**INDEPENDENT CONTRACTOR AGREEMENT**

**No.\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**USRA PROGRAM:**   **CONTRACT NO.:**

 **DPAS Rating\*:**

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Contractor”)

Address:

Phone: Fax:

E-mail:

Contractor and the Universities Space Research Association (“USRA”) have agreed that USRA would like to retain Contractor as an independent contractor to perform certain professional services regarding\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. Therefore, Contractor and USRA have agreed that Contractor will serve as an independent contractor for USRA to provide the following professional services:

[Insert Statement of Work/Services description here.]

 *Any subsequent tasks must be specifically authorized by the Program Director via a written amendment to this Agreement. This Agreement is subject to the following terms, conditions, and certifications:*

Contractor will be an independent contractor and not an employee of USRA. Neither Contractor nor USRA shall represent directly or indirectly that Contractor is an agent or employee of USRA. Contractor shall not have the authority to incur any liabilities or obligations of any kind in the name of or on behalf of USRA.Contractor shall only be responsible for performing the services set forth in this Agreement and shall have no other responsibilities. In addition, Contractor shall be free to arrange the time and manner of performance of the consulting services, provided that Contractor’s services are provided in a time frame and manner that meet the business needs of USRA as agreed by the Parties.

In addition to all other obligations contained herein, Contractor agrees: (a) to proceed with diligence and promptness and hereby warrants that such services shall be performed in accordance with the highest professional standards and to the satisfaction of USRA; and (b) to comply, at Contractor's own expense, with the provisions of all state, local, and federal laws, regulations, ordinances, requirements, codes, and rules of professional conduct and ethics that are applicable to the performance of the services specified herein.

As an independent contractor, the mode, manner, method and means used by Contractor in the performance of services shall be of Contractor's selection and under the sole control and direction of Contractor. Contractor shall be responsible for all risks incurred in the operation of Contractor's business and shall enjoy all the benefits thereof. Contractor may assign or subcontract all or part of Contractor’s obligations specified in Paragraph 1 of this Agreement only upon receiving prior written consent of USRA. Any persons employed by or subcontracting with Contractor to perform any part of Contractor’s obligations hereunder shall be under the sole control and direction of Contractor, and Contractor shall be solely responsible for all liabilities and expenses thereof.

**A. Term of Independent Contractor Assignment:**

Begin: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Terminate: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**B. Compensation:** The effort described will be accomplished:

[ ] for the fixed fee of $ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

[ ] on the basis of a daily consulting fee of $\_\_\_\_\_\_\_\_\_\_\_\_ not to exceed \_\_\_\_\_\_\_ days total.

Contractor and USRA agree that USRA will treat Contractor as an independent contractor for purposes of all tax laws (local, state and federal) and file forms consistent with that status. Contractor agrees, as an independent contractor, that neither he/she nor his/her employees are entitled to unemployment benefits in the event this Agreement terminates, or workers' compensation benefits in the event that Contractor is injured in any manner while performing obligations under this Agreement. Contractor will be solely responsible to pay any and all local, state, and/or federal income, Social Security and unemployment taxes for Contractor and his/her employees. USRA will not withhold any taxes or prepare W-2 Forms for Contractor but will provide Contractor with a Form 1099, if required by law.

**C. No Employee Benefits.** Contractor acknowledges and agrees that neither he/she nor anyone acting on his/her behalf shall receive any employee benefits of any kind from USRA. Contractor (and Contractor's agents, employees, and subcontractors) are excluded from participating in any fringe benefit plans or programs as a result of the performance of services under this Agreement without regard to Contractor’s independent contractor status. In addition, Contractor (and Contractor’s agents, employees, and contractors) waives any and all rights, if any, to participation in any of USRA’s fringe benefit plans or programs including, but not limited to, health, sickness, accident or dental coverage, life insurance, disability benefits, accidental death and dismemberment coverage, unemployment insurance coverage, workers’ compensation coverage, and pension or 401(k) benefit(s) provided by USRA to its employees.

**D. Non-Exclusivity.** USRA reserves the right to engage other Contractors to perform services without giving Contractor a right of first refusal or any other exclusive rights. Contractor reserves the right to perform services for other persons or entities who may or may not have business interests that conflict with those of USRA, subject to the provisions set forth in this Agreement.

**E. Travel:** The Contractor will undertake any travel required by the Statement of Work.

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[ ] with the understanding that travel and other related expenses will be reimbursed for:

 [ ] Airfare **(U.S. flag carrier only)** or Mileage From\_\_\_\_\_\_\_\_\_\_\_\_\_\_To\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 [ ] Lodging up to $\_\_\_\_\_\_\_\_ /night. [ ] Meals & Incidental Exps. up to $\_\_\_\_\_\_\_\_\_ / day

 [ ] Rental Car (please specify) [ ] Compact [ ]Other (*written justification attached*)

[ ] Other/Miscellaneous *(as allowable per USRA policy)*

**F. Payment of fee and/or reimbursement of expenses (i.e., travel, if applicable) require proper execution of the following:**

1. Contractor Invoice Voucher
2. Travel Voucher(s) (USRA Form 14.4a) with original receipts for lodging, airfare, rental car and registration fees. Original receipts for incidental expenses, i.e. cab and/or parking, local transportation and tolls are required when in excess of **$75.00.**
3. The Contractor is not an employee of USRA and is not entitled to the benefits provided by USRA to its employees, including, but not limited to, group insurance and pension plan.
4. Generally, USRA will not deduct income tax on consulting fees unless a withholding requirement exists as a result of a foreign tax treaty agreement; however USRA must report all taxable payments to the IRS.
5. In the event of travel, Contractor will also comply with **Article G** below.

\*Note: This is a rated order certified for national defense use, and you are required to follow all the provisions of the Defense Priorities and Allocations System regulation (15 CFR 350).

**G. Summary of USRA Travel Policies and Procedures**

GENERAL GUIDELINES

1. Employees of U.S. Government agencies cannot be reimbursed for travel expenses unless prior written authorization has been provided to USRA on an agency form or the agency’s letterhead by the traveler’s supervisor or legal counsel.
2. All travel related reimbursements are in accordance with the U.S. Government Joint Travel Regulations (JTR). Maximum rates for reimbursement of lodging, meals and incidentals (i.e. per diem allowances) are set by the U.S. Government according to location of travel.
3. U.S. flag carriers must be used for all foreign air travel when available. Any use of non-U.S. flag carriers must have prior approval. Travelers who purchase tickets outside the U.S. should retain both the ticket and receipt showing the rate of exchange at the time of purchase.
4. Completed and signed Travel Expense Vouchers must be submitted within 10 days of trip conclusion. Original receipts for lodging, airline tickets, car rental and registration fees are required and must be submitted with the voucher. Original receipts are also required for any allowable individual travel related expense greater than $75.00 (e.g. local transportation, parking, tolls).

SPECIFIC REGULATIONS

**AUTO RENTAL:** Compact model cars should be used unless demonstrably impractical. Upgrades require special justification and will be allowed at USRA’s sole judgment. The vehicle must be rented under the name of USRA with the traveler as the principal driver in order to be covered under USRA’s blanket liability insurance policy. PLEASE NOTE THAT THE COSTS OF EXTRA COVERAGE, INCLUDING CDW AND LDW INSURANCE OFFERED BY THE RENTAL AGENCY, ARE UNALLOWABLE WITHIN THE U.S. AND CANADA AND WILL NOT BE REIMBURSED. ANY ADDITIONAL INSURANCE WILL BE AT THE TRAVELER’S PERSONAL EXPENSE. Premiums for insurance coverage provided by rental agencies are allowable costs outside the U.S. and Canada.

**TRANSPORTATION:** Air/Rail travel must be by the most direct route at coach fare (or lower). Discounted fares should be used whenever possible. Business class or first class fares are not reimbursable. If the fare has been direct billed to USRA, please obtain and submit the receipt and write “Direct Billed” on the transportation line of the travel expense voucher.

**USE OF A PRIVATE VEHICLE:** Mileage reimbursement is calculated at the rate specified by the Joint Travel Regulations at the time of travel. Reimbursement will be the lesser of the actual mileage reported by the traveler or 110% of the published most direct route mileage. Mileage reimbursement for use of a private vehicle cannot exceed the cost of a direct route coach class airfare.

**CAB and/or PARKING:** Actual costs of cab fare, tolls, airport and other parking fees, related to the official business of the trip, will be reimbursed. The nature of these costs should be indicated on the travel voucher; however receipts are required only for individual items greater than $75.00.

**LODGING:** Actual expenses for lodging, excluding taxes, are reimbursed up to the maximum rate set forth in the current Joint Travel Regulations for that location. Lodging taxes in CONUS are a separately reimbursable expense. Taxes for lodging in foreign OCONUS locations are part of per diem and are not separately reimbursable. If the lodging has been direct billed to USRA, please obtain and submit the receipt and write “Direct Billed” on the Lodging line of the travel expense voucher.

**REGISTRATION FEES:** Actual costs of registration fees and other related business expenses may be reimbursed. Details and receipts must be provided.

**PERSONAL SUBSISTENCE:** Allowances for meals, tips and incidental expenses will be reimbursed up to a maximum determined by the current Joint Travel Regulations. Original receipts are required for individual expenses over $75.00. Reimbursements are made as follows: When travel is more than 12 but less than 24 hours, allowance is limited to 75% of the applicable M&IE rate. When traveling 24 hours or more, allowance is limited to 75% of the applicable M&IE rate on the day of departure and day of return. Full days of travel are reimbursable up to 100% of applicable M&IE rate unless through some means the traveler has one or two meals provided. In this instance, the proportional meals rate (PMR) may apply. Personal subsistence is not allowed for local travel of less than 12 hours. Travel is considered local when the traveler departs from, and returns to, his/her home or normal job location within the same workday (i.e. 12-hour rule).

**OTHER / MISCELLANEOUS EXPENSES:** Includes business related telephone/fax costs, lodging taxes (CONUS only), laundry (must incur a minimum of 4 consecutive nights lodging within CONUS on official travel), and other business related expenses not included in the above categories. The nature and amount of these costs should be indicated on the travel voucher; original receipts are required for individual expenses over $75.00.

**H. Certifications (to be completed by Contractor *– Please answer ALL Certifications)***

1. Does your employer permit you to enter into an independent contractor agreement with USRA?

 **Yes \_\_\_\_\_ No \_\_\_\_\_** **N/A** \_\_\_\_\_

2. a. **I am \_\_\_\_\_am not \_\_\_\_\_** a regular employee of NASA. If your answer to statement “a” is affirmative, then no fees or expenses can be paid under Section E. Participation by the Contractor must be fully supported by his/her NASA office.

 b. **I am \_\_\_\_\_am not \_\_\_\_\_** a regular employee of another agency of the Federal Government. If your answer to statement “b” is affirmative, then no fees or expenses can be paid under Section E (**except when express written consent/authorization has been granted by your supervisor or legal counsel**).

3. **I am\_\_\_\_\_ am not \_\_\_\_\_** a non-resident alien.

4. a. **I am \_\_\_\_\_ am not \_\_\_\_\_** presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal debarment forum or agency.

 b. **I have \_\_\_\_\_ have not \_\_\_\_\_** within a three-year period preceding this Agreement, been convicted of or had a civil judgment rendered against me for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a statute or commission of embezzlement, theft forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.

 c. **I am \_\_\_\_\_ am not \_\_\_\_\_** presently indicted for, or otherwise criminally or civilly charged by, a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 4 (b) of the certification.

 d. **I have \_\_\_\_\_ have not \_\_\_\_\_** within a three-year period preceding this Agreement, had one or more public transactions (Federal, State or local) terminated for cause or default.

**I. Conditions in Effect as Part of Signed Agreement**

1. **Other Grants and Contracts.** Any fees paid or reimbursed to Contractor under this Agreement will not be duplicated under any other Grant(s) or Contract(s).
2. **Property Rights in Inventions and Rights in Data.** The Contractor acknowledges and hereby agrees that any Intellectual Property that is conceived, produced, generated, or developed by the Contractor while providing the professional services under this Agreement is the sole and exclusive property of USRA. The Contractor also acknowledges and hereby agrees that any data produced under this Agreement is the sole and exclusive property of USRA. “Intellectual Property” as used in this Agreement means any and all ideas, concepts, designs, prototypes, innovations, inventions, discoveries, improvements, modifications, methods, processes, techniques, procedures, formulas, data, know how, technology, works of authorship, software, code, drawings, diagrams, flowcharts, documentation, work product, business information, trade secrets, trademarks, tradenames, and/or any other subject matter, material or information that might have technological or business value. This clause survives the termination of this Agreement. (This contract is subject to the Federal Acquisition Regulation 52.227-11, “Patent Rights – Ownership by the Contractor – as modified by NASA FAR Supplement 1852.227-11.” The term “invention” includes any invention, discovery, improvement, or innovation. This contract is subject to Federal Acquisition Regulation 52.227-14, “RIGHTS IN DATA – General.” The term “DATA”, as used in this clause, means recorded information, regardless of the form or the media on which it may recorded, which are specified to be, or are in fact, delivered pursuant to this Agreement. The term “DATA” includes technical data and computer software. The term does not include information incidental to contract administration, such as financial, cost, or pricing, or management information”)
3. **Disclosure and Assignment**. The Contractor hereby agrees to promptly and fully disclose to USRA all Intellectual Property conceived, produced, generated or developed, solely or jointly with others, under this Agreement, and to protect such Intellectual Property from any unauthorized disclosure, use, transfer sale or offer for sale without prior written authorization from USRA. The Contractor hereby agrees to assign any rights in such Intellectual Property to USRA and to execute any assignments within thirty (30) days upon request. This clause survives the termination of this Agreement.
4. **Proprietary/Confidential Information**. The work done hereunder, information and data provided by USRA for this work, and the resultant reports and/or findings are considered to be proprietary and confidential information of USRA. The Contractor shall protect all such information as Contractor protects his/her own proprietary and confidential information. The Contractor shall not publish or otherwise disclose or make available to others the results of this effort without the expressed written consent of USRA. This clause survives the termination of this Agreement.
5. **Notice of Defend Trade Secrets Act Immunity Provisions.** The federal Defend Trade Secrets Act of 2016 ("DTSA") provides certain protections to individuals who disclose a trade secret to their attorney, a court, or a government official in certain, confidential circumstances. Specifically, federal law provides that an individual shall not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret under either of the following conditions: (a) where the disclosure is made (i) in confidence to a Federal, State, or local government official, either directly or indirectly, or to an attorney and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (b) where the disclosure is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal. See 18 U.S.C. § 1833(b)(1)). Federal law also provides that an individual who files a lawsuit for retaliation by an employer for reporting a suspected violation of law may disclose the trade secret to the attorney of the individual and use the trade secret information in the court proceeding, if the individual (x) files any document containing the trade secret under seal and (y) does not disclose the trade secret, except pursuant to court order. See 18 U.S.C. § 1833(b)(2).
6. **Drug Free Workplace.** The Contractor agrees by accepting award of this Agreement not to engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance while performing this effort.

**J. Special Clauses.** This Agreement incorporates the following Federal Acquisition Regulation and NASA FAR Supplement clauses by reference, with the same force and effect as if they were given in full text.

| Clause Number | Title | Date |
| --- | --- | --- |
| 52.202-1 | Definitions | Nov. 2013 |
| 52.203-3 | Gratuities | Apr. 1984 |
| 52.203-5 | Covenant Against Contingent Fees | May 2014 |
| 52.203-7 | Anti-Kickback Procedures | May 2014  |
| 52.222-21 | Prohibition of Segregated Facilities | Apr. 2015  |
| 52.222-26 | Equal Opportunity | Apr. 2015 |
| 52.222-35 | Equal Opportunity for Veterans | Oct. 2015  |
| 52.222-36 | Affirmative Action for Workers with Disabilities | July 2014 |
| 52.222-50 | Combating Trafficking in Persons | Mar. 2015 |
| 52.223-6 | Drug Free Work Place | May 2001 |
| 52.227-14 | Rights in Data – General | May 2014 |
| 52.229-3 | Federal, State and Local Taxes | Feb. 2003 |
|  |  |  |
| 52.223-6 | Drug Free Workplace | May 2001  |
| 52.242.15 | Stop Work Order | Aug. 1989 |
| 52.243.1 | Changes – Fixed Price | Aug. 1987 |
| 52.249-2 | Termination for the Convenience of the Government (Fixed Price) | Apr .2012 |
| 52.249-8 | Termination – Default (Fixed Price – Supply and Services) | Apr. 1984 |
| 1852.204-76 | Security Requirements for Unclassified – Information Technology Resources | Jan. 2011 |
| 1852.223.70 | Safety and Health | Apr. 2002 |
| 1852.242-72 | Denied Access to NASA Facilities  | Oct. 2015 |

Applicable if the Agreement exceeds $30,000 (in addition to the clauses above):

| Clause Number | Title | Date |
| --- | --- | --- |
| 52.209-6 | Protecting the Government’s Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment | Oct. 2015 |

Applicable if the Agreement exceeds $150,000 (in addition to the clauses above):

| Clause Number | Title | Date |
| --- | --- | --- |
| 52.203-12 | Limitation on Payments to Influence Certain Federal Transactions | Oct. 2010 |
| 52.219-8 | Utilization of Small Business Concerns | Oct. 2014  |

Applicable if the Agreement exceeds $650,000 (in addition to the clauses above):

| Clause Number | Title | Date |
| --- | --- | --- |
| 52.219-9 | Small Business Subcontracting Plan | Oct 2015  |

Applicable if the Agreement exceeds $700,000 (in addition to the clauses above):

| Clause Number | Title | Date |
| --- | --- | --- |
| 52.215-12 | Subcontractor Cost or Pricing Data | Oct. 2010 |
| 52.230-2 | Cost Accounting Standards | Oct. 2015  |
| 52.230-3 | Disclosure and Consistency of Cost Accounting Practices | Oct. 2015  |
| 52.230-6 | Admin. of Cost Accounting Standards  | Jun. 2010 |

Applicable if the Agreement exceeds $5,000,000 (in addition to the clauses above):

| Clause Number | Title | Date |
| --- | --- | --- |
| 52.203-14 | Display of Hotline Poster(s) | Oct. 2015 |
| 1852.203-70 | Display of Inspector General Hotline Posters | Jun. 2001 |

Applicable if the Agreement exceeds $5,000,000 and the performance period is 120 days or more (in addition to the clauses above):

| Clause Number | Title | Date |
| --- | --- | --- |
| 52.203-13 | Contractor Code of Business Ethics and Conduct | Oct.2015 |

**K. Compliance with Laws.** The parties hereby agree to comply with all applicable provisions of any federal, state, or local law or ordinance and all orders, rules, and regulations, issued thereunder, that are applicable to the performance of this Agreement.

Contractor shall have sole responsibility for compliance with all federal export regulations as may relate to its tasking, including dealings with lower-tier recipients. Contractor shall obtain, maintain, and comply with all necessary export agreements, licenses, or other applicable documents. Federal export regulations include, but are not limited to, those contained in the NASA Export Control Program; the Department of State International Traffic in Arms Regulations (ITAR), as set forth in 22 CFR Parts 120-130; and the Department of Commerce Export Administration Regulations (EAR), as set forth in 15 CFR Parts 730-774.

**Ethics and Compliance:** In accepting this award, the Contractor agrees to adhere to the standards established in USRA’s Ethics and Compliance policy. This policy can be reviewed and referenced via the USRA website: <http://internal.usra.edu/policy-guidelines/Ethics_Compliance_Policy_0709.pdf> or via hard copy obtained from the USRA representative. The Contractor understands that it is against USRA policy to receive the proprietary information of any third party company without the express written consent of that company to such disclosure. The Contractor hereby certifies affirmatively he/she understands this and shall not bring such third party proprietary information to USRA or use it in the performance of this Agreement.

**L. Termination**. This Agreement can be terminated at any time by either party upon submission of ten days written notice to the other party. (*Optional – may be reserved.)*

**M. Entire Agreement.** This Agreement constitutes the entire Agreement of the parties hereto, and all previous communications between the parties, whether written or oral with reference to the subject matter of this Agreement, are hereby canceled and superseded. No modification of this Agreement shall be binding upon the parties hereto, unless such is in writing and duly signed by the authorized representatives of the respective parties hereto. The validity, scope and performance of this Agreement shall be governed by the laws of the State of Maryland, without regard to its choice of law provisions.

**N. Acceptance.** Please sign below indicating acceptance of the Terms and Conditions of this Agreement as set forth herein and return to USRA before beginning performance. This Agreement is not effective until it has been fully executed.

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Signature of Contractor Date

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Signature of Authorized USRA Representative Date