

APPENDIX D
Space Florida Grant Agreement Template
GRANT AGREEMENT NO.: _____
BETWEEN
SPACE FLORIDA
and

This **GRANT AGREEMENT** (“Agreement”) is entered into on _____, 2016, (the “Effective date”) by **SPACE FLORIDA** (“SF”), an independent special district, a body politic and corporate, and a subdivision of the State of Florida, whose principal place of business is 505 Odyssey Way, Suite 300, Exploration Park, FL 32953, and _____ (“Grantee”), a Florida _____, whose principal place of business is _____.

WHEREAS, Section 331.302 of the *Florida Statutes* created SF to foster the growth and development of a sustainable and world-leading aerospace industry in the State of Florida.

WHEREAS, SF is charged with promoting aerospace business development by facilitating business financing, spaceport operations, research and development, workforce development and innovative education programs.

WHEREAS, the State of Florida and the State of Israel have entered into a partnership to promote R&D collaboration among companies in the State of Florida and the State of Israel.

WHEREAS, the partnership is being implemented by the Israeli Industry Center for R&D (MATIMOP), on behalf of the Office of the Chief Scientist (OCS) in the Israel Ministry of Economy, and by SF.

WHEREAS, SF and MATIMOP released a Call For Projects, 2016 requesting Israeli and Floridian companies to provide application submittal requirements regarding R&D aerospace and related technologies.

WHEREAS, Grantee submitted application submission documents regarding _____ (the “Project”) which was jointly vetted for feasibility, and SF and MATIMOP have decided to award research funding to Grantee.

WHEREAS, SF and Grantee now desire to enter into this Agreement to describe the terms and conditions under which SF will provide the financial grant funds to Grantee for the Project.

NOW, THEREFORE, the parties agree as follows:

1. Recitals. The above recitals are true and correct and are hereby incorporated into this Agreement by reference.
2. Description of the Project; Milestones.
_____. A copy of Grantee’s proposal

provided in conjunction with the Call For Projects, 2016 application submission documents is attached hereto as **Attachment A**.

3. Conditions Precedent. No funds will be paid by SF to Grantee until this Agreement has been approved by the SF Board of Directors.
4. SF's Commitment.
 - a. SF agrees to provide grant funding pursuant to the terms of this Agreement for the Project in an amount of up to _____ (\$_____) (the "Grant Funds") to be utilized solely for the Project. Any costs of the Project in excess of the amount of Grant Funds shall be the responsibility of Grantee.
 - b. The Grant Funds shall be paid as follows:
_____.
5. Grantee's Commitments. Grantee agrees to use the Grant Funds solely for the Project as follows:
 - a. Grantee shall provide _____ in matching funding.
 - b. Unused Grant Funds, if any, at the end of the Project unspent on the Project by Grantee will be returned to SF.
6. Term. The Agreement shall expire ___ year(s) from the Effective Date. Unless this Agreement is otherwise extended in writing by both parties, no Grant Funds will be paid by SF to Grantee after the expiration date of this Agreement.
7. Termination. SF may terminate this Agreement for cause for (i) non-performance of any material obligation by Grantee if such breach is not cured within ten days after receipt of written notice to Grantee, (or within such longer period in the event such breach is not susceptible of cure within such ten day period so long as Grantee is diligently pursuing such cure), and such written notice of breach given hereunder shall specify the nature of the breach in reasonable detail; (ii) Grantee files for bankruptcy; or (iii) Grantee ceases to work on or abandons the Project for a four-month consecutive period of time.
8. Availability of Funds. All payments to be made by SF under this Agreement are subject to the availability of appropriated funds by the Legislature of the State of Florida. SF shall immediately notify Grantee should funds become unavailable.
9. Reporting Requirements. Grantee shall provide the following reports to SF:
 - a. Quarterly reports, due on the 10th of the month beginning _____, which shall include both financial and Project information in a form reasonably acceptable to SF. The reports shall include the number of Florida employees working the project effort, the amount of match share provided by the Grantee

during the reporting quarter, a current project schedule, a narrative account of what was accomplished with the Grant Funds, including a description of progress made toward achieving the Project goals and assurance that the Project activities have been conducted in conformity with the terms of this Agreement.

- b. A final report due twelve (12) months after the expiration of the Term, which shall include both financial and Project information in a form reasonably acceptable to SF. The final report shall include a narrative account of what was accomplished with the Grant Funds.

10. Public Records.

- a. SF, subject to the provisions of Section 288.075, Section 331.326, Chapter 119 of the *Florida Statutes*, and applicable Federal law, must permit public access to all non-confidential, non-proprietary or non-International Traffic in Arms Regulation (ITAR) controlled documents or other materials prepared, developed or received by it in connection with the performance of the obligations under this Agreement.
- b. This Agreement may be unilaterally cancelled for refusal by either party to allow public access to all documents, papers, letters, or other such materials subject to the provisions of Chapter 119 of the *Florida Statutes* and made or received in conjunction with this Agreement, other than those specified as confidential or exempt information.
- c. To the extent Grantee is acting on behalf of SF as provided under Subsection 119.011(2) of the *Florida Statutes*, Grantee shall:
 - i. Keep and maintain public records that ordinarily and necessarily would be required by SF in order to perform the services under this Agreement;
 - ii. Provide the public with access to public records on the same terms and conditions that SF would provide the records and at a cost that does not exceed the cost provided in Chapter 119 of the *Florida Statutes* or otherwise provided by law;
 - iii. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.
 - iv. Meet all requirements for retaining public records and transfer, at no cost, to SF, all public records in possession of Grantee upon expiration, or termination, of this Agreement and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to SF in a format that is compatible with the information technology systems of SF.

11. Severability. If any provision of this Agreement is found by a court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of this Agreement shall not be affected thereby and shall remain enforceable to the greatest extent permitted by law.

12. Indemnification and Limitation of Liability.

- a. Grantee shall defend, indemnify, and hold harmless SF, its Officers, Directors, and employees to the fullest extent permitted by law from and against all claims, damages, losses, liens, and expenses, (including but not limited to fees and charges of attorneys or other professionals and court and arbitration or other dispute resolution costs) arising out of or resulting from (i) breach of the terms of this Agreement by Grantee or any person or organization directly, or indirectly, working with Grantee as a subcontractor under this Agreement; (ii) violations of applicable law by Grantee or any person or organization directly or indirectly working with Grantee as a subcontractor under this Agreement; and (iii) disease or death of third parties (including SF employees and agents and those of Grantee), or damage to property to the extent attributable to the negligence or misconduct of Grantee or any person or organization directly, or indirectly, working with Grantee as a subcontractor under this Agreement.
- b. SF's limits of liability are set forth in Section 768.28 of the *Florida Statutes*, and nothing herein shall be construed to extend the liabilities of SF beyond that provided in Section 768.28 of the *Florida Statutes*. Nothing herein is intended as a waiver of SF's sovereign immunity under Section 768.28 of the *Florida Statutes*. Nothing hereby shall inure to the benefit of any third party for any purpose, including but not limited to anything, which might allow claims otherwise barred by sovereign immunity or operation of law. In any event, the SF's liability under this Agreement shall not exceed the amount of the Grant Funds even if the sovereign immunity limitations of that statute are not otherwise applicable to the matters as set forth herein.
- c. In no event shall SF be liable to Grantee for indirect, special, or consequential damages, including, but not limited to, loss of revenue, loss of profit, cost of capital, or loss of opportunity regardless of whether such liability arises out of contract, tort (including negligence), strict liability, or otherwise.
- d. SF shall not assume any liability for the acts, omissions, or negligence of Grantee, its agents, servants, employees, or subcontractors. In all instances, Grantee shall be responsible for any injury or property damage resulting from any activities conducted by Grantee.

13. Amendments/Modifications. This Agreement may not be altered, modified, amended or changed in any manner, except pursuant to a written amendment executed and delivered

by each of the parties. Additionally, any such modification, amendment or change shall be effective on the date of execution and delivery, or such later date as the parties may agree therein.

14. Agreement Manager. SF has appointed an Agreement Manager who is responsible for enforcing the performance of this Agreement's terms and conditions and shall serve as a liaison with Grantee. SF's agreement manager is Bernie McShea, Vice President of Business Development, 321-730-5301 ext. 254, bmc Shea@spaceflorida.gov.

15. Notices.

- a. For a notice, or other communication, under this Agreement to be valid, it must be in writing and signed by the sending party and the sending party must use one (1) of the following methods of delivery: (1) personal delivery; (2) registered or certified mail, in each case return receipt requested and postage prepaid; and (3) nationally recognized overnight courier, with all fees prepaid. Delivery via facsimile, or email, is also permitted provided it is followed by delivery via one (1) of methods (1)-(3) above and any such delivery via facsimile or email shall not be deemed to have been received pursuant to Subsection 15.c. until such delivery pursuant to methods (1)-(3) above shall be deemed to have been received pursuant to Subsection 15.c.
- b. For a notice, or other communication, under this Agreement to be valid, it must be addressed to the receiving party at the addresses listed below for the receiving party, or to any other address designated by the receiving party in a notice in accordance with this Section 15.

For Space Florida:

Contracts Compliance Manager, Desiree Mayfield dmayfield@spaceflorida.gov

Space Florida
505 Odyssey Way, Suite 300
Exploration Park, FL 32953
P: 321-730-5301 ext. 237
F: 321-730-5307

For Grantee:

Provide contact name, title

e-mail address

Company address

P:

F:

- c. Subject to Subsection 15.d., a valid notice or other communication under this Agreement is effective when received by the receiving party. A notice, or other communication, is deemed to have been received as follows:

- i. if it is delivered in person, or sent by registered or certified mail, or by nationally recognized overnight courier, upon receipt as indicated by the date on the signed receipt; and
 - ii. if the receiving party rejects or otherwise refuses to accept it, or if it cannot be delivered because of a change in address for which notice was not given, then upon that rejection, refusal, or inability to deliver.
- d. If a notice or other communication is received after 5:00 p.m. on a business day at the location specified in the address for the receiving party, or on a day that is not a business day, then the notice is deemed received at 9:00 a.m. on the next business day.
- e. Any notice requiring prompt action shall be contemporaneously sent by facsimile transmission or electronic mail.

16. Representations.

- a. Grantee has the necessary and required Federal and State authority to enter into this Agreement with SF.
- b. Neither this Agreement nor Grantee's performance of its obligations hereunder will place Grantee in breach of any other contract or obligation and will not violate the rights of any third party.

17. Materials and Data.

- a. All data, reports, job files, logs, computer printouts, CD-ROM files, Grantee's submittals, summaries, memoranda and any and all other written work, documents, instruments, information, and materials (collectively "written work") prepared or accumulated by Grantee especially for the services rendered under this Agreement shall be the sole property of SF. SF may reuse the written work at no additional cost, and SF shall be vested with all rights of whatever kind and however created that may be in existence, provided, however, that Grantee shall in no way be liable or legally responsible to anyone for SF's use of any written work on another project.
- b. As requested by SF, Grantee agrees to deliver to SF at the end of the term of this Agreement, or at any other time SF may request, all lists, memoranda, notes, plans, records, hardware, software, and other documentation and data belonging to SF, which Grantee may possess or have under his or her control and which may have been produced prior to and including the date of termination. Grantee shall also require that all subcontractors or employees agree in writing to be bound by the provisions of this section.

18. Audit and Contract Records.

- a. SF may, at any time, for purposes of monitoring Grantee's performance under this Agreement, review, audit, copy, examine and investigate in any manner, any records of Grantee which include, but are not limited to, independent audit working papers, books, documents, vouchers, bills, invoices, requests for payment, and other supporting documentation, (collectively "contract records") which according to generally accepted accounting principles, procedures and practices, sufficiently and properly reflect all costs expended in the performance of this Agreement. If SF requests access to or review of any such contract records and Grantee refuses such access or review, SF may terminate this Agreement.
- b. To the extent applicable, Grantee shall comply with the audit requirements of Section 215.97 of the *Florida Statutes* and those found in **Attachment B**, Special Audit and Monitoring Requirements. Grantee shall include the audit and record keeping requirements provided for in this Section 18 and in **Attachment B**, in all subcontracts and for all sub-recipients of State funds according to Section 215.97 of the *Florida Statutes*. For purposes of this Agreement, "sub-recipient" shall be defined in accordance with Subsection 215.97(2)(x) of the *Florida Statutes*. The information from the Catalog of State Financial Assistance is as follows:
 - i. Funding Source -- State Economic Enhancement and Development Trust Fund;
 - ii. State Fiscal Year – FY2015-16;
 - iii. CSFA Number – 40.004;
 - iv. CSFA Title – Space Florida; and
 - v. State Appropriation Category – GAA 2256.
- c. Grantee shall preserve all contract records for the entire term of this Agreement and for five (5) years after the later of: (i) the date of submission of the final project report, or (ii) until all claims (if any) regarding the Agreement are resolved.

19. No Third-Party Beneficiaries. This Agreement does not, and is not intended, to confer any rights or remedies upon any person other than the parties.

20. Counterparts. The parties may sign this Agreement in several counterparts, each of which will be deemed an original but all of which together will constitute one (1) instrument.

21. Facsimile Deemed as Original. Acceptance of this Agreement may be made by facsimile or electronic transmission. Receipt of the facsimile, or electronic, transmission shall for the purposes of this Agreement be deemed to be an original, including signatures.

22. Miscellaneous.

- a. Grantee shall not discriminate against any employee employed in the performance of this Agreement, or against any applicant for employment because of age, race, sex, creed, color, disability, national origin, or marital status.
- b. Grantee shall comply with all applicable Federal, State and local laws, rules and regulations.
- c. Grantee shall provide a harassment-free workplace, with any allegation of harassment given priority attention and action by management.
- d. Grantee shall provide a drug-free workplace with any allegation of substance abuse given priority attention and action by management.
- e. Grantee affirms that it is aware of the provisions of Subsection 287.133(2)(a) of the *Florida Statutes* and that at no time has Grantee been convicted of a Public Entity Crime. Grantee agrees that it shall not violate such law and further acknowledges and agrees that any conviction during the term of this Agreement may result in termination of this Agreement by SF.
- f. Grantee affirms that it is aware of the provisions of Subsection 287.134(2)(a) of *Florida Statutes* and that at no time has Grantee been placed on the Discriminatory Vendor List.
- g. SF shall consider the knowing employment of unauthorized aliens, as described in Section 274A(e) of the Immigration and Nationality Act (codified at 8 U.S.C. §1324a) by Grantee cause for termination of this Agreement.
- h. To the extent Grantee is performing economic development services or similar business assistance services on behalf of SF, Grantee shall coordinate with other components of State and local economic development systems and shall avoid duplication of existing State and local services and activities under this Agreement.
- i. This Agreement may not be assigned by either party without the prior written consent of the other.
- j. This Agreement shall be construed in accordance with the laws of the State of Florida. Any dispute arising out of or relating to this Agreement shall be subject to the exclusive venue of the United States District Court for the Middle District of Florida or the Eighteenth Judicial Circuit, in Brevard County, Florida.
- k. Grantee shall not use any funds received pursuant to this Agreement for lobbying the Florida Legislature, the judicial branch or any State agency.
- l. This Agreement constitutes the entire agreement between the parties hereto and shall supersede all previous or contemporaneous statements, communications, or

agreements, either oral or written, by or between the parties hereto with respect to the subject matter hereof, and is not intended to confer upon any person other than the parties any rights or remedies hereunder.

The parties are signing this Agreement as of the Effective Date.

Space Florida: _____:

By: _____
Name: Denise Swanson
Title: CFO/CAO

By: _____
Name:
Title:

ATTACHMENT A
Grantee's Proposal

ATTACHMENT B

Special Audit and Monitoring Requirements

The administration of funds awarded by SF to Grantee under this Agreement may be subject to audits and/or monitoring by SF, as described in this Attachment B.

MONITORING

In addition to reviews of audits conducted in accordance with OMB Circular A-133 and Section 215.97 of the *Florida Statutes*, as revised (see “AUDITS” below), monitoring procedures may include, but not be limited to, on-site visits by SF staff, limited scope audits as defined by OMB Circular A-133, as revised, and/or other procedures. By entering into this Agreement, Grantee agrees to comply and cooperate with any monitoring procedures and/or processes deemed appropriate by SF. In the event SF determines that a limited scope audit of Grantee is appropriate, Grantee agrees to comply with any additional instructions provided by SF staff to Grantee regarding such audit. Grantee further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Chief Financial Officer (CFO) or Auditor General.

AUDITS

This part is applicable if Grantee is a nonstate entity as defined by Section 215.97(2), *Florida Statutes*.

1. In the event that Grantee expends a total amount of State financial assistance equal to, or in excess of, Five Hundred Thousand Dollars(\$500,000.00) in any fiscal year of Grantee, Grantee must have a State single or project-specific audit for such fiscal year in accordance with Section 215.97, *Florida Statutes*; applicable rules of the Department of Financial Services; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. In determining the State financial assistance expended in its fiscal year, Grantee shall consider all State financial assistance; including State financial assistance received from SF, other State agencies, and other nonstate entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements. Section 18 of this Agreement provides the information from the Catalog of State Financial Assistance, including the standard State project number identifier, official title and description of the State project.
2. Grantee shall ensure that the audit complies with the requirements of Section 215.97(8), *Florida Statutes*. This includes submission of a financial reporting package as defined by Section 215.97(2), *Florida Statutes*, and Chapter 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.
3. If Grantee expends less than Five Hundred Thousand Dollars (\$500,000.00) in State financial assistance in its fiscal year, an audit conducted in accordance with the provisions of Section 215.97, *Florida Statutes*, is not required. In the event that Grantee

expends less than Five Hundred Thousand Dollars (\$500,000.00) in State financial assistance in its fiscal year and elects to have such an audit, the cost of the audit must be paid from Grantee's resources (i.e., the cost of such an audit must be paid from Grantee funds obtained from other than State entities).

4. Grantee must include the record keeping requirements found herein in sub-recipients' contracts and subcontracts entered into by Grantee for work required under terms of this Agreement. In the executed subcontract, Grantee shall provide each sub-recipient of State financial assistance the information needed by the sub-recipient to comply with the requirements of the Single Audit Act. Pursuant to Section 215.97(7), *Florida Statutes*, Grantee shall review and monitor sub-recipient audit reports and perform other procedures as specified in the agreement with the sub-recipient, which may include onsite visits. Grantee shall require sub-recipients, as a condition of receiving State financial assistance, to permit the independent auditor of recipient, the State awarding agency, the Chief Financial Officer, the Chief Inspector General, and the Auditor General access to the sub-recipient's records and independent auditor's working papers as necessary to comply with the requirements of the Single Audit Act.
5. For information regarding the Florida Single Audit Act, including the Florida Catalog of State Financial Assistance (CSFA), Grantee should access the website for the Florida Department of Financial Services located at <https://apps.fldfs.com/fsaa/> for assistance. In addition to the above website, the following websites may be accessed for additional information: The Florida Legislature's website <http://www.leg.state.fl.us/> and the Florida Auditor General's website <http://www.state.fl.us/audgen>.

REPORT SUBMISSION

1. Copies of financial reporting packages required by this Agreement shall be submitted by or on behalf of Grantee directly to each of the following:
2. SF at the following address:

Desiree Mayfield, Contract Compliance Manager
Space Florida
505 Odyssey Way, Suite 300
Exploration Park, FL 32953
3. The Auditor General's Office at the following address:

Auditor General's Office
Room 401, Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1450
4. Any reports, management letter, or other information required to be submitted to SF pursuant to this Agreement shall be submitted timely in accordance with OMB Circular

A-133, *Florida Statutes*, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.

RECORD RETENTION

Grantee shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of five (5) years from the date the audit report is issued, and shall allow SF or its designee, CFO, or Auditor General access to such records upon request. If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the five (5) year period, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the five (5) year period, whichever is later. Grantee shall ensure that audit working papers are made available to SF, the Department of Economic Opportunity's Division of Strategic Business Development, or its designee, CFO, or Auditor General upon request for a period of five (5) years from the date the audit report is issued, unless extended in writing by SF.