**SMALL BUSINESS ACT SBIR/STTR SUPPORT AGREEMENT**

**TEMPLATE**

NASA may make SBIR and STTR awards to any eligible small business concern that intends to enter into an agreement with a Federal laboratory or FFRDC for portions of the activities to be performed under that award. This agreement shall be executed in accordance to NASA SBIR/STTR Policy Statement (SSPS) 2018-1, using this Appendix 1 “Small Business Act SBIR/STTR Support Agreement Template”.

**Applicable Statutory Authority Reference:**

**15 U.S.C. § 638(ee)**

**Additional Instructions:**

This Agreement is authorized by the Small Business Act (as codified at 15 U.S.C. § 638(ee)) which allows the use of resources (facilities, equipment, or personnel) of any federal laboratory in support of the activities to be performed under an SBIR or STTR contract. NASA’s authority to enter into this Agreement **is not** pursuant to the National Aeronautics and Space Act (51 U.S.C. § 20101, *et seq.*) and does not necessitate the execution of a Reimbursable Space Act Agreement or other NASA real property instrument (e.g., a separate Use Permit).

Delete this instruction pages, once the document is ready for review (if required) or signature.

The yellow highlighted areas with italicized text on the template represent places that require fill-ins/completion.

**NOTE: All yellow highlighted areas with italicized text need to be removed/deleted prior to completing the document and submitting it for review.**

**SMALL BUSINESS ACT SBIR/STTR SUPPORT AGREEMENT**

[DATE]

[INSERT CONTRACTOR NAME]

[INSERT CONTRACTOR ADDRESS]

Small Business Act SBIR/STTR Support Agreement No. [XXXXXX] in Support of Contract No. [INSERT CONTRACT NUMBER]

[Insert NASA Center] (“NASA”) and [Insert Contractor Name] (“Contractor”) (referred to jointly as “the parties”) agree to enter into this Small Business Act SBIR/STTR Support Agreement (“Support Agreement”) (formerly known as an “SBIR/STTR Use Agreement”) in accordance with 15 U.S.C. § 638(ee)This Support Agreement documents the support that NASA will provide to the Contractor in connection with NASA Contract No. [INSERT CONTRACT NUMBER].

A. CENTER COMMITMENT

NASA will use reasonable efforts to provide the Contractor the following facilities, equipment, and/or services (“resources”) on the schedule, proposed below:

1. FACILITIES – *[Insert the facilities that will be utilized under the Support Agreement (i.e. wind tunnel, laboratories, etc.) necessary to support the activities to be performed under this SBIR/STTR contract (or state none)],*

2. EQUIPMENT – *[Insert the applicable equipment that will be utilized under the Support Agreement necessary to support the activities to be performed under this SBIR/STTR contract (or state none)],*

3. SERVICES – *[Insert services/NASA specialized expertise that will be utilized under this Support Agreement necessary to support the activities to be performed under this SBIR/STTR contract (or state none).].]*

SCHEDULE:

The planned schedule for the availability of the identified NASA resources is:

|  |  |
| --- | --- |
| [Facility] | DATE\* |
| [Equipment] | DATE\* |
| [Services] | DATE\* |

\* The proposed utilization is on a non-interference, as available basis.

B. CONTRACTOR COMMITMENT

1. The Contractor agrees to reimburse NASA an estimated cost of [$TOTAL DOLLARS] for NASA to carry out its commitment of resources under this Use Agreement. In no event will NASA transfer any U.S. Government funds to the Contractor under this agreement. The Contractor shall make payments in advance of initiation of NASA’s efforts on behalf of the Contractor; however, in accordance with 15 U.S.C. § 638(ee)(4), advance payments may be scheduled so that the payments will not exceed the amount necessary to reimburse NASA for the cost of thirty (30) days of proposed activities or resources. As such, the Contractor may make payments in 30-day increments in accordance with the payment schedule set forth below to allow for the continuation of efforts under this Support Agreement.

|  |  |  |
| --- | --- | --- |
| **Payment No.** | **Payment Amount** | **Due Date** |
| 1. | Cost for initial scope of work requested (not to exceed 30 days of scope). Estimated initial payment amount = $TBD | Upon agreement execution. |
| 2. | Subsequent advance payments will be scheduled to ensure that funds are with NASA before federal obligations are incurred in support of this agreement. |  |

2. The Contractor shall make payment to the National Aeronautics and Space Administration through the NASA Shared Services Center (NSSC) (choose one form of payment):

1. Federal Reserve Bank Fedwire Funds Service; <https://www.nssc.nasa.gov/ar> (Select “Fedwire” from the Quick Links to the right of the page and follow instructions)
2. Pay.gov at <https://www.nssc.nasa.gov/ar> (Select“Pay.gov” from the Quick Links to the right of the page);
3. Check. [INSERT CONTRACTOR NAME] shall make a check payable to NASA and send it to:

NASA Shared Services Center (NSSC)
Attn: For the Account(s) of [applicable Center]
Building 1111, Jerry Hlass Road
Stennis Space Center, MS 39529

Payment by electronic transfer is strongly encouraged, and the Contractor will make payment by check only if circumstances preclude the use of electronic transfer. All payments and other communications regarding this Support Agreement shall reference the Center name, title, date, contract number and number of this Support Agreement.

C. TERMS AND CONDITIONS

1. NASA has determined that it can support the proposed utilization of the above-described resources as set forth in this Support Agreement within available Center resources and commitments. NASA will provide reasonable advance notice to the Contractor of any change to the agreed responsibilities or schedule as a result of any requirements for equipment or services by NASA or others that would likely interfere with the support identified herein. NASA will consult with the Contractor in advance and will make reasonable efforts to minimize any scheduling conflicts. In the event such changes to responsibilities or scheduling conflicts occur or are reasonably likely to occur, the parties will amend the scope, terms, conditions, and amount of this Support Agreement accordingly.

2. NASA will not provide services or incur costs beyond the current funding. Although NASA has made a good faith effort to accurately estimate its costs, the Parties acknowledge and understand that NASA provides no assurance it can accomplish that the proposed effort for the benefit of the Contractor under this Support Agreement will be accomplished for the estimated amount. Should the reimbursed effort cost more than the estimate; NASA shall advise the Contractor of as soon as possible. The Contractor shall pay all costs incurred and have the option of canceling the remaining effort, or providing additional funding to continue the proposed effort under the revised estimate. This Support Agreement will be modified accordingly to memorialize these changes. Should this Support Agreement be terminated prior to obligation of all funds, or the effort completed at a cost less than the agreed to estimated cost, NASA shall account for any unspent funds within one hundred twenty (120) calendar days after completion of all effort under this Support Agreement, and promptly thereafter, return any unspent funds to the Contractor. Return of unspent funds will be processed via Electronic Funds Transfer (EFT) in accordance with 31 C.F.R. Part 208 and, upon request by NASA, Contractor agrees to complete the Automated Clearing House (ACH) Vendor/Miscellaneous Payment Enrollment Form (SF 3881).

Notwithstanding any other provision of this Agreement, all activities under or pursuant to this Agreement are subject to the availability of funds, and no provision of this Agreement shall be interpreted to require obligation or payment of funds in violation of the Anti-Deficiency Act, (31 U.S.C. § 1341).

3. If Contractor’s use of NASA resources includes use of or access to NASA Information Technology (IT) resources, the Contractor will at all times remain in compliance with and adhere to all NASA IT security requirements and processes, including those set forth in the Contractor’s IT Security Plan. The Contractor’s failure to do so may result in NASA’s unilateral termination of this Support Agreement.

4. The parties shall execute any modification to this Support Agreement in writing, signed by an authorized representative of NASA and the Contractor.

5. The Parties may mutually agree to terminate this Support Agreement at any time. Either NASA or the Contractor may unilaterally terminate this Support Agreement by providing thirty (30) calendar days written notice to the other Party. In the event of any termination, the Contractor shall reimburse NASA for all costs for which the Contractor was responsible. The Contractor is responsible for all costs that have been incurred in support of the activities under this Support Agreement until the time NASA receives the termination notice. If the Contractor unilaterally terminates this Support Agreement, the Contractor will also be responsible for all termination costs.

6. By choosing to use to use NASA resources, the Contractor hereby waives any claims against NASA, its employees, its related entities, (including, but not limited to, contractors and subcontractors at any tier, grantees, investigators, customers, users, and their contractors and subcontractors, at any tier) and employees of NASA’s related entities for any injury to, or death of, the Contractor’s employees or the employees of the Contractor’s related entities, or for damage to, or loss of, the Contractor’s property or the property of its related entities (including subcontractors, suppliers, and teammates) arising from or related to activities conducted under this Support Agreement, whether such injury, death, damage, or loss arises through negligence or otherwise, except in the case of willful misconduct.

The Contractor further agrees to extend this 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 Support Agreement.

7. All disputes arising under this Support Agreement shall be referred in writing to the Points of Contact identified in Section D. The NASA SBIR/STTR Contracting Officer shall also be notified of any and all disputes and potential disputes as soon as they arise. The Points of Contact will consult and attempt to resolve all issues arising from the implementation of this Support Agreement. If they are unable to come to agreement on any issue, the dispute will be referred to the signatories to this Support Agreement, or their designees, for joint resolution.

8. This Support Agreement becomes effective upon the date of the last signature below (“Effective Date”) and shall remain in effect until the completion of all obligations of both Parties, or [enter a term, not to exceed the period of performance of the SBIR/STTR contract [INSERT CONTRACT NUMBER]] from the Effective Date, whichever comes first. If the SBIR/STTR contract [INSERT CONTRACT NUMBER] is modified or extended for any reason, and the Contractor will require additional NASA resources of the type and nature set forth above in order to continue performance, this Support Agreement shall be updated and modified accordingly.

9. All data developed or generated pursuant to this Support Agreement will be considered SBIR/STTR data as defined by the Contractor’s SBIR/STTR contract and shall be governed by the terms and conditions set forth in the SBIR/STTR Rights in Data clause contained therein.

10. In the event of a conflict between the Contractor’s SBIR/STTR contract and this Support Agreement, the SBIR/STTR contract takes precedence.

11. Notwithstanding NASA’s commitment to provide the enumerated resources pursuant to this Support Agreement, and the Contractor’s utilization of such resources, the Contractor acknowledges that it remains fully and solely responsible for completing performance of its SBIR/STTR contract and that NASA’s provision of such resources shall not be construed as authorization, endorsement, or approval of any milestone payment, associated review, or as a defense to NASA’s withholding of any such payment based upon non-performance or deficient performance of its SBIR/STTR contract. The Contractor agrees that it shall not submit any request for equitable adjustment or claim, related to or as the result of, any resources NASA agrees to provide pursuant to the terms of this Support Agreement in support of the Contractor’s performance of its SBIR/STTR contract.

12. All resources provided by NASA under this Support Agreement are provided “as is.” NASA makes no express or implied warranty as to the condition of any such goods, services, facilities, or equipment, or as to the condition of any research or information generated under this Support Agreement, or as to any products made or developed under or as a result of this Support Agreement including as a result of the use of information generated hereunder, or as to the merchantability or fitness for a particular purpose of such research, information, or resulting product, or that the goods, services, facilities or equipment provided will accomplish the intended results or are safe for any purpose including the intended purpose, or that any of the above will not interfere with privately-owned rights of others. Neither NASA nor its contractors shall be liable for special, consequential or incidental damages attributed to such equipment, facilities, technical information, or services provided under this Support Agreement or such research, information, or resulting products made or developed under or as a result of this Support Agreement.

13. NASA does not endorse or sponsor any commercial product, service, or activity. NASA’s participation in this Support Agreement or provision of resources provided hereunder does not constitute endorsement by NASA. The Contractor agrees that nothing in this Support Agreement will be construed to imply that NASA authorizes, supports, endorses, or sponsors any product or service of Contractor resulting from activities conducted under this Support Agreement, regardless of the fact that such product or service may have utilized or relied upon NASA-developed technology.

D. POINTS OF CONTACT

The following personnel are designated as the Points of Contact between NASA and the Contractor in the performance of activities under this Support Agreement.

|  |  |
| --- | --- |
| [INSERT NASA CENTER]NameTitleAddressPhone Email Address | [INSERT CONTRACTOR NAME]NameTitleAddressPhone Email Address |

ACCEPTANCE:

By signing below, the undersigned agree that this Support Agreement accurately sets forth the understandings between the Parties for the activities described herein. The signatories to this Support Agreement covenant and warrant that they have the authority to execute this agreement.

[INSERT NASA CENTER] [INSERT CONTRACTOR NAME]

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name: Name:

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Title\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

CONTRACTING OFFICER CONCURRENCE:

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name:

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_