

§ 1266.101 Scope.

These provisions at § 1266.102, contained in Article 16 of the “Intergovernmental Agreement among the United States, the Governments of Member States of the European Space Agency, the Government of Japan, and the Government of Canada on Cooperation in the Detailed Design, Development, Operation and Utilization of the Permanently Manned Civil Space Station,” form the regulatory basis for cross-waivers to be incorporated in NASA agreements implementing the Intergovernmental Agreement and the memoranda of understanding between the U.S. and its respective international partners on Space Station Freedom. The provisions at § 1266.103 of this part provide the regulatory basis for cross-waiver clauses to be incorporated in agreements for Shuttle launch services that do not involve activities in connection with Space Station Freedom. The provisions at § 1266.104 of this part provide the regulatory basis for cross-waiver clauses to be incorporated in agreements for NASA ELV program launches that do not involve activities in connection with Space Station Freedom.

§ 1266.102 Cross-waiver of liability for Space Station Freedom activities.

(a) The objective of this section is to establish a cross-waiver of liability (“cross-waiver”) by the Partner States and related entities in the interest of encouraging participation in exploration, exploitation, and use of outer space through the Space Station. This cross-waiver of liability shall be broadly construed to achieve this objective.

(b) For the purposes of this section:

(1)(i) A *Partner State* is each contracting Party for which the “Agreement among the Government of the United States of America, Governments of Member States of the European Space Agency, the Government of Japan, and the Government of Canada on Cooperation in the Detailed Design, Development, Operation, and Utilization of the Permanently Manned Civil Space Station” (the “Intergovernmental Agreement”) has entered into force, in accordance with Article 25 of the Intergovernmental Agreement.

(ii) A Partner State includes its Cooperating Agency. The National Aeronautics and Space Administration (NASA) for the United States, the European Space Agency (ESA) for the European Governments, the Canadian Space Agency (CSA) for the Government of Canada, and the Science and Technology Agency of Japan (STA) are the Cooperating Agencies responsible for implementing Space Station cooperation. A Partner State also includes any entity specified in the Memorandum of Understanding (MOU) between NASA and the Government of Japan to assist the Government of Japan’s Cooperating Agency in the implementation of that MOU.

(2) The term *related entity* means:

(i) A contractor or subcontractor of a Partner State at any tier;

(ii) A user or customer of a Partner State at any tier; or

(iii) A contractor or subcontractor of a user or customer of a Partner State at any tier. “Contractors” and “subcontractors” include suppliers of any kind.

(3) The term *damage* means:

(i) Bodily injury to, or other impairment of health of, or death of, any person;

(ii) Damage to, loss of, or loss of use of any property;

(iii) Loss of revenue or profits; or

(iv) Other direct, indirect, or consequential damage.

(4) The term *launch vehicle* means an object (or any part thereof) intended for launch, launched from Earth, or returning to Earth which carries payloads or persons, or both.

(5) The term *payload* means all property to be flown or used on or in a launch vehicle or the Space Station.

(6) The term *Protected Space Operations* means all launch vehicle activities, Space Station Freedom activities, and payload activities on Earth, in outer space, or in transit between Earth and outer space done in implementation of this Agreement, the MOU’s, and implementing arrangements. It includes, but is not limited to:

(i) Research, design, development, test, manufacture, assembly, integration, operation, or use of launch or