

§ 1274.916

by foreign firms or institutions must be carefully controlled. For purposes of this clause, a transfer includes a sale of the company, or sales or licensing of the technology. Transfers include:

- (1) Sales of products or components,
- (2) Licenses of software or documentation related to sales of products or components, or
- (3) Transfers to foreign subsidiaries of the Recipient for purposes related to this Agreement.

(b) The Recipient shall provide timely notice to the Agreement Officer in writing of any proposed transfer of technology developed under this Agreement. If NASA determines that the transfer may have adverse consequences to the national security interests of the United States, or to the establishment of a robust United States industry, NASA and the Recipient shall jointly endeavor to find alternatives to the proposed transfer which obviate or mitigate potential adverse consequences of the transfer.

[End of provision]

§ 1274.916 Liability and risk of loss.

The following provision is applicable to all cooperative agreements with commercial firms, except programs or projects that are subject to Section 431 of Public Law 105-276, which addresses insurance for, or indemnification of, developers of experimental aerospace vehicles.

LIABILITY AND RISK OF LOSS

July 2002

(a) With regard to activities undertaken pursuant to this agreement, neither party shall make any claim against the other, employees of the other, the other's related entities (e.g., contractors, subcontractors, etc.), or employees of the other's related entities for any injury to or death of its own employees or employees of its related entities, or for damage to or loss of its own property or that of its related entities, whether such injury, death, damage or loss arises through negligence or otherwise, except in the case of willful misconduct.

(b) To the extent that a risk of damage or loss is not dealt with expressly in this agreement, each party's liability to the other party arising out of this Agreement, whether or not arising as a result of an alleged breach of this Agreement, shall be limited to direct damages only, and shall not include any loss of revenue or profits or other indirect or consequential damages.

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[End of provision]

§ 1274.917 Additional funds.

ADDITIONAL FUNDS

July 2002

Pursuant to this Agreement, NASA is providing a fixed amount of funding for activities to be undertaken under the terms of this cooperative agreement. NASA is under no obligation to provide additional funds. Under no circumstances shall the Recipient undertake any action which could be construed to imply an increased commitment on the part of NASA under this cooperative agreement.

[End of provision]

§ 1274.918 Incremental funding.

INCREMENTAL FUNDING

July 2002

(a) Of the award amount indicated on the cover page of this Agreement, only the obligated amount indicated on the cover page of this agreement is available for payment. NASA may supplement the Agreement, as required, until it is fully funded. Any work beyond the funding limit will be at the recipient's risk.

(b) These funds will be obligated as appropriated funds become available without any action required of the Recipient. NASA is not obligated to make payments in excess of the total funds obligated.

[End of provision]

§ 1274.919 Cost principles and accounting standards.

COST PRINCIPLES AND ACCOUNTING STANDARDS

July 2002

The expenditure of Government funds by the Recipient and the allowability of costs recognized as a resource contribution by the Recipient (See clause entitled "Resource Sharing Requirements") shall be governed by the FAR cost principles implemented by FAR Parts 30, 31, and 48 CFR part 99. (If the Recipient is a consortium which includes non-commercial firm members, cost allowability for those members will be determined as follows: Allowability of costs incurred by State, local or federally-recognized Indian tribal governments is determined in accordance with the provisions of OMB Circular A-87, "Cost Principles for State and Local Governments." The allowability of costs incurred by non-profit organizations is determined in accordance with the provisions of OMB Circular A-122, "Cost Principles for Non-Profit Organizations." The allowability of costs incurred by institutions of higher