

**FULLY REIMBURSABLE SPACE ACT AGREEMENT  
BETWEEN  
GEOG2 SOLUTIONS, INC.  
AND  
NASA AMES RESEARCH CENTER  
FOR  
COLLABORATION IN THE AREA OF HIGH RESOLUTION MULTI-  
SPECTRAL DIGITAL IMAGING**

**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 NASA Ames Research Center located at Moffett Field, CA 94035 (hereinafter referred to as "NASA ARC," "ARC," or "NASA") and GeoG2 Solutions, Inc. located at 6872 Santa Teresa Boulevard, San Jose, CA 95119, (hereinafter referred to as "GeoG2" or "PARTNER"). NASA and Partner may be individually referred to as a "Party" and collectively referred to as the "Parties."

**ARTICLE 2. PURPOSE AND NASA'S COMMITMENT**

**Purpose of Collaboration:**

The purpose of this collaboration is ARC will allow GeoG2 to use ramp, runway and office facilities at ARC for their data gathering flights on a reimbursable basis and ARC will have full access to GeoG2's multi-spectral data which will enhance ARC's ability to excel in the area of airborne science. In addition, GeoG2 will provide ongoing information to ARC on the development of their next generation of sensors, image processing and communications applications in agriculture and natural resource management which could result in further benefit to ARC's airborne science goals. On a reimbursable basis, ARC will allow GeoG2 to utilize ramp space for their two aircraft as well as provide standard airfield services such as air traffic control, aircraft rescue and fire fighting services, and office space for GeoG2 staff and image handling laboratory, including standard facility services such as janitorial services.

**Background:**

GeoG2 is a commercial airborne sensor business focused on the collection of high-resolution multi-spectral digital images for agriculture and natural resource customers. Two aircraft, a King Air and a Lear Jet, will be used as the platform for an array of four digital cameras which provide resolution down to one meter. The digital images are acquired using state of the art technology in data collection, image processing, image storage, image analysis; this data is utilized for agricultural and environmental interests. The information derived from the image analysis, along with in-field observations, is used to improve agricultural production decision making to produce higher yields and to more efficiently use water and chemical resources. Potential future markets include landscaping, parks & recreation, golf courses, fiscal government agencies, engineering, forestry, water, and environmental concerns. GeoG2 data will support the NASA SMD, in the Applied Sciences Program under Earth Systems Science at Headquarters.

Ames Earth Science Division, Code SG at NASA-Ames Research Center provides project management for NASA's Science Mission Directorate field research. This includes planning, implementation and post-mission support for large, complex, multi-agency, national and international field campaigns. The Airborne Sensor Facility within Code SG provides remote sensing systems development for the Airborne Science Program; calibration and validation of the Earth Observing System's earth science investigations; and system operation, data processing, calibration and maintenance of Code Y facility remote sensing instruments.

The Terrestrial Observation and Prediction System (TOPS) is an ongoing program in Code SG. TOPS is an ecosystem forecasting model used to enhance management decisions related to floods, droughts, forest fires, human health, and crop, range, and forest production. TOPS uses data and modeling software system designed to seamlessly integrate data from satellite, aircraft, and ground sensors with weather/climate and application models to produce operational nowcasts and forecasts. TOPS operates at a variety of spatial scales, ranging from individual vineyard blocks to global monthly assessments of vegetation net primary production. Outputs from this California-based model include a fire product and an evapotranspiration product used by the vineyard managers in Napa Valley to set water usage.

Benefit to NASA:

The data collected by GeoG2 can be utilized by NASA's Terrestrial Observation and Prediction System (TOPS) program. The GeoG2 data will increase the resolution of the regional forecasts from 1 km to 1 m. In addition to the direct benefit of the GeoG2 data into the TOPS program, NASA may benefit from the collaboration with GeoG2 by receiving information on the next generation of sensors, image processing, and communications applications in agriculture and natural resource management being developed by GeoG2. These advancements may benefit the Airborne Sensor Facility as well as future programs that enable the American agriculture and land-based resource producers to overcome the perils associated with nature while conserving, maintaining and improving America's natural resources and environment.

### ARTICLE 3. RESPONSIBILITIES

A. Partner will use reasonable efforts to:

1. GeoG2 will operate two aircraft that are modified for aerial survey.
2. GeoG2 will provide NASA with access to their image database for use in NASA mission activities.
3. GeoG2 will provide NASA with ongoing information on the development of their next generation of sensors, image processing and communications applications.
4. GeoG2 will reimburse NASA for the cost of ramp space for two aircraft and office space as negotiated. Approximately 4000 square feet of space has been requested, but space cannot be reserved until this agreement is in place. GeoG2 will be charged for the space occupied.

B. NASA/ARC will use reasonable efforts to:

1. On a fully reimbursable basis, NASA will provide facilities, equipment and services used at NASA including, but not limited to: runways, ramp and parking space, crash/fire/rescue support services, airfield security, fuel services, and environmental, occupational and health services, and Air Traffic Control. The ramp space required is approximately 2,000 square feet per aircraft for a total of 4,000 square feet. The total office space requested is 4,000 square feet, but the actual office space used will be determined based on what is available for use when this agreement is finalized.

#### ARTICLE 4. SCHEDULE AND MILESTONES

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

<u>Milestone</u>	<u>Date</u>
Establish Offices at NASA Ames Research Center, Moffett Field	2 weeks*
Build Image Processing Center	2 weeks*
Begin Commercial Flight Operations	4 weeks*
GeoG2 to share updates on development of new sensors, image processors and communications applications	Every 3 months

\* After execution of this agreement by all parties.

#### ARTICLE 5. FINANCIAL OBLIGATIONS

1. This agreement is intended to be the means to transfer funds from GeoG2 to NASA in connection with the agreement. Reimbursement from GeoG2 to NASA for land, facilities, equipment, supplies, services, or other property provided by NASA in support of this agreement will be set forth annually in a "Support Agreement" in the form attached hereto as Exhibit A and incorporated herein by reference. NASA currently executes annual Support Agreements following the start of each Government fiscal year.

Advance payments shall be scheduled to ensure that funds are resident with NASA before Federal obligations are incurred in support of this Agreement.

2. Payment shall be made in the form of a check payable to NASA Ames Research Center and sent to:

NASA Ames Research Center  
Financial Management Division  
Attn, Reimbursable Section  
Mail Stop 203-18  
Moffett Field, Ca 94035

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 above estimated amount. 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 One (1) year after completion of all effort under this Agreement, and promptly thereafter, return any unspent funds to Partner.
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 6. PRIORITY OF USE

Any schedule or milestone in this Agreement is estimated based upon the Parties' current understanding of the projected use of the test facilities and equipment by NASA personnel. In the event NASA's projected usage 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 test 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 7. 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 8. LIABILITY AND RISK OF LOSS

Insurance for Damage to NASA Property:

1. Partner shall, at no cost to NASA, maintain throughout the terms of the Agreement, insurance to cover the loss of or Damage to U.S. Government property as a result of any activities conducted under this Agreement. The policy must cover the cost of replacing (at fair market value, as reasonably determined by NASA) or repairing any U.S. Government property (real or personal) Damaged as a result of any performance of this Agreement, including performance by the U.S. Government or its contractors or

## ARTICLE 9. INTELLECTUAL PROPERTY RIGHTS - DATA RIGHTS

### 1. General

- (a) "Related Entity" as used in this Data Rights clause, means a contractor, subcontractor, grantee, or other entity having a legal relationship with NASA or Partner that is assigned, tasked, or contracted with to perform specified NASA or Partner activities under this Agreement.
- (b) "Data," as used in this Data Rights clause, means recorded information, regardless of form, the media on which it may be recorded, or the method of recording. The term includes, but is not limited to, data of a scientific or technical nature, computer software and documentation thereof, and data comprising commercial and financial information.
- (c) "Proprietary Data," as used in this Data Rights clause, means Data embodying trade secrets or comprising commercial or financial information that is privileged or confidential.
- (d) The Data rights set forth herein are applicable to employees of Partner and employees of any Related Entity of Partner. Partner shall ensure that its employees and employees of any Related Entity that perform Partner activities under this Agreement are aware of the obligations under this clause and that all such employees are bound to such obligations.
- (e) Data exchanged between NASA and Partner under this Agreement will be exchanged without restriction as to its disclosure, use, or duplication except as otherwise provided in this clause.
- (f) No preexisting Proprietary Data will be exchanged between the Parties under this Agreement unless specifically authorized in this clause or in writing by the owner of the Proprietary Data.
- (g) In the event that Data exchanged between NASA and Partner include a restrictive notice that NASA or Partner deems to be ambiguous or unauthorized, NASA or Partner may notify the other Party of such condition. Notwithstanding such a notification, as long as the restrictive notice provides an indication that a restriction on use or disclosure was intended, the Party receiving such Data will treat the Data pursuant to the requirements of this clause unless otherwise directed in writing by the Party providing such Data.

### 2. Data First Produced by Partner Under this Agreement

In the event Data first produced by Partner in carrying out Partner responsibilities under this Agreement is furnished to NASA, and Partner considers such Data to be Proprietary Data, and such Data is identified with a suitable restrictive notice, NASA will use reasonable efforts to maintain the Data in confidence and such Data will be disclosed and used by NASA and any Related Entity of NASA (under suitable protective conditions) only for carrying out NASA responsibilities under this Agreement. Upon completion of activities under this Agreement, such Data will be disposed of as requested by Partner.

subcontractors, at any tier. "Damage" shall mean damage to, loss of, or loss of use of any property; soil, sediment, surface water, ground water, or other environmental contamination or damage; loss of revenue or profits; other direct damages; or any indirect, or consequential damage arising therefrom.

2. The insurance required under this subparagraph shall provide coverage in an amount acceptable to NASA. All terms and conditions in the policy shall be acceptable to NASA, and shall require 30 days notice to NASA of any cancellation or change affecting coverage. The policy shall cover all risks of loss except that it may exclude damage caused by the U.S. Government's willful misconduct. The insurance policy shall provide that the insurer waives its right as a subrogee against U.S. Government contractors, subcontractors, or related entities for damage.
3. Upon obtaining the insurance required under this paragraph, or upon obtaining any modification or amendment thereof, Partner shall personally deliver, or send by registered or certified mail, postage prepaid, two copies of such insurance policy, or such modification or amendment, to NASA at the following address, or at such address as NASA may, from time to time, designate in writing:

NASA Ames Research Center  
Office of Chief Counsel  
Mail Stop: 202A-4  
Moffett Field, CA 94022  
Fax: (650) 604-2767

4. An insurance policy whose terms and conditions are reviewed and approved by NASA, or an agreement on an alternative method of protection, is a condition precedent to Partner's access to or use of U.S. Government property or U.S. Government services under this Agreement.
5. In the event Partner is unable to obtain insurance coverage required by subparagraph 1. above, the Parties agree to consider, subject to review, approval and agreement by NASA, alternative methods of protecting U.S. Government property (e.g., by acceptable self-insurance or purchase of an appropriate bond).
6. In the event U.S. Government property is damaged as a result of activities conducted under this agreement, Partner (whether as an insured loss payee or under an alternate protection method) shall be solely responsible for the repair and restoration of such property subject to NASA direction. Partner's liability for such repair and restoration shall not exceed the agreed insurance policy or other protection method limits.

### 3. Data First Produced by NASA under this Agreement

Except for data disclosing an invention owned by NASA for which patent protection is being considered, in the event Partner requests that Data first produced by NASA (or any Related Entity of NASA) in carrying out NASA's responsibilities under this Agreement be maintained in confidence, and to the extent NASA determines that such Data would be Proprietary Data if it had been obtained from Partner, NASA will mark such Data with a restrictive notice and will maintain such marked Data in confidence for the duration of this Agreement, with the express understanding that during the aforesaid restricted period such marked Data may be disclosed and used by NASA and any Related Entity of NASA (under suitable protective conditions) only for carrying out NASA responsibilities under this Agreement. Upon completion of activities under this Agreement, such marked Data will be disposed of as requested by Partner.

### 4. Publication of Results

(a) Recognizing that section 203 of the National Aeronautics and Space Act of 1958 (42 U.S.C. § 2473), as amended, requires NASA to provide for the widest practicable and appropriate dissemination of information concerning its activities and the results thereof, and that the dissemination of the results of NASA activities is one of the considerations for this Agreement, NASA will coordinate proposed publication of results with Partner in a manner that allows Partner a reasonable amount of time to review and comment on proposed publications.

(b) Consistent with other obligations in this clause, NASA agrees that it will not publish any results without first receiving permission from Partner.

### 5. Data Disclosing an Invention

In the event Data exchanged between NASA and Partner discloses an invention for which patent protection is being considered, the furnishing Party specifically identifies such Data, and the disclosure and use of such Data is not otherwise limited or restricted herein, the receiving Party agrees to withhold such Data from public disclosure for a reasonable time (presumed to be 1 year unless mutually agreed otherwise or unless such information is restricted for a longer period herein) in order for patent protection to be obtained.

### 6. Copyright

In the event Data is exchanged with a notice indicating that the Data is copyrighted and there is no indication that such Data is subject to restriction under paragraphs 2 or 3 of this clause (i.e., Data is not marked with a restrictive notice as required by paragraphs 2 or 3 of this clause), such Data will be presumed to be published and the following royalty-free licenses will apply.

(a) If it is indicated on the Data that the Data existed prior to, or was produced outside of, this Agreement, the receiving Party and others acting on its behalf, may reproduce, distribute, and prepare derivative works only for carrying out the receiving Party's responsibilities under this Agreement.

(b) If the Data does not contain the indication of (a) above, the Data will be presumed to have been first produced under this Agreement and, except as otherwise provided in paragraph 5 of this clause and in the Inventions and Patent Rights clause of this Agreement for protection of reported inventions, the receiving Party and others acting on its behalf may reproduce, distribute, and prepare derivative works for any purpose.

#### 7. Data Subject to Export Control

Technical data, whether or not specifically identified or marked, that is subject to the export laws and regulations of the United States and that is provided to Partner under this Agreement will be treated as such, and will not be further provided to any foreign persons or transmitted outside the United States without proper U.S. Government authorization, where required.

### ARTICLE 10. INTELLECTUAL PROPERTY RIGHTS - PATENT AND INVENTION RIGHTS

1. The invention and patent rights set forth herein are applicable to any employees, contractors, subcontractors, or other entities having a legal relationship with Partner that are assigned, tasked, or contracted with to perform specified Partner activities under this Agreement. Partner agrees to inform such employees, contractors, subcontractors, or other entities of the obligations under this clause and to bind them to such obligations.

2. Based on the purpose and scope of this Agreement, and the responsibilities of the Parties, NASA has made an administrative determination that the provisions of section 305(a) of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. § 2457(a)), do not apply to this Agreement. Therefore, title to inventions made (conceived or first actually reduced to practice) as a result of activities performed under this Agreement will remain with the respective inventing party(ies). No invention or patent rights are exchanged between or granted by such parties under this Agreement except that NASA and Partner agree to use reasonable efforts to identify and report to each other any invention that is believed to have been made jointly by employees of Partner and employees of NASA (including employees of such NASA contractors, subcontractors, or other entities), and to consult and agree as to the responsibilities and course of action to be taken to establish and maintain patent protection on such invention and on the terms and conditions of any license or other rights to be exchanged or granted by or between NASA and Partner.

### ARTICLE 11. 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 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.

### ARTICLE 12. 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 13. 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 14. COMPLIANCE WITH LAWS AND REGULATIONS

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 a 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.

#### ARTICLE 15. TERM OF AGREEMENT

This Agreement becomes effective upon the date of the last signature below and shall remain in effect until the completion of all obligations of both Parties hereto, or 2 years from the date of the last signature, whichever comes first.

#### ARTICLE 16. RIGHT TO TERMINATE

Either Party may unilaterally terminate this Agreement by providing 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. Where Partner terminates this Agreement, Partner will also be responsible for termination costs.

#### ARTICLE 17. CONTINUING OBLIGATIONS

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

#### ARTICLE 18. DISPUTE RESOLUTION

Except as otherwise provided in the article of this Agreement entitled "Priority of Use," for those activities governed by 37 C.F.R. Part 404 under the article of this Agreement entitled "Intellectual Property Rights – Invention and Patent Rights," 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 as the "Management Points of Contact (POCs). The persons identified as the "Management Points of Contact (POCs)" 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 supervisors of the POCs, or their designated representatives, for joint resolution. If the

parties remain unable to resolve the dispute, then the Center Director or that person's designee will issue a written decision which shall be a final Agency decision for all purposes including judicial review. Nothing in this section limits or prevents either Party from pursuing any other right or remedy available by law after exhaustion of administrative remedies.

#### ARTICLE 19. MANAGEMENT POINTS OF CONTACTS

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

##### Technical Points of Contact

NASA Ames Research Center  
Janet Beegle  
Operations Engineer  
Mail Stop: 158-1  
Moffett Field, CA 94035  
Phone: (650) 604-3545  
Fax: (650) 604-3144  
Janet.Beegle@nasa.gov

GeoG2 Solutions, Inc.  
Kevin E. Spry  
Chief Operations Officer  
6872 Santa Teresa Boulevard  
San Jose, CA 95119  
Phone: (408) 279-1727  
  
kespryy@charter.com

##### Business Points of Contact

NASA Ames Research Center  
Patti Bergin  
Administrative Specialist  
Mail Stop: 158-1  
Moffett Field, CA 94035  
Phone: (650) 604-6314  
Fax: (650) 604-3144  
Patricia.J.Bergin@nasa.gov

GeoG2 Solutions, Inc.  
Kevin E. Spry  
Chief Operations Officer  
6872 Santa Teresa Boulevard  
San Jose, CA 95119  
Phone: (408) 279-1727  
  
kespryy@charter.com

#### ARTICLE 20. 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 21. 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 22. 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 23. 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.


ARTICLE 24. 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

GEOG2 SOLUTIONS, INC.

BY:   
Lewis S G Braxton III  
Director of Center Operations

BY:   
Kevin E. Spry  
Chief Operations Officer

DATE: 4/21/08

DATE: 4/30/08