

April 2005

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## INDEPENDENT CONTRACTOR AGREEMENT

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This Independent Contractor Agreement ("Agreement") is made and commencing the 2<sup>nd</sup> of May 2005

**BETWEEN:** **Pitagoral Europa S.L.**  
a limited company registered in Cádiz, Spain, represented by Pablo Pita Leira  
who will act as the "Independent Contractor", with address:  
Calatrava 3 - 1, 11100 San Fernando, Spain

**AND:** **HE Space Operations GmbH** (the "Company"), a corporation organized and  
existing under the laws of Germany, with its head office located at:  
Flughafenallee 24, 28199 Bremen, Germany

### RECITALS

Independent Contractor is engaged in providing software services for various applications, his personal Tax I.D. Number is 32855071-P, and its Business Tax I.D. is B-11481173. Independent Contractor has complied with all laws regarding business permits, sales permits, licenses, reporting requirements, tax withholding local requirements, and other legal requirements of any kind that may be required to carry out said business which is to be performed as an Independent Contractor pursuant to this Agreement. Independent Contractor is or remains open to conducting similar tasks or activities for clients other than the Company and holds themselves out to the public to be a separate business entity.

Company desires to engage and contract for the services of the Independent Contractor to perform certain tasks as set forth below. Independent Contractor desires to enter into this Agreement and perform as an independent contractor for the company and is willing to do so on the terms and conditions set forth below.

NOW, THEREFORE, in consideration of the above recitals and the mutual promises and conditions contained in this Agreement, the Parties agree as follows:

### 1. TERMS

This Agreement shall be effective commencing May 2, 2005, and shall continue until terminated at the completion of the Scope of Work which shall occur no later than October 31, 2005 or by either party as otherwise provided herein.

### 2. STATUS OF INDEPENDENT CONTRACTOR

This Agreement does not constitute a hiring by either party. It is the parties intentions that Independent Contractor shall have an independent contractor status and not be an employee for any purposes. Independent Contractor shall retain sole and absolute discretion in the manner and means of carrying out its activities and responsibilities under this Agreement. This Agreement shall not be considered or construed to be a partnership or joint venture, and the Company shall not be liable for any obligations incurred by Independent Contractor unless specifically authorized in writing. Independent Contractor shall

**Attachment 1: Scope of Work****JAVA Software development for Space Systems**

The JAVA software development under this contract shall support the following projects:

- Development of software for a crew interface laptop for the International Space Station in cooperation with the team of EADS Space Transportation and the European Astronauts, including but not limited to the following tasks:
  - Development of required software packages
  - Test and verification of software packages
  - Implementation of software packages
- Standardization of software for telecommand and control systems for communication with the International Space Station as part of the Monitoring and Control system, including but not limited to the following tasks:
  - Definition of telemetry format
  - Enhancement of existing format
  - Development of required software packages
  - Test and verification of software packages
  - Implementation of software packages
- ECSS System Engineering Database for Telecommand/Telemetry formats

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**Scope of work**

Support to the Templated Command Instances (TCI) project. This project is a part of the Columbus MCS (Mission Control System), the system for monitoring and controlling the operation of commands in Columbus.

The tasks cover but no be limited to the following :

- Provide documentation of test procedures for the TCI project:
  - Generation of TCIs in CSV format (comma separated values) from the XML SCOE file templates
  - Saving TCIs to the MDB (Mission Database)
  - Exporting of TCIs to CSV format from existing TCIs
- -Support the TCI requirement verification
  - Relate the steps on the test procedures with the requirements that are verified when executing the test.
- Support testing of new functionality related to the TCI project

The work requires getting familiar with the TCI requirements and the use of the MCS Tools software. This MCS Tools application will be used for most of the procedures. The application is currently being enhanced to implement the requirements.



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not act as an agent of the Company, ostensibly or otherwise, nor bind the Company in any manner, unless specifically authorized to do so in writing.

### 3. TASKS, DUTIES, AND SCOPE OF WORK

- a. Independent Contractor agrees to devote as much time, attention, and energy as necessary to complete or achieve the following: Described in Attachment 1, Scope of Work. The above to be referred to in this Agreement as the "Scope of Work". It is expected that the Scope of Work will be completed by ~~December 31, 2005~~ *October*, 2005.
- b. Independent Contractor shall additionally perform any and all tasks and duties associated with the Scope of Work set forth above, including but not limited to, work being performed already or related change orders. Independent Contractor shall not be entitled to engage in any activities which are not expressly set forth by this Agreement.
- c. The books and records related to the Scope of Work set forth in this Agreement shall be maintained by the Independent Contractor at the Independent Contractor's principal place of business and open to inspection by Company during regular working hours. Documents to which Company will be entitled to inspect include, but are not limited to, any and all contract documents, change orders/purchase orders and work authorized by Independent Contractor or Company on existing or potential projects related to this Agreement.
- d. Independent Contractor shall be responsible to the management and directors of Company, but Independent Contractor will not be required to follow or establish a regular or daily work schedule. Supply all necessary equipment, materials and supplies. Independent Contractor will not rely on the equipment or offices of Company for completion of tasks and duties set forth pursuant to this Agreement. Any advice given Independent Contractors regarding the scope of work shall be considered a suggestion only, not an instruction. Company retains the right to inspect, stop, or alter the work of Independent Contractor to assure its conformity with this Agreement.

### 4. COMPENSATION

- a. Independent Contractor shall be entitled to compensation for performing those tasks and duties related to the Scope of Work as follows:

Hourly rate: 50 €

A maximum of 903 working hours is agreed for duration of this contract.
- b. Independent Contractor shall invoice Company monthly
- c. Payment shall be made within 30 days, upon receipt of the invoiced days specified in the monthly timesheet with a summary of the work performed, ongoing actions and problem areas.
- d. Independent Contractor shall bear all of Independent Contractor's cost incurred in the performance of this Agreement
- e. Mission travel is organized for and paid by the customer EADS Transportation. The Independent Contractor shall comply with the travel regulations and rules set by EADS Transportation.



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**5. NOTICE CONCERNING WITHHOLDING OF TAXES**

Independent Contractor recognizes and understands that it will be required to file corporate and/or individual tax returns and to pay taxes in accordance with all provisions of applicable law of the country of Independent Contractor's registration. Independent Contractor hereby promises and agrees to indemnify the Company for any damages or expenses, including attorney's fees, and legal expenses, incurred by the Company as a result of independent contractor's failure to make such required payments.

**6. AGREEMENT TO WAIVE RIGHTS TO BENEFITS**

- a. Independent Contractor hereby waives and foregoes the right to receive any benefits given by Company to its regular employees, including, but not limited to, health benefits, vacation and sick leave benefits, profit sharing plans, etc. This waiver is applicable to all non-salary benefits which might otherwise be found to accrue to the Independent Contractor by virtue of their services to Company, and is effective for the entire duration of Independent Contractor's agreement with Company. This waiver is effective independently of Independent Contractor's employment status as adjudged for taxation purposes or for any other purpose.
- b. Neither this Agreement, nor any duties or obligations under this Agreement may be assigned by either party without the consent of the other.

**7. TERMINATION**

This Agreement may be terminated prior to the completion or achievement of the Scope of Work by either party giving 1 month written notice. Such termination shall not prejudice any other remedy to which the terminating party may be entitled, either by law, in equity, or under this Agreement.

**8. NON-DISCLOSURE OF TRADE SECRETS, CUSTOMER LISTS AND OTHER PROPRIETARY INFORMATION**

- a. Independent Contractor agrees not to disclose or communicate, in any manner, either during or after Independent Contractor's agreement with Company, information about Company, its operations, clientele, or any other information, that relate to the business of Company including, but not limited to, the names of its customers, its marketing strategies, operations, or any other information of any kind which would be deemed confidential, a trade secret, a customer list, or other form of proprietary information of Company. Independent Contractor acknowledges that the above information is material and confidential and that it affects the profitability of Company.
- b. Independent Contractor understands that any breach of this provision, or that of any other Confidentiality and Non-Disclosure Agreement, is a material breach of this Agreement. To the extent Independent Contractor feels they need to disclose confidential information, they may do so only after obtaining written authorization from the General Manager of the Company.



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**9. NON-SOLICITATION**

Independent Contractors shall not, during the Agreement and for a period of one year immediately following termination of this Agreement, either directly or indirectly, call on, solicit, or take away, or attempt to call on, solicit, or take away, any of the customers or clients of the Company on whom Independent Contractor called or became acquainted with during the terms of this Agreement, either for their own benefit, or for the benefit of any other person, firm, corporation or organization.

**10. NON-RECRUIT**

Independent Contractor shall not, during this Agreement and for a period of two years immediately following termination of this agreement, either directly or indirectly, recruit any of Company's employees for the purpose of any outside business.

**11. NON-COMPETITION**

The Independent Contractor shall not, during the term of this contract or within (12) months after termination of this Agreement, accept employment or consulting contracts directly or indirectly in competition with the company contract with the customer currently being performed and expected to be continued or proposed to be performed by the Company or its Affiliates. This provision will survive the termination of this agreement by the above-mentioned period of (12) months.

To be sure about which contracts are subject to this agreement the Independent Contractor will undersign at the end of this agreement a so-called relation-clause in which the specific contracts are mentioned.

The Company has the right to waive the non-competition agreement by a written statement to the Independent Contractor.

**12. RETURN OF PROPERTY**

On termination of this Agreement, or whenever requested by the parties, each party shall immediately deliver to the other party all property in its possession, or under its care and control, belonging to the other party to them, including but not limited to, proprietary information, customer lists, trade secrets, intellectual property, computers, equipment, tools, documents, plans, recordings, software, and all related records or accounting ledgers.

**13. EXPENSE ACCOUNTS**

Independent Contractor and the Company agree to maintain separate accounts in regards to all expenses related to performing the Scope of Work. Independent Contractor is solely responsible for payment of expenses incurred pursuant to this Agreement unless provided otherwise in writing by the General Manager of the company. Independent Contractor agrees to execute and deliver any agreements and documents prepared by Company and to do all other lawful acts required to establish document and protect such rights.

**14. WORKS FOR HIRE**

Independent Contractor agrees that the Scope of Work, all tasks, duties, results, inventions and intellectual property developed or performed pursuant to this Agreement are considered "works for hire" and that the results of said work is by virtue of this Agreement assigned to the Company and shall be the

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sole property of Company for all purposes, including, but not limited to, copyright, trademark, service mark, patent, and trade secret laws.

#### **15. LEGAL COMPLIANCE**

Independent Contractor is encouraged to treat all company employees, customers, clients, business partners and other affiliates with respect and responsibility. Independent Contractor is required to comply with all laws, ethical codes and company policies, procedures, rules or regulations, including those forbidding sex harassment, discrimination, and unfair business practices.

#### **16. LICENSING AND GENERAL LIABILITY INSURANCE**

Independent Contractor agrees to immediately supply the Company with proof of any licensing status required to perform the Scope of Work pursuant to this Agreement and General Liability Insurance upon request of the Company.

#### **17. NOTICES**

Any notice to be given hereunder by any party to the other may be affected either by personal delivery in writing, or by mail, registered or certified, postage pre-paid with return receipt requested. Mailed notices shall be addressed to the parties at the addresses appearing in the introductory paragraphs of this Agreement, but each party may change their address by written notice in accordance with this paragraph. Notices delivered personally shall be deemed communicated as of actual receipt; mailed notices shall be deemed communicated as of five (5) days after mailing. Independent Contractor agrees to keep Company current as to their business and mailing addresses, as well as telephone, facsimile, email and mobile numbers.

#### **18. ATTORNEY'S FEES AND COSTS**

If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, costs and necessary disbursements incurred both before or after judgment in addition to any other relief to which such party may be entitled.

#### **19. MEDIATION AND ARBITRATION**

Any controversy between the parties to this Agreement involving the construction or application of any of the terms, provisions, or conditions of this Agreement, shall on written request of either party served on the other, be submitted first to mediation and then if still unresolved to binding arbitration. Said mediation or binding arbitration shall comply with and be governed by the provisions of the France unless the Parties stipulate otherwise. The parties shall each appoint one person to hear and determine the dispute and, if they are unable to agree, then the two persons so chosen shall select a third impartial arbitrator whose decision shall be final and conclusive upon both parties. The attorneys' fees and costs of arbitration shall be borne by the losing party, as set forth in paragraph 18, unless the Parties stipulate otherwise, or in such proportions as the arbitrator shall decide.





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## 20. REPRESENTATION

Each party of this Agreement acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by any party hereto, or anyone acting on behalf of any party hereto, which are not embodied herein, and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding. Any modification of this Agreement shall be effective only if it is in writing, signed and dated by all parties hereto.

## 21. INDEMNIFICATION

Independent Contractor shall defend, indemnify, hold harmless, and insure Company from any and all damages expenses or liability resulting from or arising out of, any negligence or misconduct on Independent Contractor's part, or from any breach or default of this Agreement which is caused or occasioned by the acts of Independent Contractor. Independent Contractors shall insure that its employees and affiliates take all actions necessary to comply with the terms and conditions set forth in this Agreement. Independent Contractor shall name Company as an additional insured on all related insurance policies including general liability.

## 22. CONTAINMENT OF ENTIRE AGREEMENT

This Agreement is an independent document and supersedes any and all other Agreements, either oral or in writing, between the parties hereto, except any Confidentiality, Trade Secret, Non-Compete, Non-Disclosure, Indemnification or Arbitration Agreement. This Agreement contains all of the covenants and Agreements between the parties, except for those set forth in any Confidentiality, Trade Secret, Non-Compete, Non-Disclosure, or Arbitration Agreement.

## 23. PARTIAL INVALIDITY

If any provision of this Agreement is held by a Court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force and effect without being impaired or invalidated in any way. This Agreement shall not be terminated by the merger or consolidation of the Company into or with any other entity.

## 24. GOVERNING LAW

This Agreement shall be governed by, and construed under, the laws of Germany, State of Bremen.

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

HE Space Operations GmbH

Authorized Signature

Claudia Kessler, General Manager

*Bremen 7.5.05*

Pablo Pita Leira

Authorized Signature



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## INDEPENDENT CONTRACTOR AGREEMENT

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Prolongation of contract No. CTR-DE-0405-5007 for "Support in Software Development" for the time frame from October 1, 2005, to March 31, 2006. All terms and conditions of the previous contract remain applicable.

**BETWEEN:** **Pitagoral Europa S.L.**  
a limited company registered in Cádiz, Spain, represented by Pablo Pita Leira who will act as the "Independent Contractor", with address:  
Calatrava 3 - 1, 11100 San Fernando, Spain

**AND:** **HE Space Operations GmbH**, a corporation organized and existing under the laws of Germany, with its head office located at:  
Flughafenallee 24, 28199 Bremen, Germany

The work will be performed according to the enclosed Statement of Work.

**HE Space Operations GmbH**



Authorized Signature / Date

Claudia Kessler, General Manager

**Pablo Pita Leira**



Authorized Signature /Date