

**SUBCONTRACT TO HOWARD UNIVERSITY**  
University of Puerto Rico, Mayaguez Proposal to the NOAA Center for  
Atmospheric Sciences (NCAS) at Howard University

Roy Armstrong, Principal Investigator

**Statement of Work**

Howard University has submitted and been awarded a proposal to NOAA in conjunction with the University of Texas at El Paso, Jackson State University, and the University of Puerto Rico, Mayaguez (UPRM). The purpose of this proposal is to increase the ability of this group of universities to provide research, education, and training in the atmospheric sciences relevant to NOAA and the NWS.

The UPRM will perform the following tasks under this subcontract:

- 1) Provide research opportunities to students in the physical sciences
- 2) Participate in the development of a joint course in Remote Sensing
- 3) Participate in shared courses
- 4) Organize and implement a summer intensive workshop in Remote Sensing and Image Analysis
- 5) Participate in the central research of the NCAS by providing direct satellite data from AVHRR, MODIS, SeaWIFS, LandSat, and RADARSAT.
- 6) Provide training to faculty and students in image analysis
- 7) Participate on the NCAS science team
- 8) Provide student and faculty exchange opportunities
- 9) Co-sponsor and participate in the annual conference to be held in El Paso, Texas

**UPRM Budget for Howard University**

**Personnel (Faculty and Students)**

Roy Armstrong

Rafael Fernandez-Sein

Post-Doctoral Researcher

Technician

Part-time bookkeeper

Fringe Benefits Faculty @ 9.2%

Fringe Benefits Other Personnel @ 25.2%

Health Plan & Xmas Bonus

**Total Personnel & Benefits**

Undergraduate Student Award

Graduate Students (2)

Graduate Student Tuition & Health Plan

Student Internships

**Total Student**

**Supplies**

Lab and Field Supplies

Calibration and software

**Travel**

Faculty Travel

Student Travel

**Equipment**

Laboratory and computer equipment

**Other**

Infrastructure

**Indirect Costs**

Standard Rate (48.8%)

**TOTAL**

SUBCONTRACT AGREEMENT

No. 634554-159793

BETWEEN

HOWARD UNIVERSITY

AND

University of Puerto Rico at Mayaguez

This SUBCONTRACT AGREEMENT is made by and between Howard University, having offices at 2400 Sixth Street, N.W., Washington, D.C. 20059, (hereinafter referred to as "Contractor") and the University of Puerto Rico at Mayaguez having offices at P.O. Box 9001 R&D Center Mayaguez, Puerto Rico 00681-9001 (herein referred to as "Subcontractor").

**PREMISES**

**WHEREAS**, HU is the prime grantee to the United States National Oceanic and Atmospheric Administration (hereinafter referred to as the "Customer") pursuant to the terms of prime cooperative agreement number NA17AE1623 (hereinafter referred to as the "cooperative agreement");

**WHEREAS**, the Subcontractor desires to provide work under this AGREEMENT in furtherance of Howard University's obligation under the cooperative agreement;

**WHEREAS**, the Subcontractor has represented that it has sufficient expertise to provide such services and satisfy requirements of the cooperative agreement pertaining to such matters;

**WHEREAS**, HU has relied upon such representation as a material inducement to enter into this AGREEMENT; and

**WHEREAS**, it is in the mutual interest of the parties to this AGREEMENT for HU to obtain the services of the University of Puerto Rico at Mayaguez as a subcontractor under the cooperative agreement in return for the payment of fair and reasonable consideration, as further specified herein.

**NOW THEREFORE**, in consideration of the premises, covenants, and conditions contained in this AGREEMENT, the parties mutually agree as follows:

**COVENANTS**

1.0 **RELATIONSHIP OF PARTIES**

At all times under this AGREEMENT the Subcontractor shall be considered an independent contractor. Nothing contained herein, nor any course of action or failure to act shall be construed to create an employment or agency relationship between

the parties.

**2.0 SCOPE OF WORK**

2.1 The Subcontractor shall perform the work specified in the Scope of Work (Exhibit A) which is incorporated herein.

**3.0 ACCEPTANCE OF PERFORMANCE**

The Contractor shall perform the work described in section 2.0 to the satisfaction of the Customer. The Parties hereby agree that the Contractor shall recognize performance of the Subcontractor as satisfactory and in compliance with such section only if and to the extent that the Customer considers such performance satisfactory.

**4.0 FACILITIES, EQUIPMENT AND LABOR**

4.1 In performance of the Scope of Work described in section 2.0, the Subcontractor shall be solely responsible for acquiring the use of such facilities, equipment and tools, and employing such labor as may be necessary to render the required tasks and services.

4.2 For that work the Contractor may require work to be performed at its facilities, the Subcontractor shall use such equipment and tools as the Contractor may permit and performance shall be rendered on such days and during such times of the day as are specified by the Contractor.

**5.0 TAXES**

The Subcontractor warrants and represents that it will timely collect and pay to the appropriate taxing authorities such social security and payroll taxes and all other tax liabilities that may be incurred by it as a result of performance rendered under this AGREEMENT.

**6.0 TERM OF PERFORMANCE**

October 1, 2001 through September 30, 2002

Unless this AGREEMENT is partially terminated in accordance with paragraph 25.2, performance by the Subcontractor hereunder shall not exceed the term of the Contract.

**7.0 APPROVAL OF CUSTOMER**

No performance shall commence under this AGREEMENT pursuant to Section 2.0 unless the Customer first approves of this AGREEMENT and of the qualifications of the Subcontractor to

render such performance. The Contractor shall incur no obligation to pay the Subcontractor any amount of the consideration agreed to hereunder unless such approvals are obtained and such performance is actually rendered by the Subcontractor.

#### 8.0 **TYPE OF AGREEMENT**

Cost Reimbursement - (CFR16.301-1) Cost-reimbursement types of contracts provide for payment of allowable incurred costs, to the extent prescribed in the contract. These contracts establish an estimate of total cost for the purpose of obligating funds and establishing a ceiling that the contractor may not exceed (except at its own risk) without the approval of the Contractor. Accordingly, cost incurred will be reimbursed in a manner consistent with the above referenced code. In no event, may such cost exceed **\$290,536** (as detailed in Exhibit B) for the work described in paragraph 2.1.

#### 9.0 **TERMS OF PAYMENT**

9.1 Subcontractor shall prepare and submit invoices to the Contractor once per month. Such invoices shall include provision for all current invoices accepted from the Subcontractor for the work performed under this Subcontract. Contractor will pay Subcontractor for each invoice within 30 days of receipt by Contractor of such invoices.

9.2 The Subcontractor shall submit invoices to the Contractor no less frequently than monthly for work performed under this Subcontract.

9.3 In the event this Subcontract is terminated pursuant to Section 25.0 for other than a material breach of a term or condition by the Subcontractor, the Subcontractor shall be entitled to compensation for the reasonable value of performance actually rendered. Such compensation shall be negotiated in good faith and such negotiations shall begin no later than thirty days after the effective date of the termination.

9.4 Invoices will include the Subcontract identification number and will be signed by an authorized representative of the Subcontractor. Invoices will be sent to the contractor's representative specified in Section 10.0.

#### 10.0 **NOTICES**

10.1 Except as specifically provided for in paragraphs 10.2 and 10.3, all notices, designations and other communications contemplated under this AGREEMENT shall be in writing and shall

be either personally delivered, or transmitted by certified mail, facsimile transmission, wire, or other device reasonably calculated to effect delivery of documents within three (3) calendar days. Unless otherwise agreed to in writing by the parties, such notices, designations, and communications shall be sent to the parties at the addresses noted below:

If to the Contractor:

Howard University  
Office of Research Administration  
2400 Sixth Street, N.W.  
Washington, D.C. 20059  
Attn: Ms. S. Terrie Bowen, Financial Research Administrator

If to the Subcontractor

University of Puerto Rico at Mayaguez  
P.O. Box 9001 R&D Center  
Mayaguez, Puerto Rico 00681-9001  
Attn: Ms. Mayra Borrero, Financial Officer

10.2 Mr. Gilbert R. McDonald, Interim Director Office of Research Administration, shall administer this Agreement on behalf of Howard University and shall be the only individual authorized to act on behalf of the Contractor. Howard University reserves the right to change the designation specified in the preceding sentence by a unilateral modification to this Agreement signed by the University's Chief Financial Officer or designee. Such modification shall be forwarded to the person designated pursuant to 10.3.

10.3 Ms. Mayra Borrero, Financial Officer, shall be the authorized representative of the Subcontractor and shall be the only individual authorized to act on behalf of the Subcontractor. The Subcontractor reserves the right to change the designation specified in the preceding sentence by a unilateral modification to this AGREEMENT signed by the Subcontractor's signatory to this Agreement. Such modification shall be forwarded to the person designated pursuant to 10.2.

10.4 Unilateral modifications made pursuant to paragraphs 10.2 or 10.3 shall be communicated, in writing, to the non-modifying party in accordance with the notice provisions of paragraph 10.1.

#### 11.0 **KEY PERSONNEL**

11.1 The following individuals within the employ of the Subcontractor shall be deemed "key personnel" for the performance of the work described in section 2.0.

Dr. Roy Armstrong

11.2 Key personnel are considered to be essential to the work being performed hereunder. Prior to diverting any of the specified key personnel to other programs or otherwise replacing key personnel, the Subcontractor shall notify the Contractor reasonably in advance and shall submit to the Contractor written justification (including the qualifications of proposed substitutions) in sufficient detail to permit evaluation of the impact on the work to be performed under section 2.0. No diversion or replacement shall be made by the Subcontractor without the written consent of the person identified in paragraph 10.2; provided that, the Contractor may ratify, in writing, such diversion or replacement and such ratification shall constitute the consent of the Contractor required by this paragraph.

## 12.0 **REPORTS AND INFORMATION; CONTACTS WITH THE CUSTOMER**

12.1 Subcontractor shall furnish to Contractor all progress reports and information required by Contract in connection with the performance rendered hereunder by the Subcontractor. Such reports and information shall be in the format required by the Contract.

12.2 Subcontractor agrees to keep separate written records in reasonable detail of all costs incurred and work performed by it pursuant to this AGREEMENT and all written records and any other data, drawings, prints, and information of whatsoever form prepared during or evolved from its services for Contractor pursuant to this AGREEMENT shall be available to Contractor at all reasonable times. Subcontractor further agrees to be bound by the Federal Acquisition Regulation regarding Examination of Records by the Comptroller General. Cost and work records must be maintained in accord with generally accepted accounting principles and Part 99 of Title 48, Code of Federal Regulations, for a period of three (3) years from completion of this Subcontract. Such records will be provided as required, and in the format requested by the Contractor. The provisions of this paragraph 12.2 shall not apply to any work performed or products supplied on a firm fixed-price basis, as defined in 48 C.F.R. 16.202-1.

## 13.0 **COMMUNICATIONS WITH CUSTOMER**

13.1 All Subcontractor communications with the Customer relative to work to be performed under this Subcontract will include the Contractor and, at all times, shall be conducted in a manner so as to keep Contractor promptly and fully informed. Subcontractor shall take no direction from any party other than

Contractor's authorized representative.

13.2 The Contractor shall: (a) furnish to Subcontractor all information made available to Contractor from the Customer as to the requirements for work to be performed by Subcontractor; and (b) consult with Subcontractor before issuing interpretations or clarifications of Subcontractor's reports or materials.

#### 14.0 **INSURANCE AND INDEMNIFICATION**

14.1 Subcontractor agrees and, if requested, will submit evidence to Contractor before beginning work that it has secured and will maintain such insurance as will reasonably protect it from claims under Workers Compensation and claims for damages to persons or property caused by the acts or omissions of its employees. Such insurance shall include workers compensation, and such employer's liability, comprehensive general liability (bodily injury and property damage) insurance as Contractor may from time to time reasonably require with respect to performance under this Subcontract.

14.2 Subject to the provisions of paragraph 14.3, neither party to this AGREEMENT shall be responsible for any obligation or liability incurred or assumed by the other party or its employees, affiliates, or other agents and each party hereby indemnifies and holds the other party harmless from any claim arising from its own acts or omissions or those of its employees, affiliates or agents.

14.3 Nothing contained in paragraph 14.2 shall prevent the Contractor from filing and pursuing an action for damages against the Subcontractor, pursuant to Section 25.0 for the Subcontractor's failure to satisfactorily render performance pursuant to Section 2.0.

#### 15.0 **CONFLICT OF INTEREST**

15.1 The Subcontractor warrants and represents that, at the time for execution of this AGREEMENT, there is no actual or apparent conflict of interest with respect to its undertaking of the work to be performed hereunder. The Subcontractor further agrees and warrants that it will avoid any actual or apparent conflict of interest relative to the work being performed under this AGREEMENT and that it will promptly submit to the Contractor, for its determination of applicability under this paragraph, the facts of any situation that may reasonably give rise to such a conflict or apparent conflict.

15.2 Nothing contained in paragraph 15.1 shall be deemed as a prohibition of the Subcontractor's rights as an independent contractor to market or provide its services or products to others in a manner, and to an extent, that does not violate such



paragraph.

**16.0 REPRESENTATIONS CONCERNING FEDERAL TRANSACTIONS AND  
PROCUREMENT INTEGRITY**

16.1 (a) The definitions and prohibitions contained in the clause at FAR 52.203-12, Limitation on Payments to influence certain Federal Transactions, are hereby incorporated by reference in clause (b) of this representation.

(b) The Subcontractor, by signing this Subcontract, hereby certifies to the best of its knowledge and belief that on or after December 23, 1989 -

- (1) No Federal 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 on his or her behalf in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement;
- (2) If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) 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 on his or her behalf in connection with this Contract or Subcontract, the subcontractor shall complete and submit, with its offer, OMB standard form LLL, Disclosure of Lobbying Activities, to the Contracting Officer; and
- (3) The Subcontract will include the language of this certification in all further subcontracts in excess of \$100,000 it may award under this Subcontract.

(c) Submission of this certification and disclosure is a prerequisite for making or entering into this Subcontract

imposed by Section 1352, Title 31, United States Code. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.

16.2 The clause recited at FAR 52.203-12 (Limitation on Payments to Influence Certain Federal Transactions), is included herein by this reference. The term "Contractor" contained in such clause shall be deemed to include the Subcontractor under this Subcontract AGREEMENT.

16.3 The Subcontractor represents as follows:

(a) I, \_\_\_\_\_, am responsible for the preparation and submission of the offer that resulted in the execution of this AGREEMENT and I hereby certify that to the best of my knowledge and belief, with the exception of any information described in this certificate, I have no information concerning a violation or possible violation of subsection 27(a), (b), (d), or (f) of the Office of Federal Procurement Policy Act, as amended (41 U.S.C. 423), (hereinafter referred to as "the Act"), as implemented in the FAR, occurring during the conduct of this procurement.

(2) As required by subsection 27(e)(1)(B) of the Act, I further certify that to the best of my knowledge and belief, each officer, employee, agent, representative, and consultant of the Consultant who has personally and substantially participated in the preparation or submission of this offer has certified that he or she is familiar with, and will comply with, the requirements of subsection 27(a) of the Act. As implemented in the FAR, and will report immediately to me any information concerning a violation or possible violation of subsections 17(a), (b), (d), or (f) of the Act, as implemented in the FAR, pertaining to this procurement.

(3) Violations or possible violations: (Continue on plain bond paper if necessary and label Certificate of Procurement Integrity (Continuation Sheet), ENTER "NONE" IF NONE EXIST) \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(4) I agree that, if awarded this AGREEMENT, the certifications required by subsection 27(e)(1)(B) of the Act shall be maintained by the Subcontractor for six (6) years from the date a certifying employee's employment with the Subcontractor ends or, for an agent, representative, or consultant, six (6) years from the date such individual ceases to

act on behalf of the Subcontractor.

Signature \_\_\_\_\_  
Name \_\_\_\_\_  
Date \_\_\_\_\_

This certification concerns a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001.

17.0 **FEDERAL GOVERNMENT CONTRACT REQUIREMENTS: INCORPORATION BY REFERENCE**

17.1 The Subcontractor represents and warrants that it, or its agents or representatives, are familiar with the laws of the United States dealing with or affecting the acquisition of goods and services by the Federal Government and that, to the best of its knowledge, it is and will remain in compliance with all such laws that relate to its performance under this Subcontract AGREEMENT.

17.2 The Subcontractor represents and warrants that it, or its agents or representatives are familiar with the Federal Acquisition Regulation ("FAR") (Title 48 Code of Federal Regulations) and Presidential Executive Orders dealing with or affecting the acquisition of goods and services by the Federal Government and that, to the best of its knowledge, it is and will remain in compliance with such Regulation and Executive Orders that relate to its performance under this Subcontract AGREEMENT.

17.3 There are hereby incorporated by reference in this Subcontract AGREEMENT such contract clauses as are contained in Title 48 of the Code of Federal Regulations that may be required by law, regulation, or the Contract to be included herein. When necessary to make such clauses applicable to this Subcontract AGREEMENT the term "contractor" shall mean "Subcontractor" and the terms "Contracting Officer," "Government," "Federal Government," "agency," or "Federal agency" shall mean "Howard University" whenever appearing in the clauses.

18.0 **RESTRICTION ON SUBCONTRACTING AND ASSIGNMENTS**

Without the prior written consent of the Contractor, the Subcontractor shall not:

- (a) Subcontract any part of the work required pursuant to Section 2.0; or
- (b) assign or transfer any right, interest, responsibility or duty under this Subcontract AGREEMENT.

19.0           **AUTHORITY TO ACT**

19.1           The signatories hereto warrant and represent that they have the power and authority to enter into this AGREEMENT and to consummate the transactions contemplated hereby and have been duly authorized to execute this AGREEMENT.

19.2           The Subcontractor certifies that it is not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.

20.0           **RESTRICTION ON HIRING OF EMPLOYEES**

                During the period of Subcontract performance, the Contractor and Subcontractor agree:

- (a) Not to engage in the recruitment of other's employees; and
- (b) If either party intends to hire an employee of the other, it will so notify the other party at least (30) days prior to the intended date of employment.

21.0           **CONFIDENTIAL AND PROPRIETARY INFORMATION**

21.1           During the term of this Subcontract AGREEMENT, the Parties, to the extent of their right to do so, and as is required for each to perform its obligation hereunder, may exchange proprietary and confidential information. Proprietary and confidential information are defined as, but not limited to, performance, revenue, financial, cost, contractual, and special marketing information, ideas, technical data and concepts originated by the disclosing Party, not previously published or otherwise disclosed to the general public, not previously available to the receiving Party or others without restriction, not normally furnished to others without compensation, which the disclosing Party desires to protect against unrestricted disclosure or competitive use, and which is furnished pursuant to this Subcontract AGREEMENT and appropriately identified as being proprietary or confidential when furnished.

21.2           The receiving Party of proprietary or confidential information agrees to hold such information in confidence, subject to the provision of this Section 21.0. All such information shall be returned to the originating party upon demand, or upon termination of this AGREEMENT, whichever shall occur sooner.

21.3           Each Party will designate, in writing, one or more individuals within their own organization as the only person(s)

for receiving proprietary or confidential information exchanged between the Parties pursuant to this AGREEMENT. All proprietary or confidential information received from a Party will be in writing, clearly identified as proprietary or confidential, marked in accordance with FAR 52.215-12 or similar marking, and addressed to the individual designated to receive proprietary or confidential information. When properly identified proprietary information is provided orally, it shall be reduced to writing within 15 days of its disclosure, with appropriate legends affixed.

21.4 Proprietary or confidential information which is exchanged may be used by the receiving Party only in connection with the purposes of this Subcontract AGREEMENT. It is further agreed that each Party will require that all of its agents or representatives, if any, having a need for and receiving proprietary or confidential information, protect the same in accordance with the provisions contained herein.

21.5 The standard of care for protecting proprietary and confidential information, imposed on the Party receiving such information, will be that degree of care the receiving Party uses to prevent disclosure, publication or dissemination of its own proprietary or confidential information, but in no event less than a reasonable standard of care.

21.6 The obligations of nondisclosure and nonuse of proprietary or confidential information imposed in this Section 21.0 shall terminate four years after receipt of such information.

21.7 The obligation with respect to the protection and handling of proprietary or confidential information, as set forth in this Subcontract AGREEMENT, is not applicable to the following:

- (a) Information which becomes lawfully known or available to the receiving Party from a source other than the disclosing Party, including the Government, and without breach of this Subcontract AGREEMENT by the recipient;
- (b) Information developed independently by the receiving Party;
- (c) Information which is within, or later falls within, the public domain without breach of this Subcontract AGREEMENT by the recipient;
- (d) Information furnished to the Government with "unlimited rights"; or
- (e) Information that is made publicly available due to an

order from a court of competent jurisdiction.

21.8 The disclosing and receiving of proprietary information between the Parties hereto is governed solely by the terms and conditions of this Subcontract AGREEMENT and shall not be deemed to establish a confidential relationship between the Parties regardless of any markings of any information to the contrary. No license to a Party under any trademark, patent or copyright, or applications which are now or may thereafter be owned by such Party, is either granted or implied by the conveying of information by that Party to another Party. None of the information which may be submitted or exchanged by the Parties shall constitute any representation, warranty, assurance, guarantee or inducement by a Party to another with respect to the infringement of trademarks, patents, copyrights or any right of privacy, or other rights of third persons.

22.0 **MODIFICATIONS; ENTIRE AGREEMENT**

This writing contains the entire AGREEMENT of the Parties. No representations were made or relied upon by any Party other than those expressly set forth herein. Except as provided for in paragraphs 10.2 and 10.3, no agent, employee, or representative of a Party is empowered to alter or modify any of the terms in this AGREEMENT unless such alteration or modification is done in writing and signed by the signatories below, or other authorized persons designated, in writing, by such signatories.

23.0 **SEVERABILITY**

Any provision of this AGREEMENT that is invalid, illegal or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such invalidity, illegality, or unenforceability, without affecting in any way the remaining provisions hereof in such jurisdiction or rendering that or any other provision of this AGREEMENT invalid, illegal, or unenforceable in any other jurisdiction.

24.0 **WAIVERS**

Any waiver by a Party to any term or condition of this Subcontract AGREEMENT by the other Party shall not affect or impair the waiving Party's right with respect to any subsequent act or omission of the same type, nor shall it be deemed to waive any other right under this Subcontract AGREEMENT; nor shall any delay or omission of a Party to exercise any right arising under this Subcontract AGREEMENT affect or impair such Party's rights as to the same or any future delay or omission; nor shall the

failure of a Party to this Subcontract AGREEMENT to require or exact full and complete compliance with any one or more of the provisions of this Subcontract AGREEMENT be construed as in any manner changing such provision or provisions.

## 25.0 **TERMINATION**

25.1 Subject to the provisions of paragraph 25.3 this AGREEMENT shall be deemed terminated in its entirety upon the occurrence of any one or more of the following events:

- (a) a material breach of a term or condition of this AGREEMENT, if the non-breaching party so elects;
- (b) a party becomes insolvent or subject to a petition in bankruptcy or is placed under the control of a receiver, liquidator or committee of creditors;
- (c) the Contract is completed or terminated, or is modified or otherwise interpreted by the Customer in a way that eliminates the requirement for the work described in Section 2.0;
- (d) if the Subcontractor is, for any reason, found not responsible by the Customer, or if the Customer should direct the use of another source to perform the services described in Section 2.0; or
- (e) if the Customer disapproves of this Subcontract AGREEMENT.

25.2 This Subcontract AGREEMENT or any delivery order issued hereunder may be partially terminated by the Contractor to the extent required by changes or modifications to the Contract that affect the Customer's need for the work to be performed under section 2.0. In the event of a partial termination, the Subcontractor shall be compensated as provided for in paragraph 9.3.

25.3 The provisions contained in section 21.0 (pertaining to Confidential and Proprietary Information) and paragraphs 14.2 and 14.3 (dealing with Indemnification) shall survive the termination of this Subcontract AGREEMENT.

## 26.0 **DISPUTES WITH CUSTOMER; CONTINUATION OF WORK**

26.1 The final decision of the Contracting Officer under the Contract which affects any matter arising under this Subcontract shall be conclusive and binding upon the Subcontractor unless such decision is appealed within the time provided by law for the filing of such appeal. Contractor agrees to notify Subcontractor in a timely fashion after receipt of such decision affecting the

Subcontractor's performance hereunder. Contractor may, in its sole discretion, file any claim on behalf of the Subcontractor which the Subcontractor may have against the Government by reason of its performance herein, provided that, such claim is timely received by Contractor and has been properly certified in accordance with the requirement of law, if such certification is required. If Contractor agrees to appeal any such decision of Contracting Officer, Contractor agrees promptly to furnish Subcontractor with a copy of such appeal. In either event, all costs of pursuing the claims of the Subcontractor shall be paid by Subcontractor unless and until such amounts are received by Contractor from the Government.

26.2 Subcontractor agrees to cooperate fully with Contractor in the pursuit of any claims Contractor may have against the Government under the Contract that affect the Subcontract and to provide Contractor any information and assistance which Contractor may require to successfully pursue its claim. All mutually acceptable costs incurred by the Subcontractor under this paragraph shall be paid by the Contractor.

26.3 Pending determination of any dispute under this Subcontract, the Subcontractor agrees to perform the work in accordance with directives from the Contractor and shall not delay the progress or completion of work.

#### 27.0 **CONTROLLING LAW AND DISPUTE RESOLUTION**

27.1 This AGREEMENT shall be interpreted, controlled, and enforced in accordance with the substantive laws of the United States, and the Federal Acquisition Regulation (Title 48 Code of Federal Regulations) when relevant to the matter at issue or, if no such law or Regulation is relevant, then in accord with the substantive laws of the District of Columbia, without reference to the Conflict of Laws Rule.

27.2 No claim or assertion made by the Subcontractor relating to the Contract or this Subcontract AGREEMENT, nor any provision contained in such AGREEMENT shall be deemed to require the Contractor to file or pursue any claim with the Customer pursuant to: (a) the Contract Disputes Act of 1978, as amended (P.L. 95-563); (b) any clause in the Contract: or (c) any provision in the Federal Acquisition Regulation.

27.3 The Parties to this AGREEMENT hereby submit to personal jurisdiction in the District of Columbia for the purposes of enforcing this Subcontract AGREEMENT. In the event litigation is commenced, each Party agrees that service of process may be made and personal jurisdiction over each obtained, by service of a copy of the summons, complaint, and other pleadings required by applicable law to commence such litigation upon the Party's appointed agent for service of process in the District of



Columbia. In the event a Party fails to appoint such agent pursuant to the laws of the District of Columbia, or if such appointment should lapse for any reason, each Party hereby alternatively designates its signatory to this AGREEMENT as its appointed agent for the service of process in the District of Columbia regardless of the place of resident of such signatory.

28.0 **SECTION HEADINGS**

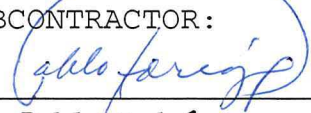
Section headings are for reference purposes only and shall not in any way affect the meaning or interpretation of this AGREEMENT.

29.0 **EFFECTIVE DATE**

This Subcontract AGREEMENT shall be deemed effective as of \_\_\_\_\_, 19\_\_.

**IN WITNESS WHEREOF**, the Parties, intending to be legally bound thereby, have executed this SUBCONTRACT AGREEMENT on the date indicated below their respective signatures.

CONTRACTOR: Howard University  
  
\_\_\_\_\_  
By Henry G. Jackson  
Senior Vice President and  
Chief Financial Officer/Treasurer

SUBCONTRACTOR:  
  
\_\_\_\_\_  
BY Pablo Rodríguez  
Acting Chancellor  
Title

\_\_\_\_\_  
Date

February 14, 2002  
\_\_\_\_\_  
Date

ECW