AGREEMENT BETWEEN

THE GOVERNMENT OF AUSTRALIA

AND

THE GOVERNMENT OF THE UNITED STATES OF AMERICA

FOR

SPACE VEHICLE TRACKING AND COMMUNICATION

FACILITIES

Preamble

THE GOVERNMENT OF AUSTRALIA AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA (hereinafter referred to as the "Parties"):

BUILDING on more than fifty years of friendly and successful civil space cooperation in space vehicle tracking and communications;

RECALLING the *Agreement Between the Government of Australia and the Government of the United States of America Concerning Space Vehicle Tracking and Communications Facilities*, dated May 29, 1980, as amended and extended by a series of exchanges of diplomatic notes, most recently with effect from February 26, 2014;

RECOGNIZING the importance of their partnership and the strength of their collaborative relationship;

RECOGNIZING the mutual benefits to be derived from this cooperative program;

DEDICATED TO FOSTERING innovation in science and inspiring the next generation of scientists and engineers;

HAVE agreed as follows:

Article 1 – Purpose of Cooperation

1. This Agreement ("Agreement") provides the foundation for a Cooperative Program between the Parties that facilitates the use of space vehicle tracking and communication facilities in Australia ("Cooperative Program").

2. The primary task of this Cooperative Program is to support the National Aeronautics and Space Administration (NASA) programs involving radio contact with human and robotic missions, scientific satellites and deep space probes exploring our solar system and beyond. The basic functions of the Cooperative Program include tracking, transmitting commands, and acquiring data/receiving signals from space vehicles.

3. This Agreement sets forth the general framework for the Cooperative Program in Australia and establishes that the detailed specifications regarding the management and operations of the Cooperative Program shall be addressed in the programmatic and technical documents as specified in Article 2.2 below.

4. All activities under this Agreement shall be carried out in accordance with the Parties' national laws and regulations, including those laws and regulations pertaining to export control and entry into and temporary stay in their territories.

Article 2 – Cooperating Agencies

1. The Cooperating Agency on the part of the Government of the United States of America shall be the National Aeronautics and Space Administration (NASA), and the Cooperating Agency on the part of the Government of Australia shall be the Commonwealth Scientific and Industrial Research Organisation (CSIRO). Either Party may give written notice to the other Party designating another agency as the Cooperating Agency.

2. The Cooperative Program shall continue to be conducted pursuant to a Cooperating Agency Arrangement (hereinafter called the "Arrangement") in addition to a contract ("Contract") between the Cooperating Agencies of each Party or their designated representatives.

   (a) The Arrangement shall address the responsibilities of each Cooperating Agency including matters such as: facilities and activities covered; functional responsibilities; financial responsibilities; spectrum management; communications; security; safety; and consultation.

   (b) The Contract shall address the responsibilities of each Cooperating Agency including matters such as: provision of necessary technical equipment; responsibilities for equipment installation, operations, maintenance, and documentation; engineering design and construction of facilities; funding and reimbursement of costs associated with the design, construction, installation, operation and maintenance of equipment or facilities; allocation of risks; site management; technical reporting; intellectual property; requirements for obtaining radiofrequency licenses, accountability for and disposal of real and personal property; and provision of training.

   (c) The Cooperating Agencies may conclude further arrangements consistent with the provisions of this Agreement.

3. Both the Arrangement and the Contract shall be consistent with the terms of this Agreement, and in the event of any inconsistency, this Agreement shall prevail. Should there be any discrepancy between the Contract and the Arrangement, the Contract shall prevail.

Article 3 – Cooperative Program Facilities

1. The Cooperative Program shall utilise the following primary facilities:

   (a) Canberra Deep Space Communication Complex, Tidbinbilla, Australian Capital Territory;

   (b) Tracking and Data Relay Satellite Ranging System, Alice Springs, Northern Territory; and

(c) Tracking and Data Relay Satellite Facility, Dongara, Western Australia.

2. Other facilities in Australia may be used for the Cooperative Program by agreement of the Cooperating Agencies.

3. The facilities specified in Article 3.1 may be used for independent scientific activities sponsored by the Government of Australia. However, such activities are to be conducted on a non-interference basis with NASA operations, and any additional operating costs resulting from such independent scientific activities would be borne by the Government of Australia.

Article 4 – Ownership of Equipment

1. The Government of the United States of America shall retain title to equipment, materials, supplies, and other movable property provided by or acquired in Australia by the Government of the United States of America, or on its behalf at its own expense, for the purposes of the activities under this Agreement.

2. Such property shall not be disposed of within Australia without the permission of the Cooperating Agency of the Government of Australia and in accordance with the *Exchange of Notes dated November 9, 1973 constituting an Agreement between the Government of Australia and the Government of the United States of America concerning the Disposal of United States Government Excess Property in Australia*, or, in the event that that Agreement should terminate, under conditions set forth in an Agreement between the Parties.

Article 5 – Financial Arrangements

Except as provided in the Contract referenced in Article 2.2 above, each Party shall bear the costs of discharging its respective obligations under this Agreement, including travel and subsistence of personnel and transportation of all equipment and other items for which it is responsible. The Parties' obligations under this Agreement are subject to the availability of appropriated funds and each Party's respective funding procedures.

Article 6 – Transfer of Goods, Technology, Proprietary Data, and Technical Data Subject to Export Control

1. The Parties shall transfer only those goods, technology, proprietary data, or technical data (including software), any of which items may be export controlled, as is necessary to fulfill their respective responsibilities under this Agreement.

2. The transfer of such goods, technology, proprietary data or technical data for the purpose of discharging the Parties' responsibilities with regard to interface, integration,

and safety shall normally be made without restriction, except as required by Article 1.4 of this Agreement.

3. For purposes of this Article, references to a Party's "Contractor" shall include a Party's Contractors or any sub-contractors (including their sub-contractors) engaged in activities related to the performance of this Agreement. The Parties shall cause their Contractors to be bound by the provisions of this Article through contractual mechanisms or equivalent measures.

4. All transfers of goods, technology, proprietary data, or export-controlled technical data are subject to the following provisions:

   (a) In the event a Party or its Contractor needs to transfer such goods, technology, or data for which protection is to be maintained, such goods shall be specifically identified and such data will be marked.

   (b) The identification for such goods, technology, and the marking on such data shall indicate that the goods, technology, and data shall be used by the receiving Party or its Contractor only for the purposes of fulfilling its responsibilities in the performance of this Agreement, and that such goods, technology, and data shall not be disclosed or retransferred to a third party without the prior written permission of the furnishing Party or its Contractor.

   (c) The receiving Party and its Contractors shall abide by the terms of the notice and protect any such goods, technology, and data from unauthorized use and disclosure.

5. All goods, technology, proprietary data, or export-controlled technical data exchanged in the performance of this Agreement shall be used by the receiving Party or its Contractor exclusively for the purposes of this Agreement. Upon completion of the activities in the performance of this Agreement, the receiving Party or its Contractor shall return or otherwise dispose of all exchanged goods, technology, and marked proprietary data or export-controlled technical data, as directed by the furnishing Party or its Contractor.

Article 7 – Intellectual Property Rights

The Parties shall ensure adequate and effective protection of intellectual property created or furnished under this Agreement in accordance with the Contract referenced in Article 2.2(b) of this Agreement.

Article 8 – Release of Results and Public Information

1. The Parties retain the right to release public information regarding their own activities under this Agreement. The Parties shall coordinate with each other in advance

concerning releasing to the public information that relates to the other Party's responsibilities or performance under this Agreement.

2. The Parties acknowledge that the following data or information does not constitute public information and that such data or information shall not be included in any publication or presentation by a Party under this Article without the other Party's prior written permission:

   (a) Technology or technical data furnished by the other Party, in accordance with Article 6, which is identified as export-controlled;

   (b) Any information which is identified by the other Party as non-public or proprietary; or

   (c) Information about an invention of the other Party before an application for a patent (or similar form of protection in any country) corresponding to such invention has been filed covering the same, or a decision not to file has been made.

Article 9 – Taxation

1. The Government of Australia shall exempt from all taxes, duties and any other charges any equipment, materials, supplies, and other property and services purchased in Australia or brought into or removed from Australia for use in connection with the activities under this Agreement.

2. The Government of Australia shall refund the amount of any duties, taxes or any other charges, which may have been imposed or levied by, and paid to, the Government of Australia in respect of equipment, materials, supplies or other property and services which have been purchased by or on behalf of the Government of the United States of America in connection with activities under this Agreement, or which have been imported into Australia expressly for use in such connection.

3. The Government of Australia shall also facilitate the movement of goods into and out of its territory as necessary to comply with this Agreement.

Article 10 – Exchange of Personnel and Access to Facilities

1. To facilitate implementation of the activities conducted under this Agreement, the Parties may support the exchange of a limited number of personnel, including contractors and subcontractors, at an appropriate time and under conditions mutually agreed between the Cooperating Agencies. The Parties shall facilitate the entry into including stay and exit from their territories of persons not normally resident when employed or engaged as staff, consultants, contractors or subcontractors by the Parties in connection with the activities provided for in this Agreement.

2. The effects for the personal and household use of such persons entering Australia for the purposes of the activities under this Agreement shall be permitted entry free of taxes, duties, and any other charges, in accordance with Australian law in effect at the date the goods are imported.

3. In accordance with the "*Convention between the Government of the United States of America and the Government of Australia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income"* done at Sydney on 6 August 1982 and the domestic laws of Australia, United States personnel sent to Australia by the United States Cooperating Agency for the purposes of activities under this Agreement shall be free from Australian income tax.

4. For the purposes of Article 9 relating to taxation, "United States personnel" means nationals of the United States of America not ordinarily resident in Australia and who are employees of the United States Government or the Cooperating Agency, including contractors and subcontractors. All other persons engaged or employed for the purposes of the activities under this Agreement shall be subject to applicable Australian taxation laws.

Article 11 – Use of Australian Resources and Personnel

The Government of the United States of America agrees to utilize to the maximum extent practicable Australian resources and personnel in activities conducted under this Agreement.

Article 12 – Australia's National Security Requirements

1. The Government of the United States of America shall undertake the following activities with respect to Australia's national security requirements:

   (a) NASA shall allow technical understanding of the equipment associated with the facilities specified in Article 3.1, and the broader systems to which they contribute by the relevant Government of Australia agencies;

   (b) Notwithstanding NASA's status as an Agency of the United States Government, NASA shall allow the Government of Australia a right of access to the facilities specified in Article 3.1 for the purpose of verifying compliance with Australian national security requirements, upon specific request, with adequate notice, and with the presence of a NASA representative;

   (c) Any technical data obtained by the Government of Australia as a result of compliance inspections under paragraph (b) shall be treated in confidence and used for no other purpose than verifying compliance with Australian national security requirements;

(d) In case the Government of Australia establishes deviation from its established national security requirements, NASA shall immediately bring the facilities specified in Article 3.1 into compliance;

(e) NASA shall notify the Government of Australia of any changes to the role, function, capability or management of the facilities specified in Article 3.1; and

(f) NASA agrees to conduct the Cooperative Program only for the purpose of its official activities and programs and for peaceful purposes. NASA agrees not to use the Cooperative Program facilities, information collected through those facilities, or activities associated with the Cooperative Program for purposes that are contrary to Australia's sovereignty or national interests.

Article 13 – Spectrum Management

1. The Government of Australia shall ensure that the radiofrequency bands licensed for the activities under this Agreement are and remain available to carry out these activities.

2. The Government of Australia shall take the necessary steps under Australian law to maintain international and domestic allocation of the radiofrequency bands necessary to carry out the activities under this Agreement.

3. The Government of Australia shall take the necessary steps to register the Facilities with the International Telecommunication Union, as appropriate, to facilitate the activities under this Agreement.

4. The Government of Australia shall take all reasonable steps to protect the Facilities used for the activities under this Agreement from harmful radiofrequency interference within Australia.

5. The operation of radio transmitting and receiving equipment for the activities under this Agreement shall comply with Australian law and the requirements of the relevant Australian authorities.

Article 14 – Consultations and Settlement of Disputes

1. The Parties shall encourage their Cooperating Agencies to consult, as appropriate, to review the implementation of activities undertaken pursuant to this Agreement, and to exchange views on potential areas of future cooperation.

2. In the event questions arise regarding the implementation of activities under this Agreement or regarding the interpretation or application of this Agreement, the Cooperating Agencies shall endeavor to resolve the questions.

3. If resolution is not reached by the Cooperating Agencies, the questions shall be resolved by means of consultations between the Parties.

Article 15 – Amendments

This Agreement may be amended at any time by written agreement of the Parties.

Article 16 – Entry into Force and Termination

1. This Agreement shall enter into force once the Parties have notified each other through diplomatic channels that their respective domestic requirements for entry into force have been completed. This Agreement shall enter into force on the latter date of these two notifications. The Agreement shall remain in force for twenty-five (25) years. Upon entry into force, this Agreement shall supersede the Agreement between the Government of the United States of America and the Government of Australia concerning Space Vehicle Tracking and Communication Facilities, done at Canberra on May 29, 1980, as amended and extended.

2. Either Party may terminate this Agreement by giving written notice of termination through the diplomatic channel after consultations between the Parties have occurred. Such termination shall take effect at least two (2) years after the date of written notice.

DONE at Washington D.C., this 17th day of October 2017, in duplicate.

For the Government of Australia

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His Excellency the Hon Joe Hockey
Ambassador of Australia to the United States of America

For the Government of the United States of America

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Mr Robert M. Lightfoot Jr
Acting Administrator
National Aeronautics and Space Administration