

**DUQUESNE UNIVERSITY  
SUBCONTRACT AGREEMENT**

**PREAMBLE**

THIS AGREEMENT entered into on this the \_\_\_\_\_ day of \_\_\_\_\_, by and between **Duquesne University** (hereinafter referred to as **University**) with a principal office at 600 Forbes Avenue, Pittsburgh, PA 15282 and \_\_\_\_\_ (hereinafter referred to as **Subcontractor**); and constituting Agreement Number \_\_\_\_\_ under (INSTITUTE OR AGENCY NAME) Prime Agreement No. \_\_\_\_\_ between the Government and **University**, which Agreement provides for the project entitled: “

**WITNESSETH THAT:**

**WHEREAS**, the **University** is desirous of obtaining the services of the **Subcontractor**;

**WHEREAS**, the **Subcontractor** represents that **Subcontractor** has the knowledge, skill and ability to perform the desired services for the **University**;

**NOW, THEREFORE**, the parties hereto, intending to be legally bound, covenant and agree as follows:

**SCHEDULE**

**ARTICLE 1. Statement of Work**

- 1.1** The **Subcontractor** shall provide the necessary personnel, supplies, equipment and facilities to perform the services specified in the Statement of Work attached as **Exhibit A**, which by this reference is made a part hereof.
- 1.2** For the period of this Agreement, the **Subcontractor** will utilize personnel for the approximate time indicated:

Personnel

Percent of Effort

- 1.3** The **Subcontractor** agrees to use its best efforts to accomplish all the services specified in the Statement of Work referenced above. Its obligation will be deemed complete if the services are performed in accordance with high standards of scientific and professional skill and the approximate time has been substantially applied, except, however, all other requirements must be met including delivery of reports and materials as may be required under the Agreement. (See ARTICLE 3)

- 1.4** The **University** Principal Investigator for the project will advise the **Subcontractor** in the performance of the required services. The designated Principal Investigator for the **University** is \_\_\_\_\_.

**ARTICLE 2. Key Personnel**

**2.1** The **Subcontractor** will assign \_\_\_\_\_ to perform services under this Agreement and shall not replace said key personnel without the prior written approval of the **University** Principal Investigator and an authorized official of the **University**.

**ARTICLE 3. Delivery or Performance Schedule**

**3.1** The **Subcontractor** shall furnish and deliver the materials and/or perform the services required by **Exhibit A**, Statement of Work.

**3.2** The period of performance under this Agreement is specified as \_\_\_\_\_ through \_\_\_\_\_, for which period funds are available and allotted.

**ARTICLE 4. Allowable Costs and Payment**

**4.1 Estimated Cost**

The estimated cost of the performance of this Agreement is \$ \_\_\_\_\_.

**4.2 Budget**

A budget which is agreed to by the parties to this Agreement is hereby attached as **Exhibit B** and made a part of this Agreement.

**4.3 Allowable Costs**

For the purpose of determining the amounts payable to the **Subcontractor** under this Agreement, allowable costs shall be determined in accordance with (a) the cost principles applicable to the **Subcontractor**, and (b) the terms of this Agreement:

a. **Direct Costs:** \_\_\_\_\_ \$

b. **Indirect Costs (Overhead):** \_\_\_\_\_ \$

The indirect cost rates established for the performance period of this Agreement are \_\_\_\_\_ % of Modified Total Direct Costs.

However, any amount to be recovered as indirect cost may not exceed the total indirect cost budget unless provided for in the University Prior Approval System of the funding agency.

c. **Payment**

(1) The **Subcontractor** shall submit invoices, at approximately **thirty (30) day** intervals following commencement of services, to the **University** for payment of costs incurred during the preceding calendar month. Invoices should be sent to the following address:

**Duquesne University  
Office of Research  
Room 403 Administration Building  
600 Forbes Avenue**

**Pittsburgh, PA 15282**

- (2) Payments for performance under this Agreement shall be made by the **University** to the **Subcontractor** on a cost reimbursable basis when invoiced. Any payments so made shall be in accordance with the approved budget referenced above and attached as **Exhibit B**.

If required under the Prime Agreement, final Contractor's Release and Assignment or Rebates, Refunds and Credits per FAR, Section 52.232-7(g) documents must be submitted to the **University** with the Final Invoice.

The Federal government requires a recipient of Federal funds of **\$300,000** or more to provide the **University** with a copy of its most recent annual audit report within **thirty (30)** days after termination date of the Agreement. Accompanying the audit report must be a statement or other evidence that corrective action has been taken in instances of non-compliance with Federal laws and regulations which bear directly on the performance of this Agreement.

Payment of the final invoice will be withheld until the audit report is received and all progress payments will be subject to return to the **University** if the audit report and other required documentation is not provided or action to correct non-compliance with Federal laws and regulations is not taken within six (6) months from date of submission of audit report. **Subcontractor** is required to complete **Exhibit D**, Subcontractor's Compliance with A-133, which is attached and made a part hereof.

- (3) **Subcontractor** shall reimburse the **University** a sum of money equivalent to the amount of any expenditures disallowed should the funding agency or the cognizant audit agency rule through audit exception or some other appropriate means, that expenditures from funds allocated to the **Subcontractor** for direct and/or indirect costs were not made in compliance with the regulations of the funding agency or the provisions of this Agreement.
- (4) A non-profit recipient of Federal funds that receives **\$300,000** or more is subject to compliance with Office of Management and Budget (**OMB**) Circular A-133 and must meet the audit requirements of that circular.

**ARTICLE 5. General Provisions**

**5.1 Independent Contractor**

Nothing contained in this Agreement is to be construed to constitute **Subcontractor** and **University** as partners or joint venturers of each other, or to constitute the employees, agents or representatives of either party as the employees, agents or representatives of the other party, it being intended that the relationship between **Subcontractor** and **University** shall at all times be that of independent contractors. Neither party hereto shall have any express or implied right or authority to assume or create any obligations on behalf of, or in the name of, the other party; or to bind the other party to any contract agreement, or undertaking of any third party. **Subcontractor** agrees, warrants and represents to **University**, with the intention that **University** may rely thereon, that **University** does not now exercise, and will not be permitted during the terms of this Agreement to exercise any significant degree of control over **Subcontractor's** method of operation.

**5.2 Records/Reports**

The books of account, documents, papers, files and other records of the **Subcontractor** which are applicable to this Agreement shall at all reasonable times be available for inspection, review and audit, if required, to determine the proper application and use of all funds paid to or for the account or for the benefit of the **Subcontractor**; in addition, the **Subcontractor** shall provide such special reports as requested by the **University** to permit evaluation of progress of the project.

**5.3 Termination**

This Agreement may be terminated by either party upon **sixty (60) days** written notice to the other party, or in accordance with the Prime Agreement. In the event of a conflict, the terms of the Prime Agreement shall govern.

**5.4 Liability**

The **University** shall not be responsible or liable for any injuries or losses which may result from the implementation or use by **Subcontractor** or others of the results from the project or research data generated by **Subcontractor**.

The **Subcontractor** shall indemnify, defend and hold harmless **University**, its trustees, officers, agents and employees with respect to any expense, claim, liability, loss, damage or costs (including attorneys' fees) in connection with or in any way arising out of the negligent acts of the **Subcontractor's** officers, employees, agents and/or contractors involved in the Statement of Work.

The **Subcontractor** shall be solely responsible for any and all third party liability incurred by it in connection with the performance of this Agreement.

This obligation to defend and indemnify **University** shall survive the termination of this Agreement.

**5.5 Severability**

If any provision of this Agreement as applied to either party shall be adjudged by a court to be void or unenforceable, the same shall not have any effect on any other provision of this Agreement or the validity or enforceability of this Agreement.

**5.6 Insurance**

The **Subcontractor** shall provide the necessary employment related insurance coverage, including but not limited to, Worker's Compensation and Employer's Liability insurance, for its employees involved in this project in amounts consistent with the laws of its place of business or the jurisdiction where the Work will be performed.

**5.7 Taxes**

The **Subcontractor** agrees that it is responsible for withholding and paying to appropriate taxing bodies, all taxes that are applicable to **Subcontractor's** personnel to be supported under this Agreement.

**5.8 Governing Law**

This Agreement shall be deemed to be a contract under, and shall be governed by, construed and enforced in accordance with the laws of the COMMONWEALTH OF PENNSYLVANIA.

**5.9 Forum/Jurisdiction**

The parties agree that all claims, disputes, and controversies arising out of or relating to this Agreement shall be litigated in and before a court in Pittsburgh, Pennsylvania and hereby consent and submit to jurisdiction therein.

**5.10 Assignment**

This Agreement may not be assigned in whole or in part without the prior consent of the **University**.

**5.11 Changes**

This Agreement may not be and shall not be construed to have been modified, amended, rescinded, canceled or waived, in whole or in part, except in writing signed by the parties hereto and making specific reference to this Agreement.

**ARTICLE 6. Special Provisions**

**6.1 Equipment**

The **University** shall retain title to equipment purchased by the **Subcontractor** pursuant to the terms of this Agreement, and the equipment shall be returned to the **University** upon the termination of this Agreement, unless other disposition is mutually agreed upon and permitted under terms of the Prime Agreement. If requested under the Prime Agreement, property inventory listings must be submitted to the **University**.

**6.2 Patents and Inventions**

If required under the Prime Agreement, Patent and Invention Reports must be submitted to the **University** within **thirty (30) days** after the termination date of the Agreement.

**6.3 Subcontractor Certifications**

The **Subcontractor** is required to complete and mail to the appropriate address **Exhibit C**, Subcontractor Certifications, which is attached and made a part hereof.

**6.4 Cost Accounting Standards**

This Agreement is subject to the Cost Accounting Standards as they apply to Educational Institutions (FAR 52.230-5) and OMB Circular A-21. Alternatively, if the **Subcontractor** is subject to other Cost Accounting Standards as set forth in FAR 52.230-2, those standards will take precedence.

**ARTICLE 7. Incorporation of Applicable Provisions of Prime Agreement**

**7.1** All applicable provisions contained in the Prime Agreement between the **University** and the funding agency shall be binding upon the **Subcontractor**, and the **Subcontractor** hereby agrees to comply with same. A copy of the Prime Agreement is attached to this Agreement as **Exhibit E** and made a part hereof by this reference.

**ARTICLE 8. Entire Understanding**

**8.1** This Agreement contains the entire understanding with respect to the subject matter hereof and supersedes all prior agreements or understandings, written or oral, prior to the execution of this Agreement.

**IN WITNESS WHEREOF**, the parties hereto execute this Agreement.

**DUQUESNE UNIVERSITY**

By \_\_\_\_\_

By \_\_\_\_\_

Typed Name: Alan Seadler

Typed Name \_\_\_\_\_

Title: Associate Academic Vice President for Research

Title \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_

## **EXHIBITS**

### **Agreements**

Exhibit A - Statement of Work

Exhibit B - Budget

Exhibit C – Subcontractor Certifications

Exhibit D - Compliance with A-133

Exhibit E – Prime Agreement