

CUSTOMER CONTRACT REQUIREMENTS
Lunar Terrain Vehicle Services (LTVS)
CUSTOMER CONTRACT LTVS-2024-BOEING-003

CUSTOMER CONTRACT REQUIREMENTS

The following customer contract requirements apply to this Contract to the extent indicated below. If this Contract is for the procurement of commercial products and/or commercial services under a Government prime contract, as defined in FAR Part 2.101, Section 3 replaces the requirements of Section 1 below. Please note, the requirements below are developed in accordance with Buyer's prime contract and are not modified by Buyer for each individual Seller or statement of work. Seller will remain at all times responsible for providing to any government agency, Buyer, or Buyer's customer, evidence of compliance with the requirements herein or that such requirements are not applicable to the extent satisfactory to the requesting party.

1. FAR Clauses The following contract clauses are incorporated by reference from the Federal Acquisition Regulation and apply to the extent indicated. In all of the following clauses, "Contractor" and "Offeror" mean Seller.

52.203-6 Restrictions on Subcontractor Sales to the Government Alternate I (NOV 2021). This clause applies if the contract exceeds the simplified acquisition threshold, as defined in Federal Acquisition Regulation 2.101 on the date of contract award.

52.203-6 Restrictions on Subcontractor Sales to the Government (JUN 2020). This clause applies if the contract exceeds the simplified acquisition threshold, as defined in the Federal Acquisition Regulation 2.101 on the date of subcontract award.

52.203-7 Anti-Kickback Procedures (JUN 2020). Buyer may withhold from sums owed Seller the amount of any kickback paid by Seller or its subcontractors at any tier if (a) the Contracting Officer so directs, or (b) the Contracting Officer has offset the amount of such kickback against money owed Buyer under the prime contract. This clause, excluding subparagraph (c)(1), applies if this contract exceeds the threshold specified in FAR 3.502-3(i) on the date of subcontract award.

52.203-8 Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity (MAY 2014). This clause applies to this contract if the Seller, its employees, officers, directors or agents participated personally and substantially in any part of the preparation of a proposal for this contract. The Seller shall indemnify Buyer for any and all losses suffered by the Buyer due to violations of the Act (as set forth in this clause) by Seller or its subcontractors at any tier.

52.203-10 Price or Fee Adjustment for Illegal or Improper Activity (MAY 2014). This clause applies only if this contract exceeds (i) \$100,000 if included in Buyer's customer RFP or customer contract issued before October 1, 2010 or (ii) \$150,000 if included in Buyer's customer RFP issued on or after October 1, 2010, or if the prime contract was issued prior to October 1, 2010 but was amended after October 1, 2010 to increase the Simplified Acquisition Threshold. If the Government reduces Buyer's price or fee for violations of the Act by Seller or its subcontractors at any tier, Buyer may withhold from sums owed Seller the amount of the reduction.

52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (SEP 2007). This clause applies only if this contract exceeds (i) \$100,000 if included in Buyer's customer RFP or customer contract issued before October 1, 2010 or (ii) \$150,000 if included in Buyer's customer RFP issued on or after October 1, 2010, or if the prime contract was issued prior to October 1, 2010 but was amended after October 1, 2010 to increase the Simplified Acquisition Threshold.

52.203-12 Limitation on Payments to Influence Certain Federal Transactions (JUN 2020). This clause applies if this contract exceeds the threshold specified in FAR 3.808 on the date of subcontract award. Paragraph (g)(2) is modified to read as follows: "(g)(2) Seller will promptly submit any disclosure required (with written notice to Boeing) directly to the PCO for the prime contract. Boeing will identify the cognizant Government PCO at Seller's request. Each subcontractor certification will be retained in the subcontract file of the awarding contractor."

52.203-13 Contractor Code of Business Ethics and Conduct (NOV 2021). This clause applies if this contract exceeds the threshold specified in FAR 3.1004 (a) on the date of contract award and has a performance period of more than 120 days.

52.203-14 Display of Hotline Poster(s) (NOV 2021). This clause applies if this contract exceeds the threshold specified in Federal Acquisition Regulation 3.1004 (b)(1) on the date of subcontract award, except if the contract is for the acquisition of a commercial product or commercial service, or is performed entirely outside the United States.

52.203-17 Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights (JUN 2020). This clause applies if this contract exceeds simplified acquisition threshold, as defined in FAR 2.101 on the date of subcontract award.

52.203-19 Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (JAN 2017).

52.204-9 Personal Identity Verification of Contractor Personnel. (JAN 2011). This clause applies only if performance under this contract requires Seller to have routine physical access to a Federally-controlled facility and/or routine access to a Federally-controlled information system.

52.204-13 System for Award Management Maintenance. (OCT 2018).

52.204-21 Basic Safeguarding of Covered Information Systems (NOV 2021). This clause applies to the Contract if Seller may have Federal contract information residing in or transiting through its information system.

52.204-23 Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (NOV 2021). In paragraph (c)(1), the term "Government" means "Government or Buyer" and the term "Contracting Officer" means "Buyer." All reporting required by paragraph (c) shall be reported through Buyer. Seller shall report the information in paragraph (c)(2) to Buyer.

52.204-25 Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment (NOV 2021).

Paragraph (b)(2) is deleted. Paragraph (d)(1) is deleted and replaced with the following: "In the event Seller identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or Seller is notified of such by a subcontractor at any tier or any other source, Seller shall report the information in paragraph (d)(2) of this clause via email to Buyer's Authorized Procurement Representative, with the required information in the body of the email."

52.209-6 Protecting the Government's Interests When Subcontracting With Contractors Debarred, Suspended or Proposed for Debarment (NOV 2021). This clause applies if the contract exceeds the threshold specified in FAR 9.405-2(b) on the date of subcontract award. Seller agrees it is not debarred, suspended, or proposed for debarment by the Federal Government. Seller shall disclose to Buyer, in writing, whether as of the time of award of this contract, Seller or its principals is or is not debarred, suspended, or proposed for debarment by the Federal Government. This clause does not apply if the contract is for commercially available off-the-shelf items.

52.215-2 Audit and Records - Negotiation (JUN 2020). This clause applies if this contract exceeds the simplified acquisition threshold, as defined in FAR 2.101 on the date of subcontract award and (i) is cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable type or any combination of these types; (ii) for which cost or pricing data is required, or (iii) that require Seller to furnish reports as discussed in paragraph (e) of this clause. Notwithstanding the above, Buyer's rights to audit Seller are governed by the Financial Records and Audit article of the General Provisions incorporated in the Contract.

52.215-21 Requirement for Certified Cost or Pricing Data or Information Other Than Certified Cost and Pricing Data - Modifications (NOV 2021). This clause applies if this contract exceeds the threshold set forth in FAR 15.403-4 (a)(1) on the date of the agreement on price or the date of the award, whichever is later. The term "Contracting Officer" shall mean Buyer. Insert the following in lieu of paragraph (a)(2): "Buyer's audit rights to determine price reasonableness shall also apply to verify any request for an exception under this clause. For items priced using catalog or market prices, or law or regulation, access does not extend to cost or profit information or other data relevant solely to the Contractor's determination of the prices to be offered in the catalog or marketplace."

52.219-8 Utilization of Small Business Concerns (OCT 2022).

52.219-9 Small-Business Subcontracting Plan (OCT 2022). This clause applies if this contract exceeds the applicable threshold specified in FAR 19.702(a) on the date of subcontract award and Seller is not a small business concern. Seller shall adopt a subcontracting plan that complies with the requirements of this clause. In addition, Seller shall submit to Buyer Form X31162, Small Business Subcontracting Plan Certificate of Compliance. In accordance with paragraph (d)(10)(v), Seller agrees that it will submit the ISR and/or SSR using eSRS, and, in accordance with paragraph (d)(10)(vii), Seller agrees to provide the prime contract number, its own unique entity identifier, and the email address of Seller's official responsible for acknowledging or rejecting the ISRs, to its subcontractors with subcontracting plans. In accordance with paragraph (d)(10)(vi), the following information is provided: (1) the prime contract number is _80JSC024DA020_, (2) Buyer's unique entity identifier is _VH1ZJJ9CW9B4_, and the email address of Buyer's official responsible for acknowledging receipt of or rejecting ISRs is (contact Buyer's Authorized Procurement Representative.)

52.219-28 Post-Award Small Business Program Representation (MAR 2023). In paragraphs (b) and (c), delete "...or, if applicable paragraph (h) of this clause..." Delete paragraph (c) and insert the following paragraph (d) in lieu thereof: "Seller shall represent its size status in accordance with SBA's size code standards in effect at the time of this representation to Buyer. The size status shall correspond to the North American Industry Classification System (NAICS) code applicable to Seller's contract." Delete paragraphs (e) and (h). Delete paragraph (f) and insert the following paragraph (f) in lieu thereof: "Seller shall make the representation required by paragraphs (b) and (c) of this clause by submitting an updated Buyer Form F70102 or updating Seller's profile information on line in Buyer's SPVR system."

52.222-21 Prohibition of Segregated Facilities (APR 2015).**52.222-26 Equal Opportunity** (SEP 2016).

52.222-35 Equal Opportunity for Veterans. (JUN 2020). This clause applies if this contract is valued at or above the threshold specified in FAR 22.1303(a) on the date of subcontract award, unless exempted by rules, regulations or orders of the Secretary of Labor.

52.222-36 Equal Opportunity for Workers with Disabilities (JUN 2020). This clause applies if this contract is in excess of the threshold specified in Federal Acquisition Regulation (FAR) 22.1408(a) on the date of contract award, unless exempted by rules, regulations, or orders of the Secretary.

52.222-37 Employment Reports on Veterans (JUN 2020). This clause applies if this contract is valued at or above the threshold specified in FAR 22.1303(a) on the date of subcontract award, unless exempted by rules, regulations, or orders of the Secretary of Labor.

52.222-40 Notification of Employee Rights Under the National Labor Relations Act. (DEC 2010).

52.222-50 Combating Trafficking in Persons (NOV 2021). The term "Contractor" shall mean "Seller", except in the paragraph (a) definition of Agent, and except when the term "prime contractor" appears, which shall remain unchanged. The term "Contracting Officer" shall mean "Contracting Officer, Buyer's Authorized Procurement Representative" in paragraph (d)(1). Paragraph (d)(2) shall read as follows: "If the allegation may be associated with more than one contract, the Seller shall inform the Buyer's Authorized Procurement Representative for each affected contract." The term "the Government" shall mean "the Government and Buyer" in paragraph (e). The term "termination" shall mean "Cancellation" and "Cancellation for Default", respectively, in paragraph (e)(6). The term "Contracting Officer" shall mean "Contracting Officer and Buyer" in paragraph (f), except in paragraph (f)(2), where it shall mean "Contracting Officer or Buyer". Paragraph (h)(2)(ii) shall read as follows: "To the nature and scope of the activities involved in the performance of a Government subcontract, including the number of non-United States citizens expected to be employed and the risk that the contract or subcontract will involve services or supplies susceptible to trafficking in persons." The term "Contracting Officer" shall mean "Contracting Officer or Buyer" in paragraph (h)(4)(ii). The term "Contracting Officer" shall mean "Buyer" in paragraph (h)(5).

52.222-54 Employment Eligibility Verification (MAY 2022). This clause applies to all subcontracts that (1) are for (i) services (except for commercial services that are part of the purchase of a COTS item, or an item that would be a COTS item, but for minor modifications performed by the COTS provider and are normally provided for that COTS item), or (ii) construction; (2) has a value of more than \$3,500; and (3) includes work performed in the United States.

52.223-18 Encouraging Contractor Policies To Ban Text Messaging While Driving (JUN 2020). This clause applies if the contract exceeds the micro-purchase threshold, as defined in Federal Acquisition Regulation 2.101 on the date of subcontract award.

52.224-3 Privacy Training (JAN 2017). The term "Contracting Officer" shall mean "Contracting Officer or Buyer".

52.225-13 Restriction on Certain Foreign Purchases (FEB 2021).

52.227-1 Authorization and Consent (JUN 2020). This clause applies if the contract is expected to exceed the simplified acquisition threshold, as defined in Federal Acquisition Regulation (FAR) 2.101 on the date of subcontract award.

52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement (JUN 2020). This clause applies if the contract is expected to exceed the simplified acquisition threshold, as defined in Federal Acquisition Regulation (FAR) 2.101 on the date of subcontract award. A copy of each notice sent to the Government shall be sent to Buyer.

52.227-10 Filing of Patent Applications - Classified Subject Matter (DEC 2007).

52.227-11 Patent Rights -- Ownership by the Contractor (MAY 2014). This clause applies only if this contract is for experimental, developmental, or research work and Seller is a small business firm or nonprofit organization. In this clause, "Contractor" means Contractor, references to the Government are not changed and the subcontractor has all rights and obligations of the Contractor in the clause.

52.227-14 Rights in Data--General (MAY 2014). This clause applies only if data, as defined in paragraph (a) of the clause, will be produced, furnished, or acquired under this contract.

52.227-14 Rights in Data--General Alternate I (DEC 2007). This clause applies only if data, as defined in paragraph (a) of the clause, will be produced, furnished, or acquired under this contract.

52.227-16 Additional Data Requirements (JUN 1987). This clause applies only if this contract involves experimental, developmental, research, or demonstration work.

52.227-17 Rights in Data-Special Works (DEC 2007).

52.232-39 Unenforceability of Unauthorized Obligations (JUN 2013).

52.237-2 Protection of Government Buildings, Equipment, and Vegetation (APR 1984). This clause applies only if work will be performed on a Government installation. "Contracting Officer" shall mean Buyer.

52.244-6 Subcontracts for Commercial Products and Commercial Services (MAR 2023). The clauses in paragraph (c) (1) apply when Seller is providing commercial products or commercial services under the Contract.

52.246-11 Higher-Level Contract Quality Requirement (DEC 2014). For the applicable higher-level quality standards, refer to the quality requirements defined at the contract line item level.

52.246-26 Reporting Nonconforming Items (NOV 2021). In paragraph (b)(3), instructions from the Contracting Officer will be provided through Buyer.

52.247-63 Preference for U.S.-Flag Air Carriers (JUN 2003). This clause only applies if this contract involves international air transportation.

52.248-1 Value Engineering (JUN 2020). This clause applies only if this contract is valued at or above the simplified acquisition threshold, as defined in FAR 2.101 on the date of subcontract award. The term "Contractor" means Seller. The term "Contracting Officer" means Buyer. The term "contracting office" means US Government contracting office. The term "Government" means Buyer except in subparagraph (c)(5). The term "Government" does not mean Buyer as it is used in the phrase "Government costs". Paragraph (d) shall read as follows: The Seller shall submit VECP's to the Buyer. Subparagraph (e)(1) shall read as follows: The Buyer will notify the Seller of the status of the VECP after receipt. The Buyer will process VECP's expeditiously; however, it will not be liable for any delay in acting upon a VECP. Paragraph (m) shall read as follows: (m) Data. The Seller may restrict

the Government's right to use any part of a VECP or the supporting data by marking the following legend on the affected parts: These data, furnished under the Value Engineering clause of contract, shall not be disclosed outside the Buyer and Government or duplicated, used, or disclosed, in whole or in part, for any purpose other than to evaluate a value engineering change proposal submitted under the clause. This restriction does not limit the Buyer's and Government's right to use information contained in these data if it has been obtained or is otherwise available from the Seller or from another source without limitations. If a VECP is accepted, the Seller hereby grants the Government unlimited rights in the VECP and supporting data, except that, with respect to data qualifying and submitted as limited rights or Government purpose rights technical data, the Government shall have the rights specified in the contract modification implementing the VECP and Seller shall appropriately mark the data. (The terms "unlimited rights" a "limited rights" and "Government purpose rights" are defined in Part 27 of the Federal Acquisition Regulation ("FAR") or Part 227 of the Defense FAR Supplement, as applicable.) Seller's share of the net acquisition savings and collateral savings shall not reduce the Government's share of concurrent or future savings or collateral savings. Buyer's payments to Seller under this clause are conditioned upon Buyer's receipt of authorization for such payments from the Government

52.253-1 Computer Generated Forms (JAN 1991).

52.204-18 Commercial and Government Entity Code Maintenance (AUG 2020).

Seller shall maintain their CAGE code(s) throughout the life of the contract.

52.246-6 Inspection-Time-and-Material and Labor-Hour (MAY 2001).

2. NASA FAR Supplement Clauses NASA Contracts. The following contract clauses are incorporated by reference from the National Aeronautics and Space Administration Federal Acquisition Regulation Supplement and apply to the extent indicated. In all of the following clauses, "Contractor" means Seller.

1852.203-71 Requirement to Inform Employees of Whistleblower Rights (AUG 2014).

1852.204-76 Security Requirements for Unclassified Information Technology Resources (JAN 2011). This clause applies if this contract meets the requirements of paragraph b. of this clause.

1852.211-70 Packaging, Handling, and Transportation (SEP 2005).

1852.215-84 Ombudsman .

1852.223-74 Drug-and Alcohol-Free Workforce (NOV 2015). This clause applies to Seller if work is performed by an employee in a sensitive position, except if this contract is for commercial items.

1852.223-75 Major Breach of Safety or Security (FEB 2002). This clause applies if this contract exceeds \$500,000. "Government" shall mean "Government or Buyer". "Contracting Officer" shall mean "Buyer".

1852.223-70 Safety and Health Measures and Mishap Reporting. (DEC 2015). This clause applies if this contract is above the simplified acquisition threshold and the work will be conducted completely or partly on federally-controlled facilities.

1852.225-70 Export Licenses Basic (FEB 2000), Alternate I (FEB 2000) .

1852.227-11 Patent Rights--Retention by the Contractor (Short Form) (APR 2015).

1852.227-14 Rights in Data--General (APR 2015). This clause applies only if data, as defined in paragraph (a) of FAR 52.227-14, will be produced, furnished, or acquired under this contract. The term "Contracting Officer" shall mean "Buyer".

1852.227-70 New Technology - Other than a Small Business Firm or Nonprofit Organization (APR 2015). This clause only applies if this Contract is for experimental, developmental, or research work and Seller is other than a small business firm or nonprofit organization..

1852.227-72 Designation of New Technology Representative and Patent Representative (APR 2015). This clause applies if this contract includes a "New Technology" clause or a " Patents Rights -- Retention by the Contract (Short Form)" clause.

1852.237-72 Access to Sensitive Information (JUN 2005).

1852.237-73 Release of Sensitive Information (JUN 2005). This clause applies only if Seller may be required to furnish sensitive information in performance of this contract. Throughout the referenced clause, "this proposal" means Seller's proposal, and "this contract" means the contract between Buyer and Seller.

1852.242-72 Denied Access to NASA Facilities (OCT 2015). This clause applies if this contract requires access to, physical entry into, and to the extent authorized, mobility within, a NASA facility.

1852.245-74 Identification and Marking of Government Equipment (JAN 2011). In paragraph (a), "Government" means Government or Buyer and "NASA Industrial Property Office means Buyer or NASA Industrial Property Office if Seller delivered the equipment directly to the Government. Delete paragraph (d), and insert the following in lieu thereof: The data required in paragraph (c) and (d) of this clause should be delivered to Buyer, and to the NASA Center where Seller delivered equipment, if applicable.

1852.246-73 Human Space Flight Item (MAR 1997). FOR USE IN HUMAN SPACE FLIGHT; MATERIALS, MANUFACTURING, AND WORKMANSHIP OF HIGHEST QUALITY STANDARDS ARE ESSENTIAL TO ASTRONAUT SAFETY. IF YOU ARE ABLE TO SUPPLY THE DESIRED ITEM WITH A HIGHER QUALITY THAN THAT OF THE ITEMS SPECIFIED OR PROPOSED, YOU ARE REQUESTED TO BRING THIS FACT TO THE IMMEDIATE ATTENTION OF THE PURCHASER.

1852.246-74 Contractor Counterfeit Electronic Part Detection and Avoidance (SEP 2020). This clause applies if the Contract is for (1) electronic parts; (2) end items, components, parts, or assemblies containing electronic parts; or (3) services where Seller will supply electronic parts or components, parts, or assemblies containing electronic parts as part of the service, including contracts for commercial items that are for electronic parts or assemblies containing electronic parts, unless Seller is the original manufacturer. Seller shall not alter the clause other than to identify appropriate parties.

3. Commercial Items If goods or services being procured under this contract are commercial products and/or commercial services and Clause H203 is set forth in the purchase order, the foregoing Government clauses in Section 1 above are deleted and the following FAR clauses are inserted in lieu thereof:

52.203-13 Contractor Code of Business Ethics and Conduct (NOV 2021). This clause applies if this contract exceeds the threshold specified in FAR 3.1004 (a) on the date of contract award and has a performance period of more than 120 days.

52.203-15 Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (JUN 2010). This clause applies if this contract is funded in whole or in part with Recovery Act funds.

52.203-19 Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (JAN 2017).

52.204-21 Basic Safeguarding of Covered Information Systems (NOV 2021). This clause applies to the Contract if Seller may have Federal contract information residing in or transiting through its information system.

52.204-23 Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (NOV 2021). In paragraph (c)(1), the term "Government" means "Government or Buyer" and the term "Contracting Officer" means "Buyer." All reporting required by paragraph (c) shall be reported through Buyer. Seller shall report the information in paragraph (c)(2) to Buyer.

52.204-25 Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment (NOV 2021).

Paragraph (b)(2) is deleted. Paragraph (d)(1) is deleted and replaced with the following: "In the event Seller identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or Seller is notified of such by a subcontractor at any tier or any other source, Seller shall report the information in paragraph (d)(2) of this clause via email to Buyer's Authorized Procurement Representative, with the required information in the body of the email."

52.219-8 Utilization of Small Business Concerns (OCT 2022).

52.222-21 Prohibition of Segregated Facilities (APR 2015).

52.222-26 Equal Opportunity (SEP 2016).

52.222-35 Equal Opportunity for Veterans. (JUN 2020). This clause applies if this contract is valued at or above the threshold specified in FAR 22.1303(a) on the date of subcontract award, unless exempted by rules, regulations or orders of the Secretary of Labor.

52.222-36 Equal Opportunity for Workers with Disabilities (JUN 2020). This clause applies if this contract is in excess of the threshold specified in Federal Acquisition Regulation (FAR) 22.1408(a) on the date of contract award, unless exempted by rules, regulations, or orders of the Secretary.

52.222-37 Employment Reports on Veterans (JUN 2020). This clause applies if this contract is valued at or above the threshold specified in FAR 22.1303(a) on the date of subcontract award, unless exempted by rules, regulations, or orders of the Secretary of Labor.

52.222-40 Notification of Employee Rights Under the National Labor Relations Act. (DEC 2010).

52.222-50 Combating Trafficking in Persons (NOV 2021). The term "Contractor" shall mean "Seller", except in the paragraph (a) definition of Agent, and except when the term "prime contractor" appears, which shall remain unchanged. The term "Contracting Officer" shall mean "Contracting Officer, Buyer's Authorized Procurement Representative" in paragraph (d)(1). Paragraph (d)(2) shall read as follows: "If the allegation may be associated with more than one contract, the Seller shall inform the Buyer's Authorized Procurement Representative for each affected contract." The term "the Government" shall mean "the Government and Buyer" in paragraph (e). The term "termination" shall mean "Cancellation" and "Cancellation for Default", respectively, in paragraph (e)(6). The term "Contracting Officer" shall mean "Contracting Officer and Buyer" in paragraph (f), except in paragraph (f)(2), where it shall mean "Contracting Officer or Buyer". Paragraph (h)(2)(ii) shall read as follows: "To the nature and scope of the activities involved in the performance of a Government subcontract, including the number of non-United States citizens expected to be employed and the risk that the contract or subcontract will involve services or supplies susceptible to trafficking in persons." The term "Contracting Officer" shall mean "Contracting Officer or Buyer" in paragraph (h)(4)(ii). The term "Contracting Officer" shall mean "Buyer" in paragraph (h)(5).

52.222-50 Combating Trafficking in Persons Alternate I (MAR 2015). The term "Contractor" shall mean "Seller", except the term "prime contractor" shall remain unchanged. The term "Contracting Officer" shall mean "Contracting Officer and the Buyer's Authorized Procurement representative in paragraph (d)(1). Paragraph (d)(2) shall read as follows: "If the allegation may be associated with more than one contract, the Seller shall inform the Buyer's Authorized Procurement Representative for each affected contract." The term "the Government" shall mean "the Government and Buyer" in paragraph (e). The term "termination" shall mean "cancellation" and "Cancellation for Default", respectively, in paragraph (e)(6). Insert the following at the end of paragraph (e): "If the Government exercises one of the remedies identified in the paragraph (e) against Buyer as a result, in whole or in part, of the Seller's violation of its obligations under this clause, Buyer may impose that remedy against the Seller proportionate to the extent to which Seller's violation caused the Government's decision to impose a remedy on Buyer." The term "Contracting Officer" shall mean "Contracting Officer and Buyer" in paragraph (f), except in paragraph (f)(2), where it shall mean "Contracting Officer or Buyer". Paragraph (h)(2)(ii) shall read as follows: "To the nature and scope of the activities involved in the performance of a Government subcontract, including the number of non-United States citizens expected to be employed and the risk that the contract or subcontract will involve services or supplies susceptible to trafficking in persons." The term "Contracting Officer" shall mean "Contracting Officer or Buyer" in paragraph (h)(4)(ii). The term "Contracting Officer" shall mean "Buyer" in paragraph (h)(5).

52.222-55 Minimum Wages for Contractor Workers Under Executive Order 14026 (JAN 2022). This clause applies if this contract is subject to the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute, and is to be performed in whole or in part in the United States. "Contracting Officer" shall mean "Buyer" except for paragraphs (e)(2), (4) and (g). If the Government exercises a withhold identified in the paragraph (g) against Buyer as a result of the Seller's violation of its obligations under this clause, Buyer may impose that withhold against the Seller.

52.222-62 Paid Sick Leave Under Executive Order 13706 (JAN 2022). This clause applies if the Contract is subject to the Service Contract Labor Standards statute or the Wage Rate Requirements

(Construction) statute, and are to be performed in whole or in part in the United States.

52.224-3 Privacy Training Alternate I (JAN 2017). The term "Contracting Officer" shall mean "Contracting Officer or Buyer".

52.224-3 Privacy Training (JAN 2017). The term "Contracting Officer" shall mean "Contracting Officer or Buyer".

52.225-26 Contractors Performing Private Security Functions Outside the United States (OCT 2016). This clause applies if the Contract will be performed outside the United States in areas of (1) combat operations, as designated by the Secretary of Defense; or (2) other significant military operations, upon agreement of the Secretaries of Defense and State that the clause applies in that area. In paragraph (d)(1), Contracting Officer shall mean "Contracting Officer or Buyer" and in paragraph (d) (3), Contracting Officer shall mean Buyer.

52.232-40 Providing Accelerated Payments to Small Business Subcontractors. (MAR 2023). This clause applies to contracts with small business concerns. The term "Contractor" retains its original meaning.

52.244-6 Subcontracts for Commercial Products and Commercial Services (MAR 2023). The clauses in paragraph (c) (1) apply when Seller is providing commercial products or commercial services under the Contract.

52.247-64 Preference for Privately Owned U.S.-Flag Commercial Vessels (NOV 2021). This clause does not apply if this contract is for the acquisition of commercial products or commercial services unless (i) this contract is a contract or agreement for ocean transportation services; or a construction contract; or (ii) the supplies being transported are (a) items the Seller is reselling or distributing to the Government without adding value (generally, the Seller does not add value to the items when it subcontracts items for f.o.b. destination shipment); or (b) shipped in direct support of U.S. military (1) contingency operations; (2) exercises; or (3) forces deployed in connection with United Nations or North Atlantic Treaty Organization humanitarian or peacekeeping operations.

4. Prime Contract Special Provisions The following prime contract special provisions apply to this purchase order

LTVS-2024-BOEING-003 SPECIAL PROVISIONS .

H.20 PLANETARY PROTECTION

The Seller shall ensure that its operations are consistent with the Committee on Space Research ("COSPAR") Planetary Protection Policy and Implementation Guidelines in accordance with NASA policies and directives and applicable U.S. Government regulations. The Seller shall ensure that the Federal Aviation Administration (FAA) license application provides information on how the Seller is preventing harmful contamination as referenced in the NASA Examples of Information to Expedite Review of Commercial Operator Applications to Regulatory Agencies [link: <https://www.nasa.gov/recommendations-commercial-space-operators/>]

This clause shall be flowed down and included in contracts with all subcontractors and third-party users.

(End of Clause)

H.22 MITIGATION OF ORGANIZATIONAL CONFLICTS OF INTEREST

- (a) Mitigation plan. The Organizational Conflicts of Interest (OCI) Plan and its obligations are hereby incorporated.
- (b) Changes.
 - (1) Either the Seller or the Buyer may propose changes to the OCI Plan. Such changes are subject to the mutual agreement of the parties and will become effective only upon incorporating the change into the plan by contract amendment.
 - (2) In the event that the Buyer and the Seller cannot agree upon a mutually acceptable change, the Buyer reserves the right to make a unilateral change to the OCI Plan as necessary.

- (c) Violation. The Seller shall report any violation of the OCI Plan, whether by its own personnel or those of the Buyer or other parties, to the Buyer. This report shall include a description of the violation and the actions the Seller has taken or proposes to take to mitigate and avoid repetition of the violation. After conducting such further inquiries and discussions as may be necessary, the Buyer and the Seller shall agree on appropriate corrective action, if any, or the Buyer shall direct corrective action.
- (d) Breach. Any breach of the above restrictions or any nondisclosure or misrepresentation of any relevant facts required regarding organizational conflicts of interest to be disclosed may result in termination of this contract for default or other remedies as may be available under law or regulation.
- (e) Subcontracts. The Seller shall include the substance of this clause, including this paragraph (e), in subcontracts where the work includes or may include tasks related to the organizational conflicts of interest. The terms "Seller" and "Buyer" shall be appropriately modified to reflect the change in parties and to preserve the Buyer and Government's rights.

(End of Clause)

H.27 CROSS WAIVER OF LIABILITY FOR LUNAR SURFACE ACTIVITIES

- (a) As used in this clause—
 - (1) "Damage" means:
 - (i) Bodily injury to, impairment of health of, or death of, any person;
 - (ii) Damage to, loss of, or loss of use of, any property;
 - (iii) Loss of revenue or profits; or
 - (iv) Other direct, indirect, or consequential damage.
 - (2) "Lunar Surface Activities" means activities performed pursuant to this contract on the surface of the Moon. Lunar Surface Activities commence upon contact with the Lunar Surface and conclude with liftoff from the Lunar Surface.
 - (3) "Party" means either NASA, the Contractor, Buyer, or Seller, as appropriate (collectively, the "Parties").
 - (4) "Related Entity" means:
 - (i) A Contractor or subcontractor of a Party at any tier;
 - (ii) A user or customer of a Party at any tier; or
 - (iii) A Contractor or subcontractor of a user or customer of a Party at any tier. The terms "contractor" and "subcontractor" include suppliers of any kind.
- (b) Each Party hereby waives any claim against the other Party, employees of the other Party, the other Party's Related Entities, or employees of the other Party's Related Entities, for Damage arising from or related to Lunar Surface Activities.
- (c) This reciprocal waiver of claims shall not apply to rights and obligations arising from the application of any of the other clauses in the contract or to rights and obligations arising from activities that are not within the scope of this Contract.
- (d) Each Party shall extend this cross-waiver to its Related Entities by requiring them, by contract or otherwise, to waive all claims against the other Party, Related Entities of the other Party, and employees of the other Party or of its Related Entities, for Damage arising from or related to Lunar Surface Activities.
- (e) Notwithstanding the other provisions of this clause, this cross-waiver of Liability shall not be applicable to:
 - (1) Claims between a Party and its own Related Entity or between its own Related Entities;
 - (2) Claims made by a natural person, his/her estate, survivors, or subrogees (except when a subrogee is a Party to this contract or is otherwise bound by the terms of this cross-waiver) for bodily injury, other impairment of health, or death of such natural person;
 - (3) Intellectual property claims;
 - (4) Claims for Damage caused by willful misconduct;

(5) Claims for Damage resulting from a failure of a Party to extend the cross-waiver of Liability to its Related Entities pursuant to paragraph (c) of this clause; or

(6) Claims by a Party arising out of or relating to the other Party's failure to perform its obligations under this contract.

(f) Nothing in this clause shall be construed to create the basis for a claim or suit where none would otherwise exist.

(End of Clause)

H.28 NFS 1852.228-76 CROSS-WAIVER OF LIABILITY FOR INTERNATIONAL SPACE STATION AND GATEWAY ACTIVITIES (DEVIATED)

(a) The Intergovernmental Agreement for the International Space Station ("ISS") (hereinafter, the "IGA") contains a cross-waiver of liability provision to encourage participation in the exploration, exploitation, and use of outer space through the ISS and any addition of evolutionary capabilities utilizing Article 14 of the IGA, including the civil lunar Gateway (the "Gateway"). The cross-waiver of liability in this clause is intended to be broadly construed to achieve this objective.

(b) As used in this clause and for purposes of this Contract, the term:

(1) "Agreement" refers to any NASA Space Act agreement or contract that contains the cross-waiver of liability provision authorized by 14 CFR Part 1266.102.

(2) "Damage" means:

- (i) Bodily injury to, or other impairment of health of, or death of, any person;
- (ii) Damage to, loss of, or loss of use of any property;
- (iii) Loss of revenue or profits; or
- (iv) Other direct, indirect, or consequential Damage.

(3) "Launch" means the intentional ignition of the first-stage motor(s) of the Launch Vehicle intended to place or try to place a Launch Vehicle (which may or may not include any Transfer Vehicle, Payload or Crew) from Earth:

- (i) In a suborbital trajectory;
- (ii) In Earth orbit in outer space;
- (iii) In lunar orbit; or
- (iv) Otherwise in outer space,
- (v) Including Launch Services activities involved in the preparation of a Launch Vehicle, Transfer Vehicle or Payload for launch.

(4) "Launch Services" means:

- (i) Activities involved in the preparation of a Launch Vehicle, Transfer Vehicle, Payload, or Crew (including Crew training), if any, for launch; and
- (ii) The conduct of a Launch.

(5) "Launch Vehicle" means an object, or any part thereof, intended for launch, launched from Earth, or returning to Earth which carries Payloads or persons, or both.

(6) "Partner State" includes each Contracting Party for which the Agreement Among the Government of Canada, Governments of Member States of the European Space Agency, the Government of Japan, The Government of the Russian Federation, and the Government of the United States of America concerning Cooperation on the Civil International Space Station (IGA) has entered into force, pursuant to Article 25 of the IGA or pursuant to any successor Agreement. A Partner State includes its Cooperating Agency. It also includes any entity specified in the Memorandum of Understanding (MOU) between NASA and the Government of Japan's Cooperating Agency in the implementation of that MOU.

(7) "Party" means a party to an Agreement involving activities in connection with the Gateway, including the Parties to this Contract.

(8) "Payload" means all property to be flown or used on or in a Launch Vehicle, Transfer Vehicle, and/or the Gateway and element(s) thereof.

(9) "Protected Space Operations" means all Launch or Transfer Vehicle activities, Gateway activities, and Payload activities on Earth, in outer space, or in transit between Earth and outer space performed in implementation of the IGA, MOUs concluded pursuant to the IGA, implementing arrangements, and contracts to perform work in support of NASA's obligations under these Agreements. It includes, but is not limited to:

- (i) Research, design, development, test, manufacture, assembly, integration, operation, or use of Launch or Transfer Vehicles, the Gateway, Payloads, or instruments, as well as related support equipment and facilities and services; and
- (ii) All activities related to ground support, test, training, simulation, or guidance and control equipment and related facilities or services. "Protected Space Operations" also includes all activities related to evolution of the ISS (which includes Gateway), as provided for in Article 14 of the IGA. "Protected Space Operations" excludes activities on Earth which are conducted on return from the Gateway to develop further a Payload's product or process for use other than for Gateway-related activities in implementation of the IGA.

(10) "Reentry" means to purposefully return or attempt to return, through completion of recovery, a Transfer Vehicle, Payload, or Crew from the Gateway, Earth orbit, or outer space to Earth.

(11) "Reentry Services" means:

- (i) Activities involved in the preparation of a Transfer Vehicle, Payload, or Crew (including Crew training), if any, for Reentry; and
- (ii) The conduct of a Reentry through completion of recovery.

(12) "Related Entity" means:

- (i) A Contractor or subcontractor of a Party or a Partner State at any tier;
- (ii) A user or customer of a Party or a Partner State at any tier; or
- (iii) A Contractor or subcontractor of a user or customer of a Party or a Partner State at any tier. The terms "Contractor" and "subcontractor" include suppliers of any kind.

(13) "Space Station" means the International Space Station, and any additional evolutionary capabilities made pursuant to Article 14 of the IGA, including the civil lunar Gateway.

(14) "Transfer Vehicle" means any vehicle that operates in space and transfers Payloads or persons or both between two different space objects, between two different locations on the same space object, or between a space object and the surface of a celestial body. A Transfer Vehicle also includes a vehicle that departs from and returns to the same location on a space object.

(c) Cross-waiver of liability:

(1) The Seller agrees to a cross-waiver of liability pursuant to which it waives all claims against any of the entities or persons listed in paragraphs (c)(1)(i) through (c)(1)(iv) of this clause based on Damage arising out of Protected Space Operations. This cross-waiver shall apply only if the person, entity, or property causing the Damage is involved in Protected Space Operations and the person, entity, or property damaged is damaged by virtue of its involvement in Protected Space Operations. The cross-waiver shall apply to any claims for Damage, whatever the legal basis for such claims, against:

- (i) A Party as defined in (b)(7) of this clause;
- (ii) A Partner State, including the United States of America;
- (iii) A Related Entity of any entity identified in paragraph (c)(1)(i) or (c)(1)(ii) of this clause; or
- (iv) The employees of any of the entities identified in paragraphs (c)(1)(i) through (c)(1)(iii) of this clause.

(2) In addition, the Seller shall, by contract or otherwise, extend the cross-waiver of liability set forth in paragraph (c)(1) of this clause, to its Related Entities by requiring them, by contract or otherwise, to:

- (i) Waive all claims against the entities or persons identified in paragraphs (c)(1)(i) through (c)(1)(iv) of this clause; and
- (ii) Require that its Related Entities waive all claims against the entities or persons identified in paragraphs (c)(1)(i) through (c)(1)(iv) of this clause.

(3) For avoidance of doubt, this cross-waiver of liability includes a cross-waiver of claims arising from the Convention on International Liability for Damage Caused by Space Objects, which entered into force on September 1, 1972, where the person, entity, or property causing the Damage is involved in Protected Space Operations and the person, entity, or property

damaged is damaged by virtue of its involvement in Protected Space Operations.

(4) Notwithstanding the other provisions of this clause, this cross-waiver of liability shall not be applicable to:

(i) Claims between the Seller and its own Related Entities or between its Related Entities;

(ii) Claims made by a natural person, his/her estate, survivors or subrogees (except when a subrogee is a Party to an Agreement or is otherwise bound by the terms of this cross-waiver) for bodily injury to, or other impairment of health of, or death of, such person;

(iii) Claims for Damage caused by willful misconduct;

(iv) Intellectual property claims;

(v) Claims for Damage resulting from a failure of the contractor to extend the cross-waiver of liability to its subcontractors or related entities, pursuant to paragraph (c)(2) of this clause;

(vi) Claims by the Government arising out of or relating to the contractor's failure to perform its obligations under this Contract.

(5) Nothing in this clause shall be construed to create the basis for a claim or suit where none would otherwise exist.

(d) Waiver of claims Between the Buyer, Government and Seller:

(1) This clause provides for a reciprocal waiver of claims between the Buyer, Government and the Seller and its Related Entities as described in paragraph (c) above, except that the Buyer and/or Government shall waive such claims only to the extent such claims exceed the maximum amount of the Seller's insurance or financial capability required under paragraph (f) below. This reciprocal waiver of claims shall not apply to rights and obligations arising from the application of any of the other clauses in the contract or to rights and obligations arising from activities that are not within the scope of this Contract.

(2) Pursuant to paragraph (c)(2), the Seller shall extend this waiver of claims to its Related Entities by requiring them, by contract or otherwise, to waive all claims against the Government and its Related Entities.

(e) If the Seller is required to obtain a Federal Aviation Administration (FAA) license in accordance with 51 U.S.C. 50901 et seq., for all Launch Services and Reentry Services performed under this Contract, this waiver of claims shall not be applicable to activities under this Contract that are subject to the FAA license. This waiver of claims shall cover all other activities performed under this Contract.

(f) Throughout the performance of the contract, the Seller shall maintain insurance, or demonstrate financial capability to compensate, for damages (as defined in paragraph (b)(2)(ii)) to U.S. Government property, except for:

(i) damage to Gateway element(s) on-orbit;

(ii) damage or loss resulting from the willful misconduct of the Government or its employees;
and

(iii) damage to U.S. Government property that is otherwise covered pursuant to insurance required for FAA licensing.

Insurance for damage to U.S. Government Property shall be an amount up to \$100 million, or the maximum amount available in the market at reasonable cost, subject to approval by the Buyer. Financial capability, if authorized by the Buyer, shall be in the amount of \$100 million. Upon request, the Seller shall provide acceptable evidence of the insurance or financial capability to Buyer, subject to Buyer approval. Insurance policies shall name the United States Government as an additional insured party. Once approved by the Buyer, insurance policies may not be modified or canceled without the prior, written approval of the Buyer. In the event any losses or damages are covered by such insurance, the Government may, at its discretion, request that insurance proceeds be applied directly to the repair or replacement of such damage or loss, rather than paid directly to the Government. The Government may request that all insurance proceeds be made payable directly to the party making the repairs or providing a replacement. Such repair or replacement shall be to the satisfaction of the Contracting Officer and/or Buyer. If losses or damages exceed available insurance, the Buyer and/or Government shall have the right to prioritize the application of insurance proceeds.

(End of Clause)

H.29 NFS 1852.228-78 CROSS-WAIVER OF LIABILITY FOR SCIENCE OR SPACE EXPLORATION ACTIVITIES UNRELATED TO THE INTERNATIONAL SPACE STATION AND GATEWAY (DEVIATED)

(a) Applicability. The purpose of this clause is to extend a cross-waiver of liability to NASA contracts for work done in support of Agreements between Parties involving Science or Space Exploration activities that are not related to the International Space Station (ISS) or Gateway but involve a launch. This cross-waiver of liability shall be broadly construed to achieve the objective of furthering participation in space exploration, use, and investment.

(b) Definitions. As used in this clause, the term:

(1) "Agreement" refers to any contract or NASA Space Act agreement that contains the cross-waiver of liability provision authorized in 14 CFR Part 1266.104.

(2) "Damage" means:

- (i) Bodily injury to, or other impairment of health of, or death of, any person;
- (ii) Damage to, loss of, or loss of use of any property;
- (iii) Loss of revenue or profits; or
- (iv) Other direct, indirect, or consequential Damage;

(3) "Launch" means the intentional ignition of the first-stage motor(s) of the Launch Vehicle intended to place or try to place a Launch Vehicle (which may or may not include any Transfer Vehicle, Payload or Crew) from Earth:

- (i) in a suborbital trajectory;
- (ii) in Earth orbit in outer space;
- (iii) in lunar orbit; or
- (iv) otherwise in outer space,
- (v) including Launch Services activities involved in the preparation of a Launch Vehicle, Transfer Vehicle or Payload for launch.

(4) "Launch Services" means:

- (i) Activities involved in the preparation of a Launch Vehicle, Transfer Vehicle, Payload, or Crew (including Crew training), if any, for launch; and
- (ii) The conduct of a Launch.

(5) "Launch Vehicle" means an object, or any part thereof, intended for launch, launched from Earth, or returning to Earth which carries Payloads or persons, or both.

(6) "Party" means a party to an Agreement involving activities in connection with the Artemis program, including the Parties to this contract.

(7) "Payload" means all property to be flown or used on or in a Launch Vehicle, Transfer Vehicle, and/or Orion and element(s) thereof.

(8) "Protected Space Operations" means all Launch or Transfer Vehicle activities and Payload activities on Earth, in outer space, or in transit between Earth and outer space in implementation of an Agreement for Science or Space Exploration activities unrelated to the ISS or Gateway that involves a launch.

(i) Protected Space Operations includes, but is not limited to:

- (A) Research, design, development, test, manufacture, assembly, integration, operation, or use of Launch or Transfer Vehicles, Payloads, or instruments, as well as related support equipment and facilities and services; and
- (B) All activities related to ground support, test, training, simulation, or guidance and control equipment, and related facilities or services.

(ii) Protected Space Operations excludes:

- (A) Activities on Earth which are conducted on return from space to develop further a payload's product or process other than for the activities within the scope of an Agreement; and
- (B) Activities on the Lunar Surface.

(9) "Reentry" means to purposefully return or attempt to return, through completion of recovery, a Transfer Vehicle, Payload, or crew from the Gateway, Earth orbit, or outer space to Earth.

(10) "Reentry Services" means:

- (i) Activities involved in the preparation of a Transfer Vehicle, Payload, or crew (including

crew training), if any, for Reentry; and
(ii) The conduct of a Reentry through completion of recovery.

(11) "Related entity" means:

- (i) A Contractor or subcontractor of a Party at any tier;
- (ii) A user or customer of a Party at any tier; or
- (iii) A Contractor or subcontractor of a user or customer of a Party at any tier. The terms "Contractors" and "subcontractors" include suppliers of any kind.

(12) "Transfer Vehicle" means any vehicle that operates in space and transfers Payloads or persons or both between two different space objects, between two different locations on the same space object, or between a space object and the surface of a celestial body. A Transfer Vehicle also includes a vehicle that departs from and returns to the same location on a space object.

(c) Cross-waiver of liability.

(1) The Seller agrees to a waiver of liability pursuant to which it waives all claims against any of the entities or persons listed in paragraphs (c)(1)(i) through (c)(1)(iv) of this clause based on Damage arising out of Protected Space Operations. This cross-waiver shall apply only if the person, entity, or property causing the Damage is involved in Protected Space Operations and the person, entity, or property damaged is damaged by virtue of its involvement in Protected Space Operations. The waiver shall apply to any claims for Damage, whatever the legal basis for such claims, against—

- (i) A Party;
- (ii) A Party to another NASA Agreement or contract that includes flight on the same Launch Vehicle;
- (iii) A Related Entity of any entity identified in paragraphs (c)(1)(i) or (c)(1)(ii) of this clause; or
- (iv) The employees of any of the entities identified in (c)(1)(i) through (iii) of this clause.

(2) The Seller agrees to extend the cross-waiver of liability as set forth in paragraph (c)(1) of this clause to its own subcontractors at all tiers by requiring them, by contract or otherwise, to:

- (i) Waive all claims against the entities or persons identified in paragraphs (c)(1)(i) through (c)(1)(iv) of this clause; and
- (ii) Require that its Related Entities waive all claims against the entities or persons identified in paragraphs (c)(1)(i) through (c)(1)(iv) of this clause.

(3) For avoidance of doubt, this cross-waiver of liability includes a cross-waiver of claims arising from the Convention on International Liability for Damage Caused by Space Objects, entered into force on 1 September 1972, in which the person, entity, or property causing the Damage is involved in Protected Space Operations and the person, entity, or property damaged is damaged by virtue of its involvement in Protected Space Operations.

(4) Notwithstanding the other provisions of this clause, this cross-waiver of liability shall not be applicable to:

- (i) Claims between the Seller and its own Related Entities or between its Related Entities;
- (ii) Claims made by a natural person, his/her estate, survivors, or subrogees (except when a subrogee is a Party to an Agreement or is otherwise bound by the terms of this cross-waiver) for bodily injury to, or other impairment of health, or death of such person;
- (iii) Claims for Damage caused by willful misconduct;
- (iv) Intellectual property claims;
- (v) Claims for damages resulting from a failure of the contractor to extend the cross-waiver of liability to its subcontractors and related entities, pursuant to paragraph (c)(2) of this clause; or
- (vi) Claims by the Government arising out of or relating to a contractor's failure to perform its obligations under this contract.

(d) Waiver of claims between the Government and Contractor.

(1) This clause provides for a reciprocal waiver of claims between the Government, Buyer, and the Seller and their Related Entities as described in paragraph (c) above, except that the Buyer and/or Government shall waive such claims only to the extent such claims exceed the maximum amount of the Seller's insurance or financial capability as required under paragraph (e), below. This reciprocal waiver of claims shall not apply to rights and obligations arising from the application of any of the other clauses in the contract or to rights and obligations arising from

activities that are not within the scope of this contract.

(2) Pursuant to paragraph (c)(2), the Seller shall extend this waiver of claims to its Related Entities by requiring them, by contract or otherwise, to waive all claims against the Government and its Related Entities.

(e) Insurance and financial capability requirements.

(i) Throughout the performance of the contract, the Seller shall maintain insurance, or demonstrate financial capability to compensate, for damage to U.S. Government property, except for:

(A) Damage to Orion on-orbit;

(B) Damage or loss resulting from the willful misconduct of the Government or its employees; or

(C) Damage to U.S. Government property that is otherwise covered pursuant to the insurance required for FAA licensing.

(ii) The insurance required by paragraph (e)(i) shall be in the amount of \$100 million, or a lesser amount that is the maximum amount available in the market at reasonable cost, subject to approval by the Buyer. Financial capability, if authorized by the Buyer, shall be in the amount of \$100 million.

(iii) Insurance policies shall name the United States Government as an additional insured party.

(iv) The Seller shall provide evidence of the insurance or financial capability to the Buyer and/or Contracting Officer upon request, and such insurance or financial capability is subject to Buyer approval. Once approved by the Buyer, the Seller shall not modify or cancel the insurance policy without the prior, written approval of the Buyer.

(v) In the event any losses or damages are covered by insurance, the Buyer and/or Government may, at its discretion, request that insurance proceeds be applied directly to the repair or replacement of such damage or loss, rather than paid directly to the Government. The Buyer and/or Government may request that all insurance proceeds be made payable directly to the party making the repairs or providing a replacement. Such repair or replacement shall be to the satisfaction of the Contracting Officer and/or Buyer. If losses or damages exceed available insurance, the Buyer and/or Government shall have the right to prioritize the application of insurance proceeds.

(f) Exclusion for FAA-licensed activities. If the Seller is required to obtain a Federal Aviation Administration (FAA) license in accordance with 51 U.S.C. 50901 et seq., for any Launch Services or Reentry Services performed under this contract, this waiver of claims shall not be applicable to activities under this contract that are subject to the FAA license.

(g) Basis for a claim or suit. Nothing in this clause shall be construed to create the basis for a claim or suit where none would otherwise exist.

(End of clause)

H.39 APPLICABILITY OF RIGHTS IN DATA – SPECIAL WORKS

(a) The clause FAR 52.227-17, Rights in Data--Special Works, as provided below in Section I, Contract Clauses, applies only to the portions of this contract that call for the production of data as set forth in subparagraphs (1) – (3) below in the performance of the contract, or as otherwise specified in this contract or agreed to by the Parties in writing. FAR 52.227-14, Rights in Data -- General (as modified by NFS 1852.227-14) (Deviation) applies to all other data.

(1) All data first produced in the performance of this contract on the Lunar Surface or onboard the LTV System by assets used by or on behalf of the U.S. Government, including, but not limited to: NASA Payloads on LTV Vehicle, Pressurized Rover, EVA Crew, and other future assets;

(2) All data first produced in the performance of this contract during NASA Crewed EVA Expedition, including when NASA EVA Crew are on the Lunar Surface as well as during arrival

and departure; and

(3) All data first produced in the performance of this contract that include NASA assets in the content produced, such as in audio, video, or images, or other multi-media content gathered on or from the Lunar Surface.

(b) Photos, video, other imagery, and sound first produced in the performance of this contract, when NASA EVA Crew are on the lunar surface, are subject to the applicability of FAR 52.227- 17, Rights in Data – Special Works as specified herein, are not considered scientific and/or technical articles, and are subject to the prior written permission of the Contracting Officer, provided via the Buyer, before release, reproduction, distribution or publication of such data.

(End of Clause)

H.41 PRESERVING LUNAR HERITAGE

As required by 3(a)(1) of the “One Small Step to Protect Human Heritage in Outer Space Act” Pub. L. 116-275, enacted on December 31, 2020, in carrying out the Seller’s responsibilities, the Seller shall comply with “NASA’s Recommendations to Space-Faring Entities: How to Protect and Preserve the Historic and Scientific Value of U.S. Government Lunar Artifacts,” issued by NASA on July 20, 2011, and updated on October 28, 2011. The Seller also shall comply with any successor recommendations, guidelines, best practices, or standards relating to the principle of due regard and the limitation of harmful interference with Apollo landing site artifacts issued by NASA.

This clause shall be flowed down and included in contracts or agreements with all subcontractors, and third-party users.

(End of Clause)

H.42 DEBRIS MITIGATION CLAUSE

The Seller shall ensure that its operations are consistent with the Space Debris Mitigation Guidelines of the United Nations Committee on the Peaceful Uses of Outer Space, endorsed by the United Nations General Assembly in its Resolution 62/217 of December 22, 2007, and all applicable U.S. Government regulations, policies, and directives. Furthermore, the Seller shall comply with the Orbital Debris Mitigation Standard Practices (2019) and meet the orbital debris requirements of all licensing authorities (including the Federal Aviation Administration (FAA) and the Federal Communications Commission (FCC)).

In furtherance of the previous paragraph, the Seller shall provide a plan for including the standards to be used for the mitigation of orbital debris, including the safe, timely, and efficient passivation and disposal of the LTV Delivery System and LTV System at the end of its mission, For cislunar and beyond LEO activities, the Seller shall provide ephemeris data to NASA or another authorized entity responsible for conjunction assessment and collision avoidance of spaceflight activities. The Seller should reference the Conjunction Assessment Best Practices Handbook as a guide to follow. [link: https://nodis3.gsfc.nasa.gov/OCE_docs/OCE_50.pdf]

This clause shall be flowed down and included in contracts with all subcontractors, and third-party users, when applicable.

(End of Clause)

(a) Definitions. As used in this clause-

Computer database or "database means" a collection of recorded information in a form capable of, and for the purpose of, being stored in, processed, and operated on by a computer. The term does not include computer software.

Computer software-

(1) Means:

(i) Computer programs that comprise a series of instructions, rules, routines, or statements, regardless of the media in which recorded, that allow or cause a computer to perform a specific operation or series of operations; and

(ii) Recorded information comprising source code listings, design details, algorithms, processes, flow charts, formulas, and related material that would enable the computer program to be produced, created, or compiled.

(2) Does not include computer databases or computer software documentation.

Computer software documentation means owner's manuals, user's manuals, installation instructions, operating instructions, and other similar items, regardless of storage medium, that explain the capabilities of the computer software or provide instructions for using the software.

Data means recorded information, regardless of form or the media on which it may be recorded. The term includes technical data and computer software. The term does not include information incidental to contract administration, such as financial, administrative, cost or pricing, or management information.

"*Developed with mixed funding*" means development was accomplished partially at private expense. It includes development in which the Government's contribution is not readily segregable for any work element to be performed under this contract.

Form, fit, and function data means data relating to items, components, or processes that are sufficient to enable physical and functional interchangeability, and data identifying source, size, configuration, mating and attachment characteristics, functional characteristics, and performance requirements. For computer software it means data identifying source, functional characteristics, and performance requirements but specifically excludes the source code, algorithms, processes, formulas, and flow charts of the software.

"*Government purpose*" means any activity in which the U. S. Government is a party, including, but not limited to, cooperative activities with international or multi-national organizations, or sales, barter, or transfers by the U. S. Government to foreign governments or international organizations. Government purpose includes competitive procurement.

"*Government purpose rights*" means the rights to (i) Use, modify, reproduce, manufacture, release, perform, display, or disclose data within the Government without restriction; and (ii) Release or disclose data outside the Government and authorize persons to whom release, or disclosure has been made to use, modify, reproduce, manufacture, release, perform, display, or disclose that data for U.S. Government purposes.

Limited rights means the rights of the Government in limited rights data as set forth in the Limited Rights Notice of paragraph (g)(3) if included in this clause.

Limited rights data means data, other than computer software, developed at private expense that embody trade secrets or are commercial or financial and confidential or privileged.

"*Minor modification*" means a modification that does not significantly alter the nongovernmental function or essential physical characteristics of an item or component or change the purpose of a process or software.

Restricted computer software means computer software developed at private expense and that is a trade secret, is commercial or financial and confidential or privileged, or is copyrighted computer software, including minor modifications of the computer software.

Restricted rights, as used in this clause, means the rights of the Government in restricted computer software, as set forth in a Restricted Rights Notice of paragraph (g) if included in this clause, or as otherwise may be provided in a collateral agreement incorporated in and made part of this contract, including minor modifications of such computer software.

Technical data means recorded information (regardless of the form or method of the recording) of a scientific or technical nature (including computer databases and computer software documentation). This term does not include computer software or financial, administrative, cost or pricing, or management data or other information incidental to contract administration. The term includes recorded information of a scientific or technical nature that is included in computer databases (See 41 U.S.C. 116).

Unlimited rights means the rights of the Government to use, disclose, reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, in any manner and for any purpose, and to have or permit others to do so.

(b) Allocation of rights. (1) Except as provided in paragraph (c) of this clause, the Government shall have unlimited rights in-

(i) Data first produced in the performance of this contract exclusively at Government expense, except to the extent that such data constitute minor modifications to data that are limited rights data or restricted computer software.

(ii) Form, fit, and function data delivered under this contract;

(iii) Data delivered under this contract (except for restricted computer software) that constitute manuals or instructional and training material for installation, operation, or routine maintenance and repair of items, components, or processes delivered or furnished for use under this contract; and

(iv) All other data delivered under this contract unless provided otherwise for limited rights data or restricted computer software in accordance with paragraph (g) of this clause.

(v) Data furnished to the Government, under this or any other Government contract or subcontract thereunder, with:

(a) Government purpose rights or limited rights and the restrictive period or condition(s) has/have expired;

(b) Government purpose rights and the Contractor's exclusive right to sue such data for commercial purposes has expired.

(2) Government Purpose Rights in Data.

(i) Except when the Government is entitled to unlimited rights in data as provided in section (b)(1) of this clause, the Government shall have government purpose rights for the duration of this contract, or such other period as may be negotiated, in—

(A) Data that are developed with mixed funding in the performance of this contract; and

(B) Data that are corrections or changes to data furnished to the Contractor by the Government.

(ii) The Government shall not release or disclose data in which it has government purpose rights unless—

(A) Prior to release or disclosure, the intended recipient is subject to a non-disclosure agreement; or

(B) The recipient is a Government contractor, recipient, grantee, or partner receiving access to the data under suitable protective conditions for the performance of a Government contract, cooperative agreement, grant, or other transaction of the Government.

(iii) The Contractor has the exclusive right, including the right to license others, to use for any commercial purpose data in which the Government has obtained government purpose rights under this contract during the time-period specified in the Government purpose rights legend prescribed in paragraph (g)(5) of this clause.

(3) The Seller shall have the right to-

(i) Assert copyright in data first produced in the performance of this contract to the extent provided in paragraph (c)(1) of this clause;

(ii) Use, release to others, reproduce, distribute, or publish any data first produced or specifically used by the Seller in the performance of this contract, unless provided otherwise in paragraph (d) of this clause;

(iii) Substantiate the use of, add, or correct limited rights, restricted rights, or copyright notices and to take other appropriate action, in accordance with paragraphs (e) and (f) of this clause; and

(iv) Protect from unauthorized disclosure and use those data that are limited rights data or restricted computer software to the extent provided in paragraph (g) of this clause.

(c) Copyright- (1) Data first produced in the performance of this contract. (i) Unless provided otherwise in paragraph (d) of this clause, the Seller may, without prior approval of the Buyer, assert copyright in scientific and technical articles based on or containing data first produced in the performance of this contract and published in academic, technical or professional journals, symposia proceedings, or similar works. The prior, express written permission of the Buyer is required to assert copyright in all other data first produced in the performance of this contract.

(ii) When authorized to assert copyright to the data, the Seller shall affix the applicable copyright notices of 17 U.S.C. 401 or 402, and an acknowledgment of Government sponsorship (including contract number).

(iii) For data other than computer software, the Seller grants to the Government, and others acting on its behalf, a paid-up, nonexclusive, irrevocable, worldwide license in such copyrighted data to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly by or on behalf of the Government. For computer software, the Seller grants to the Government, and others acting on its behalf, a paid-up, nonexclusive, irrevocable, worldwide license in such copyrighted computer software to reproduce, prepare derivative works, and perform publicly and display publicly (but not to distribute copies to the public) by or on behalf of the Government.

(iv) The Seller shall mark each scientific and technical article based on or containing data first produced in the performance of this contract and submitted for publication in academic, technical or professional journals, symposia proceedings or similar works with a notice, similar in all material respects to the following, on the cover or first page of the article, reflecting the Government's non-exclusive worldwide license in the copyright.

Government Rights Notice

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(End of notice)

(End of addition)

The Seller shall mark each scientific and technical article based on or containing data first produced in the performance of this contract and submitted for publication in academic, technical or professional journals, symposia proceedings or similar works with a notice, similar in all material respects to the following, on the cover or first page of the article, reflecting the Government's non-exclusive worldwide license in the copyright.

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(End of notice)

(End of addition)

(2) Data not first produced in the performance of this contract. The Seller shall not, without the prior written permission of the Buyer, incorporate in data delivered under this contract any data not first produced in the performance of this contract unless the Seller-

(i) Identifies the data; and

(ii) Grants to the Government, or acquires on its behalf, a license of the same scope as set forth in paragraph (c)(1) of this clause or, if such data are restricted computer software, the Government shall acquire a copyright license as set forth in paragraph (g)(4) of this clause (if included in this contract) or as otherwise provided in a collateral agreement incorporated in or made part of this contract.

(3) Removal of copyright notices. The Government will not remove any authorized copyright notices placed on data pursuant to this paragraph (c), and will include such notices on all reproductions of the data.

(d) Release, publication, and use of data. The Seller shall have the right to use, release to

others, reproduce, distribute, or publish any data first produced or specifically used by the Seller in the performance of this contract, except-

- (1) As prohibited by Federal law or regulation (e.g., export control or national security laws or regulations);
- (2) As expressly set forth in this contract; or
- (3) If the Seller receives or is given access to data necessary for the performance of this contract that contain restrictive markings, the Seller shall treat the data in accordance with such markings unless specifically authorized otherwise in writing by the Buyer.
- (4)(i) The Seller agrees not to assert claim to copyright, publish or release to others any computer software first produced in the performance of this contract unless the Buyer authorizes through a contract modification.
- (ii) The prohibition on "release to others," as set forth in (d)(4)(i), does not prohibit release to another Federal Agency for its use or its contractors' use, as long as any such release is consistent with any restrictive markings on the software. Any restrictive markings on the software shall take precedence over the aforementioned release. Any release to a Federal Agency shall limit use to the Federal Agency or its contractors for Government purposes only. Any other release shall require the Buyer's prior written permission.
- (iii) If the Government desires to obtain copyright in computer software first produced in the performance of this contract and permission has not been granted as set forth in paragraph (d)(4)(i) of this clause, the Buyer may direct the Seller to assert, or authorize the assertion of, a claim to copyright in such data and to assign, or obtain the assignment of, such copyright to the Government or its designated assignee.

(End of addition)

(e) Unauthorized marking of data. (1) Notwithstanding any other provisions of this contract concerning inspection or acceptance, if any data delivered under this contract are marked with the notices specified in paragraph (g)(3) or (g) (4) if included in this clause, and use of the notices is not authorized by this clause, or if the data bears any other restrictive or limiting markings not authorized by this contract, the Buyer may at any time either return the data to the Seller, or cancel or ignore the markings. However, pursuant to 41 U.S.C. 4703, the following procedures shall apply prior to canceling or ignoring the markings.

- (i) The Buyer will make written inquiry to the Seller affording the Contractor 30 days from receipt of the inquiry to provide written justification to substantiate the propriety of the markings;
- (ii) If the Seller fails to respond or fails to provide written justification to substantiate the propriety of the markings within the 30-day period (or a longer time approved in writing by the Buyer for good cause shown), the Government shall have the right to cancel or ignore the markings at any time after said period and the data will no longer be made subject to any disclosure prohibitions.
- (iii) If the Seller provides written justification to substantiate the propriety of the markings within the period set in paragraph (e)(1)(i) of this clause, the Buyer will consider such written justification and determine whether or not the markings are to be cancelled or ignored. If the Buyer determines that the markings are authorized, the Seller will be so notified in writing. If the Buyer determines, with concurrence of the head of the contracting activity, that the markings are not authorized, the Buyer will furnish the Seller a written determination, which determination will become the final agency decision regarding the appropriateness of the markings unless the Seller files suit in a court of competent jurisdiction within 90 days of receipt of the Buyer's decision. The Buyer will continue to abide by the markings under this paragraph (e)(1)(iii) until final resolution of the matter either by the Buyer's determination becoming final (in which instance the Buyer will thereafter have the right to cancel or ignore the markings at any time and the data will no longer be made subject to any disclosure prohibitions), or by final disposition of the matter by court decision if suit is filed.

(2) The time limits in the procedures set forth in paragraph (e)(1) of this clause may be modified in accordance with agency regulations implementing the Freedom of Information Act (5 U.S.C. 552) if necessary to respond to a request thereunder.

(3) Except to the extent the Buyer's action occurs as the result of final disposition of the matter by a court of competent jurisdiction, the Seller is not precluded by paragraph (e) of the clause from bringing a claim, in accordance with the contract, that may arise as the result of the Buyer removing or ignoring authorized markings on data delivered under this contract.

(f) Omitted or incorrect markings. (1) Data delivered to the Buyer without any restrictive markings shall be deemed to have been furnished with unlimited rights. The Buyer and Buyer's customer are not liable for the disclosure, use, or reproduction of such data.

(2) If the unmarked data has not been disclosed without restriction outside the Government, the Seller may request, within 6 months (or a longer time approved by the Buyer

in writing for good cause shown) after delivery of the data, permission to have authorized notices placed on the data at the Seller's expense. The Buyer may agree to do so if the Seller-

- (i) Identifies the data to which the omitted notice is to be applied;
 - (ii) Demonstrates that the omission of the notice was inadvertent;
 - (iii) Establishes that the proposed notice is authorized; and
 - (iv) Acknowledges that the Government has no liability for the disclosure, use, or reproduction of any data made prior to the addition of the notice or resulting from the omission of the notice.
- (3) If data has been marked with an incorrect notice, the Contracting Officer may-
- (i) Permit correction of the notice at the Seller's expense if the Seller identifies the data and demonstrates that the correct notice is authorized; or
 - (ii) Correct any incorrect notices.

(g) Protection of limited rights data and restricted computer software. (1) The Seller may withhold from delivery qualifying limited rights data or restricted computer software that are not data identified in paragraphs (b)(1)(i), (ii), and (iii) of this clause. As a condition to this withholding, the Seller shall-

- (i) Identify the data being withheld; and
 - (ii) Furnish form, fit, and function data instead.
- (2) Limited rights data that are formatted as a computer database for delivery to the Buyer or Government shall be treated as limited rights data and not restricted computer software.
- (3) [Reserved]

(h) Subcontracting. The Seller shall obtain from its subcontractors all data and rights therein necessary to fulfill the Seller's obligations to the Buyer under this contract. If a subcontractor refuses to accept terms affording the Buyer or Government those rights, the Seller shall promptly notify the Buyer of the refusal and shall not proceed with the subcontract award without authorization in writing from the Buyer.

(i) Relationship to patents or other rights. Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government.

(End of clause)

I.14 NFS 1852-204-76 SECURITY REQUIREMENTS FOR UNCLASSIFIED INFORMATION TECHNOLOGY RESOURCES (JAN 2011) (DEVIATION 21-01)

Contractor shall mean Seller in this article.

(a) The Contractor shall protect the confidentiality, integrity, and availability of NASA Electronic Information and IT resources and protect NASA Electronic Information from unauthorized disclosure.

(b) This clause is applicable to all NASA Contractors and sub-Contractors that process, manage, access, or store unclassified electronic information, to include Sensitive But Unclassified (SBU) information or Controlled Unclassified Information (CUI), for NASA in support of NASA's missions, programs, projects and/or institutional requirements. Applicable requirements, regulations, policies, and guidelines are identified in the Applicable Documents List (ADL) provided as an attachment to the contract. The documents listed in the ADL can be found at: <http://www.nasa.gov/offices/ocio/itsecurity/index.html>. For policy information considered sensitive, the documents will be identified as such in the ADL and made available through the Contracting Officer.

(c) Definitions.

(1) IT resources means any hardware or software or interconnected system or subsystem of equipment, that is used to process, manage, access, or store electronic information.

(2) NASA Electronic Information is any data (as defined in the Rights in Data clause of this contract) or information (including information incidental to contract administration, such as financial, administrative, cost or pricing, or management information) that is processed, managed, accessed, or stored on an IT system(s) in the performance of a NASA contract.

(3) IT Security Management Plan. This plan shall describe the processes and procedures that will be followed to ensure appropriate security of IT resources that are developed, processed, or used under this contract. Unlike the IT security plan, which addresses the IT system, the IT Security Management Plan addresses how the Contractor will manage personnel and processes associated with IT Security on the instant contract.

(4) IT Security Plan. This is a FISMA requirement; see the ADL for applicable requirements. The IT Security Plan is specific to the IT System and not the contract. Within 30 days after award, the contractor shall develop and deliver an IT Security Management Plan to the Contracting Officer; the approval authority will be included in the ADL. All contractor personnel requiring physical or logical access to NASA IT resources must complete NASA's annual IT Security Awareness training. Refer to the IT Training policy located in the IT Security Web site at <https://itsecurity.nasa.gov/policies/index.html>.

(d) The Contractor shall afford Government access to the Contractor's and subcontractors' facilities, installations, operations, documentation, databases, and personnel used in performance of the contract. Access shall be provided to the extent required to carry out a program of IT inspection (to include vulnerability testing), investigation and audit to safeguard against threats and hazards to the integrity, availability, and confidentiality of NASA Electronic Information or to the function of IT systems operated on behalf of NASA, and to preserve evidence of computer crime.

(e) At the completion of the contract, the Contractor shall return all NASA information and IT resources provided to the Contractor during the performance of the contract in accordance with retention documentation available in the ADL. The Contractor shall provide a listing of all NASA Electronic information and IT resources generated in performance of the contract. At that time, the Contractor shall request disposition instructions from the Contracting Officer. The Contracting Officer will provide disposition instructions within 30 calendar days of the Contractor's request. Parts of the clause and referenced ADL may be waived by the Contracting Officer if the Contractor's ongoing IT security program meets or exceeds the requirements of NASA Procedural Requirements (NPR) 2810.1 in effect at time of award. The current version of NPR 2810.1 is referenced in the ADL. The Contractor shall submit a written waiver request to the Contracting Officer within 30 days of award. The waiver request will be reviewed by the Center IT Security Manager. If approved, the Contractor Officer will notify the contractor, by contract modification, which parts of the clause or provisions of the ADL are waived.

(f) The contractor shall insert this clause, including this paragraph in all subcontracts that process, manage, access or store NASA Electronic Information in support of the mission of the Agency.

(End of Clause)

I.16 NFS 1852.225-71 RESTRICTION ON FUNDING ACTIVITY WITH CHINA (FEB 2012) (DEVIATION)

Contractor means Seller and Contracting Officer means Buyer in this article.

(a) Definition - "China" or "Chinese-owned company" means the People's Republic of China, any company owned by the People's Republic of China or any company incorporated under the laws of the People's Republic of China.

(b) Public Laws 112-10, Section 1340(a) and 112-55, Section 539, restrict NASA from contracting to participate, collaborate, coordinate bilaterally in any way with China or a Chinese-owned company using funds appropriated on or after April 25, 2011. Contracts for commercial and non developmental items are exempted from the prohibition because they constitute purchase of goods or services that would not involve participation, collaboration, or coordination between the parties.

(c) This contract may use restricted funding that was appropriated on or after April 25, 2011. The contractor shall not contract with China or Chinese-owned companies for any effort related to this contract except for acquisition of commercial and non-developmental items. If the contractor anticipates making an award to China or Chinese-owned companies, the contractor must contact the contracting officer to determine if funding on this contract can be used for that purpose.

(d) Subcontracts - The contractor shall include the substance of this clause in all subcontracts made

hereunder.

(End of Clause)