

**NATIONAL SECURITY SPACE LAUNCH (NSSL)
PHASE 3 LANE 2 LAUNCH SERVICE PROCUREMENT
FA8811-23-R-0002**

**ATTACHMENT 10
ADDENDUM TO FAR 52.212-04,
CONTRACT TERMS AND CONDITIONS**

dRFP #2: 13 July 2023

**United States Space Force
Space Systems Command (SSC)
Assured Access to Space (AATS)
Los Angeles Air Force Base, California**

**FAR 52.212-04 ADDENDUM TO CONTRACT TERMS AND CONDITIONS—COMMERICAL ITEMS
(DEC 2022)**

52.212-4, Contract Terms and Conditions -- Commercial Items is hereby tailored as follows:

(a) *Inspection/Acceptance.* Pursuant to FAR Subpart 12.402(b), 52.246-11 HIGHER-LEVEL CONTRACT QUALITY REQUIREMENT shall govern and apply to this contract and is incorporated herein by reference and in full text separately. Likewise, FAR 52.246-04 INSPECTION OF SERVICES FIXED-PRICE is incorporated herein by reference. The Government, to include Space Force, NRO, and DCMA representatives, reserves the right to perform in-process inspection or testing of any launch services tendered for acceptance prior to launch. The Government, to include Space Force, NRO, and DCMA representatives, reserves the right to perform Quality Management System inspections. Inspection/Acceptance shall be documented via a Contractor submitted Receiving Report in Wide Area Work Flow (WAWF) within 60 days of delivery. Government Acceptance shall be documented upon subsequent acceptance of the Receiving Report by the Contracting Officer or authorized Contracting Officer Representative (COR) in WAWF in accordance with DFARS 252.232-7003 ELECTRONIC SUBMISSION OF PAYMENT REQUESTS AND RECEIVING REPORTS and DFARS 252.246-7000 MATERIAL INSPECTION AND RECEIVING REPORT.

(1) Acceptance for CLIN 0001, CLIN 0002, CLIN 0003, CLIN 0004, and CLIN Series 2000 shall be in accordance with Attachment 5, Acceptance Criteria.

(2) Acceptance for Data & Reports shall be as specified in the attached Contract Data Requirements Lists (CDRL), DD Form 1423 (See Exhibit A).

(3) For services other than launch services, the Government must exercise its post acceptance rights:

(i) Within a reasonable time after the defect was discovered or should have been discovered; and

(ii) Before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

(4) Acceptance for CLIN 0005, CLIN 0006 and CLIN Series 4000 will be established upon task order issuance, as specified in the respective CLIN descriptions, above.

(5) Acceptance for CLIN Series 5000 shall be as specified in Attachment 9, Award Fee Plan.

(b) *Assignment.* See standard clause 52.212-4(b).

(c) *Changes.* FAR 52.243-1 CHANGES – FIXED-PRICE, ALTERNATE I (APR 1984), is hereby incorporated by reference and in full-text separately. FAR 52.243-7 NOTIFICATION OF CHANGES (JAN 2017) is incorporated herein by reference and in full text separately.

(d) *Disputes.* See standard clause 52.212-4(d).

(e) *Definitions.* See standard clause 52.212-4(e).

(f) *Excusable delays.* The Contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common

carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence. This subpart (f) shall not apply to postponements and delays subject to paragraph (w) *Launch Schedule Determination and Adjustments*.

(g) *Invoice*. See standard clause 52.212-4(g).

(h) *Patent indemnity*. See standard clause 52.212-4(h).

(i) *Payment*. See standard clause 52.212-4(i).

(j) *Risk of loss*. See standard clause 52.212-4(j).

(k) *Taxes*. See standard clause 52.212-4(k).

(l) *Termination for the Government's convenience*. See standard clause 52.212-4(l).

(m) *Termination for cause*. See standard clause 52.212-4(m).

(n) *Title*. Unless otherwise specified, title to items furnished in conjunction with services under this contract shall remain with the Contractor. The Government shall not take title to launch vehicles under contracts for launch services.

(o) *Warranty*. Unless otherwise specified, the Contractor makes no warranty, express or implied, with respect to the services delivered or performed hereunder. To the extent any supplies are delivered under this contract, the Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in the contract.

(p) *Limitation of liability*. See standard clause 52.212-4(p).

(q) *Other compliances*. See standard clause 52.212-4(q).

(r) *Compliance with laws unique to Government contracts*. See standard clause 52.212-4(r).

(s) *Order of precedence*. See standard clause 52.212-4(s).

(t) *Reserved*

(u) *Unauthorized Obligations*. See standard clause 52.212-4(u).

(v) *Incorporation by reference*. See standard clause 52.212-4(v).

(w) *Launch Schedule Determination and Adjustments*.

(1) Definitions: For purposes of this clause, the following definitions apply:

(i) "Launch Schedule" means the current and applicable Launch Period, Launch Slot, or Launch Date for a particular launch service.

(ii) "Launch Period" means a period of 90 calendar days during which the Launch is scheduled to occur.

(iii) "Launch Slot" means a 30 calendar day window, with associated launch site location assignment, given to a mission and integrated LV configuration for when the Launch is scheduled to occur. This is assigned in coordination with the Current Launch Schedule Review Board (CLSRB).

(iv) "Launch Date" means the calendar date within the Launch Slot during which the Launch is scheduled to occur. If no exact date is established, the first day of the Launch Slot, or if no Launch Slot has been assigned, the first day of the Launch Period, will be used.

(v) "Launch Opportunity" means a time period (non-zero) during which the Contractor may provide a launch service (including Launch Period, Launch Slot, and Launch Date).

(vi) "Grace Period" is defined as the number of days the Contractor/Government may delay the launch date, without incurring liquidated damages/postponement fees. Using the applicable Table 1 or Table 2, below, for each corresponding time frame, the number of Grace Days available is the smaller of either (1) the Grace Days specified in the Grace Period column, or the (2) the remaining number of unused Grace days from the previous timeframe. The number of Grace Days available for accelerated mission will be determined using explanation above. In the event of a delay, the number of Grace Days will not increase if the delay changes the timeframe in applicable Table 1 or Table 2.

For example, if the Government used 40 Grace Days during the period L-404 days through L-225 days, there would be 50 Grace Days available during the period L-224 days through L-90 days. If no further days are used in the period L-224 days through L-90 days, there would be 30 Grace Days available during the period L-89 days through L-11 days, with 20 Grace Days having expired.

If the Contractor/Government have Grace Days remaining, the number of Grace Days utilized is calculated by counting the number of days of delay starting from the day after the current Launch Period or Launch Slot or Launch Date if one has been established IAW paragraph (w)(3), to the end of new Launch Period, or Launch Slot or Launch Date.

For example, if the end of the current Launch Period is 31 October 2026 and the end of the new Launch Period is 30 Nov 2026, the number of Grace Days utilized would be 30 days.

(vii) "Grace Day" is one day in duration within the Grace Period.

(viii) "Initial Launch Capability" (ILC) is the first day of the Launch Period or Launch Slot if one has been established.

(ix) "Postponement Period" is the number of days of delay starting from the day after the original established Launch Period. The Postponement Period for both the Government and the Contractor shall extend until the launch service is completed.

(x) "Postponement Fees" or "Liquidated Damages" are fixed and agreed to dollar amounts paid by the Party causing a delay (i.e., not subject to Grace Days or Excusable Delays). Postponement fees do not include Acceleration Recapture fees as specified in paragraph (w)(4)(vii)(A). Table 1 or Table 2, below, establishes the amount of Postponement Fees or Liquidated Damages per day of delay owed for each corresponding timeframe. In the event of a delay, Postponement Fees or Liquidated Damages per day of delay will not decrease if the delay changes the timeframe in applicable Table 1 or Table 2.

(2) Reference Mission Assignment: Reference missions shall be assigned by the Government on an annual basis IAW paragraph (z) *Ordering*.

(3) Launch Scheduling: The Parties' actions for each phase of the launch scheduling process are defined below:

(i) Launch Period Assignment: A Launch Period will be assigned at Reference Mission Assignment Notification IAW paragraph (z)(3)(ii)(A) no later than 24 months prior to launch date, unless the launch service is accelerated in which case the Launch Period Assignment will occur at issuance of the task order for acceleration.

(ii) Reference Mission Order: Reference Missions orders will normally be made 24 months prior to Launch Date IAW paragraph (z)(3)(ii)(B).

(iii) Launch Slot Determination: The Contractor shall provide a Launch Slot Recommendation (LSR) (CDRL A022) to the Contracting Officer no later than 405 calendar days (approximately 13.5 months) prior to the beginning of the Launch Period (or if accelerated by 9 months L-12, or if accelerated by 12 months L-10), identifying the following:

(A) A Launch Slot within the previously assigned Launch Period, if applicable;

(B) A decision date for Government concurrence. If not specified, need date is fifteen (15) calendar days after Government receipt of the LSR.

By the decision date specified in the CDRL A022 submission, the Contracting Officer or Contracting Officer's Representative (COR) will provide written concurrence with either the LSR or mutually agreed LSR updates or will recommend a Launch Slot for the Contractor's concurrence.

(iv) Mission Set Defined: The NSSL Mission Set for a Reference Mission Order will be defined no later than 365 days prior to beginning of the launch slot, unless accelerated by 12 months, in which case it will occur at issuance of the task order for acceleration.

(v) Launch Date Determination: The Contractor shall provide a Launch Date Recommendation (LDR) (CDRL A022) to the Contracting Officer no later than 225 calendar days (approximately 7.5 months) prior to the beginning of the Launch Slot identifying the following:

(A) Specific Launch Date within the previously authorized Launch Slot

(B) The launch site assigned by the Government at Reference Mission Assignment Notification

(C) Deadline for Government-provided payload/spacecraft ready for Launch Vehicle Mate

(D) A decision date for Government concurrence. If not specified, need date is fifteen (15) calendar days after Government receipt of the LDR.

By the decision date specified in the CDRL A022 submission, the PCO or COR will provide written concurrence with either the LDR or mutually agreed LDR updates or will recommend a Launch Date for the Contractor's concurrence.

(vi) Mission Configuration Locked: The mission configuration will be locked 180 days prior to the launch date, and if an Integrated Payload Stack (IPS) is not ready 30 days prior to launch date then a mass simulator will be used, unless mutually agreed to otherwise.

(4) Launch Schedule Adjustment: In the event either Party identifies a need to further revise the Launch Schedule established IAW paragraph (3) above, the process and terms set forth below shall apply:

(i) Government/Contractor will give written notice of any desired change in the Launch Schedule as soon as possible. In the case of a request for postponement of the Launch Schedule by the Government/Contractor, the Government/ Contractor will propose a new Launch Slot, or Launch Period, or Launch Date (as appropriate). Within two weeks of receipt of the written request of a Launch schedule Adjustment, the Contractor/Government will inform the Government/Contractor whether a Launch Opportunity exists as requested or will propose an alternatively available Launch Slot, Launch Period, or Launch Date (as appropriate). The Government/Contractor will work to provide written agreement within thirty (30) days following receipt of the Contractor's/Government's proposition and will work together to deconflict and resolve any possible Range conflicts. The number of Grace Days utilized, Postponement Fees, and/or Liquidated Damages owed will not take into account the difference between the proposed Launch Period, Launch Slot or Launch Date and the alternatively available Launch Period, Launch Slot, Launch Date (as appropriate) if both the Government and Contractor agree on the alternatively available Launch Period, Launch Slot, or Launch Date (as appropriate).

(ii) Postponements during this period shall be subject to the Postponement Fees pursuant to sections (4)(v) through (4)(vii) and will be paid by the party responsible for the delay. Submission of a request to postpone a launch is not an admission of responsibility for the postponement. Responsibility for a postponement will be based upon a determination of the underlying Tables 1 and 2 and the predominant day-to-day cause requiring delay. The Contractor is prohibited from delaying launch in order to perform Secondary Objectives without Government approval. Circumstances precluding the use of Secondary Objectives will not be considered in the final "go/no-go" decision by the Government Mission Director.

(iii) If the Contractor requests a postponement of the Launch Date and the Government agrees to the postponement, the Parties agree that, in lieu of Termination for Cause and in place of actual damages, the price of the launch service shall be reduced by the agreed upon fixed liquidated damages prices in Table 1 for each calendar day of delay in excess of the Grace period commencing upon receipt of the notification. In this event, the Government shall have the right of approval of the revised Launch Date prior to its implementation. The Government shall also have the right of approval of the reallocation of launch vehicles if milestone payments have already been made towards a designated launch vehicle. Finally, the Government shall have the right of approval prior to any revision in its position (i.e., the order in the Contractor's launch manifest queue sequence, if it results in the postponement of the Government Launch Date).

(iv) If the Contractor fails to request a postponement and the major program milestone event designated as the launch is delayed (i.e., the launch service is not completed by the contractual Launch date), for reasons other than those excusable delays described in paragraph (4)(ix), then the Contractor shall pay the Government for each day of delay IAW Table 1. The Government reserves the right to terminate this contract in whole or in part under FAR 52.212-04(m), Termination for Cause, of this contract, and in that event, the Contractor shall be liable for the agreed upon fixed liquidated damages prices in Table 1, accruing until the time the Government may reasonably obtain delivery or performance of similar supplies or services, up to the maximum specified in paragraph

(4)(vii). The liquidated damages shall be in addition to any other costs under FAR 52.212-04(m), Termination for Cause.

(v) Each postponement request by the Contractor that is not either a Grace Period, or an excusable delay in accordance with paragraph (4)(ix) herein, is subject to the liquidated damages shown in Table 1.

(vi) If the Government requests a postponement of the Launch date, the Parties agree that, in place of actual damages, the price of the launch service task order shall be increased by the agreed upon fixed postponement fee prices in Table 2, commencing upon receipt of notification from the Contracting officer, for each calendar day of delay in excess of the Grace Period. Each postponement request by the Government that is not either a Grace Period or an excusable delay in accordance with paragraph (4)(ix) is subject to the Postponement Fees shown in Table 2.

(vii) The maximum amount of liquidated damages or postponement fees paid by the Contractor or Government respectively, is \$10.25M each, per launch service task order. The maximum amount applies only to the Liquidated Damages/Postponement Fees shown in Tables 1 and 2.

(A) For launch services accelerated in accordance with *Ordering* paragraph (z)(4)(v), Launch Schedule Acceleration, the maximum amount of liquidated damages paid by the Contractor will be \$10.25M, plus the total amount paid for acceleration (the "Acceleration Recapture"). In the event an accelerated mission is not launched by the accelerated launch date for reasons other than excusable delays in (4)(ix), then, in addition to the Liquidated Damages specified in Table 1, the Contractor shall pay the Government a daily Acceleration Recapture fee for each day of delay beyond the accelerated launch date until the date the actual launch occurs. The daily Acceleration Recapture fee will be calculated as follows: Total Paid for Acceleration (TPA) divided by total the number of Days Accelerated (DA), the result of which is multiplied by the number days delayed (DD) beyond the accelerated launch date until the actual date launched [daily Acceleration Recapture fee = (TPA/DA) x DD]. The daily Acceleration Recapture fee will apply concurrently with, and in addition to, the daily the Liquidated Damages fees specified in Table 1.

(viii) In the event that the Government or Contractor postpones the Launch Date, milestone payments specified in Attachment 8, Payment Plan, shall be suspended for the length of the postponement. The payment of Government Postponement Fees to the Contractor, Contractor Liquidated Damages to the Government, and Acceleration Recapture fees if applicable, will occur by the methods described in 4(xi), below.

(ix) The Government/Contractor will not be charged with Postponement Fees/Liquidated Damages when the delay in delivery or performance arises solely out of causes beyond the control of the Government/Contractor and not due to the fault or negligence of the Government/Contractor. Such causes include, but are not limited to, the occurrences defined in FAR 52.212-04(f) Excusable Delays, and any contracting actions resulting from a Stop Work Order under FAR 52.242-15.

(x) Once a Launch Date has been specified, it may be changed by the cumulative amount of the Grace Days established above by the Government or the Contractor, without consideration to the other party, if the mission requirements can be met. The cumulative total of Grace Days exercised by the Government per launch Service shall not exceed 365 days, excluding the 10 available Grace Days at L-10. The cumulative total of

Grace Days exercised by the Contractor per launch service shall not exceed 90 days, excluding the 10 available Grace Days at L-10.

(xi) Government Postponement Fees shall be paid to the Contractor by incorporating a Firm Fixed Price (FFP) CLIN 1000 series for each postponement. For example, if the Government is out of grace days and postpones a mission by 3 months, the Task Order will be modified to add CLIN 1000 and pay the postponement fee price for the next 3 month postponement in accordance with the timing and fees in Table 2. If the Government later postpones the same mission by 5 additional months, the Task Order will be modified to add CLIN 1001 and pay the postponement fee price for the 5 month postponement in accordance with the timing and fees in Table 2. The Contractor is authorized to invoice once the postponement fee modification is awarded. In the event the next applicable milestone payment does not contain sufficient funds to cover the full amount of Liquidated Damages Fees or Acceleration Recapture Fees owed to the Government, the Government will continue to subtract the remaining Fees owed from subsequent milestone payments until the Fees are paid in full, subject to the per mission maximums specified in 4(vii) and 4(vii)(A).

(xii) In the event of an anomaly on any launch vehicle used by the Contractor that involves hardware or software directly applicable to NSSL launch services, the Government reserves the right to delay launch services without accruing damages or providing an equitable adjustment to the Contractor until the Government approves an acceptable resolution of the anomaly.

(5) The Contractor recognizes the Government has the right to preempt a commercial customer's launch under the Commercial Space Launch Act, 51 U.S.C. 50910 or the Defense Production Act (DPA), 50 U.S.C. 4501 et seq. as it implements the Defense Priorities and Allocation System (DPAS). In the event the Government preempts the commercial customer's launch, the Contractor shall proceed with processing of the Government's launch upon receipt of written notice of the preemption.

Table 1: Contractor Liquidated Damages and Grace Periods

| Time Frame | Liquidated Damages | Grace Period |
|------------------------------|--------------------|--------------|
| ATP through L-225 days | \$6,000 per day | 90 days |
| L-224 days through L-90 days | \$10,000 per day | 60 days |
| L-89 days through L-11 days | \$80,000 per day | 30 days |
| L-10 days through Launch | \$200,000 per day | 10 days* |

*One request for up to ten (10) Grace Days available at L-10 will be granted regardless of whether cumulative totals in (4)(x) have been met.

Table 2: Government Postponement Fees and Grace Periods

| Time Frame | Postponement Fees | Grace Period |
|--------------------------------------|-------------------|--------------|
| ATP through L-405 days | \$2,000 per day | 365 days |
| L-404 days months through L-225 days | \$6,000 per day | 90 days |
| L-224 days through L-90 days | \$10,000 per day | 60 days |

| | | |
|------------------------------------|-------------------|----------|
| L-89 days months through L-11 days | \$80,000 per day | 30 days |
| L-10 days through Launch | \$200,000 per day | 10 days* |

*One request for up to ten (10) Grace Days available at L-10 will be granted regardless of whether cumulative totals in (4)(x) have been met.

(x) *Secondary Objectives.*

(1) Definitions: For purposes of this clause, the following definition applies:

(i) "Secondary Objectives": Secondary objectives includes any Contractor proposed use of the excess performance margin of the launch vehicle, beyond the primary mission's requirements, such as: recovery of launch vehicle hardware (not booster related), or any other commercial uses of the launch vehicle capability to include continued second stage use after payload deployment. Secondary Objectives excludes commercial co-manifesting.

(2) The Government shall own all performance capability of the launch vehicle, to include any excess performance margin of the launch vehicle beyond the primary mission's requirements. The Contractor shall not use any excess performance margin of the launch vehicle for any secondary objectives unless approved by the Government. It is the Government's sole discretion to release excess performance margin and in what amount.

(3) In order to obtain and maintain approval for secondary objectives, the Contractor shall achieve all of the following for each applicable mission:

(i) Government approval of CDRL A030;

(ii) A "Low" Government Flight Worthiness Risk rating as defined by the Technical Issue Resolution Process (TIRP) LRG OI-1 (and the NRO Mission Assurance Team process for NRO missions, OSL OI-008A) NLT L-12 months unless mutually agreed upon otherwise; and

(iii) A "Low" Government Programmatic Risk rating as defined by the Air Force Pamphlet (AFPAM) 63-128 (and the NRO Risk, Issue, and Opportunity Management instruction, NI 130-1-4, Addendum 1, for NRO missions) NLT L-12 months unless mutually agreed upon otherwise.

(iv) Once obtained, the Contractor shall maintain a "Low" Government Flight Worthiness Risk rating and a "Low" Government Programmatic Risk rating throughout the specific mission performance. However, the mission director retains the right to approve a higher level of risk.

(4) The Government reserves the right to withdraw any such approval at any time if Contractor cannot maintain the applicable Government Flight Worthiness Risk rating and Government Programmatic Risk rating IAW (3)(iv).

(5) The Government reserves the right to withdraw any such approval at any time before L-3 months with no consideration provided to the Contractor.

(6) The Government shall not be liable in any manner for disapproving, or for withdrawing approval for Contractor use of the excess performance margin of the launch vehicle.

(7) The Government shall not be liable in any manner should the Contractor terminate or fail to accomplish its secondary objectives.

(y) *Interim Payments for Commercial Items.*

- (1) Contractor entitlement to financing payments. The Contractor may request, and the Government shall pay, a contract financing interim payment as specified in this contract when: the payment requested is properly due in accordance with this contract or task order thereunder; the supplies deliverable or services due under the contract will be delivered or performed in accordance therewith; and there has been no impairment or diminution of the Government's security under this contract. The terms of this provision apply to all task orders issued under this contract.
- (2) Computation of amounts. Interim payment financing shall be paid to the Contractor as set per the schedule in Attachment 8, Payment Plan (hereby known as the "Milestone Event Schedule"), of this contract, upon acceptable completion of milestone events as described therein. The Government shall have access to all applicable information and/or facilities in order to verify completion of each milestone event.
 - (i) Amount of each interim payment. The amount of each interim payment for each milestone event is stated in the Milestone Event Schedule.
 - (ii) Date of each interim payment. The notional date of each interim payment for each milestone event is stated in the Milestone Event Schedule however, payment shall only be paid once the Government provides that the milestone event has been acceptably completed.
 - (iii) Limitation on payment. Request for payment may not be submitted more often than once monthly, regardless of how many milestones have been completed in that month. Therefore, a request for payment may include a payment request for multiple milestones. Prior to the liquidation of each launch service, payment for the sum of all installment payments shall not exceed 80 percent of the price of that specific launch service CLIN.
- (3) Contractor request for interim payment. The Contractor may submit requests for payment of interim payments (Notice of Completion) only after receiving notification of acceptable completion of each milestone event. Request for payment shall occur in a form and manner acceptable to the Procuring Contracting Officer as described below in paragraph (9) of this clause. Unless otherwise authorized by the Contracting Officer, all installment payments in any month for which payment is being requested shall be included in a single request.
- (4) Dates for payment. An interim payment under this clause is a contract financing payment, and except as provided in paragraph (5) of this clause, approved requests shall be paid within 14 days of submittal of a proper request for payment.
- (5) Liquidation of interim payments. Interim payments shall be liquidated by deducting from the payment of each item the total unliquidated amount of interim payments made for that separately priced unit of that contract line item. The liquidation amounts for each unit of each line item shall be clearly delineated in each request for delivery payment submitted by the Contractor.
- (6) Security for interim payment financing. Pursuant to FAR Subpart 32.202-4 Security for Government Financing and 10 U.S.C. 2307(f) and 41 U.S.C. 4505, the Government is required to obtain adequate security for Government financing. Prior to contract award, the Contracting Officer may determine the Contractor's financial condition to be adequate security, however, the Contractor agrees to provide additional security should that financial condition become inadequate as security. Adequate security for payments made under this contract shall be required in the form of a preferred

creditor's lien. The Contractor shall grant the Government a preferred creditor's lien i.e., a first lien paramount to all other liens against all work in process sufficient to recompense the Government for all monies advanced under this contract should the Contractor's performance prove to be materially unsatisfactory.

In accordance with FAR Subpart 32.202-4(b)(3) the Contractor shall certify that the assets subject to the lien are free from any prior encumbrances. Prior liens may result from such things as capital equipment loans, installment purchases, working capital loans, various lines of credit, and revolving credit arrangements.

In the event the Contractor fails to provide adequate security as required in this contract, no financing payment shall be made under this contract. Upon receipt of adequate security, financing payments shall be made, including all previous payments to which the Contractor is entitled, in accordance with the terms of the contract. If at any time the Contracting Officer determines that the security provided by the Contractor is insufficient, the Contractor shall promptly provide such additional security as the Contracting Officer determines necessary. In the event the Contractor fails to provide such additional security, the Contracting Officer may collect or liquidate such security that has been provided and suspend further payments to the Contractor; the Contractor shall repay to the Government the amount of unliquidated financing payments as the Contracting Officer at his sole discretion deems repayable.

- (7) Special terms regarding termination for cause. If this contract is terminated for cause, the Contractor shall, on demand, repay to the Government the amount of unliquidated interim payments. The Government shall be liable for no payment except as provided by the Termination for Cause paragraph of the clause at 52.212-4, Contract Terms and Conditions - Commercial Items.
- (8) Reservation of rights.
 - (i) No payment, vesting of title under this clause, or other action taken by the Government under this clause shall –
 - (A) Excuse the Contractor from performance of obligations under this contract or task order thereunder; or
 - (B) Constitute a waiver of any of the rights or remedies of the parties.
 - (ii) The Government's rights and remedies under this clause –
 - (A) Shall not be exclusive, but rather shall be in addition to any other rights and remedies provided by law or this contract; and
 - (B) Shall not be affected by delayed, partial, or omitted exercise of any right, remedy, power, or privilege, nor shall such exercise or any single exercise preclude or impair any further exercise under this clause or the exercise of any other right, power, or privilege of the Government.
- (9) Content of Contractor's request for interim payment. The Contractor's request for interim payment shall contain the following:
 - (i) The name and address of the Contractor;

- (ii) The date of the request for interim payment;
- (iii) The contract number, task order number and/or other identifier of the contract under which the request is made; and
- (iv) An itemized and totaled statement of the item(s), interim payment amount, and milestone event for which payment is being requested, for the specified contract line item.

(10) This clause implements FAR 52.232-29 TERMS FOR FINANCING OF PURCHASES OF COMMERCIAL ITEMS (NOV 2021) and Attachment 8, Payment Plan, of this contract.

(z) *Ordering*

(1) This clause implements the ordering procedures of DFARS 252.216-7006 ORDERING (MAY 2011).

(2) Definitions: For the purposes of this contract, the following definitions apply:

- (i) NSSL Mission Set: The Payload (PL) or Integrated Payload Stacks [IPSS]/Aft Payload Stacks [APS] when manifested, delivered to space by the NSSL Launch Vehicle with associated adapters and interfaces.
- (ii) NSSL Launch Services:
 - a. Launch services bound by this clause are only those launch services funded by the NSSL Program Element C3953F for USSF-234, USSF-174, USSF-50, USSF-98, USSF-149, GPS IIIF-2, GPS IIIF-3, GPS IIIF-4, GPS IIIF-5, , GPS IIIF-7, USSF-73, USSF-63, USSF-155, USSF-183, USSF-59, USSF-101, USSF-61, USSF-134, USSF-96, USSF-162, USSF-XX (TBD), USSF-129, USSF-136, USSF-157, USSF-84, GPS IIIF-6, GPS IIIF-8, GPS IIIF-10, GPS IIIF-11, GPS IIIF-12, USSF-93, USSF-199, or launch services funded by the National Reconnaissance Office (NRO) and allocated to the NSSL Program for NROL-96, NROL-157, NROL-97, NROL-86, NROL-88, NROL-95, NROL-165, NROL-80, NROL-XX (TBD), NROL-63, NROL-138, NROL-98, NROL-169 and that are not otherwise excluded by the Reference Mission Assignment Process described in paragraph (3)(ii)(A)(I)(c).
 - b. Requirement 3 launch services will only include the following missions: GPS IIIF-6, GPS IIIF-8, GPS IIIF-10, GPS IIIF-11, GPS IIIF-12, USSF-93, USSF-199. The remaining missions will be allocated to requirements 1 and 2.
 - c. If any of these pre-defined missions above are not funded via Congressional appropriations during the ordering period of this contract, they will be excluded from the requirements under this contract without any Government substitution or replacement with another mission.
 - d. NSSL Launch Services on previously awarded contracts, including unexercised options, are outside the purview of this contract.
 - e. Any new NSSL missions that are ordered during FY25 to FY29 and are not predefined in paragraph (2)(ii)(a) above, will either be competed on another contract or added to paragraph (2)(ii)(a) in compliance with the Competition in Contracting Act (CICA) based on mission assurance posture and other Government requirements.
- (iii) NSSL Launch Vehicle: A particular instantiation of an NSSL Launch Vehicle Segment.
- (iv) NSSL Launch Vehicle Segment: A family of flight configurations that each include structural elements, propulsion, guidance and control, electrical power, tracking, telemetry and control,

ordnance, flight termination, software, payload fairing, payload separation initiation, and launch site infrastructure.

- (v) NSSL Reference Mission: Based upon a Government review of NSSL Launch Services expected to be funded and ordered in the coming FY, the Government will generate a corresponding reference mission ("Reference Mission") to include a generic NSSL mission name (e.g., USSF-X/NROL-X), required launch date, closest reference orbit and the Government's best estimate of payload mass, to be used in the reference mission assignment process in paragraph (z)(3)(ii)(A), below. If there is no reference mission that is an exact fit, the PCO will determine the closest applicable orbit to be used in the Reference Mission and may base future orders at prices established in Attachment 7, Pricing Tables.
 - (vi) Reference Mission Assignment: The assignment of a Reference Mission to a NSSL Phase 3 launch service contractor, paired with that contractor's specific launch vehicle ("Assigned Reference Mission") in accordance with the reference mission assignment process in paragraph (z)(3)(ii)(A), below. Reference Mission Assignment does not create a contractual obligation on behalf of the Government and does not constitute authority to proceed work.
 - (vii) Reference Mission's Launch Date (RMLD): The first day of the first month of the Reference Mission's Launch Period.
 - (viii) Reference Mission Order: A task order for the NSSL Phase 3 launch service contractor to begin performance on an Assigned Reference Mission in accordance with paragraph (z)(3)(ii)(B), *Reference Mission Ordering Process*, and at the prices established in Attachment 7, Pricing Tables.
- (3) Requirements:
- (i) As it pertains to the terms and conditions of this requirements contract and FAR 52.216-21 – "REQUIREMENTS (OCT 1995), the Government is required to order from the Contractor the following launch service requirements, whenever funding and requirements exist:
 - (A) NSSL Launch Services in Order Years 1-5, to be ordered on CLIN 0001, determined by the Government as <will be either Requirement 1 or Requirement 2> in accordance with Paragraph (z) *Ordering*, excluding:
 - (I) any NSSL Launch Services determined by the Government as <will be either Requirement 1 or Requirement 2> in accordance with Paragraph (z) *Ordering* and ordered from the other NSSL Contractors, Outcome 2;
 - (II) any NSSL Launch Services removed from Launch Service Distribution Table 1 in accordance with Paragraph (z)(3)(ii)(A)(I), Outcome 3; and,
 - (III) any NSSL Launch Services on previously awarded contracts, to include unexercised options.
 - (B) NSSL Launch Services in Order Years 2-5, to be ordered on CLIN 0001, determined by the Government as Requirement 3 in accordance with Paragraph (z) *Ordering* excluding:
 - i. any NSSL Launch Services determined by the Government as either Requirement 1 or Requirement 2 in accordance with Paragraph (z) *Ordering* and ordered from the other NSSL Contractors, Outcome 2;
 - ii. any NSSL Launch Services removed from Launch Service Distribution Table 1 or 2 in accordance with Paragraph (z)(3)(ii)(A)(I), Outcome 3; and,

- iii. any NSSL Launch Services on previously awarded contracts, to include unexercised options.
- (ii) Distribution of Requirements: The Government will distribute the launch service requirements as defined in (z)(3), among the Requirement 1, and Requirement 2 contractors per Table 1: Launch Service Distribution, below and Table 2: Requirement 3 Launch Service Distribution, and as implemented by the Reference Mission Assignment Process at paragraph (z)(3)(ii)(A), and the Reference Mission Ordering Process at (z)(3)(ii)(B).
- (A) Reference Mission Assignment Process: The Government will use the reference mission assignment process to determine which reference missions for a given FY will be assigned to the Contractor.
 - (I) Step 1: Contractor's Launch Vehicle Readiness Determination. The Government will evaluate by 1 October of that order year whether a Launch Vehicle System has completed all associated NRDV, completed all certification flights, and poses no additional readiness issues (e.g., production/manufacture rates, infrastructure availability, performance on all past or on-going launch service efforts, grounding event, etc.) for each projected Reference Mission Order to be awarded in the upcoming ordering period. The first order year will be made immediately after contract award. The Government will reference schedule maturity assessments and other available data related to Launch System readiness, to make its determination. Launch delay grace periods will not be included in determining whether a Contractor is ready to meet the launch date. The outcome will be one of the following:
 - a. Outcome 1: If the Government determines all Contractors have completed all associated NRDV, completed all certification flights, and pose no additional readiness issues by 1 October of that order year, except for the first order year which will be made immediately after contract award, then the associated Reference Mission will remain on the list of Reference Missions to be assigned to a launch service.
 - b. Outcome 2: If the Government determines one Contractor has not completed all associated NRDV activities or completed all certification flights, or poses no additional readiness issues by 1 October of that order year, except for the first order year which will be made immediately after contract award, then the associated Reference Mission will be assigned as follows below:
 - i. If Requirement 1 or 2 Contractor has not met the readiness requirement outlined above the Reference Mission will be assigned to the other Requirement 1 or 2 Contractor
 - a. If a launch service is required to be moved from one contractor to the other due to Step 1 Outcome 2, Table 1 Launch Service Distributions will be adjusted accordingly while leaving the distribution of subsequent missions unchanged.
 - i. Example 1: If in FY25 a total of five reference missions are to be assigned, and the Requirement 2 Contractor is assessed as not ready for one of the five missions, then the first Requirement 2 mission of the five reference missions in Table 1 Launch Service Distributions (i.e., mission #2) will be changed to a Requirement 1 mission. The subsequent Table 1 Launch Service Distributions for the Requirement 1 Contractor will be incremented by one starting with

mission #3; while the subsequent Table 1 Launch Service Distributions for the Requirement 2 Contractor will be decremented by one starting with mission #4.

- ii. Example 2: If in FY26 missions 6 through 13 (per Table 1) are to be assigned, and the Requirement 1 Contractor is assessed as not ready for one of the eight missions, then the first Requirement 1 mission of the eight reference missions in Table 1 Launch Service Distributions (i.e., mission #6) will be changed to a Requirement 2 mission. The subsequent Table 1 Launch Service Distributions for the Requirement 2 Contractor will be incremented by one starting with mission #7; while the subsequent Table 1 Launch Service Distributions for the Requirement 1 Contractor will be decremented by one starting with mission #8.

- ii. If Requirement 3 Contractor has not met the readiness requirement outlined above, then the associated Reference Mission will be allocated to the Requirement 1 and 2 Contractors according to their respective distribution tables.

- c. Outcome 3: If the Government determines both requirement 1 and 2 Contractors have not completed all associated NRDV, or completed all certification flights, or pose additional readiness issues by 1 October of that order year, except for the first order year which will be immediately after contract award, the Government will not be held to the terms of this contract, including the requirements clauses, and the Government may procure the subject launch services for the associated Mission Set outside of this contract.
- d. Outcome 4: In the case that the Government terminates requirement 1 or 2 for default, requirement 3 contractor will receive 1 additional mission annually from the terminated requirement's share subject to the Reference Mission Assignment process. The remaining missions from the terminated requirement's share will be allocated to the remaining requirement 1 or 2 contractor. Pricing from attachment 7 shall apply for these additional launch services.

(II) Step 2: Reference Mission Assignment: The Government, unilaterally and in its sole discretion, will assign the Reference Missions based on its judgment and the criteria stated in this contract.

- a. The Government will consider Assured Access to Space (AATS) policy, National Security needs, operational considerations, respective assessments for mission compatibility and integration risks, performance on all past or on-going launch service efforts, total launch service cost, and other costs to the government in assigning the missions. After these considerations, the Government will assign each NSSL Reference Mission according to outcomes in Step 1 via Table 1 Launch Service Distributions, where Contractor A is the "Requirements 1" contractor and Contractor B is the "Requirements 2" contractor.

(III) Step 3: Reference Mission Assignment Notification:

- a. The Government will issue a Reference Mission Assignment Notification for anticipated orders via PCO letter. For the initial assignment only, the Government

will issue the Reference Mission Assignment Notification immediately after contract award. For order years 2-5 the Government will issue a Reference Mission Assignment Notification by 1 October of that order year. Reference Mission Assignment does not constitute a binding obligation on the Government, nor an authority to commence work on the Assigned Reference Mission.

- b. Reference Mission Assignment Notification will include:
 - i. Generic mission name (e.g., USSF-X/NROL-X)
 - ii. Launch service contractor's anticipated launch vehicle required
 - iii. Reference Mission's Launch Date
 - iv. Closest reference orbit
 - v. Estimate of payload mass
 - vi. Launch Period
 - vii. Assigned Launch Site

(B) Reference Mission Ordering Process.

(I) The Government will:

- a. Identify the NSSL Launch Services for the applicable LS ordering period per "Requirements" paragraph (z)(3)(i), and
 - i. If sufficient funding is available to order all assigned reference missions for that period from both Contractor A, Contractor B and Contractor C the "Requirement 3" contractor, order all the Assigned Reference Missions from the assigned Contractor, or
 - ii. if sufficient funding does not exist to order all assigned reference missions from both Contractor A and Contractor B for that period, re-perform the Reference Mission Assignment Process for both contractors including only those missions sufficiently funded, notify the Contractor of any revisions to its previous Reference Mission Assignments, if any, that result therefrom, and order the revised Assigned Reference Missions from Contractor;
- b. Determine the launch vehicle configuration price for each Assigned Reference Mission using Attachment 7 Pricing Tables, to be ordered from Contractor (Launch Service prices should assume an annual Launch Service Support order);
- c. Assign an ILC to each Assigned Reference Mission to be ordered from Contractor; and,
- d. Issue a Launch Service task order to Contractor for each of its Assigned Reference Missions resulting from the Reference Mission Ordering Process.

- (II) Table 1, Launch Service Distribution will be updated via unilateral contract modification to account for reassignments from the non-ready contractor to the ready contractor in a given LS ordering period, if any, IAW the Reference Mission Assignment Process at paragraph (z)(3)(ii)(A). This modification to update Table 1, Launch Service Distribution, may occur after the task orders for launch services for the applicable LS ordering period have been issued.

(iii) Government Estimate of Requirement

- (A) The Government estimates the total number of launch services to be divided between Contractor A, the Requirement 1 contractor, contractor B, the Requirement 2 contractor and Contractor C, the requirement 3 contractor, to be between 20 and 90 missions over the five (5) year launch service ordering period, from FY25 through and including FY29.
- (B) At the time of contract award, the point estimate for number of launch services over the five (5) year LS ordering period is 58. The actual number of launch services will likely vary and may be fewer than 58 due to delays in SV development.

(iv) Launch Service Distribution

- (A) The table below shows the requirements distribution between the Requirement 1 and Requirement 2 contractors, subject to modification as a result of the Reference Mission Assignment Process. The assigned launch services depicted in Table 1 are a running total over the entire contract ordering period. For example, if the first ordering period has five (5) NSSL Launch Services as specified in paragraph (z)(3)(i), then the Government would assign three (3) Reference Missions to Contractor A and two (2) Reference Missions to Contractor B. Then, the second batch of orders will begin with the sixth (6th) Reference Mission sequence in Table 1.
- (B) The 100 Government launches listed in the table below is for illustrative purposes only, and not an order quantity or an estimate of quantity for the requirement across the launch service ordering periods under FAR 52.216-21. The total number of actual launch service orders over the ordering period will depend on NSSL program launch service requirements, authorizations, and appropriations.

Table 1: Launch Service Distribution

| Total Launch Services for Requirement 1 and 2 across contract ordering period | Contractor Division | Requirement 1 Contractor Cumulative Launch Services | Requirement 2 Contractor Cumulative Launch Services |
|---|---------------------|---|---|
| 1 | Contractor A | 1 | |
| 2 | Contractor B | | 1 |
| 3 | Contractor A | 2 | |
| 4 | Contractor B | | 2 |
| 5 | Contractor A | 3 | |
| 6 | Contractor A | 4 | |
| 7 | Contractor B | | 3 |
| 8 | Contractor A | 5 | |
| 9 | Contractor B | | 4 |
| 10 | Contractor A | 6 | |
| 11 | Contractor A | 7 | |
| 12 | Contractor B | | 5 |
| 13 | Contractor A | 8 | |
| 14 | Contractor B | | 6 |
| 15 | Contractor A | 9 | |
| 16 | Contractor A | 10 | |
| 17 | Contractor B | | 7 |
| 18 | Contractor A | 11 | |
| 19 | Contractor B | | 8 |
| 20 | Contractor A | 12 | |
| 21 | Contractor A | 13 | |
| 22 | Contractor B | | 9 |
| 23 | Contractor A | 14 | |
| 24 | Contractor B | | 10 |
| 25 | Contractor A | 15 | |
| 26 | Contractor A | 16 | |
| 27 | Contractor B | | 11 |
| 28 | Contractor A | 17 | |
| 29 | Contractor B | | 12 |
| 30 | Contractor A | 18 | |
| 31 | Contractor A | 19 | |
| 32 | Contractor B | | 13 |
| 33 | Contractor A | 20 | |
| 34 | Contractor B | | 14 |
| 35 | Contractor A | 21 | |
| 36 | Contractor A | 22 | |
| 37 | Contractor B | | 15 |
| 38 | Contractor A | 23 | |

| | | | |
|----|--------------|----|----|
| 39 | Contractor B | | 16 |
| 40 | Contractor A | 24 | |
| 41 | Contractor A | 25 | |
| 42 | Contractor B | | 17 |
| 43 | Contractor A | 26 | |
| 44 | Contractor B | | 18 |
| 45 | Contractor A | 27 | |
| 46 | Contractor A | 28 | |
| 47 | Contractor B | | 19 |
| 48 | Contractor A | 29 | |
| 49 | Contractor B | | 20 |
| 50 | Contractor A | 30 | |
| 51 | Contractor A | 31 | |
| 52 | Contractor B | | 21 |
| 53 | Contractor A | 32 | |
| 54 | Contractor B | | 22 |
| 55 | Contractor A | 33 | |
| 56 | Contractor A | 34 | |
| 57 | Contractor B | | 23 |
| 58 | Contractor A | 35 | |
| 59 | Contractor B | | 24 |
| 60 | Contractor A | 36 | |
| 61 | Contractor A | 37 | |
| 62 | Contractor B | | 25 |
| 63 | Contractor A | 38 | |
| 64 | Contractor B | | 26 |
| 65 | Contractor A | 39 | |
| 66 | Contractor A | 40 | |
| 67 | Contractor B | | 27 |
| 68 | Contractor A | 41 | |
| 69 | Contractor B | | 28 |
| 70 | Contractor A | 42 | |
| 71 | Contractor A | 43 | |
| 72 | Contractor B | | 29 |
| 73 | Contractor A | 44 | |
| 74 | Contractor B | | 30 |
| 75 | Contractor A | 45 | |
| 76 | Contractor A | 46 | |
| 77 | Contractor B | | 31 |
| 78 | Contractor A | 47 | |
| 79 | Contractor B | | 32 |

| | | | |
|-----|--------------|----|----|
| 80 | Contractor A | 48 | |
| 81 | Contractor A | 49 | |
| 82 | Contractor B | | 33 |
| 83 | Contractor A | 50 | |
| 84 | Contractor B | | 34 |
| 85 | Contractor A | 51 | |
| 86 | Contractor A | 52 | |
| 87 | Contractor B | | 35 |
| 88 | Contractor A | 53 | |
| 89 | Contractor B | | 36 |
| 90 | Contractor A | 54 | |
| 91 | Contractor A | 55 | |
| 92 | Contractor B | | 37 |
| 93 | Contractor A | 56 | |
| 94 | Contractor B | | 38 |
| 95 | Contractor A | 57 | |
| 96 | Contractor A | 58 | |
| 97 | Contractor B | | 39 |
| 98 | Contractor A | 59 | |
| 99 | Contractor B | | 40 |
| 100 | Contractor A | 60 | |

Table 2: Requirement 3 Launch Service Distribution

| Launch Services for Requirement 3 across contract ordering period | Order Year* |
|---|-------------|
| GPS IIIF-6 | OY 2 |
| GPS IIIF-8 | OY 3 |
| GPS IIIF-10 | OY 4 |
| USSF-199 | OY 4 |
| GPS IIIF-11 | OY 5 |
| GPS IIIF-12 | OY 5 |
| USSF-93 | OY 5 |

***The Order Year of these Launch Services may move due to Government needs and sufficient funding**

(4) Non-Requirement Services

- (i) The following services are not requirements, as it pertains to the terms and conditions of this requirements contract and FAR 52.216-21 – REQUIREMENTS (OCT 1995). The Government has no obligation to order these Non-Requirement Services from Contractor, but the Government may order any such services on an as needed basis by issuance of a task order in accordance with DFARS 252.216-7006 ORDERING (May 2011), or as otherwise specified by the terms and conditions of this contract:
 - (A) Mission Unique Services - Procurement (CLIN 0002)
 - (B) Mission Unique Services – Research and Development (CLIN 0003)
 - (C) Mission Acceleration (CLIN 0004)
 - (D) Quick Reaction / Anomaly Resolution (CLIN 0005)
 - (E) Special Studies (CLIN 0006)
 - (F) Launch Service Support (CLIN Series 2000)
 - (G) Fleet Surveillance (CLIN Series 3000)
 - (H) Early Integration Studies / Mission Analysis (CLIN Series 4000)
- (ii) Period of Performance: The PoP for any Non-Requirement Services ordered will be as specified in the corresponding CLIN descriptions.
- (iii) Pricing: Task orders for any Non-Requirement Services shall use the prices established for the applicable ordering period in the Attachment 7, Pricing Tables.
- (iv) Multi-Service Task Orders: Non-Requirement Services may be included on the same task order as Launch Service requirements, or on a separate task order(s). Inclusion of one or any Non-Requirement Services on a task order that includes Launch Services (CLIN 0001) does not make those Non-Requirement Services a requirement as it pertains to the terms and conditions of this requirements contract and FAR 52.216-21 – REQUIREMENTS (OCT 1995).
- (v) Launch Schedule Acceleration:
 - (A) For each launch service ordering period, the Government may accelerate up to four Category B launch service orders.
 - (B) Acceleration will typically occur at the time of Reference Mission Order, via issuance of a task order IAW paragraph (z)(3)(ii)(B). Each task order for Launch Schedule Acceleration shall include:
 - (I) the amount of time the launch date will be accelerated (3, 6, 9 or 12 months)
 - (II) the corresponding firm fixed price paid for such Acceleration as established in Attachment 7, Pricing Tables
 - (III) the Launch Period Assignment.
 - (C) The Government shall not provide equitable adjustments associated with execution of a Launch Schedule Acceleration for the accelerated mission, or any other mission in the Contractor's Requirement affected by the acceleration.
 - (D) The Government reserves the right to rescind the accelerated launch schedule no later than 12 months prior to the ILC date. If the Government rescinds the launch date acceleration, the ILC date on the order will be adjusted to reflect a typical 24-month integration cycle from date the task order for Launch Schedule Acceleration was issued. In the event the Government rescinds the Launch Schedule Acceleration, the

Contractor does not have to repay the Government the firm fixed price the Government paid for such acceleration. The Government will provide no equitable adjustments to this contract in relation to rescinding a Launch Schedule Acceleration order for this accelerated mission, or any other mission in the Contractor's Requirement.

- (E) For each accelerated mission, the Government may only accelerate the contracted launch date once per this Launch Schedule Acceleration clause. Any launch date changes made by either party after the PCO invokes an acceleration will be subject to the terms of section (w) Launch Schedule Determination and Adjustments of this clause.
- (F) For the accelerated mission, the Contractor shall
 - (I) Perform all required actions in accordance with Attachment 1, Performance Work Statement, as mutually agreed upon to meet the accelerated launch date; and,
 - (II) Submit Notices of Completion on a monthly basis, as required, for milestones completed per the applicable Payment Plan (Attachment 8).
- (5) The CLIN Series 5000 is neither a requirement under (z)(3) nor Non-Requirement Service under z(4) but is used to pay incentives in accordance with the terms of this contract and the corresponding payment plan, as attached to this contract.
- (6) Applicability of the NRO Companion Contract
 - (i) Launch Services for NRO missions on this contract are dependent upon the Contractor being awarded an NRO Companion Contract through the NRO's Office of Space Launch, to execute applicable services including NRO mission integration, mission unique services, leading edge integration and NRO Enhanced Security Requirements, as called for by NRO mission requirements on the separately negotiated and executed NRO Companion Contract.
 - (A) Pricing. The Contractor agrees to use the competitive pricing provided in this NSSL Phase 3 Launch Service Procurement contract at Attachment 7, Pricing Tables, for any like services purchased on the NRO Companion Contract, unless the Contractor and NRO have negotiated different prices for those services in which case the separately negotiated price terms of the NRO Companion Contract govern. This includes the following, as applicable:
 - (I) Mission Unique Services, excluding Space Force Mission Integration;
 - (II) Early Integration Studies (as Leading Edge Integration or "LEI"); and
 - (III) Specific Study Components
 - (B) Timing. The NRO's Office of Space Launch anticipates executing applicable services to the assigned Contractor via the NRO Companion Contract on Reference Mission Assignment Notification on the NSSL Phase 3 Launch Service Procurement contract.

(aa) *Indemnification of Unusually Hazardous Risks*

- (1) The pricing of launch services awarded under this contract is based upon the assumption of Government approval of indemnification under Public Law (PL) 85-804 and IAW the AF Indemnification Guide (2018) and FAR 52.250-1. It is agreed that the definition of unusually hazardous risks includes risks arising out of or resulting from:
 - (i) The burning, explosion, or detonation of propellants (liquid, solid, or gaseous), their constituent components or their degradation products during launch preparation or launch;
 - (ii) The burning, explosion, or detonation of liquid fueled rocket engines or solid fueled rocket motors

during launch preparation or launch;

- (iii) The burning, explosion, or detonation of launch vehicles or their components during launch preparation or launch;
- (iv) The toxic or other unusually hazardous properties of propellants (liquid, solid or gaseous) or inert gases, their constituent ingredients, or their degradation products, to the extent such toxic or hazardous properties arise during launch preparation or launch; and
- (v) The flight or surface impact of launch vehicles, components or fragments thereof, or payload debris caused by a failed launch, are "unusually hazardous risks" to the extent such risks arise out of performance of this contract.

(2) For purposes of the Indemnification section, the following definitions apply:

- (i) "Launch preparation" is defined as activities that physically occur at the launch site to prepare the launch vehicle for launch. Launch preparation begins with the delivery of flight hardware and components to the launch site and continues through the completion of terminal countdown for launch. Launch preparation includes the following activities: pre-erection inspection of components, installation of direct ship and ordnance items, field assembly of the launch vehicle, erection and mating of the vehicle stages, fluid and electrical connections, systems testing, fueling, and payload mating.
- (ii) "Launch" is defined as all phases of booster and upper stage flight from ignition to satellite separation as well as maneuvers required to comply with orbital debris mitigation policy. Launch also includes the intentional recovery or landing, or attempted recovery or attempted landing, of launch vehicles or components thereof at any location.

(3) The parties agree that this contract may be awarded in advance of indemnification approval by SECAF. Within 120 days of award of this contract, the Contractor shall submit a request for indemnification of the prime or subcontractors and demonstrate in its request that it has already obtained insurance in the amount of \$500 million, or the maximum amount reasonably obtainable, whichever is greater, for such unusually hazardous risks. The contracting officer may issue a stop work order, in accordance with FAR 52.242-15 – STOP WORK ORDER (AUG 1989), if indemnification is not approved prior to the performance of work involving unusually hazardous risks (as defined in paragraph a. above). The indemnification, if approved, shall be provided via contract modification adding FAR 52.250-1 – INDEMNIFICATION UNDER PUBLIC LAW 85-804 (APR 1984), with no additional exchange of consideration or change in price.

(bb) *Specifically Negotiated License*

(1) The data rights to items listed in this clause have been specifically negotiated.

(2) "Specifically Negotiated License" means the rights to:

- (i) Use, modify, reproduce, 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, release, perform, display, or disclose that Data for United States Government Purposes.

(3) The rights to Specifically Negotiated License continue in perpetuity without reverting to Unlimited Rights.

- (4) Specifically Negotiated License Items:
 - (i) Contractor Data entered into the Hazard Tracking System

(cc) *Status of Space Vehicle as Government Property*

- (1) Space Vehicle (SV) Government Property (GP) status with regards to this contract is determined as follows:
 - (i) With respect to NSS missions where the Government has title to the SV, the Government provides directly or through SV program office contractors all SVs as GP in the performance of the Contractor's obligations under this contract.
 - (ii) With respect to NSS missions where the Government does not have title to the SV, the SV is not GP. In these cases, the Contractor is not required to enter into launch operations processing until agreement is reached with the SV title holder as to the liability for damage or risk of loss.
 - (iii) With respect to non-NSS missions, the SV is not GP associated with this contract. Liability for damage or risk of loss for the SV is a matter between the Contractor and the SV provider.
- (2) As used here, SV is defined as the payload, payload components, satellites, and/or related hardware, including dual, secondary, and rideshare payload components, satellites, and/or related hardware.
- (3) SV Government Property title determination is based upon the following:
 - (i) In the case where the Government's SV program has a cost reimbursement contract, the title of SV Contractor-acquired property vests with the Government according to the terms of FAR 52.245-1(e)(3).
 - (ii) In the case of where the Government's SV program has a fixed-price contract with contract financing, the title of SV Contractor-acquired property vests with the Government according to the terms of the respective contract financing clauses, per 52.245-1(e)(2).
 - (iii) In the case where the Government's SV program has a fixed-price contract with no contract financing, the SV Contractor retains title to all property acquired by the SV Contractor for use on the contract, except for property identified as a deliverable end item, per FAR 52.245-1(e)(2). Delivery of the SV to the Government will occur under the terms of the SV contract.
- (4) The Government and Contractor hereby agree that their remedies arising out of or relating to this contract are strictly limited to those expressly provided in this contract.

(dd) *Consent to Subcontract with Contractors on the Contractor Responsibility Watch List (CRWL)* - Consent to subcontract is required for each subcontract with an anticipated value in excess of \$3,000,000 or five percent of the prime contract value, whichever is lesser, when the prospective subcontractor is listed on the Air Force Space Contractor Responsibility Watch List in accordance with SMC1 64-101 and the FY18 National Defense Authorization Act, Section 1612.

(ee) *Release of Government Liability* – The Contractor shall ensure that in the event of any launch vehicle anomaly or performance deficiency, mission success shall take priority over any planned/anticipated launch vehicle hardware re-use, therefore the USG shall be held harmless in the event of any resulting loss of hardware expected to be recovered or reused, regardless of any USG approval of mission flight plan.

(ff) *No Interdependencies with Contracts/Agreements Outside This Contract*

- (1) This contract is a "stand-alone contract," which is understood by the parties to mean: The written contract comprised of the fully-conformed SF 1449 is the entire agreement between the parties; unless mutually, expressly agreed and incorporated in writing, in full-text within this conformed contract, there are no other contracts, agreements, or conditions outside this contract, whether express or implied, that shall have any effect on the performance of this contract, and this exclusion from the contract extends to any and all alleged interdependencies between this contract and any other contract, agreement, or condition with any party including, but not limited to, the U.S. Government. "Stand-alone contract" also means: The contractor's proposal, and any part thereof, is outside of this contract unless it is incorporated into this contract by the process described herein.

(2) Contractor Responsibility regarding the Ranges

- (i) Consistent with paragraph 1 above, all Range contracts, agreements, and conditions are outside of and are excluded from this contract, unless incorporated by the process described in paragraph 1 above. The Contractor therefore has the sole responsibility to secure and maintain such leases/contracts/agreements/conditions for Vandenberg Space Force Base (SFB) and Cape Canaveral Space Force Station (SFS) or Kennedy Space Center (KSC) ("Ranges") throughout the period of performance of this contract.
- (ii) There are no interdependencies between this contract and the leases/contracts/agreements/conditions specified in subparagraph a above.
- (iii) Unless expressly agreed and incorporated into the contract by the process described in paragraph 1 above, the Contractor bears the sole responsibility on this contract for any changed conditions to the Ranges during the period of performance of this contract and such changes are not grounds for equitable adjustment or contract dispute under this contract. Changes to the Ranges during the period of performance of this contract shall be resolved under the terms of the Contractor's leases/contracts/agreements with the Ranges.