

Agreement

between the Government of the Russian Federation and the Cabinet of Ministers of Ukraine on Technology Safeguards Associated with Cooperation in the Field of the Exploration and Use of Outer Space for Peaceful Purposes and in the Development and Operation of Space Rocket and Rocket Equipment

The Government of the Russian Federation and the Cabinet of Ministers of Ukraine, hereinafter referred to as the Parties,

Taking into consideration the Agreement between the Government of the Russian Federation and the Government of Ukraine on Cooperation in the Field of the Exploration and Use of Outer Space for Peaceful Purposes of 27 August 1996 and the Agreement between the Government of the Russian Federation and the Government of Ukraine on Cooperation in the Field of the Development and Operation of Space Rocket and Rocket Equipment of 8 February 1995,

Expressing their common desire to ensure conditions for the development of new forms of cooperation in the field of space activities between the organizations of the Russian Federation and Ukraine,

Considering that the export of goods and services related to advanced space rocket technologies necessitates its legal regulation in the spirit of mutual responsibility and on the basis of mutual assistance,

Desiring to make such regulation effective by observing high standards in the use of legal means and organizational methods of ensuring the safeguarding of protected items and technologies in the context of joint activities in the exploration and use of outer space and the application of space equipment and technologies for peaceful purposes,

Acknowledging the existence of security and missile technologies non-proliferation requirements with regard to programmes and projects of cooperation,

Taking into account the requirements of the Missile Technology Control Regime and the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies,

Being guided by the legislation of the Russian Federation and Ukraine in the field of export control,

Have agreed as follows:

Article 1

Definitions of Terms

For the purposes of this Agreement the terms applied shall mean:

- “protected items and technologies” — any goods representing objects, materials, supplied or manufactured products, including equipment for various purposes, any technologies, representing, in particular, inventions, utility models, know-how, industrial designs and computer software, inter alia, in the

form of technical data or technical assistance, and (or) containing information (other than publicly available information) in any form, including written and oral information, blueprints, drawings, photographs, video materials, plans, instructions and documentation needed for the technical design, engineering, development, production, processing, manufacture, use, operation, overhaul, repair, maintenance, modification, enhancement or modernization of protected items and (or) technologies, with respect to which:

- the state bodies authorized in accordance with the legislation of the States of the Parties issue licenses (permits) for export and (or) with respect to which either of the Parties issues other authorizations for export to the territory of the State of the other Party and (or) facilities under the jurisdiction and (or) control of that State and the exporting Party through its authorized body(ies) exercises control in accordance with the legislation of the States of the Parties and this Agreement;
 - the state bodies authorized in accordance with the legislation of the States of the Parties issue licenses (permits) for export and (or) with respect to which either of the Parties issues other authorizations for export to the territory of the State of the other Party and (or) facilities under the jurisdiction and (or) control of that State for use or subsequent export as part of jointly manufactured products to the territory of a third state and (or) facilities under the jurisdiction and (or) control of a third state and the exporting Party through its authorized body(ies) exercises control in accordance with the legislation of its State and on the basis of this Agreement;
 - the state bodies authorized in accordance with the legislation of a third state issue licenses (permits) for export and (or) with respect to which the government of a third state issues other authorizations for export to the territory of the State of one of the Parties and (or) facilities under the jurisdiction and (or) control of that State, and subsequent re-export to the territory of the State of the other Party and (or) facilities under the jurisdiction and (or) control of that State and control is exercised in accordance with the legislation of a third state, meaning that protected items and technologies may include items and technologies used and (or) managed by legal or natural persons of a third state, international organizations or other subjects of international law;
- “joint activities” — all actions pertaining to the treatment of protected items and technologies in connection with their technical design, engineering, development, production, processing, manufacture, use, operation, overhaul, repair, maintenance, modification, enhancement or modernization of protected items and technologies, including discussion of technical issues, all stages of handling any special documentation, preparation of draft designs, implementation of technical engineering works, development, production, delivery, assembly, technical maintenance, operation, transportation and storage of any systems and units, provision of technical guidance and provision of operation and marketing services;
- “control” — any requirement or condition with regard to the export or re-export of protected items and technologies (including licenses (permits) for

export, other authorizations, requirements of record keeping, reporting and control of access to protected items and technologies) which corresponds with the purposes of an effective implementation of export control and technology safeguards;

- “consignees” — any legal and (or) natural persons issued, in accordance with the legislation of the States of the Parties, licenses (permits) to export and (or) import protected items and technologies and (or) other authorizations to export and (or) import thereof;
- “participants in joint activities” — consignees, any other legal and (or) natural persons, their representatives, contractors or subcontractors that, in accordance with the legislation of the States of the Parties and (or) third states, are issued licenses (permits) for the export and (or) import of protected items and technologies and (or) other authorizations to export and (or) import thereof and are named in such licenses (permits) and (or) other authorizations, and are authorized to carry out joint activities;
- “Russian representatives” — natural persons, that are employed in the service of the State in the Russian Federation, and (or) legal and (or) natural persons that are authorized by the Russian Party and (or) its authorized body(ies) to carry out joint activities and measures in implementation of this Agreement, including any authorized, according to the established procedure, representatives of the Russian Party and (or) authorized body(ies) of the Russian Party, that participate in joint activities and (or) have or may have access to protected items and technologies and are under the jurisdiction and (or) control of the Russian Federation;
- “Ukrainian representatives” — natural persons, that are employed in the service of the State in Ukraine, and (or) legal and (or) natural persons that are authorized by the Ukrainian Party and (or) its authorized body(ies) to carry out joint activities and measures in implementation of this Agreement, including any authorized, according to the established procedure, representatives of the Ukrainian Party and (or) authorized body(ies) of the Ukrainian Party, that participate in joint activities and (or) have or may have access to protected items and technologies and are under the jurisdiction and (or) control of Ukraine;
- “representatives of a third state” — natural persons, that are employed in the service of the state in a third state and (or) legal and (or) natural persons that are authorized by the government of a third state to carry out joint activities and measures in implementation of agreements and arrangements provided for in paragraph 2 of Article 4 of this Agreement, including any authorized, according to the established procedure, representatives of a third state and (or) its competent bodies, that participate in joint activities and (or) have or may have access to protected items and technologies and are under the jurisdiction and (or) control of a third state;
- “representatives of the exporting (importing) Party” — Russian representatives or Ukrainian representatives;
- “re-exporting Party” — the importing Party, that effectuates on legal grounds and in accordance with licenses (permits) for export issued by the state bodies

authorized in accordance with the legislation of the State of the exporting Party and (or) other authorizations of the exporting Party, on the one hand, and licenses (permits) for import issued by the state bodies authorized in accordance with the legislation of a third state and (or) other authorizations of the government of a third state, on the other hand, re-transfer of protected items and technologies to a third state for the purposes of joint activities;

- “prescribed officials” — officials of the internal affairs bodies, customs bodies, quarantine services, judicial officers, emergency personnel and other relevant Russian and Ukrainian officials and officials of third states whose functions are prescribed by legislation, who are issued with special permissions, respectively, from the Russian Party and from the Ukrainian Party through their authorized bodies, as well as from the government of a third state through procedures established in that state, indicating that such officials perform specific functions in the territory and in accordance with the legislation of their States, which may relate to joint activities;
- “technology security plans” — plans containing, in the form of written instructions or other mandatory provisions, a detailed account of specific measures to observe the requirements for physical and legal protection of protected items and technologies on a permanent basis, including special conditions and limitations designed for emergencies, the description of operations for all facilities, premises, transportation vehicles or their separate zones where protected items and technologies are located with the indication of the procedures for security and access to such places;
- “information” — information (irrespective of the form of its presentation and carrier) on persons, objects, facts, events, phenomena and processes, including information of commercial and financial nature, scientific and technical data relating to joint activities, the course of their implementation and the results obtained;
- “confidential information” — restricted use information, which is not secret information and which is qualified as confidential according to the procedure established by the legislation of the Russian Federation and Ukraine, and the carriers of which are provided with a mark: in the Russian Federation — “Для служебного пользования” (“Dlya Sluzhebnoho Polzovaniya”/“For Official Use”), in Ukraine — “Для службового користування” (“Dlya Sluzhbovogo Koristuvannia”/“For Official Use”);
- “business confidential information” — any information, including know — how, irrespective of the form of its presentation and carrier, in particular, of technical, commercial or financial nature, which is not secret and is duly designated as business confidential information, and meets the following conditions:
 - possession of this information may provide benefits of economic, scientific or technical nature, or give a competitive advantage over persons who do not possess it;
 - this information is not generally known or widely available from other sources on legal grounds;

- this information was not earlier communicated by its possessor to third persons without the obligation to maintain its confidentiality;
 - this information is not already at the disposal of the recipient without the obligation to maintain its confidentiality;
 - a possessor of this information takes measures to protect its confidentiality;
- “secret information” — information, containing information classified in the Russian Federation and in Ukraine as a state secret, and the dissemination of which may prejudice the security of the States of the Parties;

Article 2

Implementation Authority and Functions

1. For the purposes of implementation of this Agreement the authorized bodies shall be:

- for the Russian Party — the Federal Space Agency, the Ministry of Defense of the Russian Federation and the Federal Service for Technical and Export Control;
- for the Ukrainian Party — the National Space Agency of Ukraine.

The authorized bodies shall act within their competence defined in accordance with the legislation of the States of the Parties and subject to the terms and conditions which are defined by this Agreement.

2. The Parties may replace their authorized bodies or designate in addition other authorized bodies and shall inform each other accordingly through diplomatic channels.

3. The authorized bodies may involve other interested bodies and organizations of the States of the Parties in the implementation of activities under this Agreement.

4. The Parties shall, through their authorized bodies, adopt relevant measures within the framework of the legislation of the States of the Parties for the purposes of establishing and ensuring appropriate mechanism for interaction on the basis of this Agreement and shall develop and put into effect all necessary operational executive and administrative procedures.

5. The Parties or their authorized bodies may, if necessary, establish consultative groups. The sphere of competence of these groups, the sessions of which shall be held as necessary, shall encompass matters of drafting reviews on how the principles, norms and procedures stipulated by this Agreement are implemented in practice, as well as the consideration of proposals aimed at developing additional procedures and mechanisms for interaction within the framework of this Agreement, including:

- preparation of advisory opinions and recommendations concerning the practice of cooperation in implementation of this Agreement;
- preparation of agreed statements in the form of documents adopted by mutual consent of the Parties or their authorized bodies, which shall contain plans of action and (or) guidelines.

The Parties, acting through their authorized bodies, may, if necessary, adopt regulatory documents governing the activities of consultative groups.

Unless the Parties mutually agree otherwise or either of the Parties, in accordance with the legislation of its State, individually decides otherwise, the activities of consultative groups shall not serve as a basis for the Parties to effect any payments or reimburse any expenses, or for the exchange of funds between the Parties in connection with such activities.

Article 3

Purpose

1. This Agreement shall be concluded for the purpose of establishing cooperative relations with regard to executing technology protection measures in connection with the implementation of joint programmes and projects in the field of the exploration and use of outer space for peaceful purposes and in the development and operation of space rocket and rocket equipment. The Parties shall take measures so that such activity is in line with the need to ensure the safety and security of protected items and technologies declared as such. To this end, the Parties shall make use of the means at their disposal enabling to carry out a set of measures of a legal, organizational and technical nature related to ensuring in the Russian Federation and in Ukraine and to rendering mutual assistance in ensuring in third states conditions with regard to protected items and technologies for:

(a) the prevention of any unauthorized access to protected items and technologies, any unauthorized transfer thereof and the risk of export (re-export) of protected items and technologies not for the intended use or their improper use by the end-user;

(b) the implementation by the Russian representatives and the Ukrainian representatives of appropriate functions to physically and legally safeguard protected items and technologies, in order to provide a regime for their effective control and handling, and to take specific measures regarding all issues within their competence under this Agreement.

2. The Parties, through their authorized bodies, shall, on a systematic basis, review how the terms and conditions of this Agreement are observed in practice, and in this connection:

(a) shall ensure, considering agreed methods and criteria, monitoring of potential risks and shall agree with the governments of third states on ensuring monitoring in the territories of those states for the purpose of the identification, evaluation and analysis on a regular basis of potential risks of violation of the procedure for handling protected items and technologies, including preventive measures and their implementation;

(b) shall hold working consultations on an as-planned basis, as well as at the request of either Party or, if necessary, consultations with the government of a third state in case of circumstances causing the concern of one of the Parties and (or) the government of a third state over the treatment of protected items and technologies;

(c) shall draft and provide on a mutual basis advisory opinions regarding the effectiveness of practical cooperation in the implementation of specific principles and norms of, as well as procedures for handling protected items and technologies;

(d) shall, on requests of each other, promptly provide explanations and relevant information on technical, organizational, legal and other issues related to the handling of protected items and technologies, including in case of their re-export.

Article 4

Relation to Other Agreements

1. Cooperation within the framework of this Agreement shall be without prejudice to the fulfilment by the Parties of obligations under other international agreements in which the Russian Federation and Ukraine participate.

2. The Parties shall cooperate with the governments of third states and, if necessary, international organizations having due competence in issues of ensuring safety and security of protected items and technologies with respect to joint activities with the participation of legal and natural persons under the jurisdiction and (or) control of third states. For this purpose, the Parties shall, on the basis of specific concerted decisions and proposals of authorized bodies of both Parties, apply this Agreement to protected items and technologies, which originate from third states and with respect to which licenses (permits) for export and (or) other governmental authorizations are issued in third states, by concluding agreements or reaching arrangements in written form, on the principle of reciprocity, with the governments of third states and (or) international organizations, for observing conditions and procedures that would, to the maximum extent possible, be comparable with the conditions and procedures envisaged by this Agreement.

3. The Parties shall, through their authorized bodies, cooperate in creating favourable conditions for the conclusion of agreements and reaching arrangements between the participants in joint activities, for the purposes of implementing this Agreement.

4. The Parties shall not enter into any agreements or arrangements that prejudice this Agreement.

5. The Parties shall, through their authorized bodies, ensure that all contracts concluded by the participants in joint activities which are under the jurisdiction and (or) control of their States, are consistent with the provisions of this Agreement.

Article 5

Technology Security Plans

1. Technology security plans shall be jointly elaborated by the participants in joint activities from both Parties with the involvement, if necessary, of legal and (or) natural persons of third states and (or) representatives of international organizations participating in joint activities, in conformity with:

- this Agreement as regards their application in the territory of the States of the Parties and facilities under the jurisdiction and (or) control of their States;

- the agreements or arrangements with third states and (or) international organizations as regards their application in the territory of third states and facilities under the jurisdiction and (or) control of third states and international organizations.

Technology security plan should contain:

- the description of the procedures to be followed in case of a delayed, cancelled or failed launch;
- the procedure for operations with respect to the loading (unloading) of protected items and technologies, requirements for the access of personnel to operation areas;
methods and systems of technical control and registration;
- the time, place and procedure for transferring responsibility during the transportation of cargoes;
- the procedure for the protection and exercise of rights to intellectual property associated with protected items and technologies, as well as the procedure for the development and implementation of plans for the assessment and use of the results of intellectual activities associated with protected items and technologies.

Technology security plan shall be approved by the authorized bodies of both Parties, as well as, if circumstances of the conduct of joint activities and conditions of issuing licenses (permits) for export (import) so require, by the authorized body of a third state or international organizations well in advance of the commencement of export (re-export) of protected items and technologies.

2. The Russian Party and the Ukrainian Party shall, through their authorized bodies, ensure that the Russian representatives and the Ukrainian representatives, respectively, fulfil the obligations set forth in technology security plans.

3. The Parties shall, through their authorized bodies, cooperate in the effective and timely exercise of control and supervision over the implementation of technology security plans.

Article 6

Validity of Licenses (Permits)

1. The exporting Party shall ensure the observance of security and non-proliferation requirements and technology protection measures by means of granting, in accordance with the legislation of its State, licenses (permits) for export and other authorizations with regard to protected items and technologies or joint activities, as well as by means of implementing appropriate measures provided for in this Agreement, and shall inform, through its authorized body(ies), the other Party of the contents of such authorization documents.

The importing Party shall ensure the observance of security and non-proliferation requirements and technology protection measures by means of granting, in accordance with the legislation of its State, licenses (permits) for import, international import certificates, end-user certificates and other authorizations which it shall issue with regard to protected items and technologies, or authorizations with

regard to joint activities, taking appropriate measures provided for in this Agreement, and shall inform, through its authorized body(ies), the other Party of the contents of such guarantee documents.

The Parties agree that the re-exporting Party shall ensure the observance of security and non-proliferation requirements and technology protection measures by means of granting, in accordance with the legislation of its State, licenses (permits) for export and other authorizations with regard to protected items and technologies, as well as by means of implementing appropriate measures in implementing agreements and arrangements in written form with governments of third states, which should provide for conditions of handling protected items and technologies, comparable, to the maximum extent possible, with the conditions and procedures envisaged by this Agreement.

2. The Parties shall make their best efforts to ensure the continuity of documents issued in their States, as they are indicated in paragraph 1 of this Article, on the conditions stipulated by them.

3. Should either Party establish that any provisions of this Agreement, including those associated with technology security plans, may have been violated, or should it possess information which definitely indicates circumstances that entail the possibility of such violation, it may suspend or revoke any license (permit) for export and impose appropriate restrictions on the export (re-export) of protected items and technologies.

4. Should the exporting Party establish that any provisions of an agreement of the re-exporting Party with the government of a third state and (or) an international organization, including those associated with technology security plans, may have been violated, or should it possess information which definitely indicates circumstances that entail the possibility of such violation, or do not adequately reflect the conditions and procedures of handling protected items and technologies provided for in this Agreement, it may suspend or revoke its own license (permit) for export and impose appropriate restrictions on the export (re-export) of protected items and technologies.

5. In case events provided for in paragraphs 3 and 4 of this Article occur, the Parties shall, without delay, hold consultations regarding further interaction and adoption of legal measures commensurate with the situation which has arisen, including the introduction of a moratorium on, or prohibition against, joint activities or their particular types.

6. Nothing in this Agreement shall restrict the authority of the Parties to take actions and (or) adopt decisions with regard to licensing and (or) authorizing joint activities, in accordance with the legislation of the States of the Parties and their policies.

7. Each Party shall, through its authorized body(ies), take all necessary measures to ensure the observance and protection of the rights and interests of the other Party and its participants in joint activities to the extent to which this relates to the implementation of this Agreement in the event of the liquidation (closure) or reorganization (re-registration) of its own participants in joint activities.

8. Each Party or its authorized body(ies) shall, in the event that authorization or guarantee documents provided for in paragraph 1 of this Article and issued in the

State of that Party or by that Party are suspended or revoked, inform, respectively, the other Party or its authorized body(ies) and explain the reasons for such a decision. In case such an event occurs, the importing (re-exporting) Party shall not impede and, if necessary, shall facilitate the expeditious return of protected items and technologies, imported to the territory of its State (a third state), to the territory of the State of the exporting Party or to another location approved by the exporting Party. Similar procedure shall be in effect with respect to the expeditious return by the importing (re-exporting) Party of protected items and technologies to the territory of the State of the exporting Party or to another location approved by the exporting Party in case of termination of a specific type of joint activities due to the completion of programmes and projects of cooperation in connection with which such joint activities were carried out.

Article 7

End-Use Certification

1. The Parties, in implementing this Agreement and agreements and arrangements provided for in paragraph 2 of Article 4 of this Agreement, shall ensure that the end-use of protected items and technologies within the framework of conducting joint activities correspond to applications, submitted by the participants in joint activities as importers and end-users to the Parties or their authorized bodies.

2. The Parties shall require that participants in joint activities which are importers and end-users, draw up and present to the exporting Party, subject to the legislation of the States of the Parties, end-user certificates signed by competent officials of the importing Party and officially authenticated by respective authorized body(ies) of the importing Party, and, in case of re-export of protected items and technologies to a third state, end user certificates signed by competent officials from the government of a third state and officially authenticated by respective competent body(ies) of a third state, which contain the obligation of the participants in joint activities:

(a) to use the protected items and technologies exported from the territory of the State of the exporting Party only for the specified purposes of joint activities;

(b) not to carry out or permit and to prevent modification, copying, reproduction, reverse engineering (dismantling of the construction, reconditioning), modernization (both with the use of items manufactured in the State of the exporting Party and with the use of any other items, units and components), re-export of protected items and technologies or their derivatives, including exportation from the territory of their State to the address of any controlled legal persons, subsidiaries, representative offices, associates or partners, or any other subsequent transfer of such protected items and technologies to third countries or natural and (or) legal persons, without prior agreement in written form of the exporting Party and the issuance of an appropriate license (permit) by the state bodies authorized in accordance with the legislation of its State.

3. The text of the international import certificate shall be formulated considering the requirements of the exporting Party as regards guarantees by the importing (re-exporting) Party that protected items and technologies shall be used only for the

declared purposes and shall not be re-transferred without permission in written form of the exporting Party.

4. The importing (re-exporting) Party shall notify the exporting Party without delay of information received from a participant in joint activities on any alteration of facts or intentions set out in the international import certificate, including alterations regarding the end-use, copying or modification of protected items and technologies, considering that such procedure shall be carried out through the authorized bodies of the Parties, and shall not view such alterations of facts or intentions as legitimate in the absence of confirmation in written form by the exporting Party. By means of agreements and arrangements provided for in paragraph 2 of Article 4 of this Agreement the Parties shall ensure the observance of this norm in their relations with the government of a third state.

5. The international import certificate, after its approval by the state body authorized in accordance with the legislation of the State of the importing Party, shall be sent to the participant in joint activities in its capacity of importer for its subsequent presentation to the authorized body(ies) of the exporting Party.

Article 8

Functions of Control and Escort

1. To ensure the permanent observance of the conditions of fulfilment of licenses (permits) for export or other authorizations with regard to protected items and technologies issued in their States, the Parties shall provide (subject to the observation of confidentiality in case of a relevant request) the opportunity to conduct inspections of the manner of handling protected items and technologies. The guidelines and detailed procedures for the efficient conduct of such inspections shall be agreed upon by the authorized bodies of both Parties upon the submission of the consignees.

2. Russian representatives and Ukrainian representatives shall be entitled to carry out an unarmed escort on a permanent basis of protected items and technologies with regard to which licenses (permits) for export and (or) other authorizations are issued in the Russian Federation and in Ukraine, respectively, when they are located in the territory of the State of the importing Party, and shall exercise their authority to control and monitor, inspect and regulate the handling of such protected items and technologies in accordance with this Agreement. Within the framework of agreements and arrangements with the governments of third states the Parties shall, in case of re-export of protected items and technologies to third states, provide for the exercise by the Parties of authority indicated above and shall commission the participants in joint activities to provide for such a right of Russian representatives and Ukrainian representatives.

3. The Parties shall, through their authorized bodies, take measures to ensure that only those participants in joint activities whose right to apply procedures related to the treatment of protected items and technologies has been confirmed in accordance with the procedure in force in the State of the exporting Party, shall, on a 24-hour basis, control access to exported protected items and technologies throughout their transportation, storage, the performance with their use of any technological works, including in relevant cases the return of protected items and technologies to the territory of the State of the exporting Party or to another location approved by the

exporting Party, in accordance with the terms and conditions of licenses (permits) for export and (or) other authorizations with regard to protected items and technologies issued in the State of that Party.

4. The importing Party shall appropriately assist the entry into and stay in the territory of its State of representatives of the exporting Party for the purposes of joint activities and the timely exercise by them of their rights and functions under this Agreement.

Article 9

Access Guidelines

1. Works with protected items and technologies shall be carried out in conditions ensuring their necessary protection. By mutual arrangement between the participants in joint activities, protected zones shall be established, the access to which shall be restricted and (or) controlled by the representatives of the exporting Party.

2. The Parties shall, acting through their authorized bodies, assign the participants in joint activities a mission to elaborate, apply and maintain the procedures and system of providing managed access to facilities, premises and to transportation vehicles or separate protected zones that are specially set aside for works exclusively with protected items and technologies, with such managed access being provided at the request of representatives of the importing Party and exercised with the permission and in the presence of representatives of the exporting Party.

3. The Parties shall proceed from the understanding that the basic requirements applied to the organization of access to facilities, premises, transportation vehicles or separate protected zones indicated in paragraph 2 of this Article shall include:

(a) identification of all entering (exiting) individuals who must have with them duly registered passes and identification badges;

(b) control of the implementation of rules regarding access to protected items and technologies and stay of individuals in protected zones with the purpose of ensuring confidence in the absence of technical function flaws and outside interference regarding protected items and technologies;

(c) evaluation, conducted on a regular basis or as needed of the functioning of the whole system of protection, procedures and timeliness of the adoption of necessary preventive or remedial measures.

4. The exporting Party shall ensure, including through its authorized body(ies), that the representatives of the exporting Party abide by licenses (permits) for export and other authorizations with regard to protected items and technologies when performing joint activities. The importing Party shall ensure, including through its authorized body(ies), that the representatives of the importing Party abide by licenses (permits) for import, international import certificates, end-user certificates and other authorizations with regard to protected items and technologies when performing joint activities.

5. The Parties, through their authorized bodies, shall give timely notices to each other of any operations that may render exercising the right of the exporting Party to control access to protected items and technologies and to escort them impossible, so

that suitable arrangements on measures to ensure security of protected items and technologies can be reached.

Article 10

Preventive Marking

The Parties shall require of participants in joint activities that all protected items and technologies be marked and accompanied by notifications or be identified in another special manner. Such markings or notifications shall indicate the specific conditions for the use of protected items and technologies within the framework of joint activities and shall contain a warning about the prohibition of any unauthorized actions with respect to protected items and technologies in accordance with this Agreement.

Article 11

Export and Transportation

1. The representatives of the exporting Party shall inform the authorized body(ies) of that Party in a timely manner of the status of applications filed and registered by the representatives of the importing (re-exporting) Party to obtain all necessary permits for the import of protected items and technologies to the territory and their movement on the territory of its State. The exporting Party shall make the export of protected items and technologies conditional on a prior receipt of the above permits and the enforcement of relevant technology security plans.

2. For any transportation of protected items and technologies from the territory of the State of the exporting Party to the territory of the State of the importing Party and from the territory of the State of the importing Party to the territory of the State of the exporting Party or to a third state, as well as to another location approved by the exporting Party, licenses (permits) for export and (or) other authorizations should be obtained in advance from the Parties and (or) their authorized bodies with regard to protected items and technologies in accordance with the procedure established by the legislation of the States of the Parties in the field of export control.

3. Transportation of protected items and technologies shall be carried out subject to the observance of measures for their protection set forth in technology security plans. Consent of the Parties to a transportation operation within the territory of their States shall include all necessary special limitations and conditions related to specific circumstances of the transportation and plans of action developed for emergency situations, compatible with this Agreement.

Article 12

Customs Processing of Protected Items and Technologies

1. Customs control and customs processing of goods related to protected items and technologies shall be carried out in accordance with the legislation of the States of the Parties and this Agreement. Consignees of the exporting Party shall provide the customs authorities of the State of the importing Party with inventories of goods delivered and cargo manifests, as well as statements in written form by the relevant authorized body of the exporting Party that the sealed containers and other packages

do not contain any cargo not related to protected items and technologies and not declared as such.

2. The customs authorities of the State of the importing Party shall have the right to carry out customs inspection of goods related to protected items and technologies. The Parties agree that under usual (normal) circumstances, such an inspection should be refrained from, conditional on the availability of appropriate request from the authorized body(ies) of the importing Party directed to the customs authorities of the State of the importing Party. In case there is sufficient evidence indicating a possible infringement of customs rules in connection with the import (export) of protected items and technologies, the importing Party shall carry out customs inspection, on the understanding that all cases and terms and conditions of the use of inspection procedure shall be subject to urgent consultations and practical arrangements between the authorized bodies of the Parties, which shall be conducted and reached prior to the commencement of the inspection.

3. Customs inspection of protected items and technologies shall be carried out in consideration of a comprehensive risk assessment from the standpoint of employing the least intrusive means and preventing physical intrusion by prescribed officials of the importing Party in the treatment of protected items and technologies, on the one hand, and ensuring that the participants in joint activities, while importing protected items and technologies to and exporting them from the territory of the State of the importing Party, observe the legislation of the State of the importing Party and act in accordance with the purpose of this Agreement, on the other hand.

4. Should there be an intention to carry out a customs inspection of goods related to protected items and technologies, the reason for the inspection shall be promptly communicated in written form to the representatives of the exporting Party, who escort protected items and technologies, through the representatives of the importing Party prior to the commencement of the inspection.

5. Customs inspection of goods related to protected items and technologies shall be carried out:

- (a) in the presence of the representatives of the exporting Party;
- (b) in specially equipped premises, which shall adequately ensure the security of protected items and technologies and which the representatives of the exporting Party shall have the right to examine prior to and during the inspection;
- (c) by means of visual examination employing methods causing no damage to protected items and technologies;
- (d) having regard to the need to preserve the integrity of the technological packaging and the physical condition of protected items and technologies, and without opening any of the technological modules and capacities specified in the technical documentation;
- (e) without any photographing or videotaping of protected items and technologies and without using other means which could be used to disclose technical and technological characteristics of protected items and technologies;
- (f) in such a way that the opening of transport containers shall be performed by the representatives of the exporting Party.

6. The Parties acknowledge that, in case any damage is caused to protected items and technologies by the importing Party as a result of the customs inspection carried out in violation of paragraph 5 of this Article, due to wilful misconduct or gross negligence, the importing Party shall take measures to speedily remedy the situation that has occurred and shall compensate the production, transportation and insurance costs resulting from such damage, unless otherwise provided for by participants in joint activities in contractual documents, on the understanding that the relevant payment procedure shall be determined in accordance with the legislation of the State of the importing Party.

7. When crossing the customs border of the State of the importing Party, technical data required for the performance of joint activities, falling under the definition of protected items and technologies and intended for use by the representatives of the exporting Party, including data carried in hand luggage and accompanied baggage, shall not be subject to disclosure and copying during customs inspection.

8. Customs inspection of goods related to protected items and technologies shall be carried out as a matter of priority and within the shortest time possible.

Article 13

Legal and Physical Protection of Property

1. Specific agreements, arrangements and contracts between the participants in joint activities should provide for an adequate protection of property used in joint activities without prejudice to proprietary rights with regard to such property.

2. The importing Party shall, in accordance with the legislation of its State, ensure and, as necessary, assist in ensuring the adequate protection of all property belonging to the other Party, its authorized body(ies) and participants in joint activities and directly used in joint activities when such property is in the territory of the State of the importing Party and (or) at facilities under the jurisdiction and (or) control of this State. The Parties shall take measures to provide each other, through the authorized bodies, with information for the purposes of elucidating possible legal and administrative constraints that may affect secure location of protected items and technologies delivered by participants in joint activities of a Party to the territory of the State of the other Party, including for subsequent re-export on legal grounds to a third state.

3. Each Party shall regard protected items and technologies, imported to the territory of its State from the territory of the State of the other Party with respect to which licenses (permits) for export and (or) other authorizations issued in the State of this other Party are in effect, as an agreed category of goods which, in the territory of the State of the importing Party and (or) at facilities under the jurisdiction and (or) control of this State, including when they are used by a participant in joint activities and are under its management, shall be immune from any seizures or executive action, as well as any other compulsory measures, such as the levying of execution against the indicated category of goods or their arrest prior to the decision of a court. Jurisdictional immunity shall be effective, except for cases when the exporting Party, by way of applying the provisions of this Article, waives such immunity in a specific case, in particular, when necessary to impound protected items and technologies upon request of the exporting Party from a

participant in joint activities of the importing Party in case of non-observance of the terms and conditions of a license (permit) for export and (or) other authorizations with regard to protected items and technologies issued in the State of the exporting Party, and to place protected items and technologies in responsible storage corresponding to the principles and norms of this Agreement. Protected items and technologies shall not be used as mortgage or other security during the examination and investigation of an activity by a participant in joint activities from either Party in connection with any established or presumed infringements during the implementation of such activities. No compulsory measures, such as the levying of execution, arrest, requisition or confiscation, may thus be taken in relation to protected items and technologies by virtue of a decision by the bodies of state power of the State of the importing Party or in connection with proceedings in a court of that State.

4. The importing Party shall take all necessary legal measures within the procedures of issuing licenses (permits) with regard to protected items and technologies in force in its State, so that protected items and technologies used and managed by its participants in joint activities with the permission of the exporting Party and on the basis of agreements with consignees of the exporting Party be guaranteed against selling, leasing (subleasing), mortgaging, alienating or transferring for fiduciary management to other legal or natural persons in violation of conditions under which they have been exported. In case of disputes regarding contractual obligations between participants in joint activities from both Parties, protected items and technologies may not serve as security for any obligations or be otherwise encumbered.

5. Should legal events and (or) facts occur that served or could serve as a ground for a claim or lawsuit affecting protected items and technologies, the Parties shall, through their authorized bodies and, as necessary, through diplomatic channels, hold consultations without delay to take all necessary legal and practical measures to defend against such claims or lawsuits.

6. The provisions of this Article shall not affect the implementation of appropriate administrative functions in relation to protected items and technologies in connection with their movement and use within the territory of the State of the importing Party, in accordance with procedures compatible with this Agreement.

7. While ensuring observance of the principle of jurisdictional immunity in accordance with this Article, the Parties shall adhere to the agreed procedures and practice of application of executive orders which may entail, in particular, administrative moratoria on the movement or use of protected items and technologies should a motivated order be issued in relation to:

(a) suspension of customs processing and clearance of particular protected items and technologies when there are an event and formal elements of a customs infraction;

(b) imposition of limitations on the movement and use of protected items and technologies within the territory of the State of the importing Party when their secure handling in conformity with this Agreement might be prejudiced, as well as in case of a threat to security, public order, human life and health and (or) the natural environment;

(c) imposition of limitations on the use of protected items and technologies in the context of adopting specific decisions on the deployment and use of any resources and services provided within the framework of joint activities;

(d) conduct of investigative or procedural actions in connection with unlawful actions involving protected items and technologies;

(e) application of similar conditions, limitations or moratoria.

8. In case of theft or any other unlawful seizure of protected items and technologies, or a real threat of such actions, the importing Party shall ensure maximum cooperation, rendering assistance for their protection and return, and shall take measures to restore, without delay and in full measure, effective control over protected items and technologies by the representatives of the exporting Party.

Under the legislation of the State of the importing Party, during the conduct of law enforcement actions with the purpose of identifying and collecting evidence ascertaining the fact of an offence with respect to protected items and technologies, bringing forward charges against a person suspected of perpetrating a criminal offence, as well as establishing damage caused by actions of that person, law enforcement authorities of the State of the importing Party shall ensure placement, on an interim basis, of protected items and technologies in a restricted access zone (location) while ensuring the permanent escort and control with respect to protected items and technologies by the representatives of the exporting Party being ensured. Such secure treatment of protected items and technologies shall not be in any substantive way restrictive with regard to the authority of the representatives of the exporting Party to effectuate the necessary safeguarding measures of on-going control, monitoring, inspection and regulation of the handling of protected items and technologies during the time they are placed and held in secure storage.

9. The Parties shall, under the agreements and arrangements provided for in paragraph 2 of Article 4 of this Agreement, take all necessary measures to apply the principles and norms set forth in this Article with regard to protected items and technologies re-exported to third states and protected items and technologies exported by third states (imported from third states) and re-exported to the States of the Parties.

Article 14

Emergency During Transportation, Storage or Launch

1. In case of emergency within the jurisdiction of the State of either Party during the transportation, storage or launch into outer space of protected items and technologies, the Parties shall make all necessary efforts to cooperate in determining appropriate joint measures and agreed technical methods to perform emergency or search-and-rescue operations for the purposes of the search for and collection of any and all components and (or) debris (fragments) of protected items and technologies, as well as in reaching all necessary arrangements of a practical nature on the procedures and conditions for performing such operations.

2. The Parties shall ensure that cooperation to facilitate the search for, identification and collection of any and all components and (or) debris (fragments) of protected items and technologies from all accident sites be performed with direct participation of the representatives of the exporting Party.

3. The importing Party shall permit to perform the evacuation of components and (or) debris (fragments) of protected items and technologies identified by the representatives of the exporting Party, under permanent control of and escort by these representatives. Evacuation shall be carried out without any examination and (or) without any photographing or videotaping, and without the use of other means which may be employed to reveal the technical and technological characteristics and parameters of protected items and technologies.

4. The Parties agree that a timely and effective performance of emergency or search-and-rescue operations for the purposes of searching for and discovering any and all components and (or) debris (fragments) of protected items and technologies shall be ensured by measures which include:

(a) the employment of methods, types of activities, equipment and procedures for the conduct of emergency or search-and-rescue operations, agreed on a mutual basis by Russian representatives and Ukrainian representatives;

(b) the maintenance between Russian representatives and Ukrainian representatives of permanent liaison and cooperative relations when resolving all issues related to the planning and conduct of emergency or search-and-rescue operations;

(c) the provision of conditions for permanent monitoring on a mutual basis by the Russian representatives and the Ukrainian representatives of the procedure for conducting emergency or search-and-rescue operations.

5. Considering the provisions of paragraph 4 of this Article, during the conduct of emergency or search-and-rescue operations to search for, discover and collect any and all components and (or) debris (fragments) of protected items and technologies, the Parties shall make maximum efforts to observe the following conditions:

(a) representatives of the importing Party, during the conduct of emergency or search-and-rescue operations, shall not photograph or videotape any components and (or) debris (fragments) of protected items and technologies of the exporting Party and shall not employ other means, which may be used to reveal technical and technological characteristics and parameters of protected items and technologies;

(b) all information related to protected items and technologies shall be ab initio (prior to the adoption of a final joint decision with respect to its category) considered as confidential in its nature;

(c) representatives of the exporting Party shall conduct identification of specific components and (or) debris (fragments) of protected items and technologies, and shall inform representatives of the importing Party of the results thereof, which shall serve as the basis on which such components and (or) debris (fragments) shall be categorized as protected items and technologies;

(d) representatives of the exporting Party, upon consultation with representatives of the importing Party, shall perform initial treatment, accounting and systematization of the discovered and identified components and (or) debris (fragments) of protected items and technologies and archive the collected information related to the said components and (or) debris (fragments).

6. In case there are grounds to believe that the search for, and collection of, components and (or) debris (fragments) of protected items and technologies shall

affect the interests of any other state, the Parties shall jointly and expeditiously consult with the government of that state on issues of coordination of procedures for conducting emergency or search-and-rescue operations, without prejudice to the rights and obligations of all interested states in accordance with international law, including those arising out of the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space of 22 April 1968.

7. The Russian Party and the Ukrainian Party shall authorize Russian consignees and Ukrainian consignees, respectively, to provide, in accordance with the legislation of their respective States, information necessary to determine the causes of an accident or launch failure.

Article 15

Cooperation in Carrying out Measures Prescribed by Law

1. To carry out in the territory of the State of the importing Party measures prescribed by law at facilities, in premises and on transportation vehicles or in their separate zones where protected items and technologies are located, the Parties, with a view to ensuring the security of protected items and technologies, shall, through their authorized bodies, apply on an agreed basis procedures for a managed access to the site where such measures are carried out, taking into consideration the duties of all persons involved in them. Such access to the site where measures are carried out shall be provided subject to the following conditions:

(a) the measures prescribed by law shall be performed exclusively by prescribed officials, subject to the requirements of this Article;

(b) prescribed officials shall exercise the right to visit the places where measures prescribed by law shall be carried out in the presence of representatives of the exporting Party;

(c) the importing Party shall ensure that in planning their activities the prescribed officials:

- take into account as priority factors all aspects relating to ensuring the security of protected items and technologies and act with consideration for constraints and requirements set by representatives of the exporting Party with regard to access to protected items and technologies;
- carry out the measures prescribed by law in such a manner that they do not intervene into the regulation of the handling of protected items and technologies nor endanger the ability of representatives of the exporting Party to effectively perform their functions with regard to protected items and technologies;
- reduce to the minimum and, where possible, preclude interference with or inconveniences for the current and planned operations with protected items and technologies performed by representatives of the exporting Party in the framework of joint activities;
- employ, for the purposes of carrying out measures prescribed by law, methods, technical means and procedures, agreed upon by representatives of the exporting Party considering the compatibility of

such methods, technical means and procedures with the purpose of this Agreement.

2. The exporting Party shall ensure that its representatives assist in the expeditious performance of the measures prescribed by law and the achievement of their objectives.

3. Considering the provisions of paragraphs 1 and 2 of this Article, any visit to the place where measures prescribed by law are carried out shall be preceded by:

(a) official submission of a request to visit the location where measures prescribed by law are conducted;

(b) achievement of all necessary arrangements with the representatives of the exporting Party regarding the procedure for carrying out measures prescribed by law (including photographing and videotaping), which take particular account of specific issues of security of protected items and technologies;

(c) adoption by representatives of the exporting Party of necessary practical measures aimed at ensuring security of protected items and technologies for the duration of measures prescribed by law.

Article 16

Protection of Information

1. The participants in joint activities of both Parties shall determine the lists of technical data related to protected items and technologies which they intend to exchange. Such lists shall be subject to approval by the authorized body(ies) of the transmitting Party subject to the legislation of its State.

2. Nothing in this Agreement shall be considered as an obligation of either Party to provide information under this Agreement, if the disclosure of such information contravenes the security interests of its State.

3. The Parties shall not exchange secret information within joint activities. If the provision of specific information classified in the State of either Party as secret information is accepted by the Parties as necessary for the purposes of joint activities, the procedure for the transmission and protection of such information, as well as treatment thereof, shall be regulated in accordance with the legislation of the States of the Parties and the Agreement between the Government of the Russian Federation and the Cabinet of Ministers of Ukraine on Mutual Protection of Secret Information of 2 December 2000.

4. The treatment of confidential information shall be carried out in accordance with the legislation of the States of the Parties. Such information shall not be disclosed or transmitted to any third parties (third persons) with respect to this Agreement without consent in written form of a Party, its authorized body(ies) and participants in joint activities which provide the information.

5. The Parties shall, through their authorized bodies, take all necessary measures for the protection of all correspondence that contains confidential information which is transmitted as part of the implementation of this Agreement.

6. Each Party shall, through its authorized body(ies), reduce to a minimum the number of persons who have access to confidential information that is transmitted

by the other Party for the purposes of implementing this Agreement, limiting the circle of such informed persons to the staff members and specialists who are in the service of the State and are citizens of its State and who need access to such information for the performance of their official duties in accordance with this Agreement. The receiving Party may re-transmit the said information to any third parties (third persons) only upon the consent in written form of the transmitting Party, obtained through its authorized body(ies). On this understanding, the authorized bodies of the Parties shall not be considered as third parties (third persons).

Each Party shall oblige its participants in joint activities to reduce to a minimum the number of persons who have access to confidential information that is transmitted between the participants in joint activities in the course of the implementation of this Agreement, limiting the circle of such informed persons to the staff members and specialists who are citizens of its State and who need access to such information for the performance of their official duties in the implementation of this Agreement. Without prejudice to the provisions of paragraph 4 of this Article, should the receiving participants in joint activities wish to re-transmit the said information to any other persons, apart from those indicated above, they may do so only upon the consent in written form of the transmitting participants in joint activities.

7. The Parties shall oblige the participants in joint activities to maintain a regime for the provision of an effective protection from disclosure of any confidential information associated with protected items and technologies which may become known to them in the course of conducting joint activities.

Article 17

Settlement of Disputes

1. In cases of disputes between the Parties related to the interpretation and (or) implementation of this Agreement, the Parties shall first hold consultations or negotiations through their authorized bodies acting on their direct instructions, or, if necessary, through diplomatic channels to achieve an amicable settlement.

2. Disputes between the authorized bodies of both Parties over issues directly associated with the interpretation and (or) implementation of this Agreement shall be submitted for joint consideration to senior officials of the authorized bodies who shall make every effort to settle disputes by mutual agreement. Upon the concerted request on the part of the authorized bodies, such disputes may be addressed under the procedure provided for in paragraph 1 of this Article. Upon the concerted decision of senior officials indicated above, disputes may be submitted for settlement through conciliation for the purpose of achieving agreement or drafting findings or recommendations on all matters of fact and law pertaining to the disputed issue. Such disputes may also be addressed through any other mutually agreed procedure.

3. Should consideration of a dispute according to the procedure provided for in paragraphs 1 and 2 of this Article require the use of information and (or) technical data which have (has) restrictions on their (its) handling, the Parties and (or) the authorized bodies shall provide for a special closed examination of the dispute.

4. In the absence of a mutual agreement on other methods of settlement, disputes that have not been settled under the procedures provided for in paragraphs 1 and 2 of this Article within six months after a Party submits to the other Party a request in written form for such settlement, may, by mutual consent of the Parties, be submitted to the Arbitration Tribunal to be established in accordance with the provisions of paragraphs 6 — 9 of this Article. The Parties shall duly take into consideration as factors of prime importance possible restrictions on the application of the procedure of disputes settlement through arbitration examination, which are due to specific features of the matter in dispute and have a direct bearing on ensuring the fulfilment of the purpose of this Agreement.

5. Considering paragraphs 3 and 5 of Article 4 of this Agreement, the Parties shall instruct the authorized bodies to ensure that the terms and conditions of agreements (contracts) between the participants in joint activities do not run counter to the provisions of this Agreement as regards the procedures for settling disputes, on the understanding that ways and means of amicable settlement shall have priority.

6. An Arbitration Tribunal shall be constituted for each particular case, with each Party appointing an arbitrator and these two arbitrators shall select a third arbitrator — a national of a third state who shall be appointed Chairperson of the Arbitration Tribunal. The first two arbitrators shall be appointed within thirty days and the Chairperson — within ninety days after the Parties decide to submit the dispute to the arbitration procedure in accordance with paragraph 4 of this Article.

7. If the arbitrators have not been appointed within the periods of time indicated in paragraph 6 of this Article, either Party may, in the absence of another arrangement, invite the President of the International Court of Justice to make all necessary appointments. If the President is a national of either of the States of the Parties or is unable to discharge the said function for any other reason, the necessary appointments shall be made by the next most senior member of the International Court of Justice who shall not be a national of either of the States of the Parties.

8. The Arbitration Tribunal shall take its decisions by majority vote on the basis of existing agreements between the Parties and generally recognized principles and norms of international law. Its decisions shall be final and shall not be subject to appeal unless the Parties have agreed in advance in written form on the procedure of appeal.

At the request of both Parties, the Arbitration Tribunal may formulate recommendations which, while not having the force of a decision, may provide the Parties with a basis for the consideration of the issue underlying the dispute.

Decisions or advisory opinions of the Arbitration Tribunal shall be limited to the subject-matter of the dispute and shall set forth the grounds on which they are based.

9. Each Party shall bear the costs associated with the activities of its arbitrator and its plenipotentiary representative (legal adviser or lawyer) during arbitration. The costs associated with the activities of the Chairperson of the Arbitration Tribunal shall be borne by the Parties in equal parts. Unless the Parties agree otherwise, all other expenses related to the settlement of the dispute by way of arbitration shall be shared between the Parties in equal parts.

In all other respects, the Arbitration Tribunal shall itself establish its rules of procedure.

Article 18

Final Provisions

1. This Agreement shall enter into force on the date of the receipt of the last notification in written form through diplomatic channels of the completion by the Parties of domestic procedures necessary for its entry into force and shall be of indefinite duration.

2. This Agreement may be amended in written form by an agreement between the Parties. Amendments shall enter into force in accordance with the procedure established in paragraph 1 of this Article.

3. Each Party may terminate this Agreement by appropriately notifying the other Party in written form through diplomatic channels. In such case this Agreement shall be terminated one year after the date of the receipt of such notification by the other Party. During this one-year period the Parties shall hold consultations and shall, if necessary, define practical measures in connection with the termination of this Agreement.

4. Termination of this Agreement shall not affect the implementation in full of activities not completed by the time of its termination, including adequate settlement of all contractual relations in connection with joint activities. The obligations of the Parties and the participants in joint activities set forth in this Agreement concerning security, use and treatment of all protected items and technologies, including information and technical data transmitted on legal grounds, and the return of all protected items and technologies, their components and (or) debris (fragments) in case of failed launch, incident or accident, apart from those that continue to be used or have been utilized in the territory of the State of the importing Party on legal grounds, to the State of the exporting Party or to another location approved by the exporting Party, shall continue to apply in full and in all respects after the termination of this Agreement during the period specified either at the time of the transfer of protected items and technologies or as part of defining practical measures provided for in paragraph 3 of this Article.

Done at Moscow on 11 June 2009 in duplicate, each in the Russian, Ukrainian and English languages, all texts being equally authentic.

**For the
Government
of the Russian
Federation**

**For the Cabinet
of Ministers of
Ukraine**