

Project No: 707976
Agreement No.: HR0011-09-2-0002
ARPA Order No.: Y389/00
Effective Date: March 26, 2009
DARPA's CFDA Number: 12.910
DODDAC: HR0011

Issued by: Defense Advanced Research Projects Agency (DARPA)
Contracts Management Office (CMO)
3701 North Fairfax Drive
Arlington, VA 22203-1714
(Attn: Thomas E. Lyon, 703/526-4107, Thomas.Lyon@darpa.mil)

Recipient: Monterey Bay Aquarium Research Institute (MBARI)
Grants Office
7700 Sandholdt Road
Moss Landing, CA 95039-9644
(Attn: Patrice A. Carroll, 831/775-1803, grants@mbari.org)

Recipient Identification Numbers/Codes:

DUNS: 178341772
CAGE: 1QVW6
TIN: 77-0150580

Total Agreement Amount: \$2,895,537.00

Accounting and Appropriation Data:

CLIN	ACRN	FUND CITE	AMOUNT
0001	AA	9790400 1320 Y389 P9X20 2525 DPAC 9 5208 S12136 63766E	\$626,637.00 ✓

[AWARD SUBJECT TO ELECTRONIC FUNDS TRANSFER (EFT) REQUIREMENT]

Authority: This Agreement is issued pursuant to the authority of 10 U.S.C. § 2358, as amended.

COOPERATIVE AGREEMENT SCHEDULE

1. Purpose: The purpose of this Cooperative Agreement is to fund research to the Recipient to carry out a public purpose of support or stimulation of the Defense Sciences Office (DSO) Renewable At-Sea Power (RASP) Program. This effort shall be carried out generally as set forth in the Recipient's proposal "Power Producing Buoy for Strategic Applications: Prototype and Testing", dated December 17, 2008, copies of which are in the possession of both parties.

2. Term: The term of this Agreement commences on the March 26, 2009 and continues through March 25, 2011

3. Terms and Conditions: This Agreement is subject to the terms and conditions set forth in the attached Exhibit A, entitled "DARPA Cooperative Agreement General Terms and Conditions for Non Profit Organizations," dated February 2009 and to any special terms and conditions in this Agreement Schedule.

4. Agreement Officer's Representative: The Agreement Officer's Representative (AOR) representing the Government under this Agreement is:

Micky Richeson
SPAWAR Systems Center – Pacific
Bayside Bldg. 1, Room B469
53560 Hull Street
San Diego, CA 92152-5001
Phone: 619/553-1699
Fax: 619/226-5257
Email: micky.richeson@navy.mil

5. DARPA Program Manager: The DARPA Program Manager (PM) representing the Government under this Agreement is:

DARPA
Strategic Technology Office (STO)
Attn.: Ms. Khine Latt
3701 North Fairfax Drive
Arlington, VA 22203-1714
Phone: 571/218-4203
Khine.Latt@darpa.mil

6. Administrative Agreements Office: The Administrative Agreement Office (AAO) for this Grant is:

Office of Naval Research
Seattle Regional Office
1107 NE 45th Street, Suite 350
Seattle, WA 98105-4631
Phone: 206/548-7234
Fax: 206/548-7272
evonicm@onr.navy.mil

7. Principal Investigator: The Principal Investigator shall be responsible for this effort.

Andrew Hamilton
Monterey Bay Aquarium Research Institute (MBARI)
7700 Sandholdt Road
Moss Landing, CA 95039-9644
Phone: 831/775-11861
Fax: 831/775-1620
hamilton@mbari.org

The Recipient agrees to notify the AAO before changing the Principal Investigator.

8. Agreement Funding: This Agreement is incrementally funded in the amount of \$626,637.00. The Government's obligation to make payments to the Recipient is limited to only those funds obligated by this Agreement or by modification to this Agreement. Subject to availability of funds and continued satisfactory progress on the Agreement as determined by the Government, the Government agrees to provide funding according to the following schedule:

FY10: \$1,471,359.00

FY11: \$797,541.00

The Recipient shall notify the AAO in writing promptly whenever the total Agreement amount is expected to exceed the needs of the Recipient for the project period by more than \$144,777.00. This notification shall not be required if an application for additional funding is submitted for a continuation award.

9. Payments: Payments will be made to the Recipient on a reimbursement basis and shall be made by electronic funds transfer in accordance with the account information provided to the Central Contractor Registration.

10. Substantial Involvement: Substantial involvement is expected between the Government and the Recipient when carrying out the activity contemplated in this Agreement. It will include the Government's (a) sharing responsibility for the management, control, direction, or performance of the project, and (b) retaining the right to intervene in the conduct or performance of the project. DARPA will participate in the presentation of research results, the analysis of data, and the selection of analysis methods.

FOR MONTEREY BAY AQUARIUM
RESEARCH INSTITUTE (MBARI)

FOR THE UNITED STATES OF AMERICA,
DEFENSE ADVANCED RESEARCH PROJECTS
AGENCY

Marcia McNitt
(Signature)

Marcia McNitt
(Name, Title)
President & CEO

3/24/2009
(Date)

Thomas E. Lyon
Thomas E. Lyon
Agreements Officer
Contracts Management Office

3/25/09
(Date)

EXHIBIT A
February 2009

DARPA COOPERATIVE AGREEMENT GENERAL TERMS AND CONDITIONS
FOR NONPROFIT ORGANIZATIONS

ARTICLE

1. Administrative Information
2. Order of Precedence
3. Research Responsibility
4. Amendment of Agreement
5. Standards for Financial Management Systems
6. Administration and Cost Principles
7. Program Income
8. Prior Approvals
9. Audit and Access to Records
10. Procurement
11. Subawards and Contracts/Subcontracts
12. Fee or Profit
13. Property
14. Reports and Report Distribution
15. Terminations and Enforcement
16. Disputes, Claims, and Appeals
17. After-the-Award Requirements
18. Principal Investigator
19. Nondiscrimination
20. Live Organisms
21. Clean Air and Water
22. Officials Not to Benefit
23. Transportation Preferences
24. Paperwork Reduction Act
25. Metric System
26. Resource Conservation and Recovery Act
27. Restrictions on Printing
28. Publications
29. Acknowledgment of Sponsorship
30. Patent Rights
31. Rights in Technical Data, Computer Software, and Copyright
32. Research Involving Recombinant DNA Molecules
33. Activities Abroad
34. Security
35. Drug-Free Requirements
36. Federal Requirements
37. Payments
38. Military Recruiting on Campus
39. Freedom of Information Act (FOIA) Access to Researcher's Data
40. National Historic Preservation
41. Debarment and Suspension
42. Human Trafficking

1. Administrative Information: This Cooperative Agreement will be administered in accordance with the *DoD Grants and Agreement Regulations*, DoDGARs, (DoD 3210.6-R), Part 34 –Administrative Requirements for Grants and Agreements with For Nonprofit Organizations as of the effective date of this award.

2. Order of Precedence: In the event of a conflict between the terms of this Agreement and other governing documents, the conflict shall be resolved by giving precedence in descending order as follows:

(a) The Agreement Schedule

(b) These Terms and Conditions

3. Research and Management Responsibility:

(a) The Recipient has full responsibility for the conduct of the research activity supported under this Agreement, in accordance with the Recipient's proposal, and the terms and conditions specified in this Agreement. Recipients are encouraged to suggest or propose to discontinue or modify unpromising lines of investigation or to explore interesting leads which may appear during the development of the research. However, they must consult the Agreements Officer's Representative (AOR) through the Administrative Agreements Officer (AAO) before significantly deviating from the objectives or overall program of the research originally proposed.

(b) The Recipient shall immediately notify the AAO of developments that have a significant impact on the award-supported activities. Also, notification shall be given in the case of problems, delays, or adverse conditions which materially impair the ability to meet the objectives of the award. This notification shall include a statement of the action taken or contemplated, and any assistance needed to resolve the situation.

(c) Substantial involvement is expected between the Government and the Recipient; however, overall management of the coordinated research program as established under this Agreement, including technical, programmatic, reporting, financial and administrative matters, shall be accomplished by the Recipient.

4. Amendment of Agreement:

(a) Amendments may be requested by either party. Recipient requests for amendments to this Agreement must be submitted in writing to the AOR, with a copy to the Agreements Officer and the AAO, before the desired effective date. The Recipient shall detail the technical, chronological, and financial impact of the proposed amendment to the program. Changes are effective only after the agreement has been modified. *No other communications, whether oral or in writing, are valid.* Only the Agreements Officer and the AAO have the authority to act on behalf of the Government to modify this agreement.

(b) The Agreements Officer or the AAO may unilaterally issue minor or administrative agreement modifications (e.g., changes in the paying office or appropriation data, changes to Government personnel identified in the agreement, etc).

5. Standards for Financial Management Systems: The Recipient's shall establish or use existing financial systems that comply with the standards set forth in DoDGARs §34.11.

6. Administration and Cost Principles: Applicable to this Agreement, and incorporated herein by reference, are the requirements, standards, and provisions of the appropriate Department of Defense Grant and Agreement Regulations (DoDGARs) and OMB Circulars and attachments thereto, revised as to the effective date of this agreement, as listed below. For the purposes of this Article, the term "appropriate" is determined by the organizational nature of the Recipient (for-profit, educational institution, nonprofit organization, state or local government).

- (a) 32 CFR part 34 "Administrative Requirements for Grants and Agreement with For-Profit Organizations"
- (b) 32 CFR part 22, "DoD Grants and Agreements – Award and Administration"
- (c) 32 CFR part 32, "Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations"
- (d) 32 CFR part 33, "Uniform Administrative Requirements for Grants and Cooperatives Agreements to State and Local Governments"
- (e) A-21, "Cost Principles for Educational Institutions"
- (f) A-102, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations"
- (g) A-110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations"
- (h) A-122, "Cost Principles for Non-Profit Organizations"
- (i) A-133, "Audits of States, Local Governments, and Non-Profit Organizations"

7. Program Income: Pursuant to DoDGARs §34.14 (d)(3), program income earned during the project period shall be retained by the Recipient and shall be deducted from the total project or program allowable cost in determining the net allowable costs on which the Government's share of costs is based.

8. Prior Approvals:

(a) All prior approvals required by DoDGARs §34.15 are waived hereby except for the following which shall be requested from the AAO:

- (1) Change of scope or objectives as required by Article 3 of the Terms and Conditions entitled "Research Responsibility."
- (2) Change of key personnel as required by Article 18 of the Terms and Conditions entitled "Principal Investigator."
- (3) Extension of the expiration period of this Agreement.
- (4) The need for additional Federal funding.
- (5) Inclusion of any additional costs that require prior approval in accordance with applicable cost principles for Federal funds and recipients' cost share or match, in DoDGARs §34.17 and 34.13, respectively.
- (6) The subaward, transfer, or contracting out of any work under this award, unless described in the Recipient's proposal and specifically approved and funded in the Agreement Schedule. The Recipient's request for approval shall include the following supporting data:
 - (i) Basis for contractor selection;
 - (ii) Justification for lack of competition when competitive bids or offers are not obtained;
 - (iii) Basis for award cost or price, to include price or cost analysis performed by the Recipient; and

(iv) Approval of the DARPA AOR.

(b) Preaward Costs

(1) Recipients may incur preaward costs of up to ninety (90) days prior to the effective date of the Cooperative Agreement award.

(2) Preaward costs as incurred by the Recipient must be necessary for the effective and economical conduct of the project and the costs must be otherwise allowable in accordance with the appropriate cost principles.

(3) Any preaward costs are made at the Recipient's risk. The incurring of preaward costs by the Recipient does not impose any obligation on the Government, in the absence of appropriations, if an award is not subsequently made or if an award is made for a lesser amount than the Recipient expected.

(c) Unexpended Balances - In the absence of any specific notice to the contrary; Recipients are authorized to carry forward unexpended balances to subsequent funding periods.

9. Audit and Access to Records: The Recipient and its subrecipients shall be subject to the audit requirements below:

(a) Audit. Any Recipient that expends more than \$300,000 in one year under a Federal award shall have an audit made for that year by an independent auditor, in accordance with DoDGARs §34.16. The auditor's report shall be made available to the Defense Advanced Research Projects Agency's Contract Management Office. The audit shall be made a part of the regularly scheduled, annual audit of the recipient's financial statements. However, the recipient may have Federal awards separately audited, if it elects to do so unless prohibited by Federal laws or regulations.

(b) Retention of Records. The Recipient shall retain all financial records, supporting documents, statistical records, and all other records pertinent to an award for a period of three years from the date of submission of the final expenditure report in accordance with DoDGARs §34.42.

(c) Access to Records. DoD Components, the Inspector General, Comptroller General of the United States, or any of their duly authorized representatives, have the right of timely and unrestricted access to any books, documents, papers, or other records of recipients that are pertinent to the awards, in order to make audits, examinations, excerpts, transcripts and copies of such documents pursuant to DoDGARs §34.42.

10. Procurement: The Recipient's procurement procedures under this Agreement shall comply with DoDGARS §34.30 and §34.31.

11. Subawards and Contracts/Subcontracts: The Recipient shall apply to each subaward the administrative requirements of the DoDGARs applicable to the particular type of organization receiving the subaward, contract or subcontract. In addition to OMB circular A-21, the other applicable cost principles are:

(a) OMB Circular A-122, applicable to other nonprofit organizations, except those specifically exempted by the circular.

(b) Subpart 31.2 of the Federal Acquisition Regulation (48 CFR 31.2), applicable to commercial firms and those nonprofit organizations specifically exempted from the provisions of OMB Circular A-122.

(c) OMB Circular A-87 (34 CFR 255), for state, local and Indian Tribal governments.

(d) 45 CFR 74, Appendix E, for hospitals.

12. Fee or Profit: In accordance with DODGARs §22.205(b), this Agreement shall not provide for the payment of fee or profit to the Recipient nor shall it be used to carry out programs where fee or profit is necessary to achieve program objectives.

13. Property:

(a) Property Management. The Recipient shall manage property in accordance with DODGARs §34.20 through §34.25.

(b) Title to Property. Recipient may purchase real property or equipment in whole or in part with Federal funds under this Agreement only with the prior approval of the AAO. Title to such real property or equipment shall vest in the Recipient upon acquisition subject to the following conditions:

(1) Use the property or equipment for the authorized purposes of the project until funding for the project ceases, or until the property is no longer needed for the purposes of the project;

(2) Not encumber the property without approval of the AAO; and

(3) Use and dispose of the property in accordance with DODGARs §34.21 (d) and (e).

14. Reports and Reports Distribution: Reports shall be furnished as specified below:

(a) Report Types.

(1) Quarterly R&D Status Report - This report, due 30 days after the reporting period, shall keep the Government informed of Recipient activity and progress toward accomplishment of the Agreement objectives and advancement in state-of-the-art on the research and development involved.

(2) Special Technical Report - This report, due as required, shall document the results of a significant task, test, event or symposium.

(3) Final Technical Report - This report, due 90 days after expiration or termination of the Agreement, shall document the results of the complete effort. It shall contain brief information on each of the following:

(i) A comparison of actual accomplishments with the goals and objectives established for the Agreement, the findings of the investigator, or both.

(ii) Reasons why established goals were not met, if appropriate.

(iii) Other pertinent information.

(4) Final Financial Status Report - This report, due 90 days after completion of the Agreement, shall be submitted on a Standard Form 425 "Federal Financial Report (FFR)". The report shall be on a cash or accrual basis, depending on how the Recipient's accounting records are normally kept.

(5) Report of Federal Cash Transactions [*applicable only to advance payment agreements*] - This report, due 15 days following the end of each quarter, shall be submitted on a Standard Form 425. The Recipient shall provide forecasts of Federal cash requirements in the "Remarks" section of the report.

(b) Report Distribution.

Addresses

Report Types [14. (a)]

Number of Copies

Agreement Officer's Representative	1, 2, 3, 4, 5	2
DARPA Program Manager	1, 2, 3, 4, 5	1
Administrative Agreements Officer	3, 4, 5	2
DARPA/Technical Information Library	3	1
Defense Technical Information Center ATTN: DTIC-O 8725 John J. Kingman Road Ft. Belvoir, VA 22060-6218	3	2
DARPA Agreement Officer	3, 4, 5	1

15. Terminations and Enforcement:

(a) Termination. Pursuant to DoDGARs §34.51, this Agreement may be terminated, in whole or in part by the Agreements Officer, if the Recipient materially fails to comply with these terms and conditions or with the consent of the Recipient. The Recipient may terminate the Agreement upon sending written notification to the Agreements Officer as set forth in DoDGARs §34.51(a) (3).

(b) Enforcement. If the Recipient fails to materially comply with these terms and conditions, the Agreements Officer may impose special conditions as outlined in DoDGARs §34.4 or take the appropriate action as listed at DoDGARs §34.52(a) (1) – (5).

16. Disputes, Claims, and Appeals:

(a) Disputes and Claims. The Recipient may submit a claim arising out of or relating to the Agreement by submitting the claim in writing to the Agreements Officer for decision. The written submission must specify the nature and basis for the relief requested and include all data that supports the claim. Within 60 calendar days, the Agreements Officer shall, pursuant to DoDGARs §22.815(d), either prepare a written decision or notify the Recipient of a specific date when a decision will be rendered. The decision of the Agreements Officer shall be final unless the Recipient decides to appeal.

(b) Appeals. The Recipient, under DoDGARs §22.815(e), may appeal the Agreements Officer decision by filing a written notice of appeal to the Agreement Appeal Authority and the Agreements Officer within 90 days of receiving the decision. The Agreement Appeal Authority shall decide the appeal based solely on the written record unless the Agreement Appeal Authority decides to conduct a fact-finding procedure or an oral hearing on the appeal.

(c) Non-Exclusivity of Remedies. Nothing in this article is intended to limit a Recipient's right to any remedy under the law.

17. After-the-Award Requirements: Closeout, subsequent adjustments, continuing responsibilities and collection of amounts due are subject to the requirements in DoDGARs §34.61 through §34.63 and DoDGARs §22.820. Final payment cannot be made nor can the agreement be closed out until the Recipient delivers to the Government all disclosures of subject inventions required by this agreement, an acceptable final report pursuant to the article entitled Final Report, and all confirmatory instruments. The AAO may make a settlement for any downward adjustment to the Federal share of costs after closeout reports are received.

18. Principal Investigator: Support for the project may not continue without the active direction of the Principal Investigator (PI) approved for, and identified in, this Agreement. If the approved PI (I) severs his

or her connection with the Recipient, or (2) otherwise relinquishes active direction of the project, either permanently or for a significant length of time (three months or more), then the Recipient must either:

- (a) appoint a replacement PI with the approval of the AOR, or
- (b) relinquish the Agreement, in which case the Agreement shall be terminated in accordance with DoDGARs §34.51 entitled "Termination".

19. Nondiscrimination: By signing or accepting funds under this Agreement, the Recipient assures that it will comply with applicable provisions of the following national policies prohibiting discrimination:

- (a) Title VI of the Civil Rights Act of 1964, as amended, (42 U.S.C. 2000d, et seq.) as implemented by DoD regulations at 32 CFR part 195. Said Act, as amended, and regulations are incorporated in this Agreement by reference;
- (b) Title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et seq.) (Universities only). Said Amendments are incorporated in this Agreement by reference;
- (c) Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.), as implemented by Department of Health and Human Services regulations at 45 CFR Part 90. Said Act and amendments are incorporated in this Agreement by reference;
- (d) Rehabilitation Act of 1973 (29 U.S.C. 794) as implemented by Department of Justice regulations at 28 CFR part 41 and DoD regulations at 32 CFR part 56.

20. Live Organisms:

(a) Human Subjects. Agreement funds may NOT be used for research that uses uninformed or nonvoluntary humans as experimental subjects. The Recipient is responsible for the protection of the rights and welfare of any human subjects involved in research, development, and related activities supported by this Agreement. The Recipient agrees to comply with the Common Federal Policy for the Protection of Human Subjects, codified by the Department of Health and Human Services at 45 CFR part 46 implemented by the Department of Defense at 32 CFR part 219.

(b) Animal Welfare. Any Recipient performing research, experimentation, or testing involving the use of animals shall comply with the rules on animal acquisition, transport, care, handling, and use in : (i) 9 CFR parts 1-4, Department of Agriculture rules that implement the Laboratory Animal Welfare Act of 1966, as amended, (7 U.S.C. 2131-2156); and (ii) the guidelines described in National Institutes of Health Publication No. 86-23, "Guide for the Care and Use of Laboratory Animals".

21. Clean Air and Water: If the amount of the Agreement exceeds \$100,000, the Recipient assures that it will comply with the applicable provisions of the Clean Air Act (42 U.S.C. 7401 et seq.), as amended and the Clean Water Act (33 U.S.C. 1251 et seq.), as implemented by Executive Order No. 11738 (3 CFR, 1971-1975 Comp. P. 799), and the related regulations of the Environmental Protection Agency (EPA) (40 CFR part 15). Said regulations, Executive Order, and Acts are incorporated in this Agreement by reference. The Recipient further agrees that it will not use any facility on the EPA's List of Violating Facilities in performing any award that is nonexempt under 40 CFR 15.5, as long as the facility remains on the list. If, in performing this award, the Recipient intends to use a facility that is on the List of Violating Facilities or that the recipient knows has been recommended to be placed on the List of Violating Facilities, the Recipient shall notify DARPA.

22. Officials Not to Benefit: No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this Agreement, or to any benefit arising from it, in accordance with 41 U.S.C. 22.

23. Transportation Preferences:

(a) U.S. Flag Carriers. Travel supported by U.S. Government funds under this Agreement shall use U.S.-flag air carriers (air carriers holding certificates under 49 U.S.C. 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981 amendment to Comptroller General's Decision B-138942. Such Act and guidelines are incorporated in this Agreement by reference.

(b) Cargo Preference. The Recipient agrees that it will comply with the Cargo Preference Act of 1954 (46 U.S.C. 1241), as implemented by Department of Transportation regulations at 46 CFR 381.7 which require that at least 50 percent of equipment, materials, or commodities procure or otherwise obtained with U.S. Government funds under this Agreement, and which may be transported by ocean vessel, shall be transported on privately owned U.S.-flag commercial vessels, if available.

24. Paperwork Reduction Act: This Agreement shall be subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3500, et seq.) only under either of the following circumstances:

(a) The Government specifically requests the Recipient to collect information using forms, schedules, questionnaires, or other methods calling for answers to:

(1) Identical questions from ten or more persons other than agencies, instrumentalities, or employees of the United States; or

(2) Questions from agencies, instrumentalities, or employees of the United States, which are to be used for statistical compilations of general public interest.

(b) The terms and conditions of this Agreement require specific approval by the Government of such information collection or the collection procedures.

25. Metric System: The Recipient shall use the metric system, to the maximum extent practicable, in measurement-sensitive activities supported by this Agreement and in measurement-sensitive outputs of this Agreement.

26. Resource Conservation and Recovery Act: In accordance with the Resource Conservation and Recovery Act (section 6002, Pub. L. 94-580, 42 U.S.C. 6962), State and local institutions of higher education, hospitals, and non-profit organizations that receive direct Federal awards or other Federal funds shall give preference in their procurement programs funded with Federal funds to the purchase of recycled products pursuant to the guidelines developed by the Environmental Protection Agency.

27. Restrictions on Printing: Unless otherwise authorized in writing by the Agreements Officer, reports, data, or other written material produced using funds provided by this Agreement and submitted hereunder shall be reproduced only by duplicating processes and shall not exceed 5,000 single page reports or a total of 25,000 pages of a multiple page report. These restrictions do not preclude the writing, editing, and preparation of manuscript or reproducible copy of related illustrative materials if required as a part of this Agreement, or incidental printing such as forms or materials necessary to be used by the Recipient to respond to the terms of the Agreement. To satisfy the requirements of the Defense Technical Information Center, at least one copy of each technical report submitted to the Defense Technical Information Center must be black typing or reproduction of black on white paper or suitable for reproduction by photographic techniques. Reprints of published technical articles are not within the scope of this paragraph. In accordance with Executive Order 12873, dated October 20, 1993, as amended by Executive Order 12995, dated March 25, 1996, the Recipient is encouraged to submit paper documents, such as letters or reports, that are printed/copied double-sided on recycled paper that has at least 30 percent post consumer material.

28. Publication: Publication of results of the research project in appropriate professional journals is encouraged as an important method of recording and reporting scientific information. One copy of each paper planned for publication shall be submitted to the AOR simultaneously with its submission for publication. Following publication, copies of published papers shall be submitted to the AOR.

29. Acknowledgment of Sponsorship:

(a) The Recipient agrees that in the release of information relating to this Agreement, such release shall include a statement to the effect that (1) the project or effort depicted was or is sponsored by the Defense Advanced Research Projects Agency, (2) the content of the information does not necessarily reflect the position or the policy of the Government, and (3) no official endorsement should be inferred.

(b) For the purpose of this article, information includes news releases, articles, manuscripts, brochures, advertisements, still and motion pictures, speeches, trade association proceedings, symposia, etc.

(c) Nothing in the foregoing shall affect compliance with the requirements of the clause entitled "Security."

30. Patent Rights:

(a) Small Business Concerns. Patent rights are as specified in DoDGARs §34.25(a)(1), citing 37 CFR 401.14, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements", which titles and sections are incorporated herein by reference. The "Standard patent rights clause" at 37 CFR 401.14 is modified as follows: replace the word "contractor" with "recipient"; replace the words "contract" with "agreement"; delete paragraphs (g)(2), (g)(3) and the words "to be performed" by a small business firm or domestic nonprofit organization" from paragraph (L), point of contact for all matters relating to this article will be serviced by the Staff Office of General Counsel.

(b) Other than Small Business Concerns. Patent rights are as specified in DoDGARs §34.25(a)(2), citing 35 U.S.C 210(c) and Executive Order 12591 (3 CFR, 1987 Comp., p. 220) (which codifies a Presidential Memorandum on Government Patent Policy, dated February 18, 1983.), which titles and sections are incorporated herein by reference.

(c) Patent Reports. The Recipient shall utilize DD Form 882, Report of Inventions and Subcontracts, for submission of interim and final invention reports. The DD Form 882 and all invention disclosures shall be submitted to the Administrative Agreements Officer for proper disposition and forwarding to the Agreements Officer.

31. Rights in Technical Data, Computer Software, and Copyright:

(a) Copyright. Rights are as specified in DoDGARs §34.25(b)(1) which is incorporated herein by reference.

(b) Technical Data and Computer Software. Rights are as specified in DoDGARs §34.25(b)(2) which is incorporated herein by reference.

32. Research Involving Recombinant DNA Molecules: Any Recipient performing research involving recombinant DNA molecules and/or organism and viruses containing recombinant DNA molecules agrees, by acceptance of this award, to comply with the National Institutes of Health "Guidelines for Research Involving Recombinant DNA Molecules," July 5, 1994 (59 FR 34496) as amended, or such later revision of those guidelines as may be published in the Federal Register.

33. Activities Abroad: The Recipient shall assure that project activities carried on outside the United States are coordinated, as necessary, with appropriate Government authorities and that appropriate licenses,

permits, or approvals are obtained prior to undertaking proposed activities. The awarding agency does not assume responsibility for Recipient compliance with the laws and regulations of the country in which the activity(ies) is (are) to be conducted.

34. Security: The Recipient shall not be granted access to classified information under this Agreement. If security restrictions should happen to apply to certain aspects of the proposed research, the Recipient will be so informed. In the event that the scientific work under this Agreement may need classification, or involve access to or storage of any classified data, the Government shall make its decision on the need to classify, or require such access or storage, within 30 days after receipt of written notice from the Recipient. If the decision is affirmative, the Government shall invoke the clause in DoDGARs §34.51 entitled "Termination".

35. Drug-Free Requirements: This Agreement is subject to the requirements of the Drug-Free Workplace Act of 1988 and the Drug-Free Schools and Communities Act Amendments of 1989.

36. Federal Requirements: This Agreement is subject to the laws and regulations of the United States. If any statute expressly prescribes policies or specific requirements that differ from the requirements, standards, provisions, or terms and conditions of this Agreement, the provisions of the statute shall govern.

37. Payments

(a) Reimbursement Payment Method. Upon acceptance of the terms and conditions of this Agreement and submission of a Standard Form (SF) 270, "Request for Advance or Reimbursement," (original + 2 copies) by the Recipient to the AAO, the Recipient shall be entitled to monthly payments made on a reimbursement basis. The AAO will certify the SF 270 for payment and transmit it to:

DFAS Indianapolis
Vendor Pay Office – Indianapolis
8899 E 56th Street
Indianapolis, IN 46249

(b) AAO Certification. The AAO shall not certify the Recipient's request for additional cash payments until the Recipient has first disbursed any funds available from repayments to and interest earned on a revolving fund, program income, rebates, refunds, contract settlements, audit recoveries and interest earned on such funds.

(c) The Government shall use electronic methods to receive the Recipient's requests for payment and to transmit authorizations for payment to the DoD payment office.

(d) Liquidation. The Recipient shall liquidate all obligations incurred under the Agreement not later than 90 days after the date of completion. The Recipient shall promptly refund any balances of unobligated cash that the Government has advanced or paid and that is not authorized to be retained by the Recipient for use in other projects. The Administrative Agreements Officer is authorized to make a settlement for any upward or downward adjustments to the Federal share of costs after closeout reports are received.

38. Reserve Officer Training Corps and Military Recruiting on Campus (Universities Only):

As a condition for receipt of funds available to the Department of Defense (DoD) under this award, the recipient agrees that it is not an institution of higher education (as defined in 32 CFR 216) that has a policy or practice that prohibits or, in effect, prevents ROTC or military recruiting on campus, as described in DFARS 252.209-7005(b). If the recipient is determined, using the procedures in 32 CFR part 216, to be such an institution of higher education during the period of performance of this agreement, and therefore to be in breach of this clause, the Government will cease all payments of DoD funds under this agreement and

all other DoD grants and cooperative agreements to the recipient, and it may suspend or terminate such grants and agreements unilaterally for material failure to comply with the terms and conditions of award.

39. Freedom of Information Act (FOIA) Access to Researcher's Data: Upon DARPA's request, pursuant to DoDGARs §32.36(d), the Recipient shall provide, within a reasonable time, research data as defined in DoDGARs §32.3(d) (2) (i).

40. National Historic Preservation: The Recipient agrees to identify to the Government any property listed or eligible for listing on the National Register of Historic Places that will be affected by this award, and to provide any help the Government may need, with respect to this award, to comply with Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470, et seq.).

41. Debarment and Suspension: This Agreement is subject to the requirements regarding debarment and suspension in 2 CFR Part 1125, which implements E. O. 12549 [3CFR, 1986 Comp., p189]; E.O. 12689 [3 CFR, 1989 Comp., p 235]; and Sec. 2455 of Federal Acquisition and Streamlining Act of 1994 (Pub. L. 103-355). This includes communicating the requirement to comply with Title 2 to persons at the next lower tier.

42. Human Trafficking: This Agreement is subject to the requirements of section 106 (g) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104). If the Recipient or any subrecipient (i) engages in severe forms of trafficking in persons or has procured a commercial sex act during that the period of time of the grant, contract or cooperative agreement is in effect or (ii) uses forced labor in the performance of the grant, contract, or cooperative agreement, the Government shall be authorized to terminate the grant, contract or cooperative agreement without penalty.



DEFENSE ADVANCED RESEARCH PROJECTS AGENCY
3701 NORTH FAIRFAX DRIVE
ARLINGTON, VA 22203-1714

FROM: DARPA Contracts Management Office (CMO)

TO: Micky Richeson
SPAWAR Systems Center – Pacific
Bayside Bldg. 1, Room B469
53560 Hull Street
San Diego, CA 92152-5001

FOR: DARPA/DSO

SUBJECT: Appointment as Agreement Officer's Representative (AOR)

1. You are hereby appointed as the Agreement Officer's Representative for:

Agreement Number: HR0011-09-2-0002

Contractor: Monterey Bay Aquarium Research Institute (MBARI)

Program Description: "Power Producing Buoy for Strategic Applications: Prototype and Testing"

2. This appointment authorizes and designates you to perform the following duties and/or responsibilities as specified herein:
 - a. Furnish plans, schedules, specifications, descriptions, and other documents to the recipient as required by the agreement.
 - b. Assist the recipient in interpreting technical aspects of the agreement specifications/statement of work. Differences of opinion and interpretations which could affect the terms and conditions of the agreement will be referred to the Agreements Officer for resolution.
 - c. Provide Government recommendations/approvals to the recipient promptly in all cases where the agreement calls for technical approval.
 - d. Observe, monitor, and assess the recipient's performance under the terms of the agreement. This includes reporting promptly to the Agreements Officer any failures, delays, or significant deviations of performance, quality, costs, or other actions which might jeopardize agreement performance.
3. In the performance of the duties delegated to you in this letter, you are cautioned that you could be held personally liable for actions taken or directions given by you to the recipient that are beyond

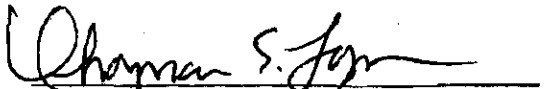
the authorities given to you in this letter. The duties or authorities in this letter are not delegable; therefore, you must advise the Agreements Officer or the Administrative Agreements Officer immediately when you are unable to perform these duties.

4. In your dealings with the recipient you must not give technical direction as though the recipient's employees are Government employees. You must maintain a formal, arms-length relationship with the recipient in order to avoid even an appearance that the agreement is one for personal services. If the recipient's performance takes place in a Government facility, then to the maximum extent practicable, the recipient's work area should be physically separated from areas in which Government employees work, and communication with the recipient's employees on agreement matters should be only through that recipient employee(s) designated by the recipient to supervise them. You must not give any direction to the recipient that is not authorized by the statement of work because it is not the intent of the Government that a recipient be required to do anything that is not included in the agreement.
5. You are responsible for providing prompt notification to the Agreements Officer any significant deficiencies with respect to recipient performance or other actions which might jeopardize agreement performance.
6. You are not authorized by this letter to take any action, either directly or indirectly, that could result in a change in the pricing, quantity, quality, place of performance, delivery schedule or any other terms and conditions of the basic agreement, or to direct the accomplishment of effort which would exceed the scope of the basic agreement. You must be especially cautious in providing interpretation of the specifications/ statement of work. The agreement reached or technical direction given must be formalized in writing with copies to the Agreements Officer. You shall also notify the recipient that if he believes that the AOR's interpretation is erroneous, the recipient must notify the Agreements Officer in writing concerning the details of his position.
7. You may be held personally liable for unauthorized acts.
8. Specific duties in addition to those above are as follows:
 - a. Control all government technical interfaces with the recipient.
 - b. Ensure that copies of government technical correspondence are forwarded to the Agreements Officer for placement in the agreement file.
 - c. Promptly furnish documentation on any requests for change, deviation, or waiver (whether generated by the Government or the recipient) to the Agreements Officer for appropriate action.
 - d. Provide required review of Patent/Invention Disclosures made in I-Edison (<http://www.iedison.gov>).
 - e. The AOR must maintain a separate file for each agreement for which he/she acts as AOR. The file should serve as a repository and record of all documents and communications between the recipient and the AOR. At a minimum, the file must include a copy of the

agreement and all modifications as well as the AOR appointment letter. Examples of other file documentation may include:

- Reports required per the agreement, e.g. interim and final technical or patent reports
- Memoranda for Record documenting important agreement discussions
- Records of formal meetings, e.g. post award conference, program reviews, etc.

- f. Assist Administrative Agreements Officer and/or Agreements Officer, as requested, with closeout activities at completion of agreement period of performance.
9. If this is your first appointment as an AOR or if you have not performed AOR or Contracting Officer's Representative (COR) or Grants Officer's Representative (GOR) duties within the last two years, you must complete COR training immediately so that you can properly execute your responsibilities under this agreement. A good source of COR training is available via a web-based module, CLC 106, "Contracting Officer Representative with a Mission Focus" at www.dau.mil.
10. Your appointment as AOR for this effort expires upon final disposition of the agreement.
11. Your good judgment in performing your duties under the agreement will have an important effect on the value of the performance obtained by the Government.


Thomas E. Lyon
Agreements Officer
DARPA/Contracts Management Office (CMO)

2/17/09
(Date)


Micky Richeson
Agreement Officer's Representative

2/19/09
(Date)