

REIMBURSABLE SPACE ACT AGREEMENT
BETWEEN
THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA)
JOHN F. KENNEDY SPACE CENTER (KSC)
AND THE ASTRONAUTS MEMORIAL FOUNDATION, INC.

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 John F. Kennedy Space Center, located at Kennedy Space Center, FL 32899 (hereinafter referred to as "NASA KSC") and The Astronauts Memorial Foundation (AMF), located at State Road 405, Building M6-306, Kennedy Space Center, FL 32899-2899 (hereinafter referred to as "Partner" or "AMF"). NASA KSC and Partner may be individually referred to as a "Party" and collectively referred to as the "Parties."

ARTICLE 2. PURPOSE

This Agreement will allow the Partner to acquire from NASA KSC all necessary utility and institutional support services that are not reasonably available in the commercial market. AMF constructed the Center for Space Education (CSE) on NASA KSC property under Use Permit KCA-1236 Rev D.

ARTICLE 3. RESPONSIBILITIES

A. NASA KSC will use reasonable efforts to:

Provide the following services on a reimbursable basis to support the operation of the CSE:

1. Electricity;
2. Locksmith support;
3. Fire alarm and suppression system(s) inspection and maintenance;
4. Connectivity (e.g. fiber, copper, circuits) to enable communication services provided by AMF's commercial provider(s);
5. Emergency response services; and
6. Other services NASA KSC determines it may provide under this Agreement.

B. Partner will use reasonable efforts to:

1. Provide information NASA KSC requires to complete its responsibilities under this Agreement.
2. Provide funding in advance for all support activities in accordance with law, NASA policy, and this Agreement.

ARTICLE 4. SCHEDULE AND MILESTONES

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

Milestone(s)	Schedule
NASA KSC will provide services on a continuing basis throughout the term of this Agreement.	Continuous

ARTICLE 5. FINANCIAL OBLIGATIONS

A. Partner agrees to reimburse NASA KSC an estimated cost of \$490,882.02 for NASA KSC to carry out its responsibilities under this Agreement. In no event will NASA KSC transfer any U.S. Government funds to Partner under this Agreement. Payment must be made by Partner in advance of initiation of NASA KSC's efforts on behalf of the Partner. The Partner can make incremental payments on a quarterly basis with each payment due to NASA KSC fifteen (15) days in advance of each quarter.

B. Payment shall be payable to the National Aeronautics and Space Administration through the NASA Shared Services Center (NSSC) (choose one form of payment):

(1) U.S. Treasury FEDWIRE Deposit System, Federal Reserve Wire Network Deposit System;

(2) Pay.gov at www.nssc.nasa.gov/customerservice (select "Pay NASA" from the Quick Links to the left of the page); or

(3) Check. A check should be payable to NASA KSC and sent to:

NASA Shared Services Center
FMD – Accounts Receivable for the Accounts of:
John F. Kennedy Space Center
Bldg. 1111,
Jerry Hlass Rd.,
Stennis Space Center, MS 39529

Payment by electronic transfer (#1 or #2, above), is strongly encouraged, and payment by check is to be used only if circumstances preclude the use of electronic transfer. All payments and other communications regarding this Agreement shall reference the Center name, title, date, and number of this Agreement.

C. NASA KSC will not provide services or incur costs beyond the existing payment. Although NASA KSC has made a good faith effort to accurately estimate its costs, it is understood that NASA KSC provides no assurance that the proposed effort under this Agreement will be accomplished for the above estimated amount. Should the

effort cost more than the estimate, Partner will be advised by NASA KSC as soon as possible. Partner shall pay all costs incurred and has the option of canceling the remaining effort or providing additional funding in order to continue the proposed effort under the revised estimate. Should this Agreement be terminated, or the effort completed at a cost less than the agreed-to estimated cost, NASA KSC shall account for any unspent funds within six months after completion of all effort under this Agreement, and promptly thereafter return any unspent funds to Partner.

- D. Notwithstanding any other provision of this Agreement, 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. § 1341).

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 KSC goods, services, facilities, or equipment. In the event that NASA KSC'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 KSC's use of the goods, services, facilities, or equipment shall have priority over the use planned in this Agreement.

Should a conflict arise, NASA KSC in its sole discretion shall determine whether to exercise that priority. Likewise, should a conflict arise as between two or more non-NASA KSC Partners, NASA KSC, in its sole discretion, shall determine the priority as between those Partners. This Agreement does not obligate NASA KSC to seek alternative government property or services under the jurisdiction of NASA KSC at other locations.

ARTICLE 7. NONEXCLUSIVITY

This Agreement is not exclusive; accordingly, NASA KSC 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. Partner hereby waives any claims against NASA KSC, its employees, its related entities, (including, but not limited to, contractors and subcontractors at any tier, grantees, investigators, customers, users, and their contractors and subcontractors, at any tier) and employees of NASA KSC's related entities for any injury to, or death of, Partner employees or the employees of Partner's related entities, or for damage to, or loss of, Partner'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 unilateral waiver to its related entities by requiring them, by contract or otherwise, to waive all claims against NASA KSC, its related entities, and employees of NASA KSC and employees of NASA KSC's related entities for injury, death, damage, or loss arising from or related to activities conducted under this Agreement.

ARTICLE 9. INTELLECTUAL PROPERTY RIGHTS - DATA RIGHTS

A. General

1. "Related Entity" as used in this Data Rights Article means a contractor, subcontractor, grantee, or other entity having a legal relationship with NASA KSC or Partner, that is assigned, tasked, or contracted to perform activities under this Agreement.
2. "Data," means recorded information, regardless of form, the media on which it is recorded, or the method of recording.
3. "Proprietary Data," means Data embodying trade secrets developed at private expense or commercial or financial information that is privileged or confidential, and that includes a restrictive notice, unless the Data is:
 - a. known or available from other sources without restriction;
 - b. known, possessed, or developed independently, and without reference to the Proprietary Data;
 - c. made available by the owners to others without restriction; or
 - d. required by law or court order to be disclosed.
4. Data exchanged under this Agreement is exchanged without restriction except as otherwise provided herein.
5. Notwithstanding any restrictions provided in this Article, the Parties are not restricted in the use, disclosure, or reproduction of Data provided under this Agreement that meets one of the exceptions in 3. above. If a Party believes that any exceptions apply, it shall notify the other Party before any unrestricted use, disclosure, or reproduction of the Data.
6. The Parties will not exchange preexisting Proprietary Data under this Agreement unless authorized herein or in writing by the owner.
7. If the Parties exchange Data having a notice that the Receiving Party deems is ambiguous or unauthorized, the Receiving Party shall tell the Providing Party. If the notice indicates a restriction, the Receiving Party shall protect the Data under this Article unless otherwise directed in writing by the Providing Party.
8. The Data rights herein apply to the 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.
9. Disclaimer of Liability: NASA KSC is not restricted in, or liable for, the use, disclosure, or reproduction of Data without a restrictive notice or for Data Partner gives, or is required to give, the U.S. Government without restriction.

B. Data First Produced by Partner Under this Agreement

If Data first produced by Partner or its Related Entities under this Agreement is given to NASA KSC, and the Data is Proprietary Data, and it includes a restrictive notice, NASA KSC will use reasonable efforts to protect it. The Data will be disclosed and used (under suitable protective conditions) only for U.S. Government purposes.

C. Data First Produced by NASA KSC Under this Agreement

If Partner requests that Data first produced by NASA KSC under this Agreement be protected, and NASA KSC determines it would be Proprietary Data if obtained from Partner, NASA KSC will use reasonable efforts to mark it with a restrictive notice and protect it for five years after its development. During this restricted period the Data may be disclosed and used (under suitable protective conditions) for U.S. Government purposes only, and thereafter for any purpose. Partner must not disclose the Data without NASA KSC's written approval during the restricted period. The restrictions placed on NASA KSC do not apply to Data disclosing a NASA KSC-owned invention for which patent protection is being considered.

D. Publication of Results

The National Aeronautics and Space Act (51 U.S.C. § 20112) requires NASA KSC to provide for the widest practicable and appropriate dissemination of information concerning its activities and the results thereof. As such, NASA KSC may publish unclassified and non-Proprietary Data resulting from work performed under this Agreement. The Parties will coordinate publication of results allowing a reasonable time to review and comment.

E. Data Disclosing an Invention

If the Parties exchange Data disclosing an invention for which patent protection is being considered, and the furnishing Party identifies the Data as such when providing it to the Receiving Party, the Receiving Party shall withhold it from public disclosure for a reasonable time (one (1) year unless otherwise agreed or the Data is restricted for a longer period herein).

F. Copyright

Data exchanged with a copyright notice and with restrictive notice is presumed to be published. The following royalty-free licenses apply:

1. If indicated on the Data that it was produced outside of this Agreement, it may be reproduced, distributed, and used to prepare derivative works only for carrying out the Receiving Party's responsibilities under this Agreement.
2. Data without the indication of F.1. is presumed to be first produced under this Agreement. Except as otherwise provided in paragraph E. of this Article, and in

the Inventions and Patent Rights Article of this Agreement for protection of reported inventions, the Data may be reproduced, distributed, and used to prepare derivative works for any purpose.

G. Data Subject to Export Control

Whether or not marked, technical data subject to the export laws and regulations of the United States provided to Partner under this Agreement must not be given to foreign persons or transmitted outside the United States without proper U.S. Government authorization.

ARTICLE 10. 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 KSC 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 KSC has determined that 51 U.S.C. § 20135(b) 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 KSC 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 11. USE OF NASA NAME AND NASA 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 12. RELEASE OF GENERAL INFORMATION TO THE PUBLIC AND MEDIA

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

Pursuant to Section 841(d) of the NASA Transition Authorization Act of 2017, Public Law 115-10 (the "NTAA"), NASA KSC is obligated to publicly disclose copies of all agreements conducted pursuant to NASA's 51 U.S.C. §20113(e) authority in a searchable format on the NASA website within 60 days after the agreement is signed by the Parties. The Parties acknowledge that a copy of this Agreement will be disclosed, without redactions, in accordance with the NTAA.

ARTICLE 13. DISCLAIMER OF WARRANTY

Goods, services, facilities, or equipment provided by NASA KSC under this Agreement are provided "as is." NASA KSC 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 14. DISCLAIMER OF ENDORSEMENT

NASA KSC does not endorse or sponsor any commercial product, service, or activity. NASA KSC's participation in this Agreement or provision of goods, services, facilities or equipment under this Agreement does not constitute endorsement by NASA KSC. Partner agrees that nothing in this Agreement will be construed to imply that NASA KSC

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 15. 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 KSC facilities or property, or to a NASA KSC Information Technology (IT) system or application, is contingent upon compliance with NASA KSC 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 KSC 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.

ARTICLE 16. 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 five years from the Effective Date, whichever comes first.

ARTICLE 17. RIGHT TO TERMINATE

Either Party may unilaterally terminate this Agreement by providing thirty (30) calendar days written notice to the other Party. In the event of such termination, Partner will be obligated to reimburse NASA KSC for all costs for which the Partner was responsible and that have been incurred in support of this Agreement up to the date the termination notice is received by NASA KSC. Where Partner terminates this Agreement, Partner will also be responsible for termination costs.

ARTICLE 18. 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", "Intellectual Property Rights"-related clauses, and "Financial Obligations" shall survive such expiration or termination of this Agreement.

ARTICLE 19. 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 John F. Kennedy Space Center
Bao Nguyen
Partnership Development Manager
Mail Code: AD-C
Kennedy Space Center, FL 32899
Phone: 321.861.3602
bao.t.nguyen@nasa.gov

THE ASTRONAUTS MEMORIAL
FOUNDATION
Thad Altman
President & CEO
The Center for Space Education
Mail code: AMF
State Road 405, Building M6-306
Kennedy Space Center, FL 00003-2899
Phone: 321.452.2887
Fax: 321.452.6244
taltman@amfcse.org

ARTICLE 20. 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 KSC 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 KSC 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 21. MODIFICATIONS

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

ARTICLE 22. ASSIGNMENT

Neither this Agreement nor any interest arising under it will be assigned by the Partner or NASA KSC 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 23. 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 24. 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 25. LOAN OF GOVERNMENT PROPERTY

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


ARTICLE 26. 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
JOHN F. KENNEDY SPACE CENTER

THE ASTRONAUTS MEMORIAL
FOUNDATION

BY: _____
Thomas O. Engler
Director, Center Planning and
Development

BY: 
Thad Altman
President & CEO

DATE: _____

DATE: June 3, 2020