

**REIMBURSABLE SPACE ACT AGREEMENT  
BETWEEN  
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION  
AMES RESEARCH CENTER  
AND  
GOOGLE INC.  
FOR  
PLANNING AND DEVELOPMENT STUDIES**

**1. Authority and Parties**

This domestic Space Act Agreement (the "Agreement") is entered into by Google Inc., a Delaware corporation, with offices at 1600 Amphitheatre Parkway, Mountain View, California 94043 ("Google"), and the National Aeronautics and Space Administration ("NASA"), Ames Research Center ("ARC"), Moffett Field, California 94035-1000. NASA and Google are collectively referred to herein as the "Parties." The legal authority for NASA to enter into this Agreement is found in section 203(c) of the National Aeronautics and Space Act of 1958 (42 U.S.C. §2473(c)(5) and (6)), as amended.

**2. Purpose**

2.1 NASA is committed to using its resources to the greatest public benefit and thus will take advantage of its unique research capabilities, stock of land, buildings and existing partnerships with state and local government, academia, industry and non-profit organizations to create a center in which NASA, its collaborative partners and the public can jointly work to advance the study of astrobiology, life and microgravity sciences, biotechnology; nanotechnology, aeronautical and space technology development, information science and technology; and promote science and technology education, the dissemination of information concerning NASA's activities, and the commercial use of NASA's basic research by the private sector.

2.2 The Parties previously entered into that certain Memorandum of Understanding (SAA2 - 401809), bearing an effective date of September 28, 2005, as amended (collectively, the "MOU"). The MOU outlined four (4) broad areas of collaboration between the Parties in the areas of large-scale data management, massively distributed computing, Bio-Info-Nano convergence and research and development activities to encourage the entrepreneurial space industry. The MOU also contemplated the planning of facilities, to be constructed and used by Google on portions of ARC to be leased by NASA, in support of those collaborative efforts.

2.3 The Parties subsequently entered into that certain Space Act Agreement for Research and Development Collaboration (SAA2 - 402045), bearing an effective date of November 3, 2006, as amended and supplemented (collectively, the "Umbrella R&D Space Act Agreement"). The Umbrella R&D Space Act Agreement establishes a framework for cooperative activities between the Parties, which may include the sharing of expertise and/or the sharing of facilities (including testing, equipment and related services). The Parties are



actively engaged in developing projects under the Umbrella R&D Space Act Agreement, each of which is or will be documented in an annex to the Umbrella R&D Space Act Agreement.

2.4 As contemplated in the MOU, the Parties have begun discussions on the principal business terms on which they would negotiate a ground lease of approximately 41.6 acres of ARC property (the "Premises"), on which Google would construct (in phases) facilities for Google's use and in support of the Parties' collaborations and programmatic partnership, together with such ancillary uses of facilities as may be agreed upon by the Parties. As of the Effective Date (as defined in section 12.1) of this Agreement, the Premises are adjacent to or near other facilities and improvements owned by NASA and by third parties (including, without limitation, local governmental agencies such as the City of Mountain View and the Santa Clara Valley Water District), and there are a variety of utility systems and other infrastructure on or beneath the surface of the Premises and the surrounding real property.

2.5 The expanding partnership between the Parties and the development of facilities on the Premises promote NASA Research Park, and furthers the development of a collaborative environment at ARC in which NASA, industry and academia are co-located to further foster research related to NASA's activities as summarized in section 2.1, as well as other research activities in furtherance of the goals and missions of both NASA and Google. In order to continue the discussions regarding principal business terms, and ultimately to negotiate the ground lease, Google requires information regarding the existing utility systems and infrastructure. In addition, in order to meet the requirements of the NASA Ames Development Plan Final Programmatic Environmental Impact Statement (approved in a Record of Decision published in November 2002) (the "EIS"), the Parties must undertake a variety of studies and analyses related to Google's proposed facilities. NASA must perform this work because it affects NASA property, utility systems and infrastructure, and some of the work is required under the EIS. NASA must own the work product in the event Google does not ultimately lease some or all of the Premises or does not ultimately construct facilities on some or all of the Premises. NASA also has pertinent background data and information required for this work.

2.6 Google independently needs to conduct various studies, analyses and tests in order to proceed with its planning and design of the facilities it would construct on ARC property. Google desires the right to enter the Premises from time to time to conduct such studies, analyses and tests, and NASA is willing to grant such access on the terms and conditions of this Agreement.

2.7 The Parties are entering into this Agreement so that NASA can perform the work described in section 3.2, the out-of-pocket costs of which shall be reimbursed by Google. NASA would not undertake this work or incur these costs at this time in the absence of the Parties' relationship and the fact that the discussions and negotiations regarding the Premises cannot be pursued and completed without the information that will result from this work. In addition, the Parties are entering into this Agreement to provide Google with access to the Premises on the terms and conditions of this Agreement.



### 3. Responsibilities

Each Party shall use its reasonable efforts to perform its responsibilities under this Agreement.

#### 3.1 Google's Responsibilities.

3.1.1 Google and its employees, contractors and consultants (collectively, the "Google Parties") shall provide promptly such information and documentation as NASA may reasonably request to enable NASA to perform its responsibilities set forth in section 3.2.

3.1.2 The Google Parties shall meet and confer (in person, by telephone and other means of communication) with NASA and its employees and contractors (collectively, the "NASA Parties") from time to time as is reasonably necessary to satisfy the Parties' respective responsibilities under this Agreement.

3.1.3 The Google Parties shall comply with section 3.2.3 in connection with any entry and work on all or any portion of the Premises, and shall promptly provide NASA with complete and accurate copies of all data, test or investigation results, studies, reports, documents, analyses, appraisals and other information (collectively, "Reports") pertaining to the Premises.

3.1.4 Google shall deposit funds with NASA from time to time in accordance with this Agreement in the amounts of the estimates to perform Scopes of Work (as defined in section 3.2.1). Such deposits of funds shall be made in advance, and such amounts shall be used to reimburse NASA for its out-of-pocket costs in performing those Scopes of Work.

#### 3.2 NASA's Responsibilities.

3.2.1 NASA will cause the planning studies and analyses (each, a "Task") outlined on Exhibit A attached hereto and incorporated herein by reference to be performed. NASA will prepare one or more scopes of work (each, a "Scope of Work") to perform each Task (or a portion thereof), a copy of which shall be promptly provided to Google. Each Scope of Work shall set forth the estimated out-of-pocket costs of the work, including the job descriptions of the required personnel, their current rates and the estimated numbers of hours of work to be provided to complete the Scope of Work (and/or a firm, fixed price for all or a portion of that Scope of Work), together with the schedule to perform that Scope of Work. Google acknowledges that the Tasks (and the costs and schedules associated therewith) set forth on Exhibit A represent the Parties' best estimate of the work to be performed as of the Effective Date. Google acknowledges that additional work may be required in connection with one (1) or more of the Tasks, or that cost estimates and/or schedules to perform Tasks may change during the Term (as defined in section 12.1). NASA shall promptly provide Google with copies of regular progress and accounting reports in connection with each Scope of Work, which reports show work expected to be performed under each Scope of Work in the coming reporting period as well as actual accrual of costs on each Scope of Work (or with respect to work performed on a firm, fixed price basis, the percentage of work completed) during the immediately preceding



reporting period. In addition, NASA shall promptly provide Google with complete and accurate copies of all Reports prepared in connection with each Task without representation or warranty; provided, however, the Google Parties shall only rely on their own independent review and analysis of the same. Google further acknowledges that there may be additional planning studies and analyses, or other due diligence or investigation work, that Google may elect to undertake at its own cost with respect to the Premises.

3.2.2 NASA shall meet and confer, and shall make the NASA Parties available as appropriate to meet and confer, in person, by telephone and other means of communication, with the Google Parties from time to time as is reasonably necessary to satisfy the Parties' respective responsibilities under this Agreement.

3.2.3 Subject to the terms and conditions of this section 3.2.3, NASA hereby grants to Google, during the Term, the non – exclusive right to enter the Premises from time to time to conduct various non – invasive studies, analyses and tests (each, a "Study") in order to proceed with its planning and design of Google's proposed facilities.

(a) All costs, fees and expenses in connection with each Study shall be borne by Google.

(b) Google acknowledges that the Premises are currently within ARC's secure perimeter and, therefore, Google must provide sufficient written notice to NASA's POC (as defined in section 16) to obtain access badges for all Google Parties each time they desire access to the Premises. Google acknowledges that access to the Premises will be governed, among other things, by Ames Policy Directive ("APD") 1600.3 and Ames Procedural Requirements ("APR") 1620.1. Furthermore, Google acknowledges that it may take several weeks or months to obtain access for any foreign national.

(c) In connection with each Study, Google shall provide NASA with a reasonably detailed, written description of the Study and its scope of work, and the schedule to perform the Study (collectively, a "Study Work Plan"), for NASA's prior written approval (which approval shall not be unreasonably withheld or delayed) (each such approval is hereinafter referred to as a "NASA Approval"). The Parties acknowledge and agree that no borings or other invasive testing shall be conducted as part of any Study. NASA may require plans and specifications for each Study. If applicable, Google shall obtain all necessary permits for the Study from the ARC Permit Review Board in accordance with APD 8829.1, and Google shall obtain all other licenses, permits or approvals, if any, required by any other Federal, state or local governmental or quasi – governmental agency. In addition, Google shall obtain hot-work permits from the NASA Safety, Health and Medical Services Division during normal business hours at least twenty – four (24) hours prior to performing any welding, cutting, torching or similar open flame work.

(d) Each Study shall be performed by contractors duly licensed in the State of California and reasonably acceptable to NASA. Each Google Party involved in each Study shall carry such liability, builder's risk, worker's compensation and other insurance as NASA may reasonably require with respect to each Study, which NASA shall outline in the NASA Approval; the required policies shall comply with the provisions of section 20 below.



(e) None of the Google Parties shall store equipment, personal property, materials or debris on ARC property beyond the time schedule of the Study, all of which shall be removed by the Google Parties at Google's sole cost. The Google Parties shall promptly restore the Premises, at Google's sole cost, to its condition immediately prior to entry by the Google Parties. Google, at its sole cost, shall cause any damage to any portion of ARC property caused by the Google Parties to be promptly repaired.

(f) The right to enter the Premises set forth in this section 3.2.3 is not a grant of any possessory, exclusive or other right, title or interest in the Premises or any other NASA real or personal property, nor is it a grant of an estate of any kind, but is merely an agreement for the temporary, non-exclusive and non-possessory right to enter the Premises to conduct the Studies.

(g) As one or more of the Studies, Google shall have the right to conduct an environmental site assessment of the Premises, provided that, in addition to the other terms and conditions of this section 3.2.3: (1) Google's environmental consultant shall be acceptable to NASA; (2) with reasonable prior notice, NASA shall have the right to meet with Google's consultant; (3) Google shall not contact any Federal, state or local governmental agency without prior permission of NASA; (4) Google shall keep any information generated during this assessment as confidential unless disclosure is required by law and, unless otherwise required by law, shall not disclose the same to any third party without prior approval of NASA, which shall be within NASA's reasonable discretion; (5) if the Parties fail to enter into a ground lease of the Premises, all Reports (including all copies thereof) generated during the environmental site assessment(s) shall be promptly delivered to NASA; and (6) in preparing the Study Work Plan for, and performing, the environmental Study(s), the Google Parties shall comply with all applicable regulatory orders, consent decrees, agreements and other applicable documents that NASA provides to Google with respect to the existing environmental condition of the Premises and ARC. Any information, reports, statements, documents, or records (hereinafter, "Disclosures") provided or made to the Google Parties by the NASA Parties concerning the environmental condition of the Premises or ARC shall not be representations or warranties. Google shall not rely on such Disclosures. Google shall rely only on the inspection of the Premises by the Google Parties.

(h) Google shall keep the Premises and all other ARC property free and clear of all mechanic's, materialmen's and design professional's liens arising from a Study at all times (each, a "Lien"). Google shall give prior written notice to NASA of the date of any Study to permit NASA to post any notices that are required to protect NASA and ARC property from any such Lien. If any such Lien is filed, Google shall cause the same to be discharged of record within thirty (30) days after notice to Google of filing the same, either by payment, deposit or bond. If Google fails to discharge such Lien within such period, then, in addition to any other right or remedy of NASA, NASA may, but shall not be obligated to, discharge of the same either by paying the amount claimed to be due, by deposit in court, or by bonding. All amounts paid or deposited by NASA, and all other expenses of NASA and all necessary disbursements in connection therewith, in defending any such action or in procuring the discharge of such Lien, shall become due and payable by Google to NASA promptly upon written demand therefor.



(i) In performing each Study, the Google Parties shall comply with other applicable provisions of this Agreement.

### 3.3 General Provisions.

3.3.1 All operations on ARC property conducted by the Google Parties shall be compatible with, and shall not interfere with, the operations of NASA, other resident agencies, partners or tenants at ARC, or with airfield operations at ARC.

3.3.2 NASA specifically reserves the following rights: (a) to control ingress to and egress from ARC property, to erect and maintain gates, and to regulate or prevent traffic; and (b) on behalf of NASA, the United States Environmental Protection Agency, the State of California and other entities and governmental agencies that are involved in the remediation of, or that are responsible to remediate, existing contamination on or about ARC property, the right to have unobstructed access to known or suspected areas of contamination or other areas upon which any containment system, treatment system, monitoring system, or other environmental response action is installed or implemented, or to be installed or implemented, for the purposes of the complying with environmental laws and requirements.

## 4. Schedule and Milestones

The schedule for each Scope of Work comprising a Task, and the milestones, if any, as estimated by NASA, shall be set forth in each Scope of Work.

## 5. Financial Obligations

5.1 This Agreement is intended to be the means to transfer funds or other financial remunerations from Google to NASA in connection with this Agreement. Google will reimburse NASA for out-of-pocket costs incurred by NASA to perform the Tasks (and such additional work as the Parties may approve), and for costs of other services provided by NASA to Google, if any (including, without limitation, in connection with any Study), as more particularly set forth on an annual support agreement substantially in the form attached hereto as Exhibit B (each, a "Support Agreement"). The Parties shall execute Support Agreements or amendments or supplements thereto as is necessary in connection with the Parties' obligations under this Agreement, and not less frequently than annually (NASA currently executes annual Support Agreements following the start of each Federal government fiscal year).

5.2 Cost estimates for performance of the Tasks and for other services provided by NASA, if any, and reimbursement thereof, shall be consistent with NASA policy, including the requirement for payment in advance of the rate at which NASA anticipates incurring costs. NASA will review costs for services periodically to ensure that the rates are based on actual costs to NASA. Upon the expiration or earlier termination of this Agreement, NASA shall promptly refund to Google all amounts deposited by Google which exceed costs incurred by NASA, without interest.



5.3 All payments referred to in this Agreement shall be made in accordance with the following:

5.3.1 Payment shall be in United States dollars.

5.3.2 Payment shall be payable to the "NASA Ames Research Center." Each payment shall reference the number of this Agreement.

5.3.3 Payment shall be delivered via wire transfer in accordance with wire transfer instructions provided to Google by NASA, or may be made by check sent to NASA Ames Research Center, Financial Management Division, Mail Stop 203-18, Moffett Field, CA 94035-1000, Attn: Collection Agent, or to such other person or location as NASA may designate by written notice to Google. Google shall concurrently provide notice of each payment to NASA's POC.

5.3.4 Payment of the amount set forth on the initial Support Agreement shall be made within ten (10) business days after the initial Support Agreement is executed by the Parties. Additional payments, if any, shall be made within ten (10) business days after each separate, amended or supplemental Support Agreement is executed by the Parties, or at such other times as the Parties may agree upon in writing. Notwithstanding the foregoing, if Google is required to make payments by check, then Google shall have twenty (20) days to make such payment (rather than ten (10) business days as set forth above).

5.4 NASA's ability to perform its obligations under this Agreement is subject to the availability of appropriated funds. Nothing in this Agreement commits the United States Congress to appropriate funds for the purposes stated herein (pursuant to the Anti-Deficiency Act, 31 U.S.C. §1341).

## 6. Priority of Use

The Parties agree that NASA's use of its own facilities and equipment, and NASA's personnel, shall have priority over Google's use under this Agreement. NASA, in its sole discretion, shall determine whether to exercise that priority if a conflict arises. Likewise, should a conflict arise between two (2) or more non-NASA users, NASA, in its sole discretion, shall determine the priority between such users.

## 7. Non-Exclusivity and No Partnership

This Agreement is not exclusive; accordingly, either Party may enter into similar agreements for the same or similar purposes. This Agreement is not intended to constitute, create, or give effect or otherwise recognize a joint venture, partnership, or other business organization, or agency agreement of any kind, and the rights and obligations of the Parties shall be only those expressly set forth herein.

## 8. Liability and Risk of Loss

8.1 In consideration of the right of access to the Premises granted in this Agreement and the services to be provided by NASA under this Agreement, Google waives



and agrees not to make any claims against any of the NASA Parties for any injury to, or death of, Google's employees or the employees of any of the Google Parties, or for damage to, or loss of, Google's property or the property of any of the Google Parties, 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 gross negligence or willful misconduct of NASA or its employees.

8.2 Google agrees to indemnify, defend and hold harmless NASA from any and all claims, liabilities, damages, losses, costs and expenses (including, without limitation, attorneys' fees) arising out of entry on to the Premises by any of the Google Parties pursuant to this Agreement or caused by any of the Google Parties during the course of implementing any Study under this Agreement, whether such claim, liability, damage, loss, cost or expense is caused by negligence or otherwise, except in the case of gross negligence or willful misconduct of NASA or its employees.

## **9. Use of Names, Initials and Devices**

9.1 The Parties agree that the other Party's names (including trade names, trademarks, servicemarks or initials) 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 the other Party, which does not, in fact, exist. In addition, both Parties agree that any proposed public use of the other Party's name, trade names, trademarks, service marks or initials related to this Agreement (including press releases and all promotional and advertising use) shall be submitted in advance to the other Party for review and approval. Approval by the Parties shall be based on applicable law and policy governing the use of each Party's names and initials.

9.2 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. Google agrees that any proposed use of such emblems/devices shall be submitted for review and approval in accordance with such regulations.

## **10. Disclaimer of Warranty**

ANY GOOGLE-DEVELOPED REPORTS, AND ANY NASA-DEVELOPED REPORTS OR DISCLOSURES, ARE SUPPLIED "AS IS." EACH PARTY AGREES TO USE SUCH MATERIALS AT ITS OWN RISK, AND NEITHER PARTY MAKES ANY WARRANTIES TO THE OTHER OF ANY KIND, EXPRESS, STATUTORY, IMPLIED OR OTHERWISE. EACH PARTY SPECIFICALLY DISCLAIMS THE IMPLIED WARRANTIES OF NON-INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

## **11. Compliance With Laws**

In performing their respective obligations under this Agreement, the Parties shall comply with all applicable laws and regulations including, but not limited to, safety, security, export control, and environmental laws and regulations (including the mitigation requirements





as specified in the NASA Ames Development Plan Programmatic Environmental Impact Statement and the Mitigation Implementation and Monitoring Plan). Access by the Google Parties to a NASA facility or property (including the Premises), 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.

## **12. Term and Right to Terminate**

12.1 This Agreement becomes effective upon the date of the last signature below ("Effective Date"). Subject to the Parties' respective rights to terminate this Agreement and the rights to extend the Term as set forth below, the term ("Term") of this Agreement will be for not more than approximately one (1) year from the Effective Date, with the expiration date being the earlier of (a) the last day of the twelfth (12<sup>th</sup>) full calendar month after the Effective Date, or (b) the date on which all of the Parties' obligations under this Agreement have been performed. Google shall have the right to extend the Term for up to two (2) periods of one (1) year each by delivering to NASA written notice of its election to extend at least sixty (60) days before the expiration of the then – current Term.

12.2 Either Party may terminate this Agreement, at any time and for any reason or no reason at all, by delivering written notice to the other Party at least thirty (30) days before the desired date of termination. In such event, Google will be obligated to reimburse NASA for all costs of that are incurred prior to the effective date of the notice of termination and, if Google terminates this Agreement, such other costs that are incurred as a result of such termination. NASA shall not be liable for any costs, loss of profits, revenue, or other direct, indirect or consequential damages incurred by the Google or any of the Google Parties as a result of the termination by NASA pursuant to this provision.

12.3 NASA may terminate this Agreement if Google fails to perform any of its obligations under this Agreement and such failure continues for (a) with respect to a monetary obligation, more than ten (10) days after the date such monetary obligation was due, in which event NASA may terminate this Agreement at any time thereafter immediately upon delivery of written notice to Google, or (b) with respect to all other obligations, more than thirty (30) days after the date on which NASA delivers to Google written notice of such failure; provided, however, that if, by the nature of such non – monetary obligation, such failure cannot reasonably be cured within that thirty(30) period, a default shall not exist as long as Google commences with due diligence and dispatch the curing of such failure within such thirty (30) day period and thereafter prosecutes to completion with diligence and dispatch the curing of such failure.

## **13. Continuing Obligations**

The obligations of the Parties set forth in the provisions for "Liability and Risk of Loss" and "Financial Obligations" shall continue to apply after the expiration or termination of this Agreement.



**14. Dispute Resolution**

The POCs for the Parties will attempt in good faith to resolve all issues arising out of this Agreement. If they are unable to agree on any issue within a reasonable time (but in no event more than thirty (30) days) after either Party delivers to the other Party written notice describing such issue in reasonable detail, then the dispute will be referred to the POCs' respective immediate supervisors for joint resolution. If the Parties are still unable to resolve the issue within ten (10) business days after the issue has been referred to such supervisors for resolution, then the ARC Center Director (or his or her designee) will issue a written decision, which shall be a final Agency decision for all purposes, including the exhaustion of administrative remedies. Nothing in this section limits or prevents either Party from pursuing any other right or remedy available by law after exhaustion of administrative remedies.

**15. Close Calls and Mishaps**

15.1 For purposes of this Agreement, the following terms shall have the following meanings: (a) "Close Call" shall mean an occurrence or a condition of employee concern in which there is no injury, or only minor injury requiring first aid, or Damage to property or equipment of less than one thousand dollars (\$1,000), but which possesses a potential to cause a Mishap (as defined below); and (b) "Mishap" shall mean an unplanned event on or about ARC and arising from the acts or omissions of any of the Google Parties that results in at least one (1) of the following: (i) injury to any person; (ii) Damage to public or private property (including foreign property); (iii) occupational injury or occupational illness to any person; or (iv) failure of a NASA mission. If, in Google's discretion, Google believes that a Close Call or Mishap may become highly visible outside of Google's organization (such as by the media or a governmental agency), then Google shall promptly notify NASA by telephoning the NASA Ames Safety, Health and Medical Services Division at 650 - 604 - 5602.

15.2 In addition, if a Mishap involves the death of an employee, or the hospitalization for inpatient care of three (3) or more employees, then as soon as possible after the Mishap but in no event more than eight (8) hours after Google has knowledge of any such Mishap, Google shall notify both the Occupational Safety and Health Administration ("OSHA") by telephoning the area office nearest the site of the Mishap or OSHA's toll-free number, 800 - 321 - 6742 and the NASA Ames Safety, Health and Medical Services Division at 650 - 604 - 5602.

15.3 The Director of ARC reserves the right to investigate any Mishap in accordance with NASA's policies and procedures.

**16. Notices; Points of Contact**

All notices and other communications required or permitted under this Agreement shall be in writing and shall be given by first class mail (or its equivalent), postage prepaid, registered or certified, return receipt requested, transmitted by facsimile (with the original to immediately follow), or by hand delivery (including by means of a professional messenger service or overnight mail) to each Party at its Legal Notice Address. Any such notice or other communication shall be deemed effective when actually received or refused. Either Party may,



by similar notice given, change the Legal Notice Address to which future notices or other communications shall be sent.

The following personnel are designated as the key officials for their respective Party. These key officials are the principal points of contact ("POC") between the Parties in the performance of this Agreement.

*For NASA:*

**Principal Point of Contact:**

Michael L. Marlaire  
Director for Partnerships Office  
NASA Ames Research Center  
Mail Stop 200-1B  
Moffett Field, CA 94035  
Phone: 650-604-4190  
Michael.L.Marlaire@nasa.gov

**Legal Notice Address:**

Office of the Chief Counsel  
NASA Ames Research Center  
Mail Stop 200-12  
Moffett Field, CA 94035  
Fax: 650-604-2346

*For Google:*

**Principal Point of Contact:**

Google Inc.  
1600 Amphitheatre Pkwy.  
Mountain View CA 94043  
Attention: B-6  
Phone: B-6  
Fax: B-6  
B-6 @google.com

**Legal Notice Address:**

Google Inc.  
1600 Amphitheatre Pkwy.  
Mountain View CA 94043  
Attention: Vice President Real Estate

Google Inc.  
1600 Amphitheatre Pkwy.  
Mountain View CA 94043  
Attention: Facilities/NASA Project Manager  
Fax: 650-618-1806

With a copy to (which copy shall not constitute notice):

Michael L. Marlaire  
Director for Partnerships Office  
NASA Ames Research Center  
Mail Stop 200-1B  
Moffett Field, CA 94035

With a copy to (which copy shall not constitute notice):

Google Inc.  
1600 Amphitheatre Pkwy.  
Mountain View, CA 94043  
Attention: Legal/Real Estate Counsel

**17. Modification: Integration**

This Agreement may only be modified at any time by a written document signed by officials authorized to bind the Parties. This Agreement constitutes the entire and integrated agreement between the Parties relating to the subject matter hereof and supersedes all prior agreements, understandings, offers and negotiations, oral or written, with respect to the subject matter hereof. The Parties agree that this Agreement is independent of any other contract between the United States Government and Google.



**18. No Assignment or Delegation**

Without NASA's prior written consent in each instance, which consent may be given or withheld in NASA's sole and absolute discretion, Google shall not assign this Agreement or any interest herein (voluntary, involuntary, by operation of law or otherwise), delegate any duty under this Agreement, permit the use of the Premises by any party other than the Google Parties, or otherwise transfer any interest in this Agreement. Any of the foregoing acts without such consent shall be void and, at the option of NASA, shall terminate this Agreement. This section 18 shall not apply to (a) Google's retention of consultants or contractors in the ordinary course of business who will be performing all or any portion of a Study, or (b) Google's assignment of this Agreement to a wholly - owned subsidiary (but in such event, Google shall deliver to NASA written notice of the assignment and the assignment shall not relieve Google of its obligations under this Agreement).

**19. Governing Law**

Except to the extent the same may be in conflict with the laws of the United States, the laws of the State of California shall govern the validity, construction and effect of this Agreement. In instances where the laws of the United States refer to the laws of the state applicable to a transaction, such reference shall be made to the laws of the State of California.

**20. Insurance**

Google agrees to obtain insurance, at no cost to NASA, protecting Google and NASA from all claims, liability and damage specified in this Agreement.

**20.1. Commercial General Liability Insurance**

At all times during the Term and at its sole cost and expense, Google shall obtain and keep in force commercial general liability insurance with such limits as may be required by NASA from time to time, but in any event not less than Five Million Dollars (\$5,000,000) for each occurrence, including all legal liability of Google, including but not limited to injury to third persons or damage to any real or personal property, including damage caused by fire or other peril, arising out of or incident to entry on the Premises or other ARC land or facilities, or the performance of any Study, by any of the Google Parties, or the negligence of any of the Google Parties. Commercial general liability insurance shall be written on a form reasonably acceptable to NASA.

**20.2. Other Required Insurance**

20.2.1 To the extent required by law, Google shall carry and maintain workers compensation in the form and amounts required by law.

20.2.2 Google shall carry and maintain employer's liability insurance with such limits as may be required by NASA from time to time, but in any event not less than Five Hundred Thousand Dollars (\$500,000) per occurrence.



20.2.3 Google shall carry and maintain automobile liability insurance covering owned, hired and non-owned vehicles, with separate coverage in an amount not less than One Million Dollars (\$1,000,000) combined single limit for bodily injury and property damage.

20.3. General Insurance Program Requirements

20.3.1. Each policy of insurance required by this Agreement covering bodily injuries or third party property damage shall contain an endorsement reading substantially as follows:

“The insurer waives any right of subrogation against the United States of America which might arise by reason of any payment made under this policy.”

20.3.2 All of the insurance required under this Agreement, and all renewals thereof, shall be issued by one or more companies of recognized responsibility acceptable to NASA, licensed to do business in the State of California with a financial rating of at least A-VII (or its equivalent successor) status, as rated in the most recent edition of Best's Insurance Reports (or its equivalent successor, or, if there is no equivalent successor rating, otherwise acceptable to NASA).

20.3.3 All of the insurance required under this Agreement other than worker's compensation coverage shall name NASA and its directors, officers and employees as additional insureds. Google's certificates of insurance shall have attached a copy of the endorsement to each policy naming such persons as additional insureds, such endorsement signed by a duly authorized official of the insurer. Each certificate of insurance shall list the certificate holder as follows:

National Aeronautics and Space Administration  
Ames Research Center  
Attn: Office of the Chief Counsel  
Mail Stop 200-12  
Moffett Field, CA 94035-1000

20.3.4 All policies provided for in this Agreement expressly shall be endorsed to state that coverage shall not be canceled, non-renewed, or materially changed except after thirty (30) days prior written notice to NASA.

20.3.5 If NASA at any time believes that the limits or extent of coverage or deductibles with respect to any of the insurance required in this Agreement are either excessive or insufficient, NASA may determine the proper and reasonable limits and extent of coverage and deductibles for such insurance and such insurance shall thereafter be carried with the limits and extent of coverage and deductibles as so determined until further change pursuant to the provisions of this Agreement.

20.3.6 No approval by NASA of any insurer, or the terms or conditions of any policy, or any coverage or amount of insurance, or any deductible amount shall be construed as a representation by NASA of the solvency of the insurer or the sufficiency of any policy or



any coverage or amount of insurance or deductible. By requiring insurance herein, NASA makes no representation or warranty that coverage or limits will necessarily be adequate to protect Google, and such coverage and limits shall not be deemed as a limitation on Google's liability under the indemnities granted to NASA in this Agreement.

20.3.7 Failure of NASA to demand such certificate or other evidence of full compliance with these insurance requirements or failure of NASA to identify a deficiency from evidence that is provided shall not be construed as a waiver of Google's obligation to maintain such insurance.

## **21. Environmental and Safety**

21.1 Google shall not use, store, produce, generate, release, transport or dispose of hazardous materials, substances, wastes, pollutants or other contaminants (including, without limitation, crude oil or any fraction thereof, petroleum products and PCBs) (collectively, "Hazardous Materials") on or about the Premises or any other ARC property. Google understands that there have been releases of Hazardous Materials on, in, under and about ARC, and Google acknowledges that copies of the environmental reports listed on Exhibit C attached hereto are in the process of being posted electronically for Google's review. Exhibit C also includes a report regarding the possibility of archeological resources on or near portions of the Premises.

21.2 Google will be responsible for paying all costs of the remediation, removal, transportation and disposal of any release of Hazardous Materials to the extent such release results from or was caused by any of the Google Parties in exercising rights or responsibilities under this Agreement, and Google will be responsible for any liability or damage resulting therefrom.

21.3 Google shall not interfere with or adversely affect any environmental remediation efforts at ARC. Google will be responsible for paying all costs of any damage to environmental remediation equipment caused by the fault, negligence or failure to comply with this Agreement by any of the Google Parties. Further, Google expressly agrees to coordinate any actions undertaken by Google in areas scheduled for environmental remediation with NASA and other appropriate Federal, state and local authorities with jurisdiction and obtain all necessary permits and approvals for such actions.

21.4 Where activities undertaken by Google require preparation of compliance documents pursuant to the National Environmental Policy Act ("NEPA") or the National Historic Preservation Act ("NHPA"), Google shall supply all necessary information to NASA and any appropriate agency in a timely manner. No such activities shall occur until all applicable NEPA and NHPA requirements that must be satisfied prior to implementing the work in question have been met.



**22. Further Assurances: Cooperation**

22.1. Each Party will use reasonable efforts to perform its responsibilities and obligations under this Agreement. During the Term, the Parties agree to do such things, perform such acts, and make, execute, acknowledge and deliver such documents as may be reasonably necessary or proper to carry out the purpose of this Agreement in accordance with this Agreement.

22.2. The Parties agree to cooperate with each other to minimize adverse impacts to, and unreasonable interference with, the other Party's operations and activities on and about the Premises. The Parties' respective POCs (or their respective designees), and such other personnel as may be appropriate, shall meet from time to time as is necessary or appropriate to discuss any matters of mutual interest related to the substance of this Agreement. Such matters may include, but not be limited to (a) the Tasks and Scopes of Work to be performed by NASA, (b) Google's plans and schedules to perform any Studies, (c) NASA's schedule of maintenance, repair or other work on the Premises, (d) coordinating notice to the public and media, (e) preparing media operations plans, and (g) preparing safety plans and emergency response plans.

22.3. The Parties acknowledge that the execution of this Agreement and the performance of responsibilities hereunder may generate public inquiries, including inquiries from the media. The Parties agree to use best efforts to address such inquiries and coordinate responses with each other, as appropriate.

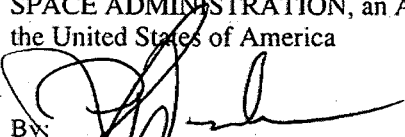
**23. Signatory Authority**

The signatories to this Agreement covenant and warrant that they have authority to execute this Agreement. Google represents and warrants that its signatory has full authority to execute any documents required in connection with this Agreement and to bind Google in all respects.

IN WITNESS WHEREOF, each Party has caused this Agreement to be executed by its duly authorized representative on the date indicated below.

NASA:

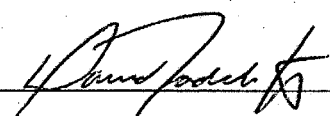
NATIONAL AERONAUTICS AND  
SPACE ADMINISTRATION, an Agency of  
the United States of America

By:   
S. Pete Worden  
Director, Ames Research Center

Dated: March 15, 2007

GOOGLE:

GOOGLE INC., a Delaware corporation

By:   
Its: **David Radcliffe**  
VP, Real Estate

Dated: March 16, 2007



Exhibit A

Tasks

1. Planning Review and Support
2. Zoning Administration
3. Design Review and Support (NASA Ames Design Review Board)
4. Engineering Review and Support (Infrastructure Studies and Roadway Development Planning)
5. Transportation System Analysis (TDM Review and Support)
6. Environmental Coordination and Analysis Support
7. Security Planning
8. NRP Implementation Coordination
9. Constructability Review and Analysis
10. Permit Review and Process Coordination
11. Determination of the fair market value of the Premises, which may include one or more appraisals

Scopes of Work are being prepared for the following near term items (Tasks supported by each Scope of Work is listed parenthetically):

- Initial planning review and site zoning support (1 & 2) – *DMJMH&N*
- Limited site wide infrastructure studies, specifically for the storm water system (4) – *sub proposal in process*
- Roadway Planning for RT Jones, Moffett, Allen, and Wright (4) – *DMJMH&N + sub RFP required*
- Traffic analysis and baseline ARC cordon counts comparison to EIS (5) - *sub proposal in process*
- Environmental coordination for the air quality conformance planning (6) – *sub proposal in process*
- Security planning for the Bay View area and Coordination (1 & 7) – *DMJMH&N*
- Ongoing NRP – GOOGLE coordination and entitlement tracking (8) – *DMJMH&N*
- Coordination with City of Mountain View and County regarding services and ISP – *DMJMH&N*





EXHIBIT B

Support Agreement

<b>1. AGREEMENT NUMBER</b> <i>(Provided by Supplier)</i> SAA2-402086		<b>2. SUPERSEDED AGREEMENT NO.</b>		<b>3. EFFECTIVE DATE</b> March 16, 2007		<b>4. EXPIRATION DATE</b> <i>(May be "indefinite")</i> September 30, 2007	
<b>5. SUPPLYING ACTIVITY</b>				<b>6. RECEIVING ACTIVITY</b>			
a. NAME AND ADDRESS National Aeronautics and Space Administration Ames Research Center Moffett Field, CA 94035-1000				a. NAME AND ADDRESS Google Inc. 1600 Amphitheatre Pkwy. Mountain View, CA 94043			
b. MAJOR COMMAND NASA HQ, Office of Aeronautics, Washington D.C.				b. MAJOR COMMAND Google Inc.			
<b>7. SUPPORT PROVIDED BY SUPPLIER</b>							
a. SUPPORT <i>(Specify what, when, where, and how much)</i>  Cost Reimbursement for Planning Review and Support to SAA2-402086, Exhibit A  TOTAL				b. BASIS FOR REIMBURSEMENT Scope of work for each task		c. ESTIMATED REIMBURSEMENT \$300,000  \$300,000	
ADDITIONAL SUPPORT REQUIREMENTS ATTACHED: <input type="checkbox"/> Yes <input type="checkbox"/> No							
<b>8. SUPPLYING COMPONENT</b>				<b>9. RECEIVING COMPONENT</b>			
a. COMPTROLLER SIGNATURE		b. DATE SIGNED		a. COMPTROLLER SIGNATURE		b. DATE SIGNED	
c. APPROVING AUTHORITY (1) Typed Name Paul Agnew				c. APPROVING AUTHORITY (1) Typed Name			
(2) Organization Chief Financial Officer		(3) Telephone Number (650) 604-1301		(2) Organization		(3) Telephone Number	
(4) Signature		(5) Date Signed		(4) Signature		(5) Date Signed	
<b>10. TERMINATION <i>(Complete only when agreement is terminated prior to scheduled expiration date.)</i></b>							
a. APPROVING AUTHORITY SIGNATURE		b. DATE SIGNED		a. APPROVING AUTHORITY SIGNATURE		b. DATE SIGNED	



**11. GENERAL PROVISIONS** (Complete blank spaces and add additional general provisions as appropriate: e.g., exceptions to printed provisions, additional parties to this agreement, billing and reimbursement instructions.)

- a. The receiving components will provide the supplying component projections of requested support. (Significant changes in the receiving components support requirements should be submitted to the supplying component in a manner that will permit timely modification of resources requirements.)
- b. It is the responsibility of the supplying component to bring any required or requested change in support to the attention of \_\_\_\_\_ prior to changing or cancelling support.
- c. The component providing reimbursable support in this agreement will submit statements of costs to: \_\_\_\_\_
- d. All rates expressing the unit cost of services provided in this agreement are based on current rates which may be subject to change for uncontrollable reasons, such as legislation, DoD directives, and commercial utility rate increases. The receiver will be notified immediately of such rate changes that must be passed through to the support receivers.
- e. This agreement may be cancelled at any time by mutual consent of the parties concerned. This agreement may also be cancelled by either party upon giving at least 180 days written notice to the other party.
- f. In case of mobilization or other emergency, this agreement will remain in force only within supplier's capabilities.

ADDITIONAL SUPPORT REQUIREMENTS ATTACHED:  Yes  No

**12. SPECIFIC PROVISIONS** (As appropriate: e.g., location and size of occupied facilities, unique supplier and receiver responsibilities, conditions, requirements, quality standards, and criteria for measurement/reimbursement of unique requirements.)

ADDITIONAL SUPPORT REQUIREMENTS ATTACHED:  Yes  No



13. ADDITIONAL PROVISIONS (Use this space to continue general and/or specific provisions as needed.)



Exhibit C

List of Environmental Reports

Surface Soil Investigation Report of Findings, Bayview Redevelopment Area. July 2001. PAI.

Administrative Draft Human Health Risk Assessment Bayview Redevelopment Area. January 7, 2002. Harding ESE.

Recent groundwater monitoring well results, for wells within and immediately upgradient of the Bayview Area.

Draft Annual Groundwater Monitoring Report for 2005, NASA Ames Research Center.

Analytical results from screening of soil fill material place in the Bayview Area.

Archaeological Investigation regarding CASCL23, Bentley Engineering, May 28, 1993.



**FIRST AMENDMENT TO  
REIMBURSABLE SPACE ACT AGREEMENT  
BETWEEN  
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION  
AMES RESEARCH CENTER  
AND  
GOOGLE INC.  
FOR  
PLANNING AND DEVELOPMENT STUDIES**

This First Amendment to Reimbursable Space Act Agreement (the "Amendment") is made as of May 14, 2007 (the "Effective Date"), by and between Google Inc., a Delaware corporation, with offices at 1600 Amphitheatre Parkway, Mountain View, California 94043 ("Google"), and the National Aeronautics and Space Administration ("NASA"), Ames Research Center ("ARC"), Moffett Field, California 94035-1000, with reference to the following facts:

A. Google and NASA entered into that certain Reimbursable Space Act Agreement for Planning and Development Studies bearing an effective date of March 16, 2007 (SAA2 - 402086) (the "Original Agreement"). Each capitalized term used in this Amendment, but not defined herein, shall have the meaning ascribed to it in the Original Agreement.

B. Google has requested to perform certain environmental testing on the Premises with respect to releases, or the possible presence, of Hazardous Materials on, in, under and about the Premises and other ARC property in connection with Google's potential development of the Premises. In addition, Google may elect to perform other invasive testing. Furthermore, Google may elect to perform testing on a portion of ARC property adjacent to the Premises consisting of approximately 7.5 acres and commonly known as Bay View Parcel 5 ("Parcel 5") on which Google may construct off - site improvements consisting of recreational improvements for use in summer, stormwater retention improvements for use in winter, and such other improvements as may be allowed under the EIS, if any. All such testing will be performed during the Term at Google's expense on the terms and conditions of the Original Agreement as amended by this Amendment.

C. Pursuant to clause (b) section 18 of the Original Agreement, Google desires to assign its rights under the Original Agreement as amended by this Amendment to Planetary Ventures, LLC, a Delaware limited liability company ("PV").

NOW, THEREFORE, the Parties agree as follows:

1. Invasive Testing on the Premises and/or Parcel 5. The Parties hereby agree to amend the Original Agreement as of the Effective Date as follows:

(a) As described above, Google may construct certain off - site improvements on Parcel 5 and has requested the right to enter Parcel 5 to perform Studies on the terms and



conditions of the Original Agreement as amended by this Amendment. Section 2.6 of the Original Agreement is hereby deleted and restated in its entirety as follows:

“2.6 Google independently needs to conduct various studies, analyses and tests in order to proceed with its planning and design of the facilities it would construct on ARC property, including certain off – site improvements (consisting of recreational improvements for use in summer, stormwater retention improvements for use in winter, and such other improvements as may be allowed under the EIS, if any) on a portion of ARC property adjacent to the Premises consisting of approximately 7.5 acres and commonly known as Bay View Parcel 5 (‘Parcel 5’). Google desires the right to enter the Premises and/or Parcel 5 from time to time to conduct such studies, analyses and tests, and NASA is willing to grant such access on the terms and conditions of this Agreement.”

(b) Beginning with the last reference to the “Premises” in section 2.7 and throughout the remainder of the Original Agreement, the Parties agree that all references in the Original Agreement to the “Premises” are hereby deleted and replaced with “Premises and/or Parcel 5”.

(c) The Parties agree to delete the words “non-invasive” in the introductory paragraph of section 3.2.3 of the Original Agreement, and to delete the second sentence of section 3.2.3(c).

(d) The first two sentences of section 3.2.3(e) are hereby deleted and restated in their entirety as follows:

“None of the Google Parties shall store equipment, personal property, materials, construction spoils or debris on ARC property beyond the time schedule of the Study, all of which shall be removed by the Google Parties at Google’s sole cost. The Google Parties shall promptly restore the Premises, at Google’s sole cost, to its condition immediately prior to entry by the Google Parties or as otherwise specified in a NASA Approval.”

(e) Section 3.2.3(g)(5) shall apply with respect to all Studies that involve invasive testing on the Premises.

(f) Section 3.2.3(g) is hereby amended by adding the following at the end thereof:

“NASA agrees that personnel from its Environmental Services Division (Code QE) shall be present or available during all Studies (including testing) regarding the environmental condition of the Premises and/or Parcel 5 conducted by Google Parties at the Premises. Such personnel shall be knowledgeable about Existing Environmental Conditions, and shall use reasonable efforts to advise the Google Parties with respect to Existing Environmental Conditions and the terms of applicable agreements pertaining to such Existing Environmental Conditions.”



2. Release of Claims by NASA. Section 8 of the Original Agreement is hereby amended by adding the following new subsection at the end thereof:

"8.3 With respect to any Studies involving invasive testing on the Premises and/or Parcel 5, provided that the Google Parties comply with (a) the applicable laws and other documents described in sections 3.2.3(g)(6) and 11, (b) the agreements among some or all of NASA, the United States Environmental Protection Agency, the State of California and other entities and governmental agencies that are involved in the remediation of, or that are responsible to remediate, existing contamination on or about ARC property (the 'Existing Environmental Conditions'), to the extent that NASA has informed the Google Parties of the requirements of such agreements as applicable to Studies conducted by Google Parties, (c) the terms and conditions of any applicable Study Work Plan and NASA Approval thereof, and (d) the other applicable terms and conditions of this Agreement, then NASA waives and agrees not to make any claims against Google with respect to any obligation NASA may have to perform or contribute to or pay for remediation or removal of the Existing Environmental Conditions or to perform any other obligation of NASA under any agreements relating to the Existing Environmental Conditions, including those described in subparagraph (b) above."

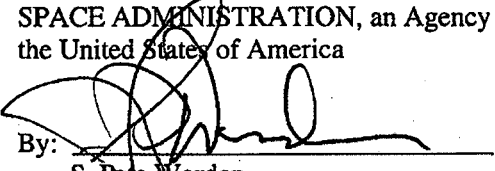
3. Assignment and Assumption. Google hereby assigns to PV all of Google's rights under the Original Agreement as amended by this Amendment, and PV hereby agrees to assume the same. Google represents and warrants to NASA that PV is wholly – owned by GEV Real Estate, Inc., a Delaware corporation, which in turn is wholly – owned by Google. PV represents and warrants that its signatory has full authority to execute any documents required in connection with this Original Agreement as amended by this Amendment and to bind PV in all respects.

4. No Other Amendment; Conflict. Except as set forth in this Amendment, the provisions of the Original Agreement remains in full force. If the provisions of this Amendment conflict with the provisions of the Original Agreement, then the provisions of this Amendment shall prevail.

IN WITNESS WHEREOF, each of the undersigned entities has caused this Agreement to be executed by its duly authorized representative as of the Effective Date.


NASA:

NATIONAL AERONAUTICS AND  
SPACE ADMINISTRATION, an Agency of  
the United States of America

By:   
S. Pete Worden  
Director, Ames Research Center

GOOGLE:

GOOGLE INC., a Delaware corporation

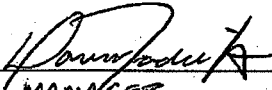
By:   
Its: David Radcliffe  
VP, Real Estate



PV:

PLANETARY VENTURES, LLC, a  
Delaware limited liability company

By:  
Its:

  
MANAGER

