

FULLY REIMBURSABLE SPACE ACT AGREEMENT
BETWEEN
MOON EXPRESS, INC.
AND
NASA AMES RESEARCH CENTER
FOR
COMMON SPACECRAFT BUS DEVELOPMENT

ARTICLE 1. AUTHORITY AND PARTIES

In accordance with The National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2473 (c)), this Agreement is entered into by the NASA Ames Research Center located at Moffett Field, CA 94035 (hereinafter referred to as "NASA ARC," "ARC," or "NASA") and Moon Express, Inc., a Delaware corporation, located at [REDACTED] (hereinafter referred to as "MEI" or "Partner"). NASA and Partner may be individually referred to as a "Party" and collectively referred to as the "Parties."

ARTICLE 2. PURPOSE

NASA ARC will provide unique technical support to Moon Express, Inc. (MEI) in its assessment of NASA ARC's Common Spacecraft Bus (CSB) design for use on a commercial space mission.

NASA ARC is leading the agency's efforts to develop small, low-cost spacecrafts to deliver scientifically and technically useful payloads to the Moon. As part of that effort, NASA ARC's Mission Design Division designed a Common Spacecraft Bus (CSB) and built a testbed, the Hover Test Vehicle (HTV), for further development of a prototype lunar orbiter based on the CSB design. Further, NASA ARC built the unique Hover Test Facility to allow integrated flight-testing of small spacecrafts in a safe and instrumented environment.

The CSB is a small, low cost spacecraft designed to deliver scientifically and technically useful payloads to a variety of locations, including Low Earth Orbit (LEO), Lunar orbit and Lunar surface, Earth-Moon Lagrange points, and Near Earth Objects (NEOs). The CSB is an innovative modular bus design applicable to a wide range of missions, including orbiters and landers. The design objectives are that the missions fit within a budget of less than \$100 million, can be launched on a variety of affordable launch vehicles and can deliver science payloads of 5-50 kg to the lunar surface or 10-100 kg to various orbits. The key advantages of smaller spacecraft such as this are reduced costs and rapid development schedules.

The HTV is an adapted common spacecraft bus, outfitted with a cold gas propulsion system and landing gear for use in a confined, ground test environment for relatively easy, quick, and repeatable ground testing. The HTV offers a unique capability to safely perform risk reduction and regression testing on candidate lander hardware and software in an actual flight environment.

The Hover Test Facility is a unique building outfitted with the appropriate test support and safety equipment needed to safely, quickly, and consistently perform repeatable hover test operations.

All preflight, flight, and post-flight operations are available under one roof including pressurant handling, test conduct, a safety containment system, ground-truth tracking system, data downlink receiver, test data storage and quicklook capability, and research laboratory space. No known similar Hover Test Facility exists in the US commercial marketplace.

MEI intends to offer frequent, low cost and reliable access to the lunar surface for private and government customers. MEI will assess the feasibility and potentially adopt, modify and further develop the CSB design for deployment on a small spacecraft for a lunar landing mission.

This Agreement is consistent with NASA's goal to disseminate the HTV and CSB plans, on a non-exclusive basis, to commercial and private sector entities. MEI will reimburse NASA for technical assistance provided by ARC's Mission Design Division for the purpose of interpreting HTV and/or CSB plans and specifications. MEI will also provide valuable feedback on the CSB design and function which may contribute to NASA's analysis of the CSB as a lunar lander.

For NASA, a small spacecraft capable of landing on the lunar surface can greatly facilitate achievement of the U.S. Exploration Policy by undertaking critical precursor mapping, infrastructure and in-situ resource utilization missions prior to and coincident with human return to the Moon. Studies of small spacecraft missions have highlighted their value given their significantly lower cost structure, rapid development and deployment schedules, and resulting increase in the number of missions within a set budget and timeframe compared to the status quo. Such attributes have also stimulated interest in the burgeoning commercial spacecraft industry, a sector of the economy that NASA is committed to help nurture. By making the HTV and CSB designs available and supporting their adoption by commercial firms, NASA ARC will accelerate the further development of system variants, increase the number of components/sub-systems produced by suppliers, reduce costs in future missions and increase the availability of spares.

ARTICLE 3. RESPONSIBILITIES

A. MEI will use reasonable efforts to:

- 1) Participate in technical exchange meetings and provide lunar vehicle design information to NASA ARC having identified MEI's Proprietary Data consistent with the requirements of Article 9 of this Agreement. Proprietary Data provided to NASA during each assessment phase shall be identified at the time it is provided to NASA and no later than the end of such assessment phase (see Article 4, Schedule and Milestones).
- 2) Assess the HTV components and subsystems and participate with NASA in ongoing reviews of written reports, design specifications, and performance data related to MEI's analysis of the HTV subsystems.
- 3) Assess the CSB components and subsystems and participate with NASA in ongoing reviews of written reports, design specifications, and performance data related to MEI's analysis of the CSB subsystems.

- 4) Prepare a final report that will address the findings from MEI's testing and analysis of the HTV and CSB components and subsystems. Such report will be published pursuant to the requirements of Article 9. The plan for such assessment is further described in Paragraph B of this Article (listed below).

B. NASA ARC will use reasonable efforts to:

- 1) Participate in technical exchange meetings to provide information about the HTV and CSB design to MEI. NASA ARC will identify U.S. Government Data and Proprietary Data of third parties consistent with the requirements of Article 9 of this Agreement.
- 2) Coordinate technical support to coincide with MEI's assessment of the following key components and systems:

Assessment Phase 1: Avionics hardware and software for the guidance, navigation and control (GNC) of a space vehicle based on the CSB.

Task 1.1: Avionics system and the selection of suitable avionics hardware

Task 1.2: Integrated GNC solution with suitable choice of an Inertial Measurement Unit (IMU)

Task 1.3: Star tracker to provide position data to a CSB vehicle

Task 1.4: Sun Sensor to provide critical data on the location of the Sun to a CSB vehicle

Assessment Phase 2: Propulsion system with the theoretical capability to deliver a lunar vehicle to the moon.

Task 2.1: Vehicle propulsion system theoretically capable of delivering a CSB vehicle into Lunar Orbit or to the Moon's surface

Task 2.2: Braking motor to perform lunar insertion for a CSB vehicle

Assessment Phase 3: Electrical system for use with a CSB vehicle.

Task 3.1: Electrical and battery system

Task 3.2: Solar panels and a vehicle power structure

Assessment Phase 4: Communications system for communicating with a CSB vehicle from space.

Task 4.1: Ground station and telemetry requirements

Assessment Phase 5: Vehicle structure for a CSB spacecraft.

Task 5.1: Composite spacecraft structure

Task 5.2: MLI/Hardware suitable for a CSB vehicle

- 3) Coordinate and provide technical support to MEI to evaluate and assess the HTV and CSB designs for applicability to the MEI lunar vehicle design. Technical support required to incorporate NASA design and/or technology into MEI's lunar vehicle design shall be provided by NASA after MEI provides its lunar vehicle design, or, if appropriate (as determined by NASA), after the assessment of each system and identification of Partner's Proprietary Data.

ARTICLE 4. SCHEDULE AND MILESTONES

The planned major milestones for the activities defined in the "Responsibilities" clause are listed below. The activities shall be completed within the number of months specified after the Effective Date of this Agreement. In the future, NASA ARC may change this schedule in accordance with NASA mission milestones. Changes to this schedule will be communicated by NASA to MEI via electronic mail to the MEI Technical Point of Contact as soon as NASA is able provide such notice.

Avionics

Assessment of avionics system	1 month
Assessment of Inertial Measurement Unit	6 months
Assessment of Star Tracker	10 months
Assessment of Sun Sensor + Identification of Partner's Proprietary Data for its avionics system	10 months
Parties discuss applicability to MEI lunar vehicle design	10-24 months

Propulsion

Assessment of propulsion system	1 month
Analysis of trans-Lunar injection scenarios and selection of a breaking motor+ Identification of Partner's Proprietary Data for its propulsion system	7 months
Parties discuss applicability to MEI lunar vehicle design	7-24 months

Electrical/Communications

Assessment of electrical system and choice of batteries	6 months
Assessment of Solar Panels and Power system + Identification of Partner's Proprietary Data for its electrical system	7 months
Assessment of communication system	7 months
Parties discuss applicability to MEI lunar vehicle design	7-24 months

Structure

Assessment of Spacecraft Structure	8 months
Assessment of MLI/Hardware+ Identification of Partner's Proprietary Data for its spacecraft structure	12 months
Parties discuss applicability to MEI lunar vehicle design	12-24 months

Mission planning support

Assessment of ground station support systems	17 months
Assessment of launch providers + Identification of Partner's Proprietary Data for its mission plan	20 months
Parties discuss applicability to MEI lunar vehicle design	20-24 months

ARTICLE 5. FINANCIAL OBLIGATIONS

1. MEI agrees to reimburse NASA an estimated cost of \$542,700 for NASA to carry out its responsibilities under this Agreement. In no event will NASA transfer any U.S. Government funds to MEI under this Agreement. Payment must be made by MEI in advance of initiation of NASA's efforts. Advance payments shall be scheduled to ensure that funds are resident with NASA before Federal obligations are incurred in support of this Agreement.

MEI agrees to reimburse NASA in accordance with the following payment schedule:

• Q1 Effective Date	\$116,474
• Q2 01/03/2011	\$97,060
• Q3 04/01/2011	\$97,060
• Q4 07/01/2011	\$77,650
• Q5 10/03/2011	\$77,228
• Q6 01/02/2012	\$77,228

2. Payment shall be payable to the National Aeronautics and Space Administration through U.S. Treasury FEDWIRE Deposit System, Federal Reserve Wire Network Deposit System, pay.gov at <https://www.nssc.nasa.gov/portal/site/customerservice/menuitem.bb29c518138071c056969daf4d72749>, or check. A check should be payable to NASA Ames Research Center and sent to:

NASA Shared Service Center (NSSC)-FMD Accounts Receivable
Attn: For the Accounts of NASA Ames Research Center
Bldg. 1111, C Road
Stennis Space Center, MS 39529

3. NASA will not provide services or incur costs beyond the available funding amount. Although NASA has made a good faith effort to accurately estimate its costs, it is understood that NASA provides no assurance that the proposed effort under this Agreement will be accomplished for the above estimated amount. Should the effort cost more than the estimate, MEI will be advised by NASA as soon as possible. MEI shall pay all costs incurred and have the option of canceling the remaining effort, or providing additional funding in order to continue the proposed effort under the revised estimate. Should this Agreement be terminated, or the effort completed at a cost less than the agreed-to estimated cost, NASA shall account for any unspent

funds within one (1) year after completion of all effort under this Agreement, and promptly thereafter, return any unspent funds to MEI.

4. Notwithstanding any other provision of this Agreement, all activities under or pursuant to this Agreement are subject to the availability of funds, and no provision of this Agreement shall be interpreted to require obligation or payment of funds in violation of the Anti-Deficiency Act, Title 31 U.S.C. § 1341.

ARTICLE 6. PRIORITY OF USE

Any schedule or milestone in this Agreement is estimated based upon the Parties' current understanding of the projected availability of NASA personnel, facilities and equipment. In the event that NASA's projected availability changes, Partner shall be given reasonable notice of that change, so that the schedule and milestones may be adjusted accordingly. The Parties agree that NASA usage of the facilities, equipment, and personnel shall have priority over the usage planned in this Agreement. Should a conflict arise, NASA in its sole discretion shall determine whether to exercise that priority. Likewise, should a conflict arise as between two commercial users, NASA, in its sole discretion, shall determine the priority as between the two users. This Agreement does not obligate NASA to seek alternative government property or services under the jurisdiction of NASA at other locations.

ARTICLE 7. NONEXCLUSIVITY

This Agreement is not exclusive; accordingly, NASA may enter into similar Agreements for the same or similar purpose with other U.S. private or public entities.

ARTICLE 8. LIABILITY AND RISK OF LOSS

1. Partner hereby waives any claims against NASA, its employees, its related entities, (including, but not limited to, contractors and subcontractors at any tier, grantees, investigators, customers, users, and their contractors and subcontractors, at any tier) and employees of NASA's related entities for any injury to, or death of, Partner employees or the employees of Partner's related entities; or for damage to, or loss of, Partner's property or the property of its related entities arising from or related to activities conducted under this Agreement, whether such injury, death, damage, or loss arises through negligence or otherwise, except in the case of willful misconduct.

2. Partner further agrees to extend this unilateral waiver to its related entities by requiring them, by contract or otherwise, to waive all claims against NASA, its related entities, and employees of NASA and employees of NASA's related entities for injury, death, damage, or loss arising from or related to activities conducted under this Agreement.

ARTICLE 9. INTELLECTUAL PROPERTY RIGHTS - DATA RIGHTS

1. General

- (a) "Related Entity" as used in this Data Rights clause, means a contractor, subcontractor, grantee, or other entity having a legal relationship with NASA or Partner that is assigned, tasked, or contracted with to perform specified NASA or Partner activities under this Agreement.
- (b) "Data," as used in this Data Rights clause, means recorded information, regardless of form, the media on which it may be recorded, or the method of recording. The term includes, but is not limited to, data of a scientific or technical nature, computer software and documentation thereof, and data comprising commercial and financial information.
- (c) "Proprietary Data," as used in this Data Rights clause, means Data embodying trade secrets developed at private expense or comprising commercial or financial information that is privileged or confidential, and is marked with a suitable restrictive notice, provided that such Data: is not known or available from other sources without obligations concerning its confidentiality; has not been made available by the owners to others without obligation concerning its confidentiality; is not already available to the Government without obligation concerning its confidentiality; has not been developed independently by persons who have had no access to the information; and, is not required to be disclosed pursuant to Federal statute, law, regulation, or valid court order.
- (d) The Data rights set forth herein are applicable to employees of Partner and employees of any Related Entity of Partner. Partner shall ensure that its employees and employees of any Related Entity that perform Partner activities under this Agreement are aware of the obligations under this clause and that all such employees are bound to such obligations.
- (e) Data exchanged between NASA and Partner under this Agreement will be exchanged without restriction as to its disclosure, use, or duplication except as otherwise provided in this clause.
- (f) No preexisting Proprietary Data will be exchanged between the Parties under this Agreement unless specifically authorized in this clause or in writing by the owner of the Proprietary Data.
- (g) In the event that Data exchanged between NASA and Partner include a restrictive notice that NASA or Partner deems to be ambiguous or unauthorized, NASA or Partner may notify the other Party of such condition. Notwithstanding such a notification, as long as the restrictive notice provides an indication that a restriction on use or disclosure was intended, the Party receiving such Data will treat the Data pursuant to the requirements of this clause unless otherwise directed in writing by the Party providing such Data.

- (h) Notwithstanding any restriction on use, disclosure, or reproduction of Data provided in this clause, the Parties will not be restricted in the use, disclosure, or reproduction of Data provided under this Agreement that:
- i. is publicly available at the time of disclosure or thereafter becomes publicly available without breach of this Agreement;
 - ii. is known to, in the possession of, or developed by the receiving Party independent of carrying out the receiving Party's responsibilities under this Agreement and independent of any disclosure of, or without reference to, Proprietary Data or otherwise protectable Data hereunder;
 - iii. is received from a third party having the right to disclose such information without restriction; or
 - iv. is required to be produced or released by the receiving Party pursuant to a court order or other legal requirement.
- (i) If either NASA or Partner believes that any of the events or conditions that remove restriction on the use, disclosure, or reproduction of the Data apply, NASA or Partner will promptly notify the other Party of such belief prior to acting on such belief, and, in any event, will notify the other Party prior to an unrestricted use, disclosure, or reproduction of such Data.
- (j) **Disclaimer of Liability:** Notwithstanding any restriction on use, disclosure, or reproduction of Data provided in this clause, NASA will not be restricted in, nor incur any liability for, the use, disclosure, or reproduction of any Data not identified with a suitable restrictive notice in accordance with paragraphs 1 (c), 2 and 8 of this clause or of any Data included in Data which Partner has furnished, or is required to furnish to the U.S. Government without restriction on disclosure and use.
- (k) Partner may use the following, or a similar, restrictive notice as required by paragraphs 1(c), 2 and 8 of this clause. In addition to identifying Proprietary Data with such a restrictive notice, Partner should mark each page containing Proprietary Data with the following, or a similar, legend: "Proprietary Data – use and disclose only in accordance with notice on title or cover page."

Proprietary Data Notice

These data herein include Data Produced by Partner under a Space Act Agreement in accordance with the Data Rights provisions under Space Act Agreement SAA2-402617 and embody Proprietary Data. In accordance with the Space Act Agreement, NASA will use reasonable efforts to maintain the data in confidence and limit use, disclosure, and reproduction by NASA and any Related Entity of NASA in accordance with restrictions identified in the Space Act Agreement [may list specific restrictions listed in the Agreement].

2. Data First Produced by Partner Under this Agreement

In the event Data first produced by Partner (or any Related Entity of Partner) in carrying out Partner responsibilities under this Agreement is furnished to NASA, and Partner considers such

Data to be Proprietary Data, and such Data is identified with a suitable restrictive notice, NASA will use reasonable efforts to maintain the Data in confidence and such Data will be disclosed and used by NASA and any Related Entity of NASA (under suitable protective conditions) only for carrying out NASA responsibilities under this Agreement. Upon completion of activities under this Agreement, such Data will be disposed of as requested by Partner. Notwithstanding the foregoing, Data produced that is related to NASA's CSB and HTV shall not be considered Partner Proprietary Data and may be used by NASA as part of the CSB and HTV without any restrictions.

3. Data First Produced by NASA under this Agreement

Except for data disclosing an invention owned by NASA for which patent protection is being considered, in the event Partner requests that Data first produced by NASA (or any Related Entity of NASA) in carrying out NASA's responsibilities under this Agreement be maintained in confidence, and to the extent NASA determines that such Data would be Proprietary Data if it had been obtained from Partner, NASA will mark such Data with a restrictive notice and will use reasonable efforts to maintain such marked Data in confidence for the duration of this Agreement, with the express understanding that during the aforesaid restricted period such marked Data may be disclosed and used by NASA and any Related Entity of NASA (under suitable protective conditions) only for carrying out NASA responsibilities under this Agreement. Upon completion of activities under this Agreement, such marked Data will be disposed of as requested by Partner. Notwithstanding the foregoing, Data produced that is related to NASA's CSB and HTV shall not be considered Partner Proprietary Data and may be used by NASA as part of the CSB and HTV without any restrictions.

4. Publication of Results

- (a) Recognizing that section 203 of the National Aeronautics and Space Act of 1958 (42 U.S.C. § 2473), as amended, requires NASA to provide for the widest practicable and appropriate dissemination of information concerning its activities and the results thereof, and that the dissemination of the results of NASA activities is one of the considerations for this Agreement, NASA will coordinate proposed publication of results with Partner in a manner that allows Partner a reasonable amount of time to review and comment on proposed publications.
- (b) Consistent with other obligations in this clause, NASA agrees that it will not publish any results without first receiving permission from Partner.

5. Data Disclosing an Invention

In the event Data exchanged between NASA and Partner discloses an invention for which patent protection is being considered, the furnishing Party specifically identifies such Data, and the disclosure and use of such Data is not otherwise limited or restricted herein, the receiving Party agrees to withhold such Data from public disclosure for a reasonable time (presumed to be 1 year unless mutually agreed otherwise or unless such information is restricted for a longer period herein) in order for patent protection to be obtained.

6. Copyright

In the event Data is exchanged with a notice indicating that the Data is copyrighted and there is no indication that such Data is subject to restriction under paragraphs 2 or 3 of this clause (i.e., Data is not marked with a restrictive notice as required by paragraphs 2 or 3 of this clause), such Data will be presumed to be published and the following royalty-free licenses will apply.

(a) If it is indicated on the Data that the Data existed prior to, or was produced outside of, this Agreement, the receiving Party and others acting on its behalf, may reproduce, distribute, and prepare derivative works only for carrying out the receiving Party's responsibilities under this Agreement.

(b) If the Data does not contain the indication of (a) above, the Data will be presumed to have been first produced under this Agreement and, except as otherwise provided in paragraph 5 of this clause and in the Inventions and Patent Rights clause of this Agreement for protection of reported inventions, the receiving Party and others acting on its behalf may reproduce, distribute, and prepare derivative works for any purpose.

7. Data Subject to Export Control

Technical data, whether or not specifically identified or marked, that is subject to the export laws and regulations of the United States and that is provided to Partner under this Agreement will be treated as such, and will not be further provided to any foreign persons or transmitted outside the United States without proper U.S. Government authorization, where required.

8. Background Data

(a) In the event Partner furnishes NASA with Data developed at private expense (or in the case of state or local government, Data developed at government expense) that existed prior to, or was produced outside of, this Agreement, and such Data embody Proprietary Data, and such Data is so identified with a suitable restrictive notice, NASA will use reasonable efforts to maintain the Data in confidence and such Data will be disclosed and used by NASA and any Related Entity of NASA (under suitable protective conditions) only for carrying out NASA responsibilities under this Agreement. Upon completion of activities under this Agreement, such Data will be disposed of as requested by Partner.

(b) At the time of execution of this Agreement, the Parties agree that the following background data which embodies Proprietary Data that will be provided to NASA, may be used in the performance of this Agreement. This list may not be comprehensive, is subject to change during the course of the Agreement, and is not meant to supersede any restrictive markings which may be on the Data provided:

None. To be provided at a later date (see Article 4, Schedule and Milestones)

9. Handling of Data

(a) In the performance of this Agreement, Partner and any Related Entity of Partner may have access to, be furnished with, or use the following categories of Data:

- i. Proprietary Data of third parties that the U.S. Government has agreed to handle under protective arrangements; and/or
- ii. U.S. Government Data, the use and dissemination of which, the U.S. Government intends to control.

(b) Data provided by NASA to Partner under the Agreement

- i. At the time of execution of this Agreement, the Parties agree that the following Proprietary Data of third parties will be provided to the Partner with the express understanding that Partner will use and protect such Data in accordance with this clause:

None.

- ii. At the time of execution of this Agreement, the Parties agree that the following U.S. Government Data will be provided to Partner with the express understanding that Partner will use and protect such U.S. Government Data in accordance with this clause:

ARC- 16275-1 Hover Test Vehicle System Design
ARC-16264-1 Modular Common Bus Models and Software

- iii. The Parties agree that the following software and related Data will be provided to Partner under a separate Software Usage Agreement with the express understanding that Partner will use and protect such related Data in accordance with this clause. Partner understands that such software is currently only available to conduct activities under this Agreement. Unless retention of such Data is otherwise authorized under the Software Usage Agreement or Partner has entered into a license, consistent with 37 C.F.R. Part 404, for software provided under this Agreement, upon completion of activities under this Agreement, such related Data will be disposed of as instructed by NASA:

ARC-16264-1 Modular Common Bus Models and Software

- (c) With respect to such Data specifically identified in this Agreement or specifically marked with a restrictive notice, Partner agrees to:

- i. Use, disclose, or reproduce such Data only to the extent necessary to perform the work required under this Agreement;
- ii. Safeguard such Data from unauthorized use and disclosure;

- iii. Allow access to such Data only to its employees and any Related Entity that require access for their performance under this Agreement;
- iv. Except as otherwise indicated in (c)(iii) above, preclude access and disclosure of such Data outside Partner's organization;
- v. Notify its employees who may require access to such Data about the obligations under this clause and ensure that such employees comply with such obligations, and notify its Related Entity that may require access to such Data about their obligations under this clause; and
- vi. Return or dispose of such Data, as NASA may direct, when the Data is no longer needed for performance under this Agreement.

10. Oral and visual information

If information that Partner considers to be Proprietary Data is disclosed orally or visually to NASA, NASA will have no duty to limit or restrict, and will not incur any liability for, any disclosure or use of such information unless: (a) Partner orally informs NASA before initial disclosure that such information is considered to be Proprietary Data, and (b) Partner reduces such information to tangible, recorded form that is identified and marked with a suitable restrictive notice as required by paragraphs 1(c), 2 and 8 above and furnishes the resulting Data to NASA within 10 calendar days after such oral or visual disclosure.

ARTICLE 10. INTELLECTUAL PROPERTY RIGHTS - INVENTION AND PATENT RIGHTS

1. General

- (a) "Related Entity" as used in this Invention and Patent Rights clause means a contractor, subcontractor, grantee, or other entity having a legal relationship with NASA or Partner that is assigned, tasked, or contracted with to perform specified NASA or Partner activities under this Agreement.
- (b) Based on the purpose and scope of this Agreement, and the responsibilities of the Parties, NASA has made an administrative determination that the provisions of section 305(a) of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. § 2457(a)), do not apply to this Agreement. Therefore, title to inventions made (conceived or first actually reduced to practice) as a result of activities performed under this Agreement will remain with the respective inventing party(ies), and no invention or patent rights are exchanged between or granted by such parties under this Agreement except as provided herein.
- (c) The invention and patent rights set forth herein are applicable to employees of Partner and employees of any Related Entity of Partner. Partner shall ensure that its employees and employees of any Related Entity that perform Partner activities under this Agreement are aware of the obligations under this clause and that all such employees are bound to such obligations.

2. NASA Inventions

Upon request, NASA will use reasonable efforts to grant Partner, consistent with the requirements of 37 C.F.R. Part 404, a license on terms to be subsequently negotiated to any NASA invention made as a result of activities performed under this Agreement on which NASA decides to file a patent application. This license will be subject to the rights reserved in paragraph 5(a) below.

3. NASA Related Entity Inventions

In the event that inventions are made under this Agreement by employees of a NASA Related Entity or jointly between NASA employees and employees of a NASA Related Entity, and NASA has the right to acquire or has acquired title to such inventions, NASA will use reasonable efforts to report such inventions. Upon request, NASA will use reasonable efforts to grant Partner, consistent with the requirements of 37 C.F.R. Part 404, a license on terms to be subsequently negotiated to any such invention on which NASA has acquired title and decides to file a patent application. This license will be subject to the rights reserved in paragraph 5(b) below.

4. Joint Inventions With Partner

NASA and Partner agree to use reasonable efforts to identify and report to each other, and to cooperate with each other in obtaining patent protection on, any inventions made jointly between NASA employees (or employees of a NASA Related Entity) and employees of Partner. Upon timely request, NASA may, at its sole discretion and subject to the applicable rights reserved in paragraph 5 below:

- (a) agree to refrain from exercising its undivided interest in a manner inconsistent with Partner's commercial interests; or
- (b) use reasonable efforts to grant Partner, consistent with the requirements of 37 C.F.R. Part 404, an exclusive or partially exclusive license on terms to be subsequently negotiated to NASA's undivided interest in such joint inventions.

5. Rights to be Reserved in Partner's License

Any license granted to Partner pursuant to paragraphs 2, 3, or 4 above will be subject to the reservation of the following rights:

- (a) As to inventions made solely or jointly by NASA employees, NASA reserves the irrevocable, royalty free right of the Government of the United States to practice the invention or have the invention practiced on behalf of the United States or on behalf of any foreign government or international organization pursuant to any existing or future treaty or agreement with the United States. NASA will use reasonable efforts to limit use of the invention to use by or on behalf of NASA for research, experimental, or evaluation purposes

- (b) As to inventions made solely or jointly by employees of a NASA Related Entity, NASA reserves the rights as set forth in paragraph (a) above, as well as the revocable, nonexclusive, royalty-free license in the Related Entity as set forth in 14 C.F.R. § 1245.108 or 37 C.F.R. § 401.14 (e), as applicable.

6. Protection of Reported Inventions

When inventions are reported and disclosed between the Parties in accordance with the provisions of this clause, the receiving Party agrees to withhold such reports or disclosures from public access for a reasonable time (presumed to be 1 year unless otherwise mutually agreed or unless such information is restricted for a longer period herein) in order to facilitate the allocation and establishment of the invention and patent rights under these provisions.

7. Patent Filing Responsibilities and Costs

- (a) The invention and patent rights set forth herein will apply to any patent application filed and any patent obtained covering an invention made as a result of the performance of activities under this Agreement. Each Party is responsible for its own costs of obtaining and maintaining patents covering sole inventions of its employees; except that NASA and Partner may mutually agree otherwise, upon the reporting of any invention (sole or joint) or in any license granted, as to responsibilities and course of action to be taken to establish and maintain patent protection on such invention.
- (b) Partner agrees to include the following statement in any patent application it files for an invention made jointly between NASA employees (or employees of a NASA Related Entity) and employees of Partner:

The invention described herein may be manufactured and used by or for the U.S. Government for U.S. Government purposes without the payment of royalties thereon or therefor.

8. Related Inventions

- (a) For the purposes of this paragraph, a related invention is an invention related to the subject matter of this Agreement, but not made as a result of activities performed under this Agreement, that is covered by a patent application or patent owned by NASA or Partner. To the extent NASA related invention(s) are known and identified in paragraphs (b) or (d) below, upon request, and to the extent such related inventions are available for licensing, NASA may enter into negotiations with Partner for a license to such related invention(s) consistent with the requirements of 37 C.F.R. Part 404.
- (b) At the time of execution of this Agreement, the Parties agree that the following inventions are related inventions:

ARC- 16275-1 Hover Test Vehicle System Design
ARC-16264-1 Modular Common Bus Models and Software

(c) Related Computer Software: Where a related invention in the form of computer software is provided by NASA to Partner, such software will be provided under a separate Software Usage Agreement. Partner agrees to maintain such software in confidence and use it only for carrying out Partner responsibilities under this Agreement. Unless Partner has entered into a license, consistent with 37 C.F.R. Part 404, for software provided under this Agreement, upon completion of activities under this Agreement, all copies of such software will be disposed of as instructed by NASA.

(d) The Parties agree that the following software is related computer software that will be provided to Partner in accordance with paragraph (c) above:

ARC-16264-1 Modular Common Bus Models and Software

ARTICLE 11. USE OF NASA NAME AND NASA EMBLEMS AND RELEASE OF GENERAL INFORMATION TO THE PUBLIC

1. NASA Name and Initials

Partner agrees the words "National Aeronautics and Space Administration" and the letters "NASA" will not be used in connection with a product or service in a manner reasonably calculated to convey any impression that such product or service has the authorization, support, sponsorship, or endorsement of NASA, which does not, in fact, exist. In addition, with the exception of release of general information in accordance with paragraph 3 below, Partner agrees that any proposed public use of the NASA name or initials (including press releases resulting from activities conducted under this Agreement and all promotional and advertising use) shall be submitted by Partner in advance to the NASA Assistant Administrator for Public Affairs or designee ("NASA Public Affairs") for review and approval. Approval by NASA Public Affairs shall be based on applicable law and policy governing the use of the NASA name and initials.

2. NASA Emblems

Use of NASA emblems/devices (i.e., NASA Seal, NASA Insignia, NASA logotype, NASA Program Identifiers, and the NASA Flag) are governed by 14 C.F.R. Part 1221. Partner agrees that any proposed use of such emblems/devices shall be submitted to NASA Public Affairs for review and approval in accordance with such regulations.

3. Release of General Information to the Public

NASA or Partner may, consistent with Federal law and this Agreement, release general information regarding its own participation in this Agreement as desired.

ARTICLE 12. DISCLAIMER OF WARRANTY

Equipment, facilities, technical information, and services provided by NASA under this Agreement are provided "as is." NASA makes no express or implied warranty as to the

condition of such equipment, facilities, technical information, or services, or as to the condition of any research or information generated under this Agreement, or as to any products made or developed under or as a result of this Agreement including as a result of the use of information generated hereunder, or as to the merchantability or fitness for a particular purpose of such research, information, or resulting product, or that the equipment, facilities, technical information, or services provided will accomplish the intended results or are safe for any purpose including the intended purpose, or that any of the above will not interfere with privately owned rights of others. Neither the government nor its contractors shall be liable for special, consequential or incidental damages attributed to such equipment, facilities, technical information, or services provided under this Agreement or such research, information, or resulting products made or developed under or as a result of this Agreement.

ARTICLE 13. DISCLAIMER OF ENDORSEMENT

NASA does not endorse or sponsor any commercial product, service, or activity. NASA's participation in this Agreement or supply of equipment, facilities, technical information, or services under this Agreement does not constitute endorsement by NASA. Partner agrees that nothing in this Agreement will be construed to imply that NASA authorizes, supports, endorses, or sponsors any product or service of Partner resulting from activities conducted under this Agreement, regardless of the fact that such product or service may employ NASA-developed technology.

ARTICLE 14. COMPLIANCE WITH LAWS AND REGULATIONS

1. The Parties shall comply with all applicable laws and regulations including, but not limited to, safety, security, export control, and environmental laws and regulations. Access by Partner to a NASA facilities or property, or to a NASA Information Technology (IT) system or application, is contingent upon compliance with NASA security and safety policies and guidelines including, but not limited to, standards on badging, credentials, and facility and IT system/application access.

2. With respect to any export control requirements:

(a) The Parties will comply with all U.S. export control laws and regulations, including the International Traffic in Arms Regulations (ITAR), 22 CFR Parts 120 through 130, and the Export Administration Regulations (EAR), 15 CFR Parts 730 through 799, in performing work under this Agreement. In the absence of available license exemptions/exceptions, the Partner shall be responsible for obtaining the appropriate licenses or other approvals, if required, for exports of hardware, technical data and software, or for the provision of technical assistance.

(b) The Partner shall be responsible for obtaining export licenses, if required, before utilizing foreign persons in the performance of work under this Agreement, including instances where the work is to be performed on-site at NASA and where the foreign person will have access to export-controlled technical data or software.

(c) The Partner will be responsible for all regulatory record keeping requirements associated with the use of licenses and license exemptions or exceptions.

(d) The Partner will be responsible for ensuring that the provisions of this Article apply to its Related Entities.

ARTICLE 15. TERM OF AGREEMENT

This Agreement becomes effective upon the date of the last signature below (the Effective Date) and shall remain in effect until the completion of all obligations of both Parties hereto, or two (2) years from the date of the last signature, whichever comes first.

ARTICLE 16. RIGHT TO TERMINATE

Either Party may unilaterally terminate this Agreement by providing thirty (30) calendar days written notice to the other Party. In the event of such termination, Partner will be obligated to reimburse NASA for all costs for which the Partner was responsible and that have been incurred in support of this Agreement up to the date the termination notice is received by the non-terminating Party. Where Partner terminates this Agreement, Partner will also be responsible for termination costs.

ARTICLE 17. CONTINUING OBLIGATIONS

The rights and obligations of the Parties that, by their nature, would continue beyond the expiration or termination of this Agreement, e.g., "Liability and Risk of Loss" and "Intellectual Property Rights" and "Financial Obligations" shall survive such expiration or termination of this Agreement.

ARTICLE 18. MANAGEMENT POINTS OF CONTACTS

The following personnel are designated as the principal points of contact between the Parties in the performance of this Agreement.

Technical Points of Contact

NASA Ames Research Center
Belgacem Jaroux
Supv. Aerospace Engineer
Mail Stop: 202-3
Moffett Field, CA 94035
Phone: (650) 604-6312
Email: belgacem.a.jaroux@nasa.gov

Meon Express, Inc.
[REDACTED]

Chief Engineer
[REDACTED]

Phone: [REDACTED]

Email: [REDACTED]
[REDACTED]

Business/Administrative Points of Contact

NASA Ames Research Center
Phil Herlth
Technology Partnership Manager
NASA Ames Research Center
Bldg. 202-A, Room 214
P.O. Box 1
Moffett Field, CA 04035-001
Phone: 650-604-0625
Email: philip.m.herlth@nasa.gov

Moon Express, Inc.
[Redacted]
CEO
[Redacted]
Phone: [Redacted]
Email: [Redacted]

ARTICLE 19. DISPUTE RESOLUTION

Except as otherwise provided in the article entitled "Priority of Use," the article entitled "Intellectual Property Rights – Invention and Patent Rights" (for those activities governed by 37 C.F.R. Part 404), and those situations where a pre-existing statutory or regulatory system exists (e.g. under the Freedom of Information Act, 5 U.S.C. § 552), all disputes concerning questions of fact or law arising under this Agreement shall be referred by the claimant in writing to the appropriate person identified in this Agreement as the "Management Points of Contact." The persons identified as the "Management Points of Contact" for NASA and the Partner will consult and attempt to resolve all issues arising from the implementation of this Agreement. If they are unable to come to agreement on any issue, the dispute will be referred to the signatories to this Agreement, or their designees, for joint resolution. If the Parties remain unable to resolve the dispute, then the NASA signatory or that person's designee, as applicable will issue a written decision that will be the final agency decision for the purpose of judicial review. Nothing in this section limits or prevents either Party from pursuing any other right or remedy available by law upon the issuance of the final agency decision.

ARTICLE 20. MODIFICATIONS

Any modification to this Agreement shall be executed, in writing, and signed by an authorized representative of NASA and the Partner. Any modification that creates an additional commitment of NASA resources must be signed by the original NASA signatory authority, or successor, or a higher level NASA official possessing original or delegated authority to make such a commitment.

ARTICLE 21. ASSIGNMENT

Neither this Agreement nor any interest arising under it will be assigned by the Partner or NASA without the express written consent of the officials executing this Agreement.

ARTICLE 22. APPLICABLE LAW

U.S. Federal law governs this Agreement for all purposes, including, but not limited to, determining the validity of the Agreement, the meaning of its provisions, and the rights, obligations and remedies of the Parties.

ARTICLE 23. INDEPENDENT RELATIONSHIP

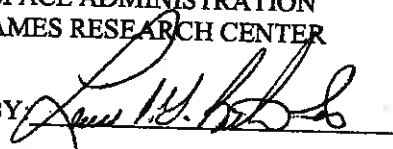
This Agreement is not intended to constitute, create, give effect or otherwise recognize a joint venture, partnership, or formal business organization, or agency agreement of any kind, and the rights and obligations of the Parties shall be only those expressly set forth herein.

ARTICLE 24. SIGNATORY AUTHORITY

The signatories to this Agreement covenant and warrant that they have authority to execute this Agreement. By signing below, the undersigned agrees to the above terms and conditions.

NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION
AMES RESEARCH CENTER

MOON EXPRESS, INC.

BY: 
S. Pete Worden
Center Director

BY: 

CEO

DATE: 10/14/2010

DATE: 10/14/2010

This document is in relation to the address of Moon Express, Inc., which appears on SAA2-402617.

Please find the correct address of Moon Express, Inc. below:

**Moon Express, Inc
Building 19-1000, N Akron Rd
NASA Research Park, PO Box 309
Moffett Field, CA 94035**

The redacted address that appears on pages one (1), 17, and 18, of SAA2-402617, is an outdated address of Moon Express, Inc.