AMENDMENT TO ADMINISTRATIVE SERVICES AGREEMENT

Effective December 20, 2011 (the "Amendment Effective Date"), The University of Delaware ("University") and the Mid-Atlantic Coastal Ocean Observing Regional Association ("MACOORA") hereby amend the Administrative Services Agreement entered into by the parties and dated June 13, 2006 (the "Agreement"). The 501(c)(3) entity to whom the University provides administrative services is changing its official name from the Mid-Atlantic Coastal Ocean Observing Regional Association (MACOORA) to the Mid-Atlantic Regional Association Coastal Ocean Observing System (MARACOOS). Therefore, through this Amendment, the parties hereby agree to modify the Agreement as follows:

1. All references to the Mid-Atlantic Coastal Ocean Observing Regional Association are deleted and replaced with the Mid-Atlantic Regional Association Coastal Ocean Observing System.

2. All references to MACOORA are deleted and replaced with MARACOOS.

University of Delaware

Mark A. Bartelau
Senior Vice Provost
Title
Date 2/16/2012

Mid-Atlantic Regional Association Coastal Ocean Observing System

Carolyn A. Schmugge
Name
Chair, Board of Directors
Title
Date January 18, 2012
ADMINISTRATIVE SERVICES AGREEMENT

This ADMINISTRATIVE SERVICES AGREEMENT (this “Agreement”), dated as of June 15, 2006, is by and between Mid-Atlantic Coastal Ocean Observing Regional Association, a Delaware corporation (“MACOORA”), and University of Delaware, an educational nonprofit institution chartered under the laws of the State of Delaware (the “University”).

WITNESSETH:

WHEREAS, National Oceanic and Atmospheric Administration (“NOAA”), an agency of the U.S. Department of Commerce, has awarded a total amount of $1,014,355 in Federal funds covering a three-year period to the University for the purpose of funding the expenses of MACOORA in accordance with that certain University proposal entitled “Mid-Atlantic Coastal Ocean Observing Regional Association (MACOORA)” dated March 31, 2005.

WHEREAS, said award is intended to cover the cost of services provided by the University to MACOORA and the costs that MACOORA incurs (or passes on to the University) in purchasing goods or services from third parties.

WHEREAS, the award stipulates that, among other things, the University will provide financial and administrative services to MACOORA at no charge to MACOORA (other than to use said award moneys to fund the cost of such services incurred by the University).

WHEREAS, in anticipation of paying the costs that MACOORA incurs (or passes on to the University) in purchasing goods or services from third parties, the University will deposit certain award funds into a separate agency account to be administered by the University on behalf of MACOORA.

NOW, THEREFORE, with the intent to be legally bound hereby and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the University and MACOORA agree as follows:

ARTICLE I

ENGAGEMENT AND OBLIGATIONS OF THE UNIVERSITY

1.1 Engagement of The University

MACOORA hereby engages the University to provide the Services (as defined in Section 1.2 hereof) with respect to the business, operations, and activities of MACOORA, and the University hereby agrees to provide the Services to MACOORA, pursuant to and in accordance with the terms and conditions of this Agreement.
1.2. Services

The services to be provided hereunder (the “Services”) shall include all services determined by MACOORA and the University to be necessary or desirable for the operation of MACOORA’s business and activities including, but not limited to, the following:

Building of regional organizational structures for regional observing systems, including adoption and codification of an organizational and governance structure;

Building of partnerships for regional observing systems;

Data management, including facilitation of communication and management of data streams from multiple sources;

Outreach and other coordination;

User needs activities (e.g., workshops, educational support);

Sharing of lessons learned from other regional associations;

Administrative services including those of Chief Operating Officer, Data Manager, Webmaster, Student Assistant, and Secretary (namely, general secretarial services, including typing, copying, filing, e-mailing, data entry, telephone handling, and facsimile transmission);

Supplies and expenses relating thereto;

Travel;

Membership services, including dues invoice processing and dues receipts processing;

Accounting services, including receipts, disbursements, record-keeping, and reporting;

Reimbursement for the reasonable costs of legal services, including consultation and referral services;

Payment for other reasonable services that MACOORA obtains from third party vendors (in payment of amounts invoiced by MACOORA or such vendors); and

Web page maintenance, including web postings.

1.3 Scope of the University’s Responsibility

The parties agree that all decisions regarding the operation of the MACOORA business and activities shall be made by MACOORA. Whenever the terms of this Agreement require the University to provide Services, the level of Services to be provided shall be that which is
necessary or desirable, in the determination of MACOORA, for the operation of the MACOORA business and activities.

ARTICLE II
GENERAL PRINCIPLES

2.1 Shared Services

The University shall utilize its own employees, equipment, facilities and other assets to provide the Services.

2.2 No Fee

It is the intention of the parties that the University shall receive no fee or other compensation for providing the Services (other than to use the award moneys to fund the cost of such services as incurred by the University).

ARTICLE III
REPRESENTATIONS, WARRANTIES, COVENANTS, AND AGREEMENTS

3.1 Representations and Warranties of the University

(a) The University has full power and authority to execute and deliver this Agreement and to perform the Services. The execution and delivery of this Agreement and the performance of the Services have been duly and validly authorized by the University, and no other proceedings on the part of the University (or any other person) are necessary to authorize the execution and delivery by the University of this Agreement or the performance of the Services. This Agreement has been duly and validly executed and delivered by the University, and (assuming the valid execution and delivery of this Agreement by MACOORA) constitutes the legal, valid and binding agreement of the University enforceable against the University in accordance with its terms, except as such obligations and their enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting the enforcement of creditors’ rights generally and except that the availability of equitable remedies, including specific performance, is subject to the discretion of the court before which any proceeding therefor may be brought (whether at law or in equity).

(b) The execution, delivery and performance by the University of this Agreement and the performance of the Services will not (i) violate any provision of the charter or other organic document of the University; (ii) require the University or MACOORA to obtain any consent, approval or action of, or make any filing with or give any notice to, any governmental body or any other person; (iii) violate, conflict with or result in the breach of any of the terms of, result in a material modification of the effect of, or otherwise cause the termination of or give any other contracting party to a contract the right to terminate, or constitute (or with notice or lapse of time or both constitute) a default under any contract to which the University or MACOORA is a party or by or to which any of their respective properties may be bound or subject, or result in the creation of any lien upon the properties of the University or MACOORA pursuant to the terms of any such
contract in such a way as would have a material adverse effect upon MACOORA or its business, operations, or activities; (iv) violate any order of any governmental body against, or binding upon, the University or MACOORA or upon their respective properties or businesses, operations, or activities; (v) violate any law of any governmental body; or (vi) violate or result in the revocation or suspension of any license or permit in such a way as would have a material adverse effect upon the Services, the University or MACOORA.

3.2 Covenants and Agreements of The University

During the term of this Agreement, the University agrees to:

(a) Maintain all of its structures, equipment and other tangible assets used for the provision of the Services in good repair, order and condition, except for depletion, depreciation and ordinary wear and tear;

(b) Maintain all of its facilities from which any Services are performed in reasonably good working condition, with all necessary equipment suitable for its intended use;

(c) Comply with all laws, rules, regulations and orders applicable to the University and MACOORA and the operation of their respective businesses and activities; and

(d) Maintain all licenses, permits or other authorizations required to be maintained for the performance of the Services.

3.3 Books and Records; Financial Statements

(a) The University shall maintain complete and accurate books and records relating to the University’s provision of the Services hereunder, and shall maintain financial controls in accordance with generally accepted accounting principles, consistently applied. The University shall permit an authorized representative of MACOORA to review and copy such books and records during normal business hours upon reasonable advance notice.

(b) The University shall prepare and furnish to MACOORA, in a format reasonably acceptable to it and setting forth in detail the actual costs and expenses of the Services, any information reasonably requested by MACOORA.

(c) The University shall permit an authorized representative of MACOORA to review and copy the books and records relating to the provision of the Services, during normal business hours upon reasonable advance notice.

(d) It is understood and agreed that MACOORA shall be on a fiscal year commencing January 1 for all purposes.
3.4 Personnel

(a) All Services to be performed hereunder by the University hereunder shall be performed by employees of the University (the “University Employees”). The University shall have sole decision-making authority with respect to the employment, and terms of employment, of all of the University Employees.

(b) It is agreed and understood that, except as specifically set forth herein, MACOORA does not have any decision-making authority or involvement whatsoever in the hiring, firing, training, promotion, compensation, incentives, benefits, termination, policies, procedures or any other aspect whatsoever of the employment by the University of its employees. Accordingly, the University hereby agrees to indemnify, defend and hold harmless MACOORA and its members, and their respective officers and all other affiliates, from and against any actions, proceedings, claims, losses, liabilities, damages, deficiencies, judgments, settlements, costs of investigation and other expenses (including interest, penalties and reasonable attorneys’ fees and disbursements) incurred by them (collectively, “Losses”) based upon, arising out of or in connection with, or otherwise in respect of any aspect of the hiring, employment or termination, of the University Employees. In addition, the University agrees and will at all times legally aver that MACOORA is neither a joint or co-employer for purposes of any and all legal proceedings.

3.4 Ownership; Proprietary Rights

The parties acknowledge and agree that all title, right and interest in and exclusive rights to the business, operations, and activities of MACOORA are the exclusive property of MACOORA. The University shall not assert the invalidity or contest the ownership by MACOORA of any of MACOORA’s assets, either as a complete or partial defense to any claim made by MACOORA, or any third party, or as a basis of a claim against MACOORA.

ARTICLE IV
TERM AND TERMINATION

4.1. Term

This Agreement shall be effective as of the date hereof, and shall continue in effect until terminated as provided herein.

4.2. Termination

(a) MACOORA may terminate this Agreement for any reason whatsoever, or for no reason, upon 30 days’ written notice to the University.

(b) The University may terminate this Agreement for cause, which shall be limited to (i) the failure of MACOORA to meet its obligations hereunder, and (ii) the sale or transfer by MACOORA of substantially all of its assets.
4.3 Notice of Default and Time to Cure; Termination

In the event the University wishes to terminate this Agreement under the provisions of Section 4.2(b)(i), the University shall provide MACOORA with written notice of its intention to terminate this Agreement. In the event MACOORA fails to cure the default giving rise to the right to terminate within sixty (60) days of receiving written notice of termination, to the reasonable satisfaction of the University, the University may then immediately terminate this Agreement upon written notice to MACOORA. Notwithstanding the foregoing, the University shall not have the right to terminate this Agreement during the pendency of any good faith dispute as to MACOORA’s obligations hereunder.

4.4 Effect of Termination

Upon the termination of this Agreement, the University shall deliver to MACOORA copies of all written data and information which is related to the ongoing business, operations and activities of MACOORA, or which was generated by or for MACOORA in connection with the performance of the Services during the term hereof, except to the extent any such data has previously been delivered to MACOORA.

ARTICLE V

MISCELLANEOUS

5.1. Notices

All notices, demands, requests, or other communications which may be or are required to be given, served, or sent by any Party to any other Party pursuant to this Agreement shall be in writing and shall be hand-delivered or mailed by first-class, registered or certified mail, return receipt requested, postage prepaid, or transmitted by facsimile transmission, addressed as follows:

(a) If to the University:


(b) If to MACOORA:


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With a copy to:

Potter Anderson & Corroon LLP
Hercules Plaza
1313 North Market Street, 6th Floor
Wilmington, DE 19801
Facsimile: (302) 658-1192
Attention: John J. Quinn, III, Esq.

Each Party may designate by notice in writing a new address to which any notice, demand, request or communication may thereafter be so given, served or sent. Each notice, demand, request, or communication which shall be hand-delivered, mailed, or transmitted by facsimile transmission in the manner described above, shall be deemed sufficiently given, served, sent, received or delivered for all purposes at such time as it is delivered to the addressee (with the return receipt, the delivery receipt, or the answer back being deemed conclusive, but not exclusive, evidence of such delivery) or at such time as delivery is refused by the addressee upon presentation.

5.2 Relationship of the Parties

Nothing in this Agreement shall be construed to create a partnership or joint venture between the University and MACOORA for any purpose, and it is expressly agreed that, in performing its obligations hereunder, the University shall have the relationship of an independent contractor with respect to MACOORA.

5.3 Assignment

This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns, but neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by any party hereto without the prior written consent of the other party.

5.4 Governing Law; Dispute Resolution

(a) This Agreement and all issues arising hereunder shall be governed by, construed under, and enforced in accordance with the laws of the State of Delaware without giving effect to the principles of conflict of laws therein.

(b) Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by arbitration in the State of Delaware administered by the American Arbitration Association under its Commercial Arbitration Rules, and judgments on the award rendered by the arbitrators may be entered in any court having jurisdiction thereof.

(c) In connection with any such arbitration proceeding, civil discovery shall be permitted for the production of documents and the taking of depositions. All discovery shall be
governed by the Federal Rules of Civil Procedure. All issues pertaining to discovery shall be
determined by the arbitrator(s).

(d) The arbitrators shall have the sole authority to decide whether or not any dispute
between the parties is arbitrable. The decision of the arbitrators, which shall be in writing and
state the findings the facts and conclusions of law upon which the decision is based, shall be final
and binding upon the parties, who shall forthwith comply after receipt thereof. Judgment upon
the award rendered by the arbitrator may be entered by any competent court. Each party submits
itself to the jurisdiction of any such court, but only for the entry and enforcement to judgment
with respect to the decision of the arbitrators hereunder.

(e) The arbitrators shall have the power to grant all legal and equitable remedies
(including, without limitation, specific performance) and award compensatory damages provided
by applicable law, but shall not have the power or authority to award punitive damages. No
party shall seek punitive damages in relation to any matter under, arising out of, or in connection
with or relating to this Agreement in any other forum.

5.5 Additional Actions and Documents

Each of the parties hereto agrees to take or cause to be taken such further actions, to
execute and deliver or cause to be executed and delivered such further documents and
instruments, and to use its best efforts to obtain such consents as may be necessary or desirable
in order to effectuate fully the purposes, terms and conditions of this Agreement.

5.6 Severability

If any part of any provision of this Agreement is declared invalid by a court of competent
jurisdiction, this Agreement shall be construed as if such part did not exist, and the balance
hereof shall be given full force and effect.

5.7 No Third-Party Beneficiaries

The parties agree that this Agreement is for the benefit of the parties hereto only and is
not intended to confer any rights or benefits on any third party, including any employee of any of
the parties, and that there are no third-party beneficiaries to this Agreement or any part or
specific provision of this Agreement.

5.8 Execution in Counterparts

To facilitate execution, this Agreement may be executed in as many counterparts as may
be required; and it shall not be necessary that the signatures of, or on behalf of, each party, or
that the signatures of all persons required to bind any party, appear on each counterpart; but it
shall be sufficient that the signature of, or on behalf of, each party, or that the signatures of the
persons required to bind any party, appear on one or more of the counterparts. All counterparts
shall collectively constitute a single agreement. It shall not be necessary in making proof of this
Agreement to produce or account for more than a number of counterparts containing the respective signatures of, or on behalf of all of the parties hereto.

5.9. **Entire Agreement; Amendment**

This Agreement, including other writings referred to herein or delivered pursuant hereto, constitutes the entire agreement of the parties with respect to the transactions contemplated herein, and it supersedes all prior oral or written agreements, commitments or understandings with respect to the matters provided for herein. No amendment, modification or discharge of this Agreement shall be valid or binding unless set forth in writing and duly executed by the party against whom enforcement of the amendment, modification, or discharge is sought.

[signatures on next page]
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and delivered by their respective duly authorized representatives as of the day and year first above written.

MID-ATLANTIC COASTAL OCEAN OBSERVING REGIONAL ASSOCIATION

By: Larry P. Atkinson
Name: Larry P. Atkinson
Title: Slover Professor, Old Dominion U.
Secretary, MACORA

UNIVERSITY OF DELAWARE

By: Richard D. Holsten
Name: Richard D. Holsten
Title: Associate Provost for Research
September 25, 2006

Dr. Richard D. Holsten
Associate Provost for Research
Office of the Vice Provost for Research
210 Hullihen Hall
University of Delaware
Newark, DE 19716

Subject: Amendments to the Administrative Services Agreement between MACOORA and the University of Delaware, dated June 13, 2006

Reference: Administrative Services Agreement between MACOORA and the University of Delaware, dated June 13, 2006

Dear Dr. Holsten:

At a meeting of the MACOORA Board of Directors on September 6, 2006, it was agreed that it would be useful to amend the subject Administrative Services Agreement. The following changes have been proposed:

Page 1, under WITNESSETH, add the following paragraph before the paragraph starting with the words, “NOW, THEREFORE,“

WHEREAS, MACOORA anticipates awards from additional funding sources for the operation of MACOORA business and activities as described below.

Page 6, ARTICLE V, MISCELLANEOUS, Section 5.1. Notices, incorporate the following contact information:
(a) If to the University:

Dr. Richard D. Holsten
Associate Provost for Research
Office of the Vice Provost for Research
210 Hullihen Hall
University of Delaware
Newark, DE 19716
(302) 831-2383
(302) 831-2828 FAX
rholsten@udel.edu

(b) If to MACOORA:

Larry Atkinson  [MACOORA Board Secretary]
OEAS
Old Dominion University
Norfolk, VA 23529
(757) 683-3472
(757) 683-5303 FAX
latkinso@odu.edu

and to:

Carolyn Thoroughgood  [MACOORA Board Chair]
Vice Provost for Research
University of Delaware
209 Hullihen Hall
Newark, DE 19716
(302) 831-4007
(302) 831-8620 FAX
cthgood@udel.edu

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[End of Changes]*******************************************************************************

If these changes are acceptable to the University, please sign, date, and return one copy of
this letter, amending the Administrative Services Agreement between MACOORA and
the University of Delaware, dated June 13, 2006, to:

Carolyn Thoroughgood  [MACOORA Board Chair]
Vice Provost for Research
University of Delaware
209 Hullihen Hall
Newark, DE 19716
Thank you for your attention to this matter. MACOORA and its members appreciate the support provided by the University.

Very truly yours,

MID-ATLANTIC COASTAL OCEAN OBSERVING REGIONAL ASSOCIATION

By: [Signature]
Name: Larry Atkinson
Title: Secretary
Date: 10/4/06

UNIVERSITY OF DELAWARE

By: [Signature]
Name: Richard D. Holsten
Title: Associate Provost for Research
Date: 10/5/06