

MASTER INDEPENDENT CONTRACTOR AGREEMENT
BETWEEN
INCORPORATED RESEARCH INSTITUTIONS FOR SEISMOLOGY
AND
INDEPENDENT CONTRACTOR

THIS MASTER INDEPENDENT CONTRACTOR AGREEMENT is made and entered into by and between Incorporated Research Institutions for Seismology (hereinafter called "IRIS"), having its principal offices at 1200 New York Ave, NW, Suite 400, Washington, DC 20005, and **Independent Contractor** (hereinafter called "Contractor"). Contractor agrees to provide the goods or services requested by IRIS in strict compliance with the applicable Work Order and with these terms and conditions.

A. IRIS desires to procure the goods or services of Contractor and Contractor is willing to perform the Statement of Work (SOW) described in the Work Order in accordance with the terms herein.

B. IRIS wishes to hire Contractor as an Independent Contractor because Contractor possesses the unique skills necessary to provide the services sought under the SOW.

C. The parties desire to enter into this Agreement to set forth the terms and conditions governing the relationship between IRIS and Contractor.

NOW, THEREFORE, in consideration of the promises and the mutual covenants hereinafter contained, and for the duration, the receipt and sufficiency of which are hereby acknowledged, it is agreed as follows:

1. DUTIES.

1.1 Statement of Work. During the term of this Agreement, Contractor shall provide or arrange for the delivery of goods or services (the "SOW") as described in the Work Order(s) attached hereto and made a part hereof as Exhibit A (the "Work Order"). Upon request of IRIS, Contractor will provide in a form reasonably acceptable to IRIS, reports as to the status of the deliverables under the Work Order. The SOW and any changes relating to the SOW shall be subject to the approval of the IRIS Technical Representative named in the Work Order(s) and only the Technical Representative named in the Work Order(s) may render such approval.

1.2 Other Activities. Contractor may participate in any other activities without obtaining IRIS's approval thereof; provided, however, that such other activities do not interfere with Contractor's ability to perform the SOW, do not involve any violation of this Agreement and are not injurious to the business or reputation of IRIS.

1.3 Tools. Unless otherwise provided in the applicable Work Order, Contractor agrees to provide all materials and equipment necessary to perform the SOW specified in the Work Order.

1.4 Site Visits. IRIS, or any of its designees, has the right, at all reasonable times, to make site visits. Contractor shall provide all reasonable facilities and assistance for the safety and convenience of IRIS or its designees in the performance of its duties. All site visits and evaluations shall be performed in such a manner that will not unduly delay the work.

2. **CONSIDERATION.** Contractor shall be compensated for the work performed and/or materials delivered in accordance with the terms and conditions specified in the Work Order(s).

2.1 Type of Contract (Work Order). IRIS may choose to issue a Cost Reimbursement Contract, Fixed Price Contract, Time and Materials Contract or Labor Hour Contract. However, as recipients of federal funding, IRIS is prohibited from entering into Cost Plus % of Cost and % of Construction Cost contracts. All expenses must be billed at actual cost.

Contractor shall provide detailed information regarding labor hours worked and tasks associated with said labor. As indicated below, receipts for all expenses incurred on behalf of IRIS, shall be submitted with the monthly invoice.

2.2 Invoices. Contractor shall request payment for work performed on an invoice. **All invoices shall reference the Work Order # and include the information specified below.** Invoices shall be submitted no later than (1) month after the month in which services were rendered and submitted to payables@iris.edu. A final invoice shall be designated as "FINAL" and submitted within 30 days after the work is completed.

- Name and address of the contractor
- Work order #
- Invoice date
- Invoice # (if contractor does not have their own invoicing system they may use the WO # - numerical sequence of the invoice number, e.g., WO#02-01)
- Dates work was performed, or expenses incurred
- Description, quantity, unit price and total for labor
- Receipts/supporting documentation for reimbursable expenses
- Itemized list of materials and supplies by quantity, cost per item, and total
- Electronic Funds Transfer (EFT) banking information (optional)
- Certification/Signature – *“By signing this invoice, I certify to the best of my knowledge and belief that the invoice is true, complete, and accurate, and the amounts billed are in compliance with the Master Agreement and Work Order terms and conditions.”*

2.3 Invoicing by Task.

If the contract is budgeted by task, Contractor shall bill each task with associated budget and expenses separately. This may be accomplished by issuing a separate invoice for each task or by submitting one invoice, providing that all tasks are segregated.

3. **CONTRACTOR RELATIONSHIP.** Contractor’s relationship with IRIS is that of an INDEPENDENT CONTRACTOR and not that of an employee, agent or partner. In that regard, neither party to this Agreement shall have any right, power or authority to enter into any agreement for or on behalf of, or incur any obligation or liability on behalf of, or to otherwise bind, the other party. This Agreement shall not be interpreted or construed to create an employment relationship, an association, agency, joint venture or partnership between the parties or to impose any liability attributable to such a relationship upon any party. The Contractor will be solely responsible for all tax returns and payments required to be filed with or made to any federal, state or local tax authority with respect to Contractor’s performance of the SOW and receipt of fees under the Agreement, and the performance of the SOW by its employees, personnel and agents, as applicable. Because Contractor is an INDEPENDENT CONTRACTOR, IRIS will not withhold or make payments for social security or any other purpose; make unemployment insurance or disability insurance contributions; or obtain worker’s compensation insurance on Contractor’s behalf. Accordingly, Contractor expressly agrees that neither it nor its successors, assigns and heirs is entitled to receive any rights, privileges, or benefits from IRIS except as provided herein, and Contractor hereby waives any claims to benefits provided to employees of IRIS. Contractor agrees to accept exclusive liability for complying with all applicable state and federal laws governing self-employed individuals, including obligations such as payment of taxes, social security, disability and other

contributions based on fees paid to Contractor under this Agreement. Contractor agrees to indemnify and defend IRIS against any and all such taxes or contributions, including penalties and interest.

4. CONTRACTOR COVENANTS. Contractor covenants: (a) to use its best efforts to diligently perform the SOW; (b) to perform the SOW in accordance with the highest standards of the industry; (c) to identify itself as a Contractor of IRIS when making contact with IRIS's clients or other third parties, as may be required in the performance of the SOW under this Agreement; (d) to disclose to its employees, personnel and agents, as applicable, the true nature of its relationship with IRIS, and shall not represent itself to them or to any other person or entity as having, and shall not have, the authority to bind or obligate IRIS in any manner; and (e) to obtain and maintain, at all times during the term of this Agreement, all appropriate insurance, normally, at least general liability insurance of \$1,000,000 per accident, \$2,000,000 annual aggregate and worker's compensation insurance; insuring against such risks as shall adequately protect IRIS as set forth herein and/or cover any potential liability arising from the Contractor's performance of its duties hereunder. Upon written request by IRIS, Contractor shall provide to IRIS satisfactory proof of such insurance.

5. TERM AND TERMINATION. The term of this Agreement shall be three (3) years, which may be extended by IRIS for two additional terms upon written notice to the Contractor. This Agreement and/or any activity under a Work Order may be terminated by the parties in the following manner:

5.1 By Contractor. Contractor may, with or without cause, terminate this Agreement and/or any activity under a Work Order, effective not less than sixty (60) days after proper written notice has been hand delivered or sent to IRIS. Termination of this Agreement by Contractor shall not affect Contractor's obligations hereunder which are, by its terms or meaning, of a continuing nature, and such obligations shall remain in full force and effect until excused by IRIS.

5.2 By IRIS. This Agreement and/or any activity under a Work Order may be terminated at any time prior to the scheduled termination or completion date, without prior notice, by the designated representatives of IRIS. Contractor shall be reimbursed for time worked prior to the date of termination, authorized expenses properly invoiced, and for time approved for the preparation of any reports, provided that IRIS does not terminate this Agreement due to Contractor's gross negligence, misconduct or commission of any unlawful act (each action being "For Cause"). In the event IRIS terminates this Agreement For Cause, IRIS shall have no further obligations to compensate Contractor for goods or services provided or expenses incurred under this Agreement.

6. RETENTION OF RECORDS. Contractor will maintain, and make available upon reasonable request, its financial records, supporting documents and other records pertinent to this Contract, during performance of, and for a period of three (3) years after the expiration or earlier termination, of the Contract. In the event that any Work Order negotiated under this Contract exceeds the simplified acquisition threshold (\$150,000) Contractor shall provide access to IRIS, the Federal awarding agency, the Comptroller General of the United States, or any of their duly authorized representatives, to any books, documents, papers and records of the Contractor which are directly pertinent to the performance of this contract for the purpose of making audits, examinations, excerpts and transcriptions.

7. SOFTWARE PRODUCED UNDER THIS CONTRACT.

7.1 The Contractor agrees that any new software or prototypes developed under this Contract will be released via a code management system accessible by IRIS and NSF under an open source license that is among those listed with the Open Source Initiative (www.opensource.org) and is consistent with data rights and intellectual property clauses of applicable to, and/or through, IRIS's SAGE Cooperative Agreement EAR-1724509 (further described in Section 8 below), including the data rights and intellectual property clauses of NSF's CA-FATC (available at: https://www.nsf.gov/awards/managing/co-op_conditions.jsp) and 2 C.F.R. Part 200. Such software will be accompanied with appropriate documentation and specifications to permit independent validation of its performance with respect to the final design products of this Contract and the SAGE Cooperative Agreement.

7.2 The Contractor agrees that the design documents produced under this Contract will include specifications for adequate open-source licensing, documentation standards, and unit-testing procedures to ensure that the entire functionality of the design is replicable and transferable to IRIS and/or NSF or any party IRIS and/or NSF may designate in the future.

7.3 Software design, prototype, and all documentation for the final design shall be made fully transferable upon direction of IRIS and/or NSF. IRIS and/or NSF may make the software design, prototype, and documentation for the final design available to competitors for review during any anticipated re-competition by NSF of the SAGE Cooperative Agreement.

8. RIGHTS IN DATA. Contractor shall, for any Work Order under this Agreement that is funded by the National Science Foundation (NSF) under Cooperative Agreement EAR-1724509, “Enabling Discoveries in Multiscale Earth System Dynamics: Seismological Facility for the Advancement of Geoscience (SAGE)” comply with the following:

- (a) Rights in Data Necessary for Operation and Management. Notwithstanding any other clause of this Agreement, Contractor grants to the NSF in perpetuity the right to use and reproduce data first produced under this Agreement or first produced under prior Agreements subsumed into or superseded by this Agreement without charge or additional expense (except for whatever reasonable costs are incurred by the Contractor to reproduce the data) as necessary for the operation and management of the facility. This includes the right to make such data available to any party interested in competing for any subsequent award to operate and manage the facility, and any Awardee the NSF selects as a result of these competitions.
- (b) Data Types. The types and kinds of data deemed necessary for the operation and management of the facility, includes, but is not limited to:
 - i. Preventive maintenance and calibration guides, histories, and agreements
 - ii. Operating manuals, policies, and similar plans
 - iii. Facility and instrument drawings (including design, shop and as-built drawings), designs and specifications
 - iv. Schematics
 - v. Warranty data
 - vi. NSF reports and annual work plans
 - vii. Schedules
 - viii. Data repository, and all supporting documentation and software
 - ix. Software and manuals
 - x. Inventories
 - xi. Document indexes
 - xii. Subawards, contracts and vendor agreements
 - xiii. Work breakdown structure and dictionary
 - xiv. Operations reports, including data on performance metrics
 - xv. Safety Manuals
 - xvi. Memoranda with third parties
- (c) Data Produced Solely for Scientific Purposes. Rights acquired by the NSF under this clause do not include rights in any data produced solely for scientific research purposes.
- (d) Additional Data. The Contractor must seek IRIS approval to introduce data that was not originated under this contract if such data will be critical to operation and/or management of the facility or systems to which the work under this contract pertains.
- (e) Flow-down Requirements. The Contractor will ensure that the requirements of this clause flow down to all subcontractors and vendors at all tiers.

9. IRIS PROPERTY. Title to all tangible and intangible property owned by IRIS and furnished to the Contractor shall remain in IRIS. Any property owned by IRIS and in the Contractor's possession or control shall be used only in the performance of this Agreement unless otherwise authorized in writing by IRIS. Contractor shall adequately protect such property, and shall return such property to IRIS, or otherwise dispose of it, as directed by IRIS.

10. CONFIDENTIAL INFORMATION. Any information including, but not limited to, data, business information, technical information, specifications, drawings, sketches, models, samples, tools, computer programs and documentation, written, oral or otherwise (all hereinafter designated "Information") furnished to the Contractor under this Agreement, or in contemplation thereof, shall remain the property of IRIS and all Information, whether written, graphic or in other tangible or intangible form, shall be returned to IRIS immediately upon request. Unless such Information was previously known to the Contractor free of any obligation to keep it confidential or has been or is subsequently made public by IRIS, the Information shall be kept strictly confidential by the Contractor shall be used solely in the performance of the SOW being performed hereunder, and may be used for other purposes only upon such terms as consented to in writing by IRIS.

11. CONFLICT OF INTEREST. Contractor represents and warrants that it is not a party to any agreement or arrangement that would preclude it from rendering the SOW to IRIS or otherwise conflict with this Agreement. Contractor shall not accept for Contractor's own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Agreement or the discharge of Contractor's duties. Contractor shall not engage in any business or professional activities, directly or indirectly, that would conflict with the activities assigned under this Agreement or any expected or anticipated future activities. Contractor shall immediately report any potential or suspected violations of this requirement to IRIS.

12. INDEMNIFICATION. Contractor agrees to defend, indemnify and hold harmless IRIS and its respective successors and assigns, employees, officers, agents, heirs and legal representatives from any and all claims or demands arising out of or in connection with the performance of this Agreement, including but not limited to claims for bodily injury and/or death, any claims made under workers' compensation or similar acts, any claims for damage to property (including theft), including the costs, expenses and reasonable attorneys' fees incurred on account thereof and any inaccurate billing or unallowable costs. Contractor shall be responsible for any loss of or damage to property owned by IRIS and in the Contractor's possession or control.

13. RULES AND REGULATIONS.

13.1 General. Contractor shall comply with all applicable federal, state, local laws and regulations and all applicable orders and regulations of the executive and other departments, agencies, and instrumentalities of the United States. Contractor shall indemnify IRIS against any loss, cost, damage, or liability, which IRIS may incur as a result of Contractor's breach of this Section 13.

13.2 Certification. Contractor acknowledges that this Agreement is federally funded and expressly certifies and agrees, in accordance with 2 CFR Part 200.326, that it, he or she is in compliance with and will comply with the requirements of the federal statutes, rules, regulations and orders below, and will promptly report any suspected or reported violations.

(a) Debarment and Suspension. In accordance with 2 CFR part 180.220 that implements E.O.s 12549 (3 CFR, 1986 Comp., p 189) and 12689 (3 CFR, 1989 Comp., p. 235), "Debarment and Suspension," Contractor certifies that to the best of its knowledge and belief that it and its principals:

- 1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency of the U.S. Government;
- 2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them 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 public transaction; violation of Federal or State antitrust statutes or commission of

embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

3) Are 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 (2) of this certification; and

4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or Local) terminated for cause or default.

Where the Contractor is unable to certify to any of the statements in this certification, Contractor shall submit to IRIS a written explanation prior to execution of this Agreement.

Contractor shall provide immediate written notice to IRIS in the event of being suspended, debarred or otherwise declared ineligible from covered transactions by any department or other agency of the U.S. Government, or upon notice of a proposed debarment or suspension.

Contractor agrees to secure from its vendors or participants in transactions expected to equal or exceed \$25,000, certification that such participants are not suspended, debarred, or otherwise declared ineligible from entering into contracts with any department or agency of the U.S. Government, or in receipt of a notice of proposed debarment or suspension.

(a) If any Work Order issued under this Agreement is for the performance of experimental, developmental, or research work “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” (37 CFR Part 401) and any implementing regulations issued by the awarding agency shall apply;

(b) If any Work Order issued under this Agreement exceeds \$150,000 The Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387) each as amended applies, and

(c) If any Work Order issued under this Agreement equals or exceeds \$100,000 Lobbying Certification shall apply. In accordance with the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352), Contractor certifies, to the best of its knowledge and belief, that:

1. No federally appropriated funds have been paid or will be paid, by or on behalf of Contractor, directly or indirectly, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any federal contract, grant, cooperative agreement or any other award covered by U.S.C. 1352;

2. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Agreement, Contractor shall complete and submit Standard Form LLL, “Disclosure Form to Report Lobbying” in accordance with its instructions; and

3. Contractor shall require that the language of this certification be included in the award documents for all subcontracts at all tiers and that all subcontractors shall certify and disclose accordingly.

14. GOVERNING LAW. This Agreement shall be governed, interpreted and enforced according to the laws of the District of Columbia, without regard to its conflict of laws provisions.

15. DISPUTES; WAIVER OF JURY TRIAL. THE PARTIES AGREE TO WAIVE ALL RIGHTS TO TRIAL BY JURY. In the event of any dispute or disagreement relating to or arising out of this Agreement or its performance, the aggrieved party shall notify the other party and provide a detailed description of the alleged problem. The parties agree to use reasonable efforts to resolve such dispute by good faith negotiations and mutual agreement. In the event such informal resolution is not successful within a reasonable amount of time, the parties shall waive all rights to trial by jury and submit all such claims before a judge of a court having jurisdiction without a jury.

16. ASSIGNMENT.

16.1 Contractor acknowledges and agrees that IRIS is relying on Contractor's particular skills and that the work assigned to Contractor requires those specific skills. Any assignment or attempted assignment by Contractor of this Agreement, in whole or in part, or any other interest, right or obligation hereunder without IRIS's written consent, shall be null and void, and shall constitute a termination of this Agreement by IRIS.

16.2 If this Agreement is issued under an award from the National Science Foundation (NSF). IRIS reserves the right to assign this Agreement to any third party should a successor awardee be selected by the NSF.

17. WAIVER AND SEVERABILITY. No provision of this Agreement shall be deemed to have been waived unless such waiver is in writing. Any waiver shall extend only to the particular case, and only in the manner specified, and shall not be construed in any way to be a waiver of any further or other rights hereunder. The invalidity or enforceability of any provision of this Agreement, or any application thereof, shall not affect or impair any other provision or the validity or unenforceability of the remainder of this Agreement, or any other application thereof.

18. NOTICES. Notices concerning this Agreement shall be delivered as follows:

For IRIS:

IRIS
Attn: Sponsored Projects Office
1200 New York Avenue, NW
Suite 400
Washington, DC 20005

For Contractor:

19. ENTIRE AGREEMENT. This Agreement and all attachments, including but not limited to any and all Work Orders issued pursuant to this Agreement and signed by both parties, shall constitute the full and complete understanding and agreement between the parties with respect to the subject matter of the agreement, and all prior and contemporaneous agreements and understandings, oral or written, are superseded by the written terms of this Agreement. All modifications must be in writing and signed by the President of IRIS or his designee. No verbal agreements or conversations with any officer or employee of either party shall affect or modify any of the terms and conditions of this Agreement.

20. COUNTERPARTS. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument and may be delivered via facsimile or electronic transmission.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement below as of the day and year written.

CONTRACTOR:

Independent Contractor

By: _____
Signature

Name: _____

Title: _____

DATE: _____

Address: _____

Phone No.: _____

Email: _____

IRIS:

Incorporated Research Institutions for Seismology

By: _____
Signature

Name: Robert L. Woodward, PhD

Title: President

DATE: _____