

6. ASSURANCES UNDER 49 U.S.C. 70112(E)

Notwithstanding any provision of this Agreement to the contrary, Licensee shall hold harmless and indemnify the United States and its agencies, servants, agents, employees and assignees, or any of them, from and against liability, loss or damage arising out of claims for Bodily Injury or Property Damage, resulting from Licensed Launch Activities, regardless of fault, except to the extent that: (i) as provided in section 7(b) of this Agreement, claims result from willful misconduct of the United States or its agents; (ii) claims for Property Damage sustained by the United States or its Contractors and Subcontractors exceed the amount of insurance or demonstration of financial responsibility required under section 440.9(e) of the Regulations (14 CFR 440.9(e)); (iii) claims by a Third Party for Bodily Injury or Property Damage exceed the amount of insurance or demonstration of financial responsibility required under section 440.9(c) of the Regulations (14 CFR 440.9(c)), and do not exceed \$1,500,000,000 (as adjusted for inflation after January 1, 1989) above such amount, and are payable pursuant to the provisions of 49 U.S.C. 70113 and section 440.19 of the Regulations (14 CFR 440.19); or (iv) Licensee has no liability for claims exceeding \$1,500,000,000 (as adjusted for inflation after January 1, 1989) above the amount of insurance or demonstration of financial responsibility required under section 440.9(c) of the Regulations (14 CFR 440.9(c)).

7. MISCELLANEOUS

(a) Nothing contained herein shall be construed as a waiver or release by Licensee, Customer or the United States of any claim by an employee of the Licensee, Customer or the United States, respectively, including a member of the Armed Forces of the United States, for Bodily Injury or Property Damage, resulting from Licensed Launch Activities.

(b) Notwithstanding any provision of this Agreement to the contrary, any waiver, release, assumption of responsibility or agreement to hold harmless and indemnify herein shall not apply to claims for Bodily Injury or Property Damage resulting from willful misconduct of any of the Parties, the Contractors and Subcontractors of any of the Parties, and in the case of Licensee and Customer and the Contractors and Subcontractors of each of them, the directors, officers, agents and employees of any of the foregoing, and in the case of the United States, its agents.

(c) In the event that more than one customer is involved in Licensed Launch Activities, references herein to Customer shall apply to, and be deemed to include, each such customer severally and not jointly.

(d) This Agreement shall be governed by and construed in accordance with United States Federal law.

IN WITNESS WHEREOF, the Parties to this Agreement have caused the Agreement to be duly executed by their respective duly authorized representatives as of the date written above.

LICENSEE

By: \_\_\_\_\_  
Its: \_\_\_\_\_

CUSTOMER

By: \_\_\_\_\_  
Its: \_\_\_\_\_

DEPARTMENT OF TRANSPORTATION

By: \_\_\_\_\_  
Its: \_\_\_\_\_

[Doc. No. 28635, 63 FR 45619, Aug. 26, 1998; 63 FR 55175, Oct. 14, 1998]

PARTS 441-449 [RESERVED]

PART 450—FINANCIAL RESPONSIBILITY

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AUTHORITY: 49 U.S.C. 70101-70121; 49 CFR 1.47.

SOURCE: Docket No. FAA-1999-6265, 65 FR 56699, Sept. 19, 2000, unless otherwise noted.

### Subpart A—Financial Responsibility for Licensed Reentry Activities

#### § 450.1 Scope of part; basis.

This part sets forth financial responsibility and allocation of risk requirements applicable to commercial space reentry activities that are authorized to be conducted under a license issued pursuant to this subchapter.

#### § 450.3 Definitions.

(a) For purposes of this part—

*Bodily injury* means physical injury, sickness, disease, disability, shock, mental anguish, or mental injury sustained by any person, including death.

*Contractors and subcontractors* means those entities that are involved at any tier, directly or indirectly, in licensed reentry activities, and includes suppliers of property and services, and the component manufacturers of a reentry vehicle or payload. Contractors and subcontractors include those entities as defined in § 440.3(a)(2) of this chapter involved in licensed launch activities associated with a particular reentry.

*Customer* means

(1) A person who procures reentry services from a licensee or launch services associated with a particular reentry;

(2) Any person to whom the customer has sold, leased, assigned or otherwise transferred its rights in the payload (or any part thereof), to be reentered by the licensee, including a conditional sale, lease, assignment, or transfer of rights.

(3) Any person who has placed property on board the payload for reentry or payload services; and

(4) Any person to whom the customer has transferred its rights to reentry services.

*Federal range facility* means a Government-owned installation at which launches or reentries take place.

*Financial responsibility* means statutorily required financial ability to satisfy liability as required under 49 U.S.C. 70101–70121.

*Government personnel* means employees of the United States, its agencies, and its contractors and subcontractors, involved in reentry services for licensed reentry activities or launch

services for licensed launch activities associated with a particular reentry. Employees of the United States include members of the Armed Forces of the United States.

*Hazardous operations* means activities, processes, and procedures that, because of the nature of the equipment, facilities, personnel, or environment involved or function being performed, may result in bodily injury or property damage.

*Liability* means a legal obligation to pay claims for bodily injury or property damage resulting from licensed reentry activities.

*License* means an authorization to conduct licensed reentry activities, issued by the Office under this subchapter.

*Licensed launch activities* means the launch of a launch vehicle as defined in a regulation or license issued by the Office and carried out pursuant to a launch license.

*Licensed reentry activities* means the reentry of a reentry vehicle, including a reusable launch vehicle (RLV), as defined in a regulation or license issued by the Office and carried out pursuant to a license.

*Maximum probable loss* (MPL) means the greatest dollar amount of loss for bodily injury or property damage that is reasonably expected to result from licensed reentry activities;

(1) Losses to third parties, excluding Government personnel and other launch or reentry participants employees involved in licensed reentry activities, that are reasonably expected to result from licensed reentry activities are those having a probability of occurrence on the order of no less than one in ten million.

(2) Losses to Government property and Government personnel, as defined in this section, that are reasonably expected to result from licensed reentry activities are those having a probability of occurrence on the order of no less than one hundred thousand.

*Office* means the Associate Administrator for Commercial Space Transportation of the Federal Aviation Administration, U.S. Department of Transportation.