with a mechanism for their establishment in a Technology Management Plan.

ARTICLE 14

Publication of Research Results

1. The Parties agree that the provisions of paragraphs A and B(2)(d) of Section III of Annex I to this Agreement shall apply to the publication of any research results created under this Agreement.

2. Publication Review: The Parties agree that publication of the results may be one of the goals of this Agreement, to stimulate further research in the public or private sector. In order to protect the rights of the Parties, including to avoid prejudice to the holders of Intellectual Property and Business Confidential Information and the protection of Classified and Controlled Unclassified Information, each Party shall transmit to the other for its review any material containing such results and intended for publication, or other disclosure, at least sixty (60) working days before such material is submitted to any editor, publisher, referee or meeting organizer, or is otherwise disclosed. In the absence of an objection by the other Party within that sixty-day period the publication or other disclosure may proceed. If either Party raises an objection to the public release of publications arising from this Agreement, public release will not occur unless and until there is agreement between the Parties as to the conditions for public release. It is the responsibility of each Party to coordinate with its sponsored Participants who work under a Project Arrangement to determine whether all potential Intellectual Property or Business Confidential Information interests have been properly considered.

3. Affiliation: The sponsorship and financial support of the Parties for Cooperative Activities shall not be used in any public statement of a promotional nature or used for commercial purposes without the express written permission of both Parties.

4. Publicity and Acknowledgements: All publications relating to the results of the Projects established pursuant to this Agreement shall include as applicable a notice indicating that the underlying investigation received financial support from the Government of the United States and/or the Government of the State of Israel. Five copies of such publications shall be sent to the Agreement Directors by the individual or entity that is the author of the publications.

ARTICLE 15

Entry of Personnel and Equipment and Material

1. With respect to Cooperative Activities under this Agreement, each Party, in accordance with its national laws and regulations, and as appropriate, shall facilitate:

   a) prompt and efficient entry into and exit from its territory of appropriate Equipment and Material, especially as regards instrumentation, test equipment and Project Background and Foreground Information;

   b) prompt and efficient entry into and exit from its territory, and domestic travel and work of, persons participating on behalf of the Parties or Participants in the implementation of this Agreement;

   c) prompt and efficient access, as appropriate, to relevant geographical areas, information, Equipment and Material and institutions, for persons participating on behalf of the Parties, or Participants, in the implementation of this Agreement; and

   d) mutual logistic support.

2. Customs duties, import and export taxes, and similar charges shall be administered in accordance with each Party's respective laws and regulations. Insofar as existing laws and regulations permit, each Party shall use their best efforts to ensure that readily identifiable duties, taxes and similar charges, as well as quantitative or other restrictions on imports and exports, are not imposed in connection with Projects carried out under this Agreement.

ARTICLE 16

Research Safety

1. The Parties shall establish and implement policies and practices to ensure and provide for the safety of their employees, the public, and the environment during the conduct of cooperative activities subject to applicable national law, legislation and regulation. If any cooperative activity involves the use of dangerous or hazardous materials, the Parties shall establish and implement an appropriate safety plan.

2. Without prejudice to any existing arrangements under the Parties' national laws, the Parties shall take appropriate steps to protect the welfare of any subjects involved in cooperative activities. Such steps may include the provision of medical treatment and, where appropriate, financial relief.

ARTICLE 17

Privacy

All Cooperative Activities conducted pursuant to this Agreement will respect the Party's applicable law, legislation and privacy protection standards.

ARTICLE 18

Third Party Sales and Transfers

Neither Party shall:

1. Sell, transfer title to, disclose, or transfer possession of Project Foreground Information or equipment incorporating foreground information to a Third Party without the prior written consent of the other Party; or

2. Permit any such sale, disclosure or transfer by others, including by the owner of the item, without the prior written consent of the other Party. Such sales and transfers shall be consistent with Article 13 (Intellectual Property Management and Use of Information).

Article 19

Dispute Resolution

1. Except for disputes concerning Intellectual Property and those procedures set forth in Article 14 (Publication of Research Results), all questions or disputes between the Parties

that cannot be resolved by the Agreement Directors arising under or relating to this Agreement shall be submitted to the Executive Agents. Such questions and disputes shall be resolved only by consultation between the Parties.

2. Resolution of disputes concerning Intellectual Property shall be resolved as provided for in Annex I.

3. Each Party shall ensure that any Sponsorship Arrangement that it enters into with a Participant includes provisions for dispute resolution consistent with paragraphs 1 and 2 of this Article.

ARTICLE 20

Status of Annex

Annex I forms an integral part of this Agreement and, unless expressly provided otherwise, a reference to this Agreement includes a reference to Annex I.

ARTICLE 21

Entry into Force, Duration, Amendment, and Termination

1. This Agreement shall enter into force on the date of the last written notification confirming that each Party has completed its internal legal procedures necessary for entry into force.

2. The Agreement may be amended in writing by the mutual agreement of the Parties.

3. This Agreement shall remain in force until terminated in writing by either Party, with such termination taking effect six months from the date of the written notice of termination.

4. Unless otherwise agreed, termination of this Agreement shall not affect the validity or duration of any Cooperative Activities previously undertaken pursuant to it.

5. The respective rights and responsibilities of the Parties under Article 12 (Information Security), Article 13 (Intellectual Property Management and Use of Information), Article 14 (Publication of Research Results), Article 18 (Third Party Sales and Transfers), Article 19 (Dispute Resolution) and Annex I shall continue notwithstanding the termination or expiry of this Agreement. In particular, all Classified Information exchanged or generated under this Agreement shall continue to be protected in the event of the termination or expiry of the Agreement.

6. This Agreement shall not prejudice the rights and obligations deriving from other international, multilateral or bilateral agreements in force between the Parties.

IN WITNESS WHEREOF, the undersigned, duly authorized by their respective Governments, have signed this Agreement.

Done at Jerusalem this 29 day of May 2008, which corresponds to the day of 24th of Iyar 5768, in two original copies, in the Hebrew and English languages, all texts being equally authentic. In cases of divergence of interpretation, the English text shall prevail.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF THE STATE OF ISRAEL:

ANNEX I

Intellectual Property Rights

I. General Obligation

The Parties shall ensure means for adequate and effective protection of intellectual property created or furnished under this Agreement and relevant Project and Sponsorship Arrangements. Rights to such intellectual property shall be allocated as provided in this Annex.

II. Scope

A. This Annex is applicable to all Cooperative Activities undertaken pursuant to this Agreement, except as otherwise specifically agreed by the Parties or their designees.

B. Each Party shall ensure, through contracts or other legal means with its own Participants, if necessary, that the other Party can obtain the rights to Intellectual Property allocated in accordance with this Annex. This Annex does not otherwise alter or prejudice the allocation of Intellectual Property between a Party and its employees and/or its contractors, which shall be determined by that Party's laws and practices.

C. Except as otherwise provided in this Agreement, disputes concerning Intellectual Property arising under this Agreement shall be resolved through discussions between the concerned Participants or, if necessary, the Parties or their designees. Upon mutual agreement of the Parties, a dispute shall be submitted to an arbitral tribunal for binding arbitration in accordance with the provisions of this Agreement and the applicable rules and principles of international law. Unless the Parties or their designees agree otherwise in writing, the arbitration panel shall act in accordance with the 1976 UNCITRAL Arbitration Rules. The award shall be in writing, and contain the facts, law and reasons on which it was based. Unless otherwise agreed by the Parties, the award shall be rendered to the Parties within six months from the establishment of the tribunal.

D. The Intellectual Property rights of the Parties and/or Participants involved in a Cooperative Activity within the framework of this Agreement will not be affected in any way, unless written permission is included in advance in the Project Arrangement or in other arrangement or in the Technology Management Plan.

E. Termination or expiration of this Agreement shall not affect rights or obligations under this Annex.

III. Allocation of Rights

A. Subject to Article 14.2, each Party shall be entitled to a non-exclusive, irrevocable, royalty-free license in all countries to translate, reproduce, and publicly distribute scientific and technical journal articles, reports, and books directly arising from cooperation under this Agreement. All publicly distributed copies of a copyrighted work prepared under this provision shall indicate the names of the authors of the work, unless an author explicitly declines to be named.

B. Rights to all forms of Intellectual Property, other than those rights described in paragraph III A above, shall be allocated as follows:

(1) Visiting researchers shall receive, for any intellectual property they create, rights, awards, bonuses and royalties in accordance with the policies of the host institution.

(2) (a) Unless otherwise agreed in a Project Arrangement or other arrangement, the Parties or their Participants shall jointly develop provisions of a Technology Management Plan regarding ownership and exploitation rights to Intellectual Property created in the course of the Cooperative Activities other than those covered by paragraph III (B) (1) of this Annex. The Technology Management Plan shall consider the relative contributions of the Parties, Participants and Contractors to the Cooperative Activities, the degree of commitment in obtaining legal protection and licensing of the Intellectual Property, and such other factors as are deemed appropriate.

(b) If the Parties or their Participants do not agree on provisions of a Technology Management Plan under subparagraph (a) within a reasonable time, not to exceed six months from the time a Party becomes aware of the creation of Intellectual Property created in the course of the Cooperative Activities, the Parties or their Participants shall resolve the matter in accordance with the provisions of paragraph II (C) of this Annex. Pending resolution of the matter, any Intellectual Property created by persons employed by one Party under Cooperative Activities shall be owned by that Party and any Intellectual Property created jointly by persons employed by both Parties shall be jointly owned. Such jointly owned Intellectual Property shall be commercially exploited only by mutual agreement.

(c) Notwithstanding paragraphs III B(2)(a) and (b) above, if either Party believes that a particular project may lead to or has led to the creation of Intellectual Property not protected by the laws of the other Party, the Parties shall immediately hold discussions to determine the allocation of rights to the Intellectual Property. If an agreement cannot be reached within three months of the date of the initiation of the discussions, cooperation on the Project in question shall be terminated at the request of either Party. Creators of Intellectual Property shall nonetheless be entitled to awards, bonuses and royalties in accordance with the policies of the institution employing or sponsoring that person.

(d) For each invention made under any Cooperative Activity, the Party employing or sponsoring the inventor(s) shall disclose the invention promptly to the other Party together with any documentation and information necessary to enable the other Party to establish any rights to which it may be entitled. Either Party may ask the other Party in writing to delay publication or public disclosure of such documentation or information for the purpose of protecting its rights in the invention. Unless otherwise agreed in writing, the delay shall not exceed a period of six months from the date of disclosure by the inventing Party to the other Party.

IV. Business Confidential Information

A. In the event that information identified in a timely fashion as business-confidential is furnished or created under this Agreement, each Party and its Participants shall protect such information in accordance with applicable laws, regulations, and administrative practices. Information may be identified as "business-confidential" if a person having the information may derive an economic benefit from it or may obtain a competitive advantage over those who do not have it, and the information is not generally known or publicly available from other sources, and the owner has not previously made the information available without imposing in a timely manner an obligation to keep it confidential.

B. Without prior written consent, the receiving Party may not disclose any Business Confidential Information provided to it by the other Party except to appropriate employees and government personnel. If expressly agreed between the Parties, Business Confidential Information may be disclosed by the receiving Party to contractors and sub-contractors. Such disclosures shall be for the use only within

the scope of their contracts with their respective Party relating to cooperation under this Agreement. The Parties shall impose, or shall have imposed, an obligation on those receiving such information to keep it confidential. If a Party becomes aware that, under the laws or regulations applicable to it, it will be or may reasonably expect to become unable to meet the non-disclosure provisions, it shall immediately inform the other Party. The Parties shall thereafter agree on an appropriate course of action.