

STANDARD
COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENT
BETWEEN
COMMANDER, NAVAL METEOROLOGY AND OCEANOGRAPHY COMMAND
AND
MISSISSIPPI ENTERPRISE FOR TECHNOLOGY

Agreement Title: MISSISSIPPI ENTERPRISE FOR TECHNOLOGY

Agreement Number: NCRADA- CNMOC- 96-001

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Standard
Cooperative Research and Development Agreement
between
COMMANDER, NAVAL METEOROLOGY AND OCEANOGRAPHY COMMAND
and
MISSISSIPPI ENTERPRISE FOR TECHNOLOGY

Article 1. INTRODUCTION

Under authority of the Federal Technology Transfer Act of 1986 (Public Law 99-502, 20 October 1986), Commander, Naval Meteorology and Oceanography Command ("**CNMOC**") and Mississippi Enterprise for Technology ("**MSET**") whose headquarters are located at STENNIS SPACE CENTER, MISSISSIPPI, do hereby agree and do enter into this COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENT, which shall be binding upon both Partners and their assigns according to the clauses and conditions hereof and for the term and duration set herein.

Article 2. SUMMARY

CNMOC possesses leading-edge technical skills in specific areas which are critical to developing and maintaining a competitive world position for many U.S. corporations. The State of Mississippi is home to a growing number of technologically-based companies and Federal/state agencies. Many of these entities have technical needs that are similar to CNMOC's skills. MSET has developed an infrastructure (with access to field offices of the Mississippi Department of Economic and Community Development throughout Mississippi) to assist these companies to meet their technological needs. MSET, a private, nonprofit, Mississippi corporation, organized for the purposes of: (a) to perform technological research, to disseminate to the public the results of such research and other technological, educational and managerial information in the transfer of technology from its sources to technology oriented firm; (b) to stimulate academic, governmental and private sector support of federal/state science and technology activities and to provide efficient access to a support network; (c) to sponsor, promote and disseminate technology in cooperation with the academic, governmental and private sector transfer of technology; and (d) to promote and further transfer of technology between the federal/state public and private sector.

The purpose of this CRADA is to facilitate the transfer of technology from CNMOC to companies, in particular small businesses, in Mississippi who request Cooperative Research through MSET. While all the types of technology that are available to be transferred and may be determined by CNMOC and MSET to be of mutual interest are not specifically identified

herein, the primary areas are: (1) high performance computing; (2) educational programs for and training of oceanographic and scientific personnel; (3) liaison with other public agencies and the private sector; (4) meteorological, oceanographic and other geographical information processing; and (5) other interlocking disciplines.

Article 3. BACKGROUND

The Federal Technology Transfer Act of 1986, as amended, provides for making Federal laboratories' developments accessible to private industry, and to state and local governments, and for the improvement of economic, environmental and social well-being of the United States by stimulating the civil utilization of Federally-funded technology developments.

The mission of CNMOC includes transferring technology to the private sector. CNMOC, as result of continuing technical programs, has created leading edge technology in many meteorological and oceanographic areas which are critical to developing and maintaining a competitive world position for many U.S. corporations, and in keeping with the Federal Technology Transfer Act, desires to make this expertise and technology available for use in the private sector.

MsET has the interest, resources, and technical expertise to incorporate the Navy-developed work in products intended for sale. MsET has, among other things, set forth in Section 91, Chapter 518, Mississippi Laws of 1988, the statutory functions of encouraging the swiftest possible transfer of federally-developed technology to the private sector of the State of Mississippi and of being the conduit for the transfer of technology developed by the Federal Government to Mississippi consortia, state and local governments, universities and the private sector. MsET desires to have technology transferred to companies located within the state of Mississippi in those areas where CNMOC has such technology.

Therefore, in consideration of the mutual promises contained in this Agreement and for other good and valuable consideration, the Partners agree to the foregoing objectives and recitals and further agree as follows:

Article 4. DEFINITIONS

As used in this Agreement, the following terms shall have the following meanings and are equally applicable to both singular and plural forms of the terms defined:

4.1 "Agreement" means this Cooperative Research and Development Agreement (CRADA or CRDA).

4.2 "Computer Software" means a combination of associated computer instructions and computer data definitions required to enable computer hardware to perform computational or control functions. Computer programs and computer data bases are included.

4.3 "Computer Software Documentation" means data including computer listings and printouts in human-readable form which (a) documents the design or details of computer software, (b) explains the capabilities of the software, or (c) provides operating instructions for using the software.

4.4 "Cooperative Research" means research performed under this Agreement pursuant to the objectives, scope and responsibilities, and statement of work by CNMOC or MsET alone or working together.

4.5 "Data" means recorded information of any kind of a scientific or technical nature, regardless of the form or method of the recording.

4.6 "Government Purpose License Rights" (GPLR) means the right to use, duplicate, or disclose data, in whole or in part and in any manner, for Government purposes only, and to have or permit others to do so for Government purposes only. Government purposes include competitive procurement, but do not include the right to have or permit others to use data for commercial purposes.

4.7 "Invention" means any invention or discovery which is or may be patentable under Title 35 of the United States Code.

4.8 "Made", when used in relation to any Invention, means the conception or first actual reduction to practice of such Invention.

4.9 "Partner(s)" means the Navy participant(s) and/or the non-Navy participant(s).

4.10 "Patent Application" means U.S. or foreign patent application, continuation, continuation-in-part, divisional, reissue and/or reexamination on any Subject Invention.

4.11 "Proprietary Information" means information which embodies trade secrets developed at private expense or which is confidential business or financial information, provided that such information:

(a) is not known or available from other sources without obligations concerning its confidentiality;

(b) has not been made available by the owners to others without obligation concerning its confidentiality;

(c) is not already available to the Federal Government without obligation concerning its confidentiality; and,

(d) has not been developed independently by persons who had no access to the Proprietary Information.

4.12 "Restricted Access Information" means Subject Data for which the Partners mutually agree that a Government Agency may provide appropriate protection, under 15 U.S.C. Section 3710a(c)(7)(B), against dissemination for a period of up to five (5) years after development of the information in an activity conducted under 15 U.S.C. Section 3710a, provided the information would be Proprietary Information if the information had been obtained from a non-Federal Party.

4.13 "Requestor" means the party that has requested technical assistance and/or cooperative research from CNMOC through MSET as described in Appendix B of this Agreement.

4.14 "Subject Data" means all Data first produced in the performance of the Agreement.

4.15 "Subject Invention" means any Invention Made in the performance of work under this Agreement.

4.16 "Unlimited Rights" means the right to use, duplicate, release or disclose Data or Computer Software in whole or in part, in any manner and for any purpose whatsoever, and to have or permit others to do so.

Article 5. OBJECTIVES

The objective of this Agreement is to transfer technology from CNMOC to those companies in the state of Mississippi that through MsET have requested such technology. It is expected that technology in the field of high-performance computing, training of oceanographic and scientific personnel, liaison with other public agencies and the private sector, meteorological and oceanographic information processing, and other interlocking disciplines will be of the most interest for cooperative research.

Article 6. SCOPE AND RESPONSIBILITIES

6.1 Scope.

As agreed herein, the Partners provide personnel, facilities, equipment and, if agreed, funds from MsET to CNMOC to perform cooperative research and development specified in the objectives, scope, responsibilities and statement of work. Such efforts shall support the meteorological, oceanographic and other missions of CNMOC. The Partners and Cooperative Research Requestors shall work together to provide technological solutions to the Requestor's problems. Each party shall perform the Statement of Work (SOW), Appendix A, attached hereto by utilizing such funds, personnel, services, facilities, equipment, or other resources as it considers necessary for its performance.

6.2 Responsibilities.

To achieve the Cooperative Research, the Partners shall provide facilities, equipment, and/or personnel

for their respective tasks as set forth in Appendix A, The Statement of Work.

6.2.1 Navy Personnel, Facilities and Equipment.

CNMOC shall provide the personnel, facilities and equipment as it considers necessary to carry out performance under each statement of work.

6.2.2 MsET Personnel, Facilities and Equipment.

MsET shall provide the personnel, facilities and equipment as it considers necessary to carry out performance under each statement of work.

6.3 Performance. All technical cooperation performed will be coordinated between the parties and carried out either jointly or separately. Each party shall have exclusive control and supervision for safety purposes over operations related to this cooperation conducted within its own facilities.

6.4 Program management.

The work performed by CNMOC will be coordinated under the program guidance of Mr. AL LEWANDO, who, as the CNMOC Program Manager, has the responsibility for coordination of this project within the facilities of the CNMOC or its subordinate activities or performed on behalf of CNMOC by the third parties in support of this agreement. The exception to this will be the case of any MsET representatives who may perform experiments at CNMOC facilities whose work will be supervised by the MsET Program Manager.

The Work Performed by MsET will be accomplished under the program guidance of Mr. DAN MORRISON, who, as the MsET has the responsibility for the scientific and technical conduct of this project within the facilities of MsET or facilities of other organizations working for MsET in support of this Agreement and for supervision of any MsET representative working at CNMOC, except as stated otherwise herein.

6.5 Review of Work.

Conferences shall be held between CNMOC and MsET personnel at mutually satisfactory times and locations for the purpose of reviewing the progress of technical cooperation. It is understood that the nature of this technical cooperation is such that completion within the period of performance specified in the SOW cannot be guaranteed.

6.6 Change in Scope.

If at any time the parties determine that it is necessary to change the SOW, the parties shall negotiate any necessary change. Changes to the SOW that involve a change in the scope of this Agreement or extension of time beyond that stated in Article 14 shall be made in accordance with Article 13. Any changes to the SOW agreed to under the supervision of this section shall be as binding as if present when the original Agreement was signed, and the Agreement, as amended, shall remain in full force and effect.

Article 7. REPRESENTATIONS AND WARRANTIES

7.1 Representations and Warranties of CNMOC

CNMOC hereby represents and warrants to MsET as follows:

7.1.1 CNMOC is a Federal "laboratory" (P.L. 99-502) of the U.S. Navy, wholly owned by the U.S. Government, and whose substantial purpose is the performance of research, development, or engineering by employees of said Government (15 U.S.C. Section 3710a(d)(2)(A)).

7.1.2 The performance of the activities specified by this Agreement is consistent with the mission of CNMOC.

7.1.3 The Official executing this Agreement has the requisite authority to do so.

7.1.4 CNMOC makes no express or implied warranty as to the information or any Invention or product, whether tangible or intangible, made or developed under this Agreement, or the merchantability, or fitness for a particular purpose of the information or any Invention or product.

7.2 Representations and Warranties of MsET

MsET hereby warrants and represents to CNMOC as follows:

7.2.1 MsET, as of the date hereof, is a not for profit corporation duly organized, validly existing and in good standing under the laws of the State of Mississippi.

7.2.2 MsET has the requisite power and authority to enter into this Agreement and to perform according to the terms thereof.

7.2.3 The Board of Directors of MsET have taken all actions required to be taken by law to authorize the execution and delivery of this Agreement.

7.2.4 The execution and delivery of this Agreement does not contravene any material provision of, or constitute a material default under any material agreement binding on MsET or any valid order of any court, or any regulatory agency or other body having authority to which MsET is subject.

7.2.5 MsET is not presently subject to debarment or suspension by an agency of the Government. Should MsET be debarred or suspended, MsET will so notify CNMOC, who may elect to terminate the Agreement.

7.2.6 MsET is not directly or indirectly controlled by a foreign company or government (Executive Order 12591, Section 4.(a)).

7.2.7 MsET is not a small business as defined in 15 U.S.C. Section 632 and implementing regulations (13 C.F.R. Section 121.101 et seq.) of the Administrator of the Small Business Administration. In simplest terms, this means fewer than 500 employees (see 13 C.F.R. Section 121.601).

7.2.8 MsET makes no express or implied warranty as to the conditions of research or any Invention or product, whether tangible or intangible, Made or developed under this Agreement, or the merchantability, or fitness for a particular purpose of the research or any Invention or product.

Article 8. FUNDING

Each Partner will fund its own efforts.

Article 9. REPORTING AND PUBLICATIONS

9.1 MsET Reports

MsET Shall issue a final report of results of its technical cooperation within four (4) months after the completion of any statement of work or termination of this Agreement, whichever occurs first, pursuant to Articles 13, or 14, or both.

9.2 CNMOC Reports

CNMOC shall issue a final report of results of its technical cooperation within four (4) months after the completion of any statement of work or termination of this Agreement, whichever occurs first, pursuant to Article 13, or 14, or both.

9.3 Agreement to Confer Prior to Publication

CNMOC and MsET agree to confer and consult prior to the publication of Subject Data to assure that no Proprietary Information is released and that patent rights are not jeopardized. Prior to submitting a manuscript for review which contains the results of research under this Agreement, or prior to publication if no such review is made, each Partner shall be offered an ample opportunity to review such proposed publication and to file patent applications in a timely manner, if it is so entitled under this Agreement.

9.4 Classified or Militarily Critical Technologies
(MCT) Information

All publications and presentations by MsET of Subject Data must be unclassified material and must be cleared by CNMOC for public release prior to presentation or publication to ensure that no classified, MCT (in accordance with the guidelines in the MCT List), or otherwise restricted data are included.

Article 10. INTELLECTUAL PROPERTY

10.1 Subject Data and Proprietary Information:
Ownership, Rights, and Use

10.1.1 Ownership and Rights in Subject Data

Each Partner shall have title to Subject Data generated by that Partner. Each Partner, upon request to the other Partner, shall have the right to review and to request delivery of all Subject Data and delivery shall be made to the requesting Partner within two weeks of the request. MsET grants to the Federal Government and Government shall have Unlimited Rights in any Subject Data generated by MsET which is not Proprietary Information of MsET. MsET shall have Unlimited Rights in all Subject Data generated by or other data provided under this Agreement by CNMOC. Each Partner will hold in confidence and treat as company Proprietary Information all Restricted Access Information for a period up to five years, as mutually agreed between the Partners. In accordance with 15 U.S.C. Section 3710a(c)(7)(B), Restricted Access Information will be protected by CNMOC from release under the Freedom of Information Act, 5 U.S.C. Section 552 as long as the information meets the definition of Restricted Access Information.

10.1.2 Use and Protection of Subject Data and
Proprietary Information

10.1.2.1 Protection from Release under

FOIA

Subject Data which is Proprietary Information of MsET is the property of MsET and shall be protected by CNMOC from release under the Freedom of Information Act (FOIA) for as long as the Data meets the definition of Proprietary Information. CNMOC may release other MsET Subject Data where such release is required pursuant to a request under the Freedom of Information Act (5 U.S.C. Section 552). CNMOC shall notify MsET promptly of any such request for release of MsET Subject Data.

10.1.2.2 Government Purpose License Rights in Subject Data that is Proprietary Information

The Government shall have Government Purpose License Rights in any Subject Data Proprietary Information furnished by MsET to CNMOC under this Agreement. MsET shall place a proprietary notice, in accordance with Article 10.1.3, on all information it delivers to CNMOC under this Agreement which it asserts is proprietary.

10.1.2.3 Rights in Proprietary Information that is not Subject Data

CNMOC agrees that any Proprietary Information that is not Subject Data and is furnished by MsET to CNMOC under this Agreement shall be used, reproduced and disclosed by CNMOC only for the purpose of carrying out this Agreement, unless consent to other use or release is obtained from MsET. MsET shall place a proprietary notice, in accordance with Article 10.1.3, on all information it delivers to CNMOC under this Agreement which it asserts is proprietary.

10.1.3 Determination and Marking of Proprietary and Restricted Access Information

MsET shall place a proper Proprietary notice on each page of all information it delivers to CNMOC under this Agreement which MsET asserts is Proprietary Information. Restricted Access Information will be marked in

a manner similar to the following: "RESTRICTED ACCESS INFORMATION - TREAT AS PROPRIETARY TO MSET".

CNMOC will review all such designated Proprietary and Restricted Access Information and, in consultation with MSET, will determine whether it qualifies as "Proprietary Information" in accordance with the criteria of Articles 4.11 and 4.12.

10.2 Copyrights

10.2.1 Copyright by MSET

MSET may copyright works of authorship prepared pursuant to this CRADA that may be copyrighted under Title 17, U.S. Code.

10.2.2 Copyright License to the Government

MSET grants a nonexclusive, nontransferable, irrevocable, royalty-free copyright license throughout the world in the exclusive rights in copyrighted works of authorship (17 U.S.C. Section 106) prepared pursuant to this Agreement to the Federal Government for Government purposes, including the right to permit others to use this license for Government purposes.

10.2.3 Copyright Statement

MSET shall include the following statement on any mask work or work of authorship created in the performance of this Agreement:

"The U.S. Government has a copyright license in this work pursuant to a CRADA with Commander, Naval Meteorology and Oceanography Command and the Mississippi Enterprise for Technology."

10.3 Patent Rights

Employees of either Partner making a Subject Invention will report the Invention to their employer within 90 days. The Partner receiving such a report will report the

same to the other Partner within 90 days after receipt of such a report. After reporting the Invention to the other Partner, the Partner entitled to own the Subject Invention shall have 90 days in which to decide whether to file, and to notify the other Partner of the decision. Upon being notified that the entitled Partner declines, or upon the expiration of the 90 days without notification, the other Partner shall have an opportunity to file and take title to the Invention, subject to the retention of a nonexclusive, irrevocable, paid-up license to practice the Subject Invention throughout the world by or on behalf of the Partner whose employee(s) Made the Subject Invention. Each Partner shall be entitled to own the Subject Inventions of its employees. Each Partner whose employee(s) contributed to the Making of a jointly Made Subject Invention shall have title, in the form of an undivided interest, in the Subject Invention. CNMOC gives MsET the option, to be exercised within 180 days after the filing of an Application for Patent, of acquiring an exclusive license in the Government's rights in any Subject Invention. An exclusive license will be subject to a reasonable royalty. Each Partner hereby grants to the other Partner a nonexclusive, irrevocable, paid-up license to practice a Subject Invention Made by employees of the granting Partner or have that Subject Invention practiced throughout the world by or on behalf of that other Partner. Each Partner shall provide to the other Partner a written instrument, prepared in a form satisfactory to that Partner, confirming such rights to the Federal Government or to MsET, as appropriate. In the event both Partners decline to file a Patent Application, both Partners renounce their entitlement and leave all rights to the inventor(s) who may retain ownership of the Invention, subject to the granting to the Partners of a nonexclusive, irrevocable, paid-up license to practice the Invention or have the Invention practiced throughout the world by or on behalf of each Partner. No nonexclusive license conveyed under this Agreement shall be assigned, licensed or otherwise disposed of except to the successor of that part of MsET business to which such license pertains.

Article 11. PROPERTY

11.1 Title to Pre-Existing Facilities and Equipment

Each Partner shall retain title to all its pre-existing property, facilities, equipment or other resources provided under the Agreement.

11.2 Items Purchased by Partners

Each Partner shall retain title to all property, facilities, equipment or other resources which they purchased. Property purchased by the Government with MsET funds shall be Federal Government Property.

11.3 Title to Developed Property

All equipment developed under this Agreement shall be the property of the developing Partner. Jointly-developed equipment having components provided by both Partners shall be the property of the Federal Government. Jointly-developed equipment having all components provided by MsET shall be the property of MsET.

11.4 Property Costs

During the period of and upon completion of this Agreement, each Partner shall be responsible for all costs of maintenance, removal, storage, repair, and shipping of all equipment to which it retains title.

11.5 Disposal of Property

Disposal of property will be in accordance with applicable disposal laws and regulations.

Article 12. LIABILITIES

12.1 Government Liability

The Government's responsibility for injury or loss of property or personal injury or death caused by the

negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment will be in conformance with the Federal Tort Claims Act (28 U.S.C. Section 2671 et seq.). Except as provided by the Federal Tort Claims Act, the Government shall not be liable to MsET for any claims whatsoever, including loss of revenue, profits, or other indirect or consequential damages.

12.2 Indemnification by MsET

MsET holds the Government harmless and agrees to indemnify the Government for all liabilities, claims, demands, damages, expenses, and losses of any kind arising out of the performance by MsET or other entity acting on behalf of or under the authorization of MsET under this Agreement.

12.3 Force Majeure

No Partner shall be liable for the consequences of any unforeseeable force majeure event that (1) is beyond their reasonable control, (2) is not caused by the fault or negligence of such Partner, (3) causes such Partner to be unable to perform its obligations under this Agreement and (4) cannot be overcome by the exercise of due diligence. In the event of the occurrence of a force majeure event, the Partner unable to perform shall promptly notify the other Partner. It shall further pursue its best efforts to resume performance as quickly as possible and shall suspend performance only for such period of time as is necessary as a result of the force majeure event.

Article 13. GENERAL PROVISIONS

13.1 Characteristics of the Agreement

13.1.1 Entire Agreement

This Agreement, with a statement of work if included, constitutes the entire agreement between the Partners concerning the subject matter hereof and supersedes any prior understanding or written or oral agreement relative to said matter.

13.1.2 Severability

The illegality or invalidity of any provisions of this Agreement shall not impair, affect or invalidate the other provisions of this Agreement.

13.1.3 Headings

Title and headings of the sections and subsections of this Agreement are for convenience of reference only and do not form a part of this Agreement and shall in no way affect the interpretation thereof.

13.2 Agreements between Partners

13.2.1 Governing Laws

The Partners agree that United States Federal Law shall govern this Agreement for all purposes.

13.2.2 Independent Contractors/Entities

The relationship of the Partners to this Agreement is that of independent contractors and not as agents of each other or as joint venturers or partners. Each Partner shall maintain sole and exclusive control over its personnel and operations.

13.2.3 Amendments

If any Partner desires a modification in this Agreement, the Partners shall, upon reasonable notice of the proposed modification by the Partner desiring change, confer in good faith to determine the desirability of such modification. Such modification shall not be effective until a written amendment is signed by the Agreement signatories or their successors.

13.2.4 Assignment/Subcontracting

13.2.4.1 If either Partner subcontracts or grants to a third Party any portion of the work to be accomplished under this Agreement, then the contracting Partner shall remain fully responsible for that portion of the work, and the subcontractor is not a Partner to the Agreement.

13.2.4.2 Except as otherwise provided in this Agreement, this Agreement or any license thereunder shall not be assigned or otherwise transferred by any Partner without the prior written consent of the other Partner, except to the successor of that part of MsET operations to which this Agreement or such license pertains.

13.2.4.3 In the event that MsET or its successors or assignees shall become, during the term of this Agreement, directly or indirectly controlled by a foreign company or government (Executive Order 12591, Section 4.(a)), then MsET shall immediately notify CNMOC to that effect. If MsET becomes foreign-controlled during the term of this Agreement, CNMOC, after consultation with the U. S. Trade Representative in accordance with Executive Order 12591, may cancel any option for an exclusive or partially exclusive license to a Subject Invention and may terminate any exclusive or partially exclusive licenses of patents in Subject Inventions entered into which the Government has title, and which have been licensed under this Agreement.

13.2.5 Termination

13.2.5.1 Termination by Mutual Consent

MsET and CNMOC may elect to terminate this Agreement at any time by mutual consent. In such event the Partners shall specify the disposition of all Subject Inventions and other results of work accomplished or in progress, arising from or performed under this Agreement, and they shall specify the disposal of all property in a manner consistent with this Agreement, any license hereunder and the property disposal laws and regulations.

13.2.5.2 Unilateral Termination

Either Partner may unilaterally terminate this entire Agreement at any time by giving the

other Partner written notice, not less than thirty (30) days prior to the desired termination date. If MsET unilaterally terminates this Agreement, any option for an exclusive or partially exclusive license to a Subject Invention and any exclusive or partially exclusive license to a Subject Invention entered into by the Partners shall be simultaneously terminated unless the Partners agree to retain such option or exclusive license.

13.2.5.3 No New Commitments

CNMOC shall make no new commitments after receipt of a written termination notice from MsET and shall, to the extent practicable, cancel all outstanding commitments by the termination date.

13.2.6 Notices

All notices pertaining to or required by this Agreement shall be in writing and shall be signed by an authorized representative and shall be delivered by hand or sent by certified mail, return receipt requested, with postage prepaid, addressed as follows:

If to MsET: Mr. Dan Morrison
Executive Director
Mississippi Enterprise For Technology
Building 1103
Stennis Space Center, MS 39529

If to CNMOC: Mr. Al Lewando
Assistant Chief of Staff
Naval Meteorology and Oceanography Command
1020 Balch Blvd
Stennis Space Center, MS 39529-5005

Any Partner may change such address by notice given to the other Partner in the manner set forth above.

13.2.7 Disputes

13.2.7.1 Settlement

CNMOC and MsET agree to use all reasonable efforts to reach a fair settlement of any dispute. If such efforts are unsuccessful, remaining issues in dispute will be referred to the signatories or their successors for resolution. If a dispute continues, the remaining issues may be submitted to the Chief of Naval Research, or his designee, for resolution. Nothing in this Agreement is intended to prevent MsET from pursuing disputes in a Federal Court of competent jurisdiction.

13.2.7.2 Continuation of Work

Pending the resolution of any dispute or claim pursuant to this Article, the Partners agree that performance of all obligations under this Agreement shall be diligently pursued.

13.2.8 Waivers

None of the provisions of this Agreement shall be considered waived by any Partner unless such waiver is given in writing to the other Partner. The failure of any Partner to insist upon strict performance of any of the terms and conditions hereof, or failure or delay to exercise any rights provided herein or by law shall not be deemed a waiver of any right of any Partner hereto.

13.2.9 Use of Name or Endorsements

Except as provided for in Article 10.2.3, MsET shall not use the name of CNMOC or any other Government entity on any product or service which is directly or indirectly related to either this Agreement or any patent license or assignment associated with this Agreement without the prior approval of CNMOC. By entering into this Agreement, CNMOC does not directly or indirectly endorse any product or service provided, or to be provided, by MsET, its successors, assignees, or licensees. MsET shall not in any way imply that this Agreement is an endorsement of any such product or service.

13.3 Disposal of Toxic Wastes

Each Partner shall be responsible for the removal of any and all toxic or other material that it used, provided, or generated in the course of performing this Agreement. Each Partner shall obtain at its own expense all necessary permits and licenses as required by local, state, and federal law and shall conduct such removal in a lawful and environmentally responsible manner.

13.4 Officials Not to Benefit

No member of or delegate to the United States Congress shall be admitted to any share or part of this Agreement or to any benefit that may arise therefrom.

13.5 U.S. Competitiveness

MsET agrees that any products, processes or services using intellectual property arising from the performance of this Agreement shall be manufactured substantially in the United States.

13.6 Public Release of this Agreement Document

This Agreement document is releasable to the public.

Article 14. EFFECTIVE DATE AND DURATION

14.1. This Agreement shall enter into force on the date of the last signature of the Partners.

14.2. This Agreement shall terminate three (3) years after its effective date.

Article 15. SURVIVING PROVISIONS

The articles covering Definitions, Funding, Reporting and Publications, Intellectual Property, Property, Liabilities, General Provisions, and Surviving Provisions shall survive the termination of this Agreement.

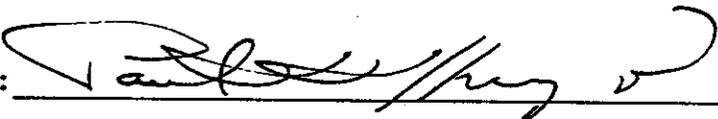
Article 16. SIGNATURES

Entered into this 1st day of April 1996, for Mississippi Enterprise for Technology

By:  _____

Title: Executive Director

Entered into this 1st day of April 1996, for the Department of the Navy

By:  _____

Title: Commander, Naval Meteorology and Oceanography Command

Appendix B

REQUEST FOR COOPERATIVE RESEARCH

The Cooperative Research between the **COMNAVMETOCCOM**, **MSET** and the Requestor (the parties to this Request for Cooperative Research) will be conducted under the following special terms and conditions:

Objective -- The objective of this Cooperative Research is to transfer technology from COMNAVMETOCCOM to the Requestor who, through MSET, has requested technology as described in the attached Problem Statement.

Funding -- COMNAVMETOCCOM, MSET, and the Requestor will each bear their own costs as incurred in this request.

Duration -- COMNAVMETOCCOM will provide up to a maximum of four (4) man-days of effort on this request, which is nonrenewable under this agreement.

Liability -- The Requestor holds the U.S. Government (Government) harmless and agrees to indemnify the Government for all liabilities, claims, demands, damages, expenses, and losses of any kind arising out of this Cooperative Research. The Requestor agrees that the Government shall not be liable to the Requestor for any loss of revenue, profits, or other indirect or consequential damages.

Use of Name or Endorsements -- The Requestor shall not use the name of COMNAVMETOCCOM or any other Government entity on any product or service which is directly or indirectly related to either this Cooperative Research or any patent license or assignment associated with this Cooperative Research without prior approval of COMNAVMETOCCOM.

Data -- Recorded information that is produced during the performance of the requested research (subject data) is owned by the party who produced the information. The other party has unlimited rights, including copyright, in the use,

including publication and disclosure, of the subject data. Proprietary information that is included in subject data shall be clearly marked. The parties agree to hold proprietary information in confidence, as long as it remains a trade secret.

Patents -- These points pertain to inventions made during the cooperative research.

1) The party whose employees make an invention owns the invention. If employees of more than one of parties make an invention, it is jointly owned by those parties. The Navy will obtain patents on such joint inventions, subject to approval by the Naval Research Laboratory Invention Evaluation Board.

2) The party who owns an invention shall promptly notify the other party of the invention and provide a completed written description of the invention.

3) If the party who owns an invention decides to obtain a patent on the invention, it shall grant to the other party a nonexclusive, nontransferable, irrevocable, paid-up license to practice the invention practiced throughout the world by or on behalf of said other party.

4) If a party decides not to obtain a patent, that party shall permit the other party to file and/or continue to prosecute the patent application.

5) The party who obtains a patent is responsible for all expenses associated with obtaining and maintaining the patent.

6) The parties agree to assist and cooperate with the party who is seeking to obtain a patent.

Title to Property -- Each party shall retain title to and possession of all its pre-existing property, facilities, equipment, or other resources provided under this agreement. Jointly developed property containing Government-owned components shall be the property of the Government.

Governing Laws -- The Partners agree that United States Federal Law shall govern this Agreement for all purposes.

Independent Contractors/Entities -- The relationship of the Partners to this Agreement is that of independent contractors and not as agents of each other or as joint venturers or partners. Each partner shall maintain sole and exclusive control over its personnel and operations.

Officials Not to Benefit -- No member of or delegate to the U.S. Congress shall be admitted to any share or part of this Agreement or to any benefit that may arise therefrom.

U.S. Competitiveness -- The Requestor agrees that any products, processes, or services for use or sale in the United States under any U.S. patent resulting from a Subject Invention shall be manufactured substantially in the United States.

Reporting -- COMNAVMETOCCOM will provide MsET with a report on the findings of a specific scientific assessment of the Requestor's Problem Statement. MsET shall follow up with the Requestor to assure that the transferred technology is appropriate and useful.

Effective Date -- This request shall become effective on the date of the last signature of the parties and the four man-days of Cooperative Research specified in the Duration statement above shall be available from COMNAVMETOCCOM to the Requestor for a period of six (6) months thereafter.

_____	_____	_____
Requestor	MSET	COMNAVMETOCCOM
Name & Date	Name & Date	Name & Date

_____	_____	_____
Title	Title	Title

Company

Address