

**COMMONWEALTH SCIENTIFIC & INDUSTRIAL
RESEARCH ORGANISATION**

AND

**THE CANADIAN SPACE AGENCY
OF THE GOVERNMENT OF CANADA**

AND

**NATURAL RESOURCES CANADA
OF THE GOVERNMENT OF CANADA**

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (hereinafter referred to as "this MOU") is made the day of 2001

BETWEEN:

COMMONWEALTH SCIENTIFIC AND INDUSTRIAL RESEARCH ORGANISATION a body corporate established by the *Commonwealth Science and Industry Research Act 1949* (Cth) of Limestone Avenue, Campbell, Australian Capital Territory, Australia (hereinafter referred to as "CSIRO"),

AND:

THE CANADIAN SPACE AGENCY acting through and represented by the Minister of Industry (hereinafter referred to as "CSA"),

AND:

THE DEPARTMENT OF NATURAL RESOURCES OF CANADA, under the auspices of its Division known as the CANADA CENTRE FOR REMOTE SENSING, acting through and represented by the Minister of Natural Resources (hereinafter referred to as "CCRS"),

Hereinafter referred to jointly as CANADA

(Hereinafter referred to as the "Parties")

WHEREAS

- A. ARIES Information Services Pty Ltd. has been incorporated under the laws of the State of New South Wales with CSIRO as its major shareholder, with the intent, among others, of developing and exploiting spaceborne and airborne Hyperspectral Earth Observation markets;
- B. CSIRO is seeking to establish mutually advantageous strategic relationships with organisations interested in accessing and using Hyperspectral Data for the development of Earth Observation Information Products, and in the development of related technologies; and

- C. The CSA and the CCRS, in pursuance of Canada's strategic aims in Space and Earth Observation, are making a significant investment in Hyperspectral imaging (in the Space Segment, the Ground Segment and the Applications Development Program).

NOW THEREFORE, the Parties have reached the following non-binding understanding:

Article 1 - DEFINITIONS

- 1.1 "Confidential Information" means that Intellectual Property which is identified as being confidential by the disclosing Party, but does not include information which:
- (a) is now, or hereafter, through no act or failure to act on the part of the receiving Party, becomes generally known or available to the public without breach of this MOU;
 - (b) is known to the receiving Party at the time of disclosure of such information or is developed by the receiving Party independently of such disclosure;
 - (c) is hereafter furnished to the receiving Party by a third party without that third party being in breach directly or indirectly of the responsibility to the disclosing Party to keep the information secret; or
 - (d) is disclosed as required by statute or judicial decree.
- 1.2 "Co-operative Program" means the arrangement of projects or activities under this MOU, each such project or activity to be specified and agreed to by the Parties and to be further described in a separate Implementation Arrangement or Arrangements.
- 1.3 "Fields of Collaboration" are fields of common interest to the Parties that are of strategic, tactical or commercial interest to both Parties, and are within the capacity of each Party to carry out any responsibilities it may agree to.
- 1.4 "Intellectual Property" means any Invention, patent or patent application, copyright, registered industrial design, trademark, integrated circuit topography, computer software, data, design, technical or other report, photograph, know-how and show-how, drawing, specification and all related information methodologies, whether in written, digital or oral form.

- 1.5 "Invention" means any new and useful art, process, machine, manufacture or composition of matter, whether patentable or not, or any new and useful improvement thereof.
- 1.6 "Implementation Arrangement" means a written arrangement between the Parties describing a specific project or activity related to the objectives of the strategic relationship as set out in Article 2 below, and describing the formal arrangements for conducting that project or carrying out that activity.
- 1.7 "Work" means all the tasks, deliverables and other responsibilities specified in any Implementation Arrangements.

Article 2 – OBJECTIVE

- 2.1 The objective of this MOU is to establish a managerial framework for co-operative activities between the Parties related specifically to the development and operational phases of the Hyperspectral Imaging Project which will:
- (a) Facilitate the sharing of non-confidential and Confidential Information and the development of proposals for collaborative research, technical consultancies, technology exchange, licence arrangements and data exchange between the Parties; and
 - (b) Set out principles and guidelines to be followed by the Parties in discussing and establishing future collaboration related to hyperspectral remote sensing, space and ground sector technologies.
- 2.2 Collaboration under this MOU is expected to result in the development and deployment of hyperspectral airborne and spaceborne technologies, and includes:
- (a) The sharing of relevant information on a confidential basis with the aim of identifying needs and capabilities of both Parties;
 - (b) the establishment of an ongoing working relationship between the Parties;
 - (c) the establishment of development projects and consultancies of interest to both Parties; and
 - (d) The licensing of technologies between the Parties.

Article 3 - FIELDS OF COLLABORATION and IMPLEMENTATION ARRANGEMENTS

3.1 Fields of Collaboration contemplated by the Parties include:

- (a) Applications Development Program (ADP) - development of applications for the Hyperspectral Project data and products with benefits to Canada and CSIRO;
- (b) Ground Segment facilities and services - which could include the provision of data reception facilities for a Hyperspectral mission establishment of data processing, local archive capabilities and assistance with mission control facilities for the hyperspectral satellite;
- (c) Space Segment equipment and services which are to be defined; but which could include the supply of systems engineering and project management services, as well as specific elements of the satellite and assistance with the mission control facilities;
- (d) Technology development whether arising from the ADP, the Ground Segment or the Space Segment.
- (e) Business Issues - including marketing, marketing strategies and distribution activities;
- (f) Any other field which may be agreed upon between the Parties through an Implementation Arrangement.

3.2 The Parties hereby express their intention to enter into subsequent Implementation Arrangements for work related to the Fields of Collaboration. The terms and nature of the Implementation Arrangements will be determined at an appropriate time between the Parties.

3.3 The Parties confirm their intention to exchange, subject to the terms of any confidentiality arrangement relating to the exchange and to the extent deemed necessary or desirable by the disclosing Party, information on a confidential basis relevant to any Field of Collaboration agreed to between the Parties. Notwithstanding the non-binding nature and any other provision of this MOU, the Parties agree that this MOU is sufficient authority to exchange information relevant to any Field of Collaboration, without the need of any Implementation Arrangement beforehand. Exchanges of information, which are not subjected to specific Confidentiality Arrangements, or not covered by an Implementation Arrangement, shall be governed by the terms of Article 5 of this MOU.

Article 4 – CONTRIBUTIONS and RELATED ACTIVITIES

- 4.1 Except as otherwise provided in any separate arrangement, neither CSIRO, CCRS or CSA nor any of those organisations whose interests are represented in this MOU, are restricted in any way from undertaking dealings with any third party in the Fields of Collaboration or otherwise.
- 4.2 All costs and expenses of the Parties, and any of those organisations whose interests are represented in this MOU, in negotiating and finalising this MOU and implementation arrangements will be borne by the Party incurring the cost or expense, including travel and subsistence of its own personnel and transportation charges for the equipment for which it is responsible, unless the Parties otherwise agree.
- 4.3 The Parties' respective contributions of both financial and in-kind resources (including all costs or estimated costs) will be specified in the subsequent Implementation Arrangements. It is understood that the ability of each Party to undertake any form of co-operation contemplated by this MOU and under any subsequent Implementation Arrangements is subject to the availability of funds and resources, including facilities and personnel.

Article 5 - NON-DISCLOSURE OF CONFIDENTIAL INFORMATION

The Parties agree that:

- 5.1 A Party receiving Confidential Information from the other Party shall not disclose or otherwise make available that Confidential Information to anyone other than its employees, agents, servants, consultants, contractors or subcontractors who are bound by confidentiality provisions no less restrictive than those set forth herein and only as necessary to carry out the activities set out in this MOU.
- 5.2 Each Party shall continue to maintain the confidentiality of the Confidential Information it has received from the other Party for a period of not less than three (3) years after the expiration or termination of this MOU, and shall, upon the expiration or termination of this MOU, if so requested in writing by the Party which disclosed the Confidential Information, return to that disclosing Party or destroy such Confidential Information.
- 5.3 The Parties acknowledge that issues relating to exchanges of confidential information may also be explicitly described within and governed by separate arrangements between CSA, CCRS and each member of the Consortium.

- 5.4 The Parties acknowledge that the undertakings of the CSA and the CCRS under this MOU, and under any subsequent Implementation Arrangement, are subject to the *Access to Information Act* (R.S.C. 1985, c. A-1). The CSA and the CCRS undertake and agree to pursue the protection of all Confidential Information received from CSIRO under section 20 of the *Act* and under other sections as they may apply.

Article 6 - MANAGEMENT

- 6.1 In order to facilitate the strategic relationship contemplated by this MOU, each Party will appoint a Management Co-ordinator. The Management Co-ordinators, subject always to each Party's policy and internal guidelines, will:
- (a) establish suitable arrangements in accordance with the terms of this MOU to co-ordinate the joint activities within each Field of Collaboration;
 - (b) be the point of contact for the purpose of negotiating amendments, if any, to this MOU; and
 - (c) convene periodic reviews (at times to be mutually agreed) of the activities from this MOU and arrange that such reviews will involve appropriate senior management representatives of each member of the Parties.
- 6.2 The Management Co-ordinators are:
CSA- Dr. Allan Hollinger
CCRS- Dr. Karl Staenz
CSIRO-Dr. Jonathan Huntington
- 6.3 Written notice of a change in Management Co-ordinators for either Party shall be provided to the Management Co-ordinator of the other Party. Where possible, such notice shall be given in advance of the change.

Article 7 - PUBLICATIONS

- 7.1 The Parties agree that, wherever appropriate, each shall credit the other in any publication based on or resulting from any Work. With the prior written consent of each Party, which is subject to considerations of competitive commercial advantage and protection of Intellectual Property rights but which shall not be unreasonably withheld, officials of the Parties may publish individual or joint papers about the research performed under any Implementation Arrangement.

Article 8 - INTELLECTUAL PROPERTY

- 8.1 Unless agreed otherwise in the relevant Implementation Arrangement, Intellectual Property which was developed by one or the other Party prior to or outside the Co-operative Program shall remain under the exclusive administration and control of that Party.
- 8.2 Unless agreed otherwise in the relevant Implementation Arrangement, the administration and control of Intellectual Property created by one Party under the Co-operative Program shall remain exclusively with that Party.
- 8.3 Unless agreed otherwise in the relevant Implementation Arrangement, Intellectual Property that is jointly created by the Parties under the Co-operative Program shall be jointly administered and controlled by the Parties. The mechanisms for protecting, publishing and commercially exploiting such jointly created Intellectual Property will be negotiated prior to the commencement of a project and set out in the relevant Implementation Arrangement therefor.

Article 9 – LEGAL OBLIGATIONS

- 9.1 This MOU will not create any legally binding obligations between the Parties.

Article 10 - PUBLICITY

- 10.1 Each Party may release information to the public regarding its own participation in this MOU and, insofar as the activities of the other Party is concerned, notwithstanding the non-binding nature of this MOU, only after consultation with the other Party.

Article 11 - DURATION, TERMINATION AND AMENDMENT

- 11.1 This MOU may be terminated by concurrence of the Parties or by either Party through its Management Co-ordinator upon thirty (30) days notice in writing
- 11.2 This MOU may only be amended by concurrence of the Parties expressed in writing between the Parties but not otherwise.

- 11.3 Notwithstanding the termination or expiration of this MOU, any and all Implementation Arrangements then in effect and not in default shall continue, incorporating such terms of this MOU as may be necessary to give effect to such Implementation Arrangement or Arrangements.
- 11.4 This MOU will commence on the date of signature and will end either one (1) year after being signed by all Parties, or until it is terminated pursuant to Paragraph 11.1 above. It may be extended by mutual written concurrence of all the Parties.

EXECUTED BY THE PARTIES AS A MEMORANDUM OF UNDERSTANDING

Signed for and on behalf of the
COMMONWEALTH SCIENTIFIC AND)
INDUSTRIAL RESEARCH ORGANISATION)

By)
)
Dr. Bruce Hobbs)
Deputy Chief Executive)
)
a duly authorised officer of CSIRO)

and in the presence of:)

Witness)

Signed for and on behalf of the
Minister of Industry of Canada,)
as Minister responsible for the)
Canadian Space Agency)

By)
)
Dr. Virendra Jha)
Director General, Space Technologies)
)
a duly authorised officer of the CSA)

and in the presence of:)

Witness)

Signed for and on behalf of the
Canada Centre for Remote Sensing

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By

for

Dr. E. Shaw
Director General, Canada Centre for Remote Sensing

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A duly authorised officer of the CCRS

)

and in the presence of :

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Witness