

## **AGREEMENT**

**Between**

**The Department of Energy of the United States of America**

**And**

**The Japan Nuclear Cycle Development Institute**

**For Cooperation in Research and Development (R&D) Concerning Nuclear**

**Material Control and Accounting Measures for Safeguards and Nonproliferation**

The Japan Nuclear Cycle Development Institute (JNC) and the Department of Energy (DOE) of the United States of America (hereinafter referred to as the "Parties")

Recognizing that Japan and the United States of America are parties to the Treaty on the Non-Proliferation of Nuclear Weapons;

Noting that the JNC is the successor organization to the Power Reactor and Nuclear Fuel Development Corporation (PNC) and that the PNC and DOE signed on September 15, 1993 an Agreement for Cooperation in Research and Development (R&D) Concerning Nuclear Material Control and Accounting Measures for Safeguards and Nonproliferation; and

Wishing to continue the long-term and productive cooperation in the area of international safeguards:

Have agreed as follows:

### **Article I--0B JECTIVE**

Cooperation between the Parties shall be directed at improving the efficiency and effectiveness of equipment and techniques for safeguards and nonproliferation to implement policies and procedures pursuant to the Non-Proliferation Treaty. Cooperation under this Agreement shall include research, development, testing and evaluation of technology, equipment, and procedures, and exchange of information in order to improve nuclear material control, accountancy, verification, and physical protection and nonproliferation.

### **Article II--MANAGEMENT**

1. A Permanent Coordinating Group (PCG), consisting of equal numbers of representatives from each Party, shall approve and monitor all activities under this Agreement. The PCG shall meet alternately in Japan and the United States, unless otherwise mutually agreed by the Parties, to evaluate the status of cooperation under this Agreement.

Members of the PCG may invite to PCG meetings members of other organizations in their respective countries which have an interest in the results of the R&D activities of the joint program.

2. Each cooperative activity, undertaken by the Parties, shall be described in a document defined as an Action Sheet, which shall be approved in writing by the Parties or their designees and shall be annexed to this Agreement.
3. Each Party shall designate a coordinator to supervise the implementation of this Agreement. Technical management of the cooperation under this Agreement shall be carried out by project leaders designated by the coordinators. Project leaders shall be responsible for the working contacts between the Parties in their respective areas of cooperation.

### **Article III--METHODS OF COOPERATION**

Cooperation under this Agreement may include, but is not limited to, the following:

1. Exchange of scientists, engineers, and other specialists for participation in agreed research, development, test, demonstration, analysis, design, and experimental joint activities conducted in scientific centers, laboratories, engineering offices, and facilities of each of the Parties or its contractors for agreed periods;
2. Exchange or loan of samples, materials, equipment, and components for testing;
3. Exchange of scientific and technical information, including results and methods of R&D; and
4. Joint research activities in which the Parties agree to share the work and/or costs. Each such joint research activity shall be the subject of a written Action Sheet as defined in paragraph 2. of Article II.

### **ARTICLE IV- INTELLECTUAL PROPERTY RIGHTS**

The Parties shall ensure adequate and effective protection of intellectual property created or furnished under this Agreement and relevant implementing arrangements. The Parties agree to notify one another in a timely fashion of any inventions or copyrighted works arising under this Agreement and to seek protection for such intellectual property in a timely fashion. Rights to such intellectual property shall be allocated as provided in this Article IV.

#### **1. Scope**

- (A) The provisions of this Article IV are applicable to all cooperative activities undertaken pursuant to this Agreement, except as otherwise specifically agreed by the Parties or their designees.

- (B) For purposes of this Agreement, “intellectual property” shall have the meaning found in Article 2 of the Convention Establishing the World Intellectual Property Organization, done at Stockholm, July 14, 1967.
- (C) This Article IV addresses the allocation of rights and interests between the Parties. Each Party shall ensure that the other Party can obtain the rights to intellectual property allocated in accordance with this Article IV, by obtaining those rights from its own participants through contracts or other legal means, if necessary. This Article IV does not otherwise alter or prejudice the allocation between a Party and its nationals, which shall be determined by that Party’s laws and practices.
- (D) Disputes concerning intellectual property arising under this Agreement should be resolved through discussions between the concerned participating institutions, 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 applicable rules of international law. Unless the Parties or their designees agree otherwise in writing, the arbitration rules of UNCITRAL shall govern.
- (E) Termination or expiration of this Agreement shall not affect rights or obligations under this Article IV.

## 2. Allocation of Rights

- (A) 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 2. (A) above, shall be allocated as follows:
  - (i) (a) Visiting researchers, for example, scientists visiting primarily in furtherance of their education, shall receive intellectual property rights under the policies of the host institution. In addition, each visiting researcher named as an inventor shall be entitled national treatment with regard to awards, bonuses, benefits, or any other rewards, in accordance with the policies of the host institution.
  - (b) Upon request of one party or its institution, the other party or its institution will promptly provide to the requesting party information pertaining to said policy of the host institution.

- (ii) (a) For intellectual property created during joint research, for example, when the Parties, participating institutions, or participating personnel have agreed in advance on the scope of work, each Party shall be entitled to obtain all rights and interests in its own country. Rights and interests in third countries will be determined in implementing arrangements. If research is not designated as “joint research” in the relevant implementing arrangement, right to intellectual property arising from the research will be allocated in accordance with paragraph 2. (B) (i) above. In addition, each person named as an inventor shall be entitled to national treatment with regard to awards, bonuses, benefits, or any other rewards in accordance with the policies of the participating institutions.
- (b) In the event that other forms of intellectual property are created in the course of cooperative activities under this Agreement and they are not protected by the laws of one Party’s country, disposition of rights in that intellectual property will be determined, on an equitable basis, as described in subparagraph (c) below and in accordance with the laws and regulations of the respective countries.
- (c) The Parties to the cooperative activities will, at the request of either Party, promptly consult with each other on the disposition of rights in the intellectual property referred to in subparagraph (b) above. The cooperative activity in question will be suspended during the consultation unless otherwise agreed by the Parties. If no agreement on the disposition of said rights can be reached within a three-month period from the date of request for consultation, the cooperative activity in question may be terminated by either Party with notice to the other Party. In this case, each Party shall also notify its respective authority of such termination.

### 3. Business Confidential Information

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, 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.

## **ARTICLE V--EXCHANGE OF EQUIPMENT**

The Parties agree that if a Party provides to the other Party equipment for use in activities under this Agreement, the following provisions shall apply covering the shipment and use of agreed equipment:

1. The supplying Party shall provide to the receiving Party as soon as possible a detailed list of the equipment to be provided together with the relevant specifications and technical and informational documentation.
2. Equipment and spare parts provided by the supplying Party under this Agreement shall become the property of the receiving Party unless other arrangements are mutually agreed in advance and in writing.
3. Equipment provided by the supplying Party under this Agreement shall be brought into operation by the supplying Party at the establishment of the receiving Party unless other arrangements are mutually agreed in advance and in writing.
4. The supplying Party shall be responsible for the expenses for the transport of equipment and materials from its territory to an authorized port of entry of the receiving Party convenient to the ultimate destination and also for the safekeeping and insurance en route. A receiving Party shall have a right to inspect equipment to be supplied at the facility of the shipping Party before shipment.
5. All equipment exchanged between the Parties for carrying out joint projects under this Agreement shall be considered to be of a scientific and not a commercial character.
6. The receiving Party shall be responsible for safekeeping and insurance en route from the authorized port of entry to the ultimate destination.

## **ARTICLE VI--EXCHANGE OF STAFF**

The following provisions shall apply concerning exchanges of staff:

1. Whenever an exchange of staff is contemplated, each Party shall ensure the selection of staff with skills and competence necessary to conduct the activities planned under this Agreement. Each exchange of staff shall be mutually agreed in advance by an exchange of letters between the Parties, referencing this Agreement.
2. Each Party shall be responsible for the salaries, insurance, and allowances to be paid to its staff.
3. Each Party shall pay for the travel and living expenses of its staff when staying at the establishment of the host Party unless otherwise agreed.

4. The host establishment shall arrange for adequate accommodations for other Party's staff and their families on a mutually agreeable reciprocal basis.
5. Each Party shall provide all necessary assistance to the staff of the other Party as regards administrative formalities.
6. The staff of each Party shall conform to the general rules of work and safety regulations in force at the host establishment.

#### **ARTICLE VII--DAMAGES**

Both Parties agree that compensation for damages incurred under this Agreement shall be in accordance with the laws of the countries of the Parties.

#### **ARTICLE VIII--GENERAL PROVISIONS**

1. All equipment supplied and information transmitted by one Party to the other Party under this Agreement shall be appropriate and accurate to the best knowledge and belief of the supplying and transmitting Party, but the Party does not warrant the accuracy, completeness, usefulness, or suitability of any equipment or services supplied or information or data transmitted for any particular use or application by the receiving Party or by any third party. All equipment and information developed jointly by the Parties shall be accurate to the best knowledge and belief of both Parties. Neither Party warrants the accuracy of the jointly developed equipment and information nor its suitability for any particular use or application by either Party or by any third Party.
2. If one Party finds it necessary, that Party shall have the opportunity to observe activities under this Agreement in a facility of the other Party, subject to the approval of the other Party.
3. Each Party's activities under this Agreement shall be in accordance with its national laws and regulations and the U.S.-Japan Agreement for Cooperation Concerning Peaceful Uses of Nuclear Energy signed November 4, 1987 or any successor agreement thereto.
4. All questions related to this Agreement shall be settled by the Parties by mutual agreement.
5. A Party may make cash contributions to the other Party to support activities directed at improving the application of safeguards techniques to its facility. Arrangements for specific contributions are to be incorporated as mutually agreed in Action Sheets under Article II of this Agreement.
6. Each Party shall carry out its activities under this Agreement subject to the availability of appropriated funds.

**ARTICLE IX--DURATION AND TERMINATION**

This Agreement shall enter into force upon signature and remain in force for a 5 year period. It may be extended or amended by agreement of the Parties. This Agreement may be terminated upon one-year notification in writing by the Party seeking to terminate it. If an activity funded by one Party in accordance with this Agreement is terminated prior to completion, the performing Party shall refund to the contributing Party the uncosted remainder of its cash contribution, excluding the cost of any mutually agreed close-out costs for the activity. Such termination shall be without prejudice to the rights which may have accrued under this Agreement to either Party up to the date of such termination.

DONE, in duplicate, at Washington, DC, this 27th day of January, 2000.

FOR THE DEPARTMENT OF ENERGY  
OF THE UNITED STATES OF AMERICA:

FOR THE JAPAN NUCLEAR CYCLE  
DEVELOPMENT INSTITUTE:

Name: Kenneth E. Baker  
Rose Gottemoeller  
Assistant Secretary  
for Nonproliferation  
and National Security

Name: Masayuki Iwanaga  
Masayuki Iwanaga  
Director  
International Cooperation and  
Nuclear Material Control Division