

**REIMBURSABLE SPACE ACT AGREEMENT  
BETWEEN  
COUNTY OF SANTA CLARA  
OFFICE OF THE SHERIFF  
AND  
NASA AMES RESEARCH CENTER  
FOR  
UTILIZATION OF MOFFETT FIELD FOR LAW ENFORCEMENT AND  
EMERGENCY RESPONSE CAPABILITIES**

**ARTICLE 1. AUTHORITY AND PARTIES**

In accordance with The National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2473 (c)), this Agreement is entered into by the NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Ames Research Center, located at Moffett Field, CA 94035 (hereinafter referred to as "NASA ARC," "ARC," or "NASA") and the COUNTY OF SANTA CLARA, located at 70 West Hedding Street, San Jose, CA 95110, (hereinafter referred to as "Partner"). 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 utilizing NASA facilities as a base of operation for the helicopter operated and manned by Partner's Office of the Sheriff. This purpose benefits NASA by providing a public service and unique NASA facilities to Partner and enhances effective local law enforcement and emergency response capabilities.

**ARTICLE 3. RESPONSIBILITIES**

1. Under the terms and conditions of this Agreement, NASA will provide to Partner, and Partner will reimburse NASA for, all facilities, land, equipment and services used at NASA, including, Moffett Federal Airfield Shared Pool services ("MFAP Services"), in connection with Partner's aviation operations. MFAP Services are comprised of: (i) air traffic control; (ii) common grounds and runway, ramp and road maintenance; (iii) security; (iv) aircraft rescue fire – fighting services; and (v) routine base operation support and management oversight related to this Agreement. MFAP Services shall be provided in accordance with NASA ARC's standard procedures for all operations at the Moffett Federal Airfield ("MFA").

2. All operations on NASA property shall be compatible with, and will not interfere with, the operations of NASA, other resident Federal agencies, or with airfield operations at NASA, as such is determined by NASA. Partner shall coordinate access to the MFA with NASA's Flight Operations Base Center.

3. Partner will provide the necessary equipment and personnel to support the purpose of this Agreement.

4. In accordance with Article 7, Partner assumes liability for risks associated with activities undertaken in this Agreement.

5. In accordance with Article 11, Partner agrees to follow all applicable NASA regulations, guidelines and standards while at NASA ARC.

6. Partner may request NASA to make additions or modifications to NASA. Nothing in this Agreement obliges NASA to accommodate such a request. If NASA, in its sole discretion, agrees to the requested additions or modifications, all costs will be borne by Partner, including costs to remove additions or restore modifications to their former conditions. All additions, changes, and modifications to NASA become the property of the United States Government ("Government").

7. This Agreement shall not be construed as a grant of any possessory, exclusive or permanent interest in any NASA real or personal property, nor as a grant of an estate of any kind, nor as an abandonment of use and occupancy, but shall merely be considered a temporary agreement for the non-exclusive, non-possessory use of NASA land, facilities, and equipment described in this Agreement. Title to NASA's real property shall be and remain solely with NASA. All Partner personal property constructed, installed, erected, or placed by Partner on NASA property shall be removed by Partner upon expiration or termination of this Agreement.

#### ARTICLE 4. FINANCIAL OBLIGATIONS

1. Partner agrees to reimburse NASA the costs associated with the use of NASA facilities, land, equipment and services. During each Government fiscal year (or part thereof) for the duration of this Agreement, Partner shall reimburse NASA ARC for MFAP Services in accordance with the annual Support Agreement, the current form of which is attached hereto as Exhibit A (each, a "Support Agreement"). In no event will NASA transfer any U.S. Government funds to Partner under this Agreement.

2. Payment shall be made by a check payable to NASA Ames Research Center and sent to:

NASA Shared Service Center (NSSC)-FMD Accounts Receivable  
Attn: For the Accounts of NASA Ames Research Center  
Bldg. 1111, C Road  
Stennis Space Center, MS 39529

All payments shall be marked "Payment for SAA2-402358."

3. NASA will not provide services or incur costs beyond the available funding amount. Although NASA has made a good faith effort to accurately estimate its costs, it is understood that NASA provides no assurance that the proposed effort under this Agreement will be accomplished for the amount estimated in the Support Agreement. Should the effort cost more than the estimate, Partner will be advised by NASA as soon as possible. Partner shall pay all costs incurred and have 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 shall account for any unspent funds within six (6) months after completion of all effort under this Agreement, and promptly thereafter, return any unspent funds to Partner.

3. This Agreement is contingent upon the appropriation of sufficient funding by Partner for the services covered by this Agreement. If funding is reduced or deleted by Partner for the services covered by this Agreement, Partner has the option to either terminate this Agreement in accordance with Article 13 or to offer an amendment to this Agreement indicating the reduced amount.

4. 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, Title 31 U.S.C. § 1341.

#### ARTICLE 5. PRIORITY OF USE

Any schedule or milestone in this Agreement is estimated based upon the Parties' current understanding of the projected availability of NASA personnel, facilities and 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 usage of the facilities, equipment, and personnel shall have priority over the usage 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 commercial users, NASA, in its sole discretion, shall determine the priority as between the two users. This Agreement does not obligate NASA to seek alternative government property or services under the jurisdiction of NASA at other locations.

#### ARTICLE 6. NONEXCLUSIVITY

This Agreement is not exclusive; accordingly, NASA may enter into similar Agreements for the same or similar purpose with other U.S. private or public entities.

#### ARTICLE 7. LIABILITY AND RISK OF LOSS

1. In consideration for use of land, facilities, equipment and/or services provided by NASA or its related entities (as defined below) at NASA under this Agreement, Partner hereby waives any claims against NASA, its employees, its related entities, and employees of NASA'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 when damage is solely caused by the willful misconduct of gross negligence of NASA or its employees.

2. 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, its related entities, and employees of NASA and employees of NASA's related entities for injury, death, damage, or loss arising from or related to activities conducted under this Agreement.

3. For purposes of this Agreement: (1) the term "liability" includes liability for payments made pursuant to any United States treaty, any judgment or decision by a court or administrative tribunal of competent jurisdiction, administrative and litigation costs, and after consultation with Partner, settlement payments; (2) "damage" shall mean bodily injury to, or other impairment of health of, or death of any person; loss of revenue or profits; other direct damages; or any indirect, or consequential damage arising therefrom; and (3) "related entities" for purposes of this Article 7, includes, contractors and subcontractors at any tier, grantees, investigators, customers, users, and their contractors or subcontractor at any tier.

4. Partner assumes responsibility for any and all damage done to Government property, facilities, and equipment resulting from its use of such property, facilities, and equipment or the activities under this Agreement. Partner will be responsible to pay all costs associated with the repair of such damage and/or otherwise return the property and facilities (including NASA) to the condition that existed at the time of the Effective Date (as defined below) of this Agreement, except for the normal wear and tear reasonably to be expected as arising from the type of activity contemplated under this Agreement.

#### ARTICLE 8. USE OF NASA NAME AND NASA EMBLEMS AND RELEASE OF GENERAL INFORMATION TO THE PUBLIC

##### 1. NASA Name and Initials

Partner agrees the words "National Aeronautics and Space Administration" and the letters "NASA" will not be used in connection with a product or service in a manner reasonably calculated to convey any impression that such product or service has the authorization, support, sponsorship, or endorsement of NASA, which does not, in fact, exist. In addition, with the exception of release of general information in accordance with paragraph 3 below, Partner agrees that any proposed public use of the NASA name or initials (including press releases resulting from activities conducted under this Agreement and all promotional and advertising use) shall be submitted by Partner in advance to the NASA Assistant Administrator for Public Affairs or designee ("NASA Public Affairs") for review and approval. Approval by NASA Public Affairs shall be based on applicable law and policy governing the use of the NASA name and initials.

##### 2. NASA Emblems

Use of NASA emblems/devices (i.e., NASA Seal, NASA Insignia, NASA logotype, NASA Program Identifiers, and the NASA Flag) are governed by 14 C.F.R. Part 1221. Partner agrees that any proposed use of such emblems/devices shall be submitted to NASA Public Affairs for review and approval in accordance with such regulations.

### 3. Release of General Information to the Public

NASA or Partner may, consistent with Federal law and this Agreement, release general information regarding its own participation in this Agreement as desired. Partner acknowledges that NASA is not bound by any provision of State law, including but not limited to the California Public Records Act Request ("CPRA"). However, NASA agrees to assist Partner's efforts to promptly and completely respond to and comply with any CPRA request Partner receives related to the issues covered by this Agreement.

#### ARTICLE 9. DISCLAIMER OF WARRANTY

Equipment, facilities, technical information, and services provided by NASA under this Agreement are provided "as is." NASA makes no express or implied warranty as to the condition of such equipment, facilities, technical information, or services, 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 equipment, facilities, technical information, or services 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 10. DISCLAIMER OF ENDORSEMENT

NASA does not endorse or sponsor any commercial product, service, or activity. NASA's participation in this Agreement or supply of equipment, facilities, technical information, or services 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 11. COMPLIANCE WITH LAWS AND REGULATIONS

1. The Parties shall comply with all applicable laws and regulations including, but not limited to, safety, security, export control, and environmental laws and regulations. Access by 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. Partner shall comply with the MFA Operations Manuals and Regulations set forth on Exhibit B, attached hereto.

2. Without limiting the foregoing, Partner shall comply with all policy directives, procedural

requirements, procedures and guidelines, and standards promulgated by NASA ARC from time to time, including with respect to construction activities, facility use, land use, historic preservation, health, safety, security and environmental standards. Notwithstanding the immediately preceding sentence, Partner shall not be obligated to comply with Ames Procedural Requirements 1700.1, available at:

<http://servermpo.arc.nasa.gov/Services/CDMSDDocs/Centers/ARC/Dirs/APR/APR1700.1.html>, except with respect to explosive materials; radioactive materials (as defined by the Nuclear Regulatory Commission); Class IIIa, IIIb or IV lasers or microwave or radio frequency transmitters; cryogenics; pressure systems; or human pathogens that require Center for Disease Control Biosafety level III or IV containment. Partner shall deliver prior written notice to NASA ARC before Partner manufactures, uses, stores or transports any such items on or about the MFA, and NASA shall have the right to approve (and establish requirements for, or conditions of, approval) before Partner manufactures, uses, stores or transports any such items.

3. With respect to any export control requirements:

(a) The Parties will comply with all U.S. export control laws and regulations, including the International Traffic in Arms Regulations (ITAR), 22 CFR Parts 120 through 130, and the Export Administration Regulations (EAR), 15 CFR Parts 730 through 799, in performing work under this Agreement. In the absence of available license exemptions/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.

(b) The Partner shall be responsible for obtaining export licenses, if required, before utilizing foreign persons in the performance of work 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.

(c) The Partner will be responsible for all regulatory record keeping requirements associated with the use of licenses and license exemptions or exceptions.

(d) The Partner will be responsible for ensuring that the provisions of this Article apply to its related entities.

#### ARTICLE 12. TERM OF AGREEMENT

This Agreement becomes effective upon the date of the last signature below (the “Effective Date”) and shall remain in effect until the completion of all obligations of both Parties hereto, or three (3) years from the date of the last signature, whichever comes first.

#### ARTICLE 13. 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 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 the non-

terminating Party.

#### ARTICLE 14. 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 "Financial Obligations" shall survive such expiration or termination of this Agreement.

#### ARTICLE 15. POINTS OF CONTACT

The following personnel are designated as the principal points of contact between the Parties in the performance of this Agreement.

NASA Ames Research Center  
Management Points of Contact

Roy Williams  
Chief, Aviation Mgt. Office  
Mail Stop: 158-1  
Moffett Field, CA 94035  
Phone: 650/604-5050  
Roy.A.Williams@nasa.gov

Business Points of Contact

Elena Serna  
Mail Stop: 158-1  
Moffett Field, CA 94035  
Phone: 650/604-5050  
Elena.Serna@nasa.gov

County of Santa Clara

Captain Dale Unger  
Santa Clara County Office of the Sheriff  
55 W. Younger Ave  
San Jose, CA 95110  
Phone: 408/293-5192  
Dale.Unger@sho.co.scl.ca.us

Michelle Sandoval  
Santa Clara County Office of the Sheriff  
55 W. Younger Ave  
San Jose, CA 95110  
Phone: 408/808-4901  
Michelle.Sandoval@sho.co.scl.ca.us

#### ARTICLE 16. DISPUTE RESOLUTION

Except as otherwise provided in the article entitled "Priority of Use," 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 "Management Points of Contact." The persons identified as the "Management 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 section limits or prevents either Party

from pursuing any other right or remedy available by law upon the issuance of the final agency decision.

#### ARTICLE 17. MISHAP REPORTING

In the case of a mishap or mission failure, the Parties agree to provide assistance to each other in the conduct of any investigation. For all NASA mishaps, Partner agrees to comply with NPR 8621.1, "NASA Procedural Requirements for Mishap Reporting, Investigating, and Recordkeeping" and ARC safety policies

#### ARTICLE 18. MODIFICATIONS

Any modification to this Agreement shall be executed, in writing, and signed by an authorized representative of NASA and the Partner. Any modification that creates an additional commitment of NASA resources must be signed by the original NASA signatory authority, or successor, or a higher-level NASA official possessing original or delegated authority to make such a commitment.

#### ARTICLE 19. 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 this Agreement.

#### ARTICLE 20. 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 21. INDEPENDENT RELATIONSHIP

This Agreement is not intended to constitute, create, give effect 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.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

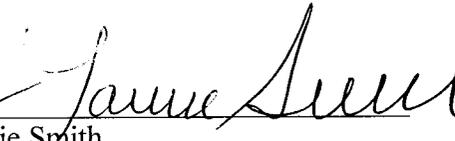
ARTICLE 22. SIGNATORY AUTHORITY

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  
AMES RESEARCH CENTER**

**COUNTY OF SANTA CLARA  
OFFICE OF THE SHERIFF**

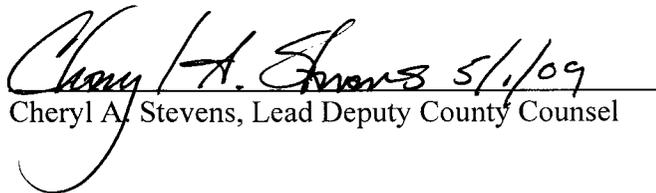
BY:   
Deborah L. Feng  
Director, Center Operations (Acting)

BY:   
Laurie Smith  
Sheriff

DATE: May 1, 2009

DATE: May 1, 2009

APPROVED AS TO FORM AND LEGALITY:

  
Cheryl A. Stevens, Lead Deputy County Counsel (Date)