

NON-REIMBURSABLE SPACE ACT AGREEMENT
BETWEEN
THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
LYNDON B. JOHNSON SPACE CENTER
AND MOJAVE ENERGY SYSTEMS
FOR LIQUID DESICCANT AIR CONDITIONING PROJECT

ARTICLE 1. AUTHORITY AND PARTIES

In accordance with the National Aeronautics and Space Act (51 U.S.C. § 20113(e)), this Agreement is entered into by the National Aeronautics and Space Administration, Lyndon B. Johnson Space Center, located at 2101 NASA Parkway, Houston, Texas 77058 (hereinafter referred to as “NASA JSC,” “JSC,” or “NASA”) and Mojave Energy Systems (formerly PARC, a Xerox Company) located at 3333 Coyote Hill Road, Palo Alto, California 94304 (hereinafter referred to as “Partner” or “Mojave”). NASA and Partner may be individually referred to as a “Party” and collectively referred to as the “Parties.”

ARTICLE 2. PURPOSE

This Agreement shall be for the purpose of field testing an energy-saving liquid desiccant air conditioning (LDAC) unit at NASA JSC for the period of one year. The technology is designed to use less energy than conventional systems and is of interest to the Department of Energy (DOE), which has provided grant funding to Mojave to further validate the technology. The LDAC unit regenerates a non-toxic lithium chloride solution. Mojave will collect data to validate the prototype. NASA JSC is located in a warm and humid Gulf Coast climate, requiring significant energy consumption during the summer months – an ideal climate to prove the technology is viable and market-ready. NASA JSC is estimated to save 25-35% in energy usage in the building where testing will occur. The Partner will place the test unit adjacent to the building, without removing the existing unit. The field testing will allow JSC to try and assess the unit’s performance in a non-Mission Critical facility before making a potential purchase of this or similar units in the future. After the testing period, the unit will be removed and returned to Mojave unless determined otherwise via mutual agreement by both Parties.

ARTICLE 3. RESPONSIBILITIES

A. NASA will use reasonable efforts to:

1. Provide a suitable testing site (Building 359) for the unit, and provide a foundation/mounting pad, condensate drainage and electric power as well as the design and drawings for the installation of the test unit in compliance with code and requirements. The use of the testing site with accompanying pad, drainage, and power will be memorialized by a separate license agreement, license # JSC-2023-0478, (“License”) to be executed by the Parties.
2. Assist Mojave employees, agents, contractors, and subcontractors in obtaining security badges to access the test unit at reasonable times and in a timely manner to perform obligations under this agreement. The JSC POC will submit badging requests to the Badging

Office at least 2-3 business days before scheduled visits. Rights may be limited or restricted for national security or public safety.

3. Have appropriate personnel present for the test unit's commissioning, and the maintenance and repair training provided by Mojave.
4. Provide preventative maintenance and first-tier repairs to the test unit based on Mojave's training, and when necessary, over-the-phone or over-video-call instructions.
 - a. Preventative maintenance involves:
 - i. Air filter replacements (every 3 months in alignment with the maintenance schedule for the existing unit)
 - ii. Rinse out the strainer baskets (qty 3) in the liquid desiccant filters (every 3 months, in alignment with the schedule for air filter changes)
 - b. First-tier repairs are activities that can be performed by a qualified HVAC technician, but do not require in-depth technical knowledge of the unit and can be resolved with remote instructions, and with the basic training provided during installation.
 - i. Pay for first-tier repairs, up to a maximum total of \$1000 for the test period
 - c. Inform Mojave via email of repairs made or maintenance provided in addition to what is listed above as preventative maintenance.
5. Operate the test unit in accordance with manufacturer's specifications to achieve energy-savings.
6. At NASA's discretion, connect the test unit to the JSC control system to allow NASA to independently monitor the energy performance of the test unit.

B. Mojave will use reasonable efforts to:

1. Install the test unit in accordance with the design provided by JSC Facilities Management & Operations Division and in compliance with code and requirements.
2. Commission the test unit to ensure the test unit operates as intended.
3. Coordinate all construction, maintenance, and repair activities of the installed test unit with the JSC Facilities Management & Operations Division.
4. Train NASA maintenance personnel to provide preventative maintenance and first-tier repairs for the test unit.
5. Arrange for and pay all costs associated with the installation, maintenance beyond the preventative maintenance listed above, repair of the unit above the \$1000 threshold mentioned above, and removal of the test unit.
6. Maintain and repair the test unit within 7 calendar days of reporting the issue by supporting preventative maintenance and first-tier repairs over the phone or video conferencing if needed; and sending qualified technicians, agents, or contractors for additional maintenance, first-tier repairs over \$1000 threshold, and second-tier repairs within 7 calendar days of reporting the issue.

- a. Mojave technicians, agents, or contractors visiting the JSC campus for the first time must attend a safety training. This training is offered at 7:00am every day.
- 7. Ensure that the installed test unit does not create a nuisance or regulatory concern.
- 8. Monitor remotely, and capture and share the energy-saving performance data of the test unit. Keep the JSC point of contact informed of the test unit's performance throughout the testing period.
- 9. Apply, obtain, and remit payment for all permits, licenses, or other approvals required by Federal, State, regional and local agencies that have jurisdiction over activities involving HVAC units. Copies of all such permits, licenses, or approvals shall be provided to JSC through the JSC point of contact listed in ARTICLE 21. Prior to making application for any required permits, licenses, or other approvals, Mojave's proposed activities will be submitted for review and approval by JSC.
- 10. Make arrangements to have all required Mojave employees, agents, contractors, and subcontractors properly badged to come onsite. At least 3 business days prior to planned site visits (e.g., for unit installation), submit the names of these visitors to the JSC Point of Contact. For technical troubleshooting visits, submit the names of visitors as soon as possible. Names must match the form of official ID to be used the day-of.
- 11. Mojave will ensure that all of its employees, agents, contractors, and subcontractors wear badges issued by the NASA Badging & Visitor Control Office at all times while onsite at JSC.
- 12. Remove all real, personal, and mixed property upon the expiration or termination of this Agreement and restore the testing site to its original (pre-unit installation) condition within three (3) months from the date of the expiration or termination of the Agreement or License unless specified otherwise by both Parties via a written agreement.

ARTICLE 4. SCHEDULE AND MILESTONES

The planned major milestones for the activities defined in the "Responsibilities" Article are as follows:

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| Initiate the process to install the LDAC unit, including: designing the modified air conditioning system, and securing regulatory approvals for the installation | Within 3 months of last signature |
| Submit request for visitor badges to access JSC campus | At least 3 business days before scheduled campus visit date |
| Complete installation and commissioning | Within 3 months of the |

| | |
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| of the LDAC unit | completion and approval of the design |
| Testing period to validate prototype and collect data | Duration of one year after unit is installed and functional |
| Submit request for badges to access JSC campus | At least 3 business days before scheduled campus visit date |
| Removal of the LDAC unit and return of building to original, pre-LDAC installation condition unless specified otherwise by both Parties via a written agreement | Within 3 months of the end of the data collection period |

ARTICLE 5. FINANCIAL OBLIGATIONS

There will be no transfer of funds between the Parties under this Agreement and each Party will fund its own participation. 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, (31 U.S.C. § 1 34 1).

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 goods, services, facilities, or 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's use of the goods, services, facilities, or equipment shall have priority over the use 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 or more non-NASA Partners, NASA in its sole discretion shall determine the priority as between those Partners. 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 private or public entities.

ARTICLE 8. LIABILITY AND RISK OF LOSS

- A. Each Party hereby waives any claims against the other Party or one or more of its Related Entities, (defined below) for any injury to, or death of, the waiving Party or one or more of its Related Entities, or for damage to, or loss of, the waiving Party'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.
- B. Partner further agrees to extend this waiver to its related entities by requiring them, by contract or otherwise, to waive all claims against NASA, its Related Entities for injury, death, damage, or loss arising from or related to activities conducted under this Agreement. For purposes of this Agreement, "Related Entities" shall mean contractors and subcontractors of a Party at any tier; grantees, investigators, customers, and users of a Party at any tier and their contractors or subcontractor at any tier; or, employees of the Party or any of the foregoing.
- C. Notwithstanding the other provisions of this Article, the waivers of liability set forth in this section shall not be applicable to: i. Claims between a Party and its own Related Entity or between its own Related Entities; ii. Claims made by a natural person, his/her estate, survivors, or anyone claiming by or through him/her (except when such person or entity is a Party to this Agreement or is otherwise bound by the terms of this waiver) for bodily injury to, or other impairment of health of, or death of, such person; iii. Claims for damage caused by willful misconduct; iv. Intellectual property claims; v. Claims for damage resulting from a failure of a Party to extend the waiver of liability to its Related Entities, pursuant to paragraph B of this Article; or vi. Claims by a Party arising out of or relating to another Party's failure to perform its obligations under this Agreement.

ARTICLE 9. LIABILITY - PRODUCT LIABILITY

With respect to products or processes resulting from a Party's participation in an SAA, each Party that markets, distributes, or otherwise provides such product, or a product designed or produced by such a process, directly to the public will be solely responsible for the safety of the product or process.

ARTICLE 10. INTELLECTUAL PROPERTY RIGHTS - DATA RIGHTS

Information and data exchanged under this Agreement is exchanged without restrictions unless required by national security regulations (e.g., classified information) or as otherwise provided in this Agreement or agreed to by the Parties for specifically identified information or data (e.g., information or data specifically marked with a restrictive notice).

ARTICLE 11. INTELLECTUAL PROPERTY RIGHTS - RIGHTS IN RAW DATA
GENERATED UNDER THE AGREEMENT

1. Raw Data

Raw data (i.e., unanalyzed data) and related Data produced under this Agreement is reserved to Principal Investigators (and Co-Investigators if any) named in this Agreement for scientific analysis and first publication rights for 2 months beginning with receipt of the Data in a form suitable for analysis. Subject to the provisions of the Intellectual Property Rights - Data Rights Article of this Agreement, NASA and Partner may also use the Data during the restricted period. This use will not prejudice the investigators' first publication rights.

2. Final Results

(a) Final results shall be made available to the scientific community through publication in appropriate journals or other established channels as soon as practicable and consistent with good scientific practice. Under the Publication of Results provision of the Intellectual Property Rights - Data Rights clause of this Agreement, the Parties shall coordinate proposed publications allowing a reasonable time for review and comment.

(b) NASA and Partner have a royalty-free right to reproduce, distribute, and use published final results for any purposes. Partner must notify publisher of NASA's rights.

ARTICLE 12. INTELLECTUAL PROPERTY RIGHTS-INVENTION AND
PATENT RIGHTS

A. "Related Entity" as used in this Invention and Patent Rights Article means a contractor, subcontractor, grantee, or other entity having a legal relationship with NASA or Partner assigned, tasked, or contracted with to perform activities under this Agreement.

B. The invention and patent rights herein apply to employees and Related Entities of Partner. Partner shall ensure that its employees and Related Entity employees know about and are bound by the obligations under this Article.

C. NASA has determined that 51 U.S.C. § 20135(6) does not apply to this Agreement. Therefore, title to inventions made (conceived or first actually reduced to practice) under this Agreement remain with the respective inventing party(ies). No invention or patent rights are exchanged or granted under this Agreement. NASA and Partner will use reasonable efforts to report inventions made jointly by their employees (including

employees of their Related Entities). The Parties will consult and agree on the responsibilities and actions to establish and maintain patent protection for joint invention, and on the terms and conditions of any license or other rights exchanged or granted between them.

ARTICLE 13. USE OF NASA NAME AND EMBLEMS

A. NASA Name and Initials

Partner shall not use "National Aeronautics and Space Administration" or "NASA" in a way that creates the impression that a product or service has the authorization, support, sponsorship, or endorsement of NASA, which does not, in fact, exist. Except for releases under the "Release of General Information to the Public and Media" Article, Partner must submit any proposed public use of the NASA name or initials (including press releases and all promotional and advertising use) to the NASA Associate Administrator for the Office of Communications or designee ("NASA Communications") for review and approval. Approval by NASA Office of Communications shall be based on applicable law and policy governing the use of the NASA name and initials.

B. NASA Emblems

Use of NASA emblems (i.e., NASA Seal, NASA Insignia, NASA logotype, NASA Program Identifiers, and the NASA Flag) is governed by 14 C.F.R. Part 1221. Partner must submit any proposed use of the emblems to NASA Communications for review and approval.

ARTICLE 14. RELEASE OF GENERAL INFORMATION TO THE PUBLIC AND MEDIA

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

ARTICLE 15. DISCLAIMER OF WARRANTY

Goods, services, facilities, or equipment provided by NASA under this Agreement are provided "as is." NASA makes no express or implied warranty as to the condition of any such goods, services, facilities, or equipment, 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 goods, services, facilities or equipment 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 16. DISCLAIMER OF ENDORSEMENT

NASA does not endorse or sponsor any commercial product, service, or activity. NASA's participation in this Agreement or provision of goods, services, facilities or equipment 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 17. COMPLIANCE WITH LAWS AND REGULATIONS

A. The Parties shall comply with all applicable laws and regulations including, but not limited to, safety; security; export control; environmental; and suspension and debarment laws and regulations. Access by a Partner to 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.

B. With respect to any export control requirements:

1. The Parties will comply with all U.S. export control laws and regulations, including the International Traffic in Arms Regulations (ITAR), 22 C.F.R. Parts 120 through 130, and the Export Administration Regulations (EAR), 15 C.F.R. Parts 730 through 799, in performing work under this Agreement or any Annex to this Agreement. In the absence of available license exemptions or 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.
2. The Partner shall be responsible for obtaining export licenses, if required, before utilizing foreign persons in the performance of work under this Agreement or any Annex 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.
3. The Partner will be responsible for all regulatory record-keeping requirements associated with the use of licenses and license exemptions or exceptions.

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

C. With respect to suspension and debarment requirements:

1. The Partner hereby certifies, to the best of its knowledge and belief that it has complied, and shall comply, with 2 C.F.R. Part 180, Subpart C, as supplemented by 2 C.F.R. Part 1880, Subpart C.

2. The Partner shall include language and requirements equivalent to those set forth in subparagraph C.1., above, in any lower-tier covered transaction entered into under this Agreement.

D. With respect to the requirements in Section 889 of the National Defense Authorization Act (NDAA) for Fiscal Year 2019, Public Law 115-232:

1. In performing this Agreement, Partner will not use, integrate with a NASA system, or procure with NASA funds (if applicable), "covered telecommunications equipment or services" (as defined in Section 889(f)(3) of the NDAA).

2. The Partner will ensure that the provisions of this Article apply to its Related Entities.

ARTICLE 18. TERM OF AGREEMENT

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

ARTICLE 19. RIGHT TO TERMINATE

Either Party may unilaterally terminate this Agreement by providing thirty (30) calendar days written notice to the other Party.

ARTICLE 20. 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" related clauses shall survive such expiration or termination of this Agreement.

ARTICLE 21. POINTS OF CONTACT

The following personnel are designated as the Points of Contact between the Parties in the performance of this Agreement.

Management Points of Contact

NASA Lyndon B. Johnson Space Center

Lisa Liu

Sustainability Program Specialist, Mail Stop: JA

2101 NASA Parkway, Houston, TX 77058

Phone: 281-244-7612

lisa.liu@nasa.gov

Mojave Energy Systems

Aaron Meles

Product Manager

3333 Coyote Hill Road

Palo Alto, CA 94304

Phone: 561-909-7221

aaron@mojavehvac.com

ARTICLE 22. 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 "Points of Contact." The persons identified as the "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 Article limits or prevents either Party from pursuing any other right or remedy available by law upon the issuance of the final agency decision.

ARTICLE 23. INVESTIGATIONS OF MISHAPS AND CLOSE CALLS

In the case of a close call, mishap or mission failure, the Parties agree to provide assistance to each other in the conduct of any investigation. For all NASA mishaps or close calls, Partner agrees to comply with NPR 8621.1, "NASA Procedural Requirements for Mishap and Close Call Reporting, Investigating, and Recordkeeping" and other applicable Center safety policies, that will be provided before execution of this Agreement.

ARTICLE 24. MODIFICATIONS

Any modification to this Agreement shall be executed, in writing, and signed by an authorized representative of NASA and the Partner.

ARTICLE 25. 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, or successors, or higher- level officials possessing original or delegated authority to execute this Agreement.

ARTICLE 26. 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 27. INDEPENDENT RELATIONSHIP

This Agreement is not intended to constitute, create, give effect to 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 28. LOAN OF GOVERNMENT PROPERTY

The parties shall enter into a NASA Form 893, Loan of NASA Equipment, for NASA equipment loaned to Partner.

{Signatures on next page}

ARTICLE 29. 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 LYNDON B.
JOHNSON SPACE CENTER

BY: _____

Joel B. Walker
Director, Center Operations

DATE: _____

MOJAVE ENERGY SYSTEMS

BY: _____

Aaron Meles
Product Manager
3333 Coyote Hill Road
Palo Alto, CA 94304

DATE: _____