



1. The following clauses are applicable to all subcontracts, purchase orders and agreements for commercial items awarded by Princeton University Plasma Physics Laboratory.

1.1 DEFINITIONS (MAY 2002)

The following terms shall have the meanings set forth below:

- (a) "Agreement" means Purchase Order, Subcontract, Price Agreement, Basic Ordering Agreement, or any modifications thereof.
- (b) "Contracting Officer" means a federal employee with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings.
- (c) "Government" means the United States of America and includes the United States Department of Energy (DOE) or any duly authorized representative thereof.
- (d) "Item" means "commercial item" or "commercial component" as defined in Federal Acquisition Regulation (FAR) 52.202-1.
- (e) "PPPL" means the Princeton Plasma Physics Laboratory operated by Princeton for DOE under Prime Contract No. DE-AC02-76CHO3073.
- (f) "Princeton" means the Trustees of Princeton University.
- (g) "Subcontract Administrator" means Princeton's cognizant Procurement Division representative.
- (h) "Subcontractor" means the person or organization that has entered into this Agreement with Princeton.

1.2 TERMS OF ACCEPTANCE (MAY 2002)

Acceptance of this Agreement is expressly limited to the terms and conditions appearing hereon and to any terms and conditions attached hereto. This Agreement, once accepted, constitutes a contract, and it shall be governed and construed according to the law of the State of New Jersey. Performance by the Subcontractor without an effective acknowledgment shall be deemed to be performance in accordance with the terms and conditions of this Agreement. This Agreement may not be modified or terminated orally, and neither modification nor any claimed waiver of any of the provisions hereof shall be binding unless in writing and signed by the party against whom such modification, termination or waiver is sought to be enforced.

1.3 ORDER OF PRECEDENCE (MAY 2002)

In the event of an inconsistency between provisions of this Agreement, the inconsistency shall be resolved by giving precedence in the following order: 1) subcontract, agreement or purchase order face page(s); 2) special terms and conditions; 3) item description, including statement of work and/or specification, if applicable; and 4) these general terms and conditions.

1.4 RESOLUTION OF DISPUTES (MAY 2002)

(a) The Subcontractor and Princeton agree to make good faith efforts to settle any dispute or claim that arises under this Agreement through discussion and negotiation. If such efforts fail to result in a mutually agreeable resolution, the parties shall consider the use of alternative disputes resolution (ADR). In the event that non-binding mediation or arbitration is agreed upon, the site of the proceedings shall be within 50 miles of Princeton, New Jersey. The mediator or arbitrator shall allocate cost, except that there shall be no pre-decisional interest costs, and each party shall bear its own discretionary costs. In the event that ADR fails or is not used, the parties may litigate the matter in a court of competent jurisdiction within the State of New Jersey, except for those matters which by statute, regulation or terms of another Subcontract clause, are to be decided by a specific body or forum. Any such proceeding in state court shall be venued in Mercer County.

(b) The parties agree that substantive issues presented for mediation, arbitration, dispute, claim, litigation or other effort at resolution shall be determined in accordance with the laws of the State of New Jersey, except for those matters reserved by statute, regulation or another Subcontract clause for determination under federal law.

(c) Pending settlement or final judgment with regard to the dispute, the Subcontractor shall proceed diligently with the performance hereof in accordance with Princeton's direction and instructions.

1.5 INDEMNITY (MAY 2002)

(a) The Subcontractor agrees to indemnify and hold harmless the Trustees of Princeton University and the United States Government, and their respective officers, employees and agents (the "Indemnitees"), from and against any and all liabilities, of whatsoever kind or nature, arising out of or in any way connected with the Subcontractor's performance under this Subcontract, excepting only (i) liability arising from affirmative acts, done with intent to cause loss, damage or injury, by the Indemnitees; (ii) liability arising from the sole negligence of the Indemnitees; or (iii) any express liability as may be specified elsewhere in this Subcontract.

(b) In the event of a claim or litigation arising out of Subcontractor's undertakings, activities or performance under this Subcontract, the Subcontractor shall take charge of any such claim and/or litigation and shall be responsible for defending same at Subcontractor's expense through legal counsel designated by the Subcontractor or the Subcontractor's insurer. Princeton shall have the right, in its discretion and without expense to the Subcontractor, to provide counsel to participate with the Subcontractor's counsel in the conduct of the defense. The Subcontractor may, at the Subcontractor's own expense; negotiate a settlement of any such claim and/or litigation. The Subcontractor shall pay, at the Subcontractor's own expense, any and all judgments arising out of or resulting from any such claims or litigation.

1.6 TERMINATION FOR CONVENIENCE (MAY 2002)

Princeton reserves the right to terminate this Agreement, or any part hereof, for the convenience of itself or the Government. In the event of such termination, the Subcontractor shall immediately stop all work terminated and shall immediately cause any and all of its affected



suppliers and sub-subcontractors to cease work. Subject to the terms of this Agreement, the Subcontractor shall be paid a percentage of the price reflecting the percentage of work performed prior to the notice of termination, plus reasonable charges that the Subcontractor, using its standard record keeping system, and to the satisfaction of Princeton, can demonstrate have resulted from the termination. The Subcontractor shall not be required to comply with cost accounting standards or contract cost principles for this purpose. This clause does not give Princeton or the Government the right to audit the Subcontractor's records. The Subcontractor shall not be paid for any work performed or costs incurred, which reasonably could have been avoided.

1.7 TERMINATION FOR DEFAULT (MAY 2002)

(a) Princeton may terminate this Agreement for default, in whole or in part, if the Subcontractor fails to comply with any of the terms of this Agreement, or fails to provide adequate assurance of future performance. In that event, Princeton shall not be liable for any amount for items not accepted.

(b) If this Agreement is terminated for default, Princeton may require the Subcontractor to deliver to Princeton all supplies and materials, manufacturing materials, and manufacturing drawings that the Subcontractor has specifically produced or acquired for the terminated portion of this Agreement. Princeton shall pay the agreed-upon price for completed items delivered and accepted. Princeton and the Subcontractor shall agree on the amount of payment for all other deliverables.

(c) The Subcontractor shall not be liable to Princeton for delays in performance occasioned by causes beyond the Subcontractor's reasonable control and without its fault or negligence, including but not limited to acts of God or of the public enemy, acts of the government in its sovereign capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of the Subcontractor's suppliers at any tier. However, delays of the Subcontractor's suppliers at any tier must be proved to be beyond the control of both the Subcontractor and its suppliers and without fault or negligence of either.

(d) The rights and remedies of Princeton in this clause are in addition to any other rights and remedies provided by law or under this Agreement.

1.8 INSPECTION (MAY 2002)

Princeton has the right to inspect and evaluate the work performed or being performed under the Subcontract, and the premises where work is being performed, at all reasonable times and in a manner that will not unduly delay the work. If Princeton performs inspection or evaluation on the premises of the Subcontractor or a sub-subcontractor, the Subcontractor shall furnish all reasonable facilities and assistance for the safe and convenient performance of these duties.

1.9 TAXES (MAY 2002)

(a) Princeton is exempt from New Jersey Sales Tax under Exemption Permit Number E-210-634-501/000. Subcontractor shall exclude New Jersey State Sales Tax from the Agreement price.

(b) Subcontractor warrants that the Agreement price includes all other applicable federal, state and local taxes and duties.

1.10 BANKRUPTCY (MAY 2002)

If the Subcontractor enters into bankruptcy, it shall give written notice via certified mail to the Subcontract Administrator within five days of initiation of the proceedings. The notification shall include the date on which the proceeding was filed, the identity and location of the court, and a listing, by Princeton Agreement number, of all Princeton Agreements for which final payment has not yet been made.

1.11 ASSIGNMENT (MAY 2002)

(a) The Subcontractor shall not assign rights or obligations to third parties without the prior written consent of Princeton. However, the Subcontractor may assign rights to be paid amounts due or to become due to a financing institution if Princeton is promptly furnished written notice and a signed copy of such assignment. Payments to an assignee shall be subject to setoff or recoupment for any present or future claims of Princeton against the Subcontractor.

(b) Princeton reserves the right to transfer its duties and obligations under this Agreement to any third party.

1.12 TRANSPORTATION (MAY 2002)

If transportation is specified "FOB Origin," (a) no insurance cost shall be allowed unless authorized in writing by Princeton; (b) Subcontractor shall use the method of shipping designated by Princeton; and (c) the bill of lading shall be annotated to read: "Transportation is for the U. S. Department of Energy, and the actual total transportation charges paid to the carrier(s) by the consignor or consignee shall be reimbursed by the Government, pursuant to cost-reimbursement Contract No. DE-AC02-76CHO3073. This may be confirmed by contacting the U. S. Department of Energy, Princeton Area Office, P. O. Box 102, Princeton, New Jersey 08542-0102."

1.13 TITLE (MAY 2002)

Unless specified elsewhere in this Agreement, title to items furnished under this Agreement shall pass to the Government upon acceptance, regardless of when or where Princeton takes physical possession.

3-4 RISK OF LOSS (MAY 2002)

Where Princeton is liable to the Subcontractor for loss of conforming items occurring after the risk of loss has passed to Princeton, Princeton shall pay the Subcontractor the lesser of (1) the agreed price of such items; or (2) the Subcontractor's cost of replacing such items. Such loss shall entitle the Subcontractor to an equitable extension in delivery schedule obligations.

1.15 PAYMENT (MAY 2002)

Unless otherwise provided, terms of payment shall be net 30 days from the latter of (1) receipt of the Subcontractor's proper invoice, if required, or (2) delivery of items/completion of work. Any offered discount shall be taken if payment is made within the discount period that the Subcontractor indicates. Payments shall be made



either by check or electronic funds transfer, at the option of Princeton. Payment shall be deemed to have been made as of the date of mailing or the date on which an electronic funds transfer was made.

1.16 COMPLIANCE WITH LAWS (MAY 2002)

The Subcontractor shall comply with all applicable federal, state and local laws and ordinances and all pertinent lawful orders, rules and regulations, and such compliance shall be a material requirement of this Agreement. The Subcontractor warrants that each chemical substance constituting or contained in items furnished by this Agreement is on the list of substances published by the Administrator of the Environmental Protection Agency pursuant to the Toxic Substances Control Act as amended. With each delivery, the Subcontractor shall provide Princeton with any applicable Material Safety Data Sheet as required by the Occupational Safety and Health Act and applicable regulations including, without exception 29 CFR 1910.1200.

1.17 WARRANTY (MAY 2002)

The Subcontractor warrants that items delivered under this Agreement shall be in accordance with the Subcontractor's affirmation, description, sample or model and compliant with all requirements of this Agreement. The warranty shall begin upon acceptance and extend for a period of (1) the manufacturer's warranty period or six months, whichever is longer, if the Subcontractor is not the manufacturer and has not modified the item; or (2) the manufacturer's warranty period or one year, whichever is longer, if the Subcontractor is the manufacturer of the item or has modified it. If any nonconformity with item appears within the warranty period, the Subcontractor shall promptly repair or replace such items or re-perform services at its own expense. Transportation of replacement items and return of nonconforming items and repeat performance of services shall be at the Subcontractor's expense. If repair or replacement or re-performance of services is not timely, Princeton may elect to return the nonconforming items or repair or replace them or re-procure the services at the Subcontractor's expense.

1.18 NEW MATERIALS (MAY 2002)

Unless otherwise specified in this Agreement, all items delivered shall consist of new materials. New is defined as previously unused which may include residual inventory or unused former Government surplus property. This does not exclude the use of recycled or recovered materials as defined by the Environmental Protection Agency in 40 CFR 247.

1.19 SUSPECT/COUNTERFEIT PARTS (MAY 2002)

(a) "Suspect/counterfeit parts" are parts that may be of new manufacture, but labeled to represent a different class of parts, or used and/or refurbished parts, complete with false labeling, that are represented as new parts. Three categories of suspect/counterfeit parts exist:

- (1) Fasteners, including bolts and nuts, made of carbon steel (designated as grade five or grade eight) or stainless steel, with headmarks or stamps shown on the headmark list that was prepared by the United States Customs Service (the list is provided as a

separate attachment to this Agreement, or is available upon request from Princeton);

(2) Piping valves and flanges bearing labels that falsely indicate that the items meet recognized ASME or ASTM consensus standards; and

(3) Used or refurbished molded-case electrical circuit breakers or similar type switch gear.

(b) Supplies furnished to Princeton under this Agreement shall not include suspect/counterfeit parts nor shall such parts be used in performing any work under this Agreement whether on or off the PPPL site.

(c) If suspect/counterfeit parts are furnished under this Agreement and are found on the PPPL site, such parts shall be impounded by Princeton or the Subcontractor as shall remove them directed by Princeton. The Subcontractor shall promptly replace such parts with supplies acceptable to Princeton, and the Subcontractor shall be liable for all costs relating to impoundment, removal and replacement.

(d) The rights of Princeton under this clause are in addition to any other rights provided by law or under this Agreement.

1.20 NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (DEC 2000)

(a) The Subcontractor shall report to Princeton promptly and in reasonable written detail, each notice or claim of patent or copyright infringement based on the performance of this contract of which the Subcontractor has knowledge.

(b) If any person files a claim or suit against the Government on account of any alleged patent or copyright infringement arising out of the performance of this subcontract or out of the use of any supplies furnished or work or services performed hereunder, the Subcontractor shall furnish to the Government, when requested by the Contracting Officer or Princeton all evidence and information in possession of the Subcontractor pertaining to such suit or claim. Except where the Subcontractor has agreed to indemnify the Government, the Subcontractor shall furnish such evidence and information at the expense of the Government.

(c) The Subcontractor agrees to include, and require inclusion of, this clause suitably modified to identify the parties, in all subcontracts at any tier expected to exceed \$25,000.

1.21 ORGANIZATIONAL CONFLICTS OF INTEREST (MAY 2002)

(a) Purpose. The purpose of this clause is to ensure that the Subcontractor (1) is not biased because of its financial, contractual, organizational, or other interests, which relate to the work under this subcontract, and (2) does not obtain any unfair competitive advantage over other parties by virtue of its performance of this subcontract.

(b) Scope. The restrictions described herein shall apply to performance or participation by the Subcontractor and any of its affiliates or their successors in interest (hereinafter collectively referred to as "Subcontractor") in the activities



covered by this clause as a prime contractor, subcontractor, cosponsor, joint venturer, consultant, or in any similar capacity. For the purpose of this clause, affiliation occurs when a business concern is controlled by or has the power to control another or when a third party has the power to control both.

(1) Use of Subcontractor's Work Product. (i) The Subcontractor shall be ineligible to participate in any capacity in DOE contracts, subcontracts, or proposals therefor (solicited and unsolicited) which stem directly from the Subcontractor's performance of work under this subcontract for a period of years to be determined in writing by the contracting officer after the completion of this subcontract. Furthermore, unless so directed in writing by the contracting officer, the Subcontractor shall not perform any advisory and assistance services work under this subcontract on any of its products or services or the products or services of another firm if the Subcontractor is or has been substantially involved in their development or marketing. Nothing in this subparagraph shall preclude the Subcontractor from competing for follow-on subcontracts for advisory and assistance services.

(ii) If, under this subcontract, the Subcontractor prepares a complete or essentially complete statement of work or specifications to be used in competitive acquisitions, the Subcontractor shall be ineligible to perform or participate in any capacity in any contractual effort, which is based on such statement of work or specifications. The Subcontractor shall not incorporate its products or services in such statement of work or specifications unless so directed in writing by Princeton, in which case the restriction in this subparagraph shall not apply.

(iii) Nothing in this paragraph shall preclude the Subcontractor from offering or selling its standard and commercial items to the Government.

(2) Access to and use of information. (i) If the Subcontractor, in the performance of this subcontract, obtains access to information, such as DOE plans, policies, reports, studies, financial plans, internal data protected by the Privacy Act of 1974 (5 U.S.C. 552a), or data which has not been released or otherwise made available to the public, the Subcontractor agrees that without prior written approval of the Princeton it shall not:

(A) use such information for any private purpose unless the information has been released or otherwise made available to the public;

(B) compete for work for the DOE based on such information for a period of six (6) months after either the completion of this subcontract or until such information is released or otherwise made available to the public, whichever is first;

(C) submit an unsolicited proposal to the Government which is based on such information until one year after such information is released or otherwise made available to the public; and

(D) release such information unless such information has previously been released or otherwise made available to the public by the DOE.

(ii) In addition, the Subcontractor agrees that to the extent it receives or is given access to proprietary data, data protected by the Privacy Act of 1974 (5 U.S.C. 552a), or other confidential or privileged technical, business, or financial information under this subcontract, it shall treat such information in accordance with any restrictions imposed on such information.

(iii) The Subcontractor may use technical data it first produces under this subcontract for its private purposes consistent with paragraphs (b)(2)(i) (A) and (D) of this clause and the patent, rights in data, and security provisions of this subcontract.

(c) Disclosure after award.

(1) The Subcontractor agrees that, if changes, including additions, to the facts disclosed by it prior to award of this subcontract, occur during the performance of this subcontract, it shall make an immediate and full disclosure of such changes in writing to Princeton. Such disclosure may include a description of any action, which the Subcontractor has taken or proposes to take to avoid, neutralize, or mitigate any resulting conflict of interest. Princeton may, however, terminate the subcontract for convenience if it deems such termination to be in the best interest of the Government.

(2) In the event that the Subcontractor was aware of facts required to be disclosed or the existence of an actual or potential organizational conflict of interest and did not disclose such facts or such conflict of interest to Princeton may terminate this subcontract for default.

(d) Remedies. For breach of any of the above restrictions or for nondisclosure or misrepresentation of any facts required to be disclosed concerning this subcontract, including the existence of an actual or potential organizational conflict of interest at the time of or after award Princeton may terminate the subcontract for default, disqualify the Subcontractor from subsequent related subcontractual efforts, and pursue such other remedies as may be permitted by law or this subcontract.

(e) Waiver. Requests for waiver under this clause shall be directed in writing to Princeton's Subcontract Administrator and shall include a full description of the requested waiver and the reasons in support thereof. If it is determined to be in the best interests of the Government, Princeton may grant such a waiver in writing.

1.22 PRINTING (DEC 2000)

(a) To the extent that duplicating or printing services may be required in the performance of this subcontract, the Subcontractor shall provide or secure such services in accordance with the Government Printing and Binding Regulations, Title 44 of the U.S. Code, and DOE Directives relative thereto.

(b) The term "Printing" includes the following processes: Composition, plate making, presswork, binding, microform publishing, or the end items produced by such processes.



Provided, however, that performance of a requirement under this contract involving the duplication of less than 5,000 copies of a single page, or no more than 25,000 units in the aggregate of multiple pages, will not be deemed to be printing.

(c) Printing services not obtained in compliance with this guidance shall result in the cost of such printing being disallowed.

(d) The Subcontractor shall include the substance of this clause in all lower tier subcontracts hereunder, which require printing (as that term is defined in Title I of the U.S. Government Printing and Binding Regulations).

1.23 ACCOUNTS, RECORDS, AND INSPECTION (DEC 2000)

(a) Accounts. The Subcontractor shall maintain a separate and distinct set of accounts, records, documents, and other evidence showing and supporting: all allowable costs incurred; collections accruing to the Subcontractor in connection with the work under this subcontract, other applicable credits, negotiated fixed amounts, and fee accruals under this subcontract; and the receipt, use, and disposition of all Government property coming into the possession of the Subcontractor under this subcontract. The system of accounts employed by the Subcontractor shall be satisfactory to Princeton and in accordance with generally accepted accounting principles consistently applied.

(b) Inspection and audit of accounts and records. All books of account and records relating to this subcontract shall be subject to inspection and audit by Princeton or its designees in accordance with the provisions of Clause— 5.9, Access to and Ownership of Records, at all reasonable times, before and during the period of retention provided for in paragraph (d) of this clause, and the Subcontractor shall afford Princeton proper facilities for such inspection and audit.

(c) Audit of lower tier subcontractors' records. The Subcontractor also agrees, with respect to any lower tier subcontracts (including fixed-price or unit-price subcontracts or purchase orders) where, under the terms of the lower tier subcontract, costs incurred are a factor in determining the amount payable to the subcontractor of any tier, to either conduct an audit of the lower tier subcontractor's costs or arrange for such an audit to be performed by the cognizant government audit agency through Princeton.

(d) Disposition of records. Except as agreed upon by Princeton and the Subcontractor, all financial and cost reports, books of account and supporting documents, system files, data bases, and other data evidencing costs allowable, collections accruing to the Subcontractor in connection with the work under this subcontract, other applicable credits, and fee accruals under this contract, shall be the property of the Government, and shall be delivered to the Government or otherwise disposed of by the Subcontractor either as Princeton may from time to time direct during the progress of the work or, in any event, as Princeton shall direct upon completion or termination of this subcontract and final audit of accounts hereunder. Except as otherwise provided in this contract, including provisions of Clause 5.9, Access to and Ownership of Records, all other records in the possession of the contractor relating to this subcontract shall be

preserved by the Subcontractor for a period of three years after final payment under this subcontract or otherwise disposed of in such manner as may be agreed upon by Princeton and the Subcontractor.

(e) Reports. The Subcontractor shall furnish such progress reports and schedules, financial and cost reports, and other reports concerning the work under this subcontract as Princeton may from time to time require.

(f) Inspections. Princeton shall have the right to inspect the work and activities of the contractor under this subcontract at such time and in such manner, as it shall deem appropriate.

(e) Reports. The Subcontractor shall furnish such progress reports and schedules, financial and cost reports, and other reports concerning the work under this subcontract as Princeton may from time to time require.

(f) Inspections. Princeton shall have the right to inspect the work and activities of the contractor under this subcontract at such time and in such manner, as it shall deem appropriate.

(g) Lower Tier Subcontracts. The Subcontractor further agrees to require the inclusion of provisions similar to those in paragraphs (a) through (g) and paragraph (h) of this clause in all subcontracts (including fixed-price or unit-price subcontracts or purchase orders) of any tier entered into hereunder where, under the terms of the lower tier subcontract, costs incurred are a factor in determining the amount payable to the lower tier subcontractor.

(h) Comptroller General.

(1) The Comptroller General of the United States, or an authorized representative, shall have access to and the right to examine any of the Subcontractor's directly pertinent records involving transactions related to this subcontract or a lower tier subcontract hereunder.

(2) This paragraph may not be construed to require the Subcontractor or lower tier subcontractor to create or maintain any record that the Subcontractor or lower tier subcontractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(3) Nothing in this subcontract shall be deemed to preclude an audit by the General Accounting Office of any transaction under this subcontract.

2. Applicable when purchased items include services.

2.1 APPLICATION OF UNIFORM COMMERCIAL CODE (MAY 2002)

For purposes of items that include services, the Uniform Commercial Code Article 2, Parts 1, 3, 5, 6, and 7 as adopted by the State of New Jersey shall apply to this Agreement.

2.2 CHANGES (MAY 2002)

(a) Princeton may at any time, by written notice, make changes within the general scope of this Agreement in any one or more of the following: (1) description of the

services to be performed; (2) place of performance; and (3) the amount of services to be furnished. If any such change causes a difference in the cost of the services or the time required for performance, an equitable adjustment shall be made in the price and/or delivery schedule and other affected provisions. Such adjustment shall be made by written amendment to this Agreement signed by both parties. Any claim for adjustment by the Subcontractor must be made within 30 days from the date of receipt of Princeton's change notice, although Princeton in its sole discretion may receive and act upon any claim for adjustment at any time before final payment.

(b) Only the Subcontract Administrator is authorized on behalf of Princeton to issue changes. If the Subcontractor considers that any direction or instruction by Princeton personnel constitutes such a change, the Subcontractor shall not rely upon such instruction without written confirmation from the Subcontract Administrator. Nothing in this clause, including disagreement with Princeton about the equitable adjustment, shall excuse the Subcontractor from proceeding with the Agreement as changed.

3. Applicable to Agreements involving work on-site at PPPL.

3.1 TERMS AND CONDITIONS OF INSURANCE (MAY 2002)

(a) Where this Agreement requires the furnishing of on-site labor, the Subcontractor shall maintain and keep in force at Subcontractor's expense, the following minimum liability insurance coverage during the Agreement period of performance:

TYPE	IN THE NAME OF	MINIMUM LIMITS
(i) Workers Compensation Employer's Liability	Subcontractor	Statutory \$500,000
(ii) General Liability, including: Contractual, Premises Operations, Products and Completed Operations, Independent Contractors and Personal Injury. Bodily Injury & Property Damage Each Occurrence Aggregate	Subcontractor	 \$2,000,000 \$2,000,000
(iii) Automobile Liability Bodily Injury & Property Damage	Subcontractor	 \$1,000,000

(b) If the dollar value of this Agreement is \$500,000 or more, the Subcontractor shall maintain and keep in force at Subcontractor's expense, the following minimum liability insurance coverage during performance under this Subcontract:

TYPE	IN THE NAME OF	MINIMUM LIMITS
Owner's Protective Liability, including: Bodily Injury	The Trustees of Princeton University, including its	 \$1,000,000

Each Occurrence Aggregate	agents and employees	\$2,000,000
Property Damage		
Each Occurrence		\$500,000
Aggregate		\$500,000

(c) "The Trustees of Princeton University, including its officers, employees and agents" shall be named as additional insureds in the General Liability policy specified in subparagraph (a)(ii).

(d) The Automobile Liability insurance specified in subparagraph (a)(iii) shall provide coverage for any vehicle used by the Subcontractor.

(e) The Subcontractor shall secure the Owner's Protective Liability insurance specified in subparagraph (b) with the same carrier that is furnishing the other General Liability insurance coverage.

(f) All policies shall be underwritten by a carrier licensed in the State of New Jersey and rated at least "A" in Best's.

(g) The amounts, where specified above, are minimums but shall not be construed to be sufficient for any particular subcontract. It shall be the Subcontractor's full responsibility to determine, obtain and maintain the insurance coverage necessary to adequately protect people and property during the performance of this Subcontract.

(h) Certificate(s) evidencing the above insurance coverages, with statement thereon that Princeton is an additional named insured as required above, shall be sent to the Subcontract Administrator before the Subcontractor's work begins. Renewal certificates shall be provided annually until the Subcontractor's work is completed. The Subcontractor shall not enter Princeton's facilities to perform its work unless it is and remains insured in accordance with the above requirements, unless waived by mutual agreement of Princeton and the Subcontractor. The Subcontractor shall indemnify Princeton for any loss suffered by Princeton for the failure of the Subcontractor to be so insured.

3.2 INTEGRATION OF ENVIRONMENT, SAFETY, AND HEALTH INTO WORK PLANNING AND EXECUTION (DEC 2000)

(a) For the purposes of this clause,

(1) Safety encompasses environment, safety and health, including pollution prevention and waste minimization; and

(2) Employees include subcontractor employees.

(b) In performing work under this contract, the Subcontractor shall perform work safely, in a manner that ensures adequate protection for employees, the public, and the environment, and shall be accountable for the safe performance of work. The Subcontractor shall exercise a degree of care commensurate with the work and the associated hazards. The contractor shall ensure that management of environment, safety and health (ES&H) functions and activities becomes an integral but visible part of the contractor's work planning and execution processes. The Subcontractor shall, in the performance of work, ensure that:



- (1) Line management is responsible for the protection of employees, the public, and the environment. Line management includes those Subcontractor and lower tier subcontractor employees managing or supervising employees performing work.
- (2) Clear and unambiguous lines of authority and responsibility for ensuring (ES&H) are established and maintained at all organizational levels.
- (3) Personnel possess the experience, knowledge, skills, and abilities that are necessary to discharge their responsibilities.
- (4) Resources are effectively allocated to address ES&H, programmatic, and operational considerations. Protecting employees, the public, and the environment is a priority whenever activities are planned and performed.
- (5) Before work is performed, the associated hazards are evaluated and an agreed-upon set of ES&H standards and requirements are established which, if properly implemented, provide adequate assurance that employees, the public, and the environment are protected from adverse consequences.
- (6) Administrative and engineering controls to prevent and mitigate hazards are tailored to the work being performed and associated hazards. Emphasis should be on designing the work and/or controls to reduce or eliminate the hazards and to prevent accidents and unplanned releases and exposures.
- (7) The conditions and requirements to be satisfied for operations to be initiated and conducted are established and agreed-upon by Princeton and the Subcontractor. These agreed-upon conditions and requirements are requirements of the contract and binding upon the contractor. The extent of documentation and level of authority for agreement shall be tailored to the complexity and hazards associated with the work and shall be established in a Safety Management System.
- (c) The Subcontractor shall manage and perform work in accordance with a documented Safety Management System (System) that fulfills all conditions in paragraph (b) of this clause at a minimum. Documentation of the System shall describe how the Subcontractor will:
- (1) Define the scope of work,
 - (2) Identify and analyze hazards associated with the work,
 - (3) Develop and implement hazard controls;
 - (4) Perform work within controls; and,
 - (5) Provide feedback on adequacy of controls and continue to improve safety management.
- (d) The System shall describe how the Subcontractor will establish, document, and implement safety performance objectives, performance measures, and commitments in response to Princeton's program and budget execution guidance while maintaining the integrity of the System. The System shall also describe how the Subcontractor will measure system effectiveness.
- (e) The Subcontractor shall submit to the Princeton documentation of its System for review and approval. Dates for submittal, discussions, and revisions to the System will be established by the Princeton. Guidance on the preparation, content, review, and approval of the System will be provided by the Princeton. On an annual basis, the Subcontractor shall review and update, for Princeton's approval, its safety performance objectives, performance measures, and commitments consistent with and in response to Princeton's program and budget execution guidance and direction. Resources shall be identified and allocated to meet the safety objectives and performance commitments as well as maintain the integrity of the entire System. Accordingly, the System shall be integrated with the contractor's business processes for work planning, budgeting, authorization, execution, and change control.
- (f) The contractor shall comply with, and assist Princeton in complying with, ES&H requirements of all applicable laws and regulations, and applicable directives either invoked or incorporated by reference in each individual clause of this subcontract. The Subcontractor shall cooperate with Federal and non-Federal agencies having jurisdiction over ES&H matters under this Subcontract.
- (g) The Subcontractor shall promptly evaluate and resolve any noncompliance with applicable ES&H requirements and the System. If the Subcontractor fails to provide resolution or if, at any time, the contractor's acts or failure to act causes substantial harm or an imminent danger to the environment or health and safety of employees or the public, the Princeton may issue an order stopping work in whole or in part. Any stop work order issued by a contracting officer under this clause (or issued by the contractor to a subcontractor in accordance with paragraph (i) of this clause) shall be without prejudice to any other legal or contractual rights of the Government. In the event that the Princeton issues a stop work order, an order authorizing the resumption of the work may be issued at the discretion of the Princeton. The Subcontractor shall not be entitled to an extension of time or additional fee or damages by reason of, or in connection with, any work stoppage ordered in accordance with this clause.
- (h) Regardless of the performer of the work, the Subcontractor is responsible for compliance with the ES&H requirements applicable to this Subcontract. The Subcontractor is responsible for flowing down the ES&H requirements applicable to this contract to subcontracts at any tier to the extent necessary to ensure the Subcontractor's compliance with the requirements.
- (i) The Subcontractor shall include a clause substantially the same as this clause in lower tier subcontracts involving complex or hazardous work on site at a DOE-owned or-leased facility. Such lower tier subcontracts shall provide for the right to stop work under the conditions described in paragraph (g) of this clause. Depending on the complexity and hazards associated with the work, the Subcontractor may choose not to require its lower tier subcontractor's to submit a Safety Management System for the Subcontractor's review and approval.



3-3 WHISTLEBLOWER PROTECTION FOR CONTRACTOR EMPLOYEES (DEC 2000)

(a) The Subcontractor shall comply with the requirements of "DOE Contractor Employee Protection Program" at 10 CFR Part 708 for work performed on behalf of DOE directly related to activities at DOE-owned or-leased sites.

(b) The Subcontractor shall insert or have inserted the substance of this clause, including this paragraph (b), in subcontracts, at all tiers, involving work performed on behalf of DOE directly related to activities at DOE-owned or leased sites.

3-4 WORKPLACE SUBSTANCE ABUSE PROGRAMS AT DOE SITES (DEC 2000)

Applicable if subcontract is greater than \$25,000 AND Subcontractor personnel are working on site at PPPL and have: 1-Access to or handling of special nuclear materials; 2-Work is of High risk danger to life, the environment, public health and safety, or national security; 3- Involves the transportation of hazardous materials to or from a DOE site.

(a) Program Implementation. The Subcontractor shall, consistent with 10 CFR part 707, Workplace Substance Abuse Programs at DOE Sites, incorporated herein by reference with full force and effect, develop, implement, and maintain a workplace substance abuse program.

(b) Remedies. In addition to any other remedies available to Princeton subcontractor's failure to comply with the requirements of 10 CFR part 707 or to perform in a manner consistent with its approved program may render the Subcontractor subject to: the suspension of subcontract payments, or, where applicable, a reduction in award fee; termination for default; and suspension or debarment.

(c) Lower Tier Subcontracts.

(1) The Subcontractor agrees to notify the Princeton reasonably in advance of, but not later than 30 days prior to, the award of any lower tier subcontract the Subcontractor believes may be subject to the requirements of 10 CFR part 707.

(2) Princeton shall require all subcontracts subject to the provisions of 10 CFR Part 707 to agree to develop and implement a workplace substance abuse program that complies with the requirements of 10 CFR Part 707, Workplace Substance Abuse Programs at DOE Sites, as a condition for award of the subcontract. Princeton shall review and approve each subcontractor's program, and shall periodically monitor each subcontractor's implementation of the program for effectiveness and compliance with 10 CFR Part 707.

(3) The Subcontractor agrees to include, and require the inclusion of, the requirements of this clause in all subcontracts, at any tier, that are subject to the provisions of 10 CFR part 707.

4. Applicable when purchase price includes royalty payments.

4.1 REFUND OF ROYALTIES (DEC 2000)

(a) The Subcontract price includes certain amounts for royalties, payable by the Subcontractor or lower tier subcontractors or both, reported to the Subcontract Administrator in accordance with the Royalty Information provision of the solicitation.

(b) During performance of this contract, if any additional royalty payments are proposed to be charged to the Princeton as costs under the contract that were not included in the original Subcontract price, the Subcontractor agrees to submit for approval of the Princeton prior to the execution of any licensing agreement the following information relating to each separate item of royalty or license fee:

- (1) Name and address of licensor;
- (2) Date of license agreement;
- (3) Patent numbers, patent application serial numbers, or other basis on which the royalty is payable;
- (4) Brief description, including any part or model numbers of each subcontract item or component on which the royalty is payable;
- (5) Percentage or dollar rate of royalty per unit;
- (6) Unit price of subcontract item;
- (7) Number of units; and
- (8) Total dollar amount of royalties.
- (9) In addition, if specifically requested by the Princeton, the Subcontractor shall furnish a copy of the current license agreement and an identification of applicable claims of specific patents.

(c) The term "royalties" as used in this clause refers to any costs or charges in the nature of royalties, license fees, patent or license amortization costs, or the like, for the use of or for rights in patents and patent applications in connection with performing this subcontract or any subcontract hereunder. The term also includes any costs or charges associated with the access to, use of, or other right pertaining to data that is represented to be proprietary and is related to the performance of this subcontract or lower tier subcontracts, or the copying of such data or data that is copyrighted.

(d) The Subcontractor shall furnish to Princeton, before final payment under this subcontract, a statement of royalties paid, or required to be paid, in connection with performing this contract and lower tier subcontracts hereunder.

(e) The Subcontractor is compensated for any royalties reported under paragraph (b) of this clause only to the extent that such royalties were included in the contract price and are determined by the Princeton to be properly chargeable to the Government and allocable to the contract.

(f) Princeton shall reduce the subcontract price to the extent any royalties that are included in the subcontract price are not, in fact, paid by the Subcontractor or are determined by Princeton not to be properly chargeable to the Princeton and allocable to the subcontract. The Subcontractor agrees to repay or credit the Princeton accordingly, as Princeton directs. Regardless of prior Princeton approval of any individual payments or royalties, Princeton may contest at any time the enforceability, validity, scope of, or title to, a patent or the proprietary nature of data pursuant to which Princeton makes a royalty or other payment.

(g) If at any time within 3 years after final payment under this subcontract, the Subcontractor for any reason is relieved in whole or in part from the payment of the royalties included in the final subcontract price as adjusted pursuant to paragraph (f) of this clause, the Subcontractor shall promptly notify the Princeton of that fact and shall promptly reimburse Princeton in a corresponding amount.

(h) The Subcontractor agrees to include, and require inclusion of, this clause, including this paragraph (h), suitably modified to identify the parties in any subcontract at any tier in which the amount of royalties reported during negotiation of the subcontract exceeds \$250.

5.0 STATUTES OR EXECUTIVE ORDERS INCORPORATED BY REFERENCE: The Subcontractor agrees to comply with the following Federal Acquisition Regulation (FAR) and Department of Energy Acquisition Regulation (DEAR) clauses by reference, as they exist on the effective date of this contract, with the same force and effect as if they were in full text. For FAR provisions incorporated by reference, "Government" means "Princeton", Contracting Officer" means "Princeton Plasma Physics Laboratory's Procurement Division Buyer or Subcontract Administrator", except where statute or regulation vests authority exclusively in specific agencies or individuals, and "Contractor" means "Subcontractor". The FAR clauses are available through the General Services Administration (GSA) at <http://www.arnet.gov/far/> , and the DEAR clauses area available at <http://www.pr.doe.gov/pr6/html> , or they may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. To the maximum extent practicable, the Supplier shall incorporate, and require its subcontractors, divisions, subsidiaries or affiliates at all tiers to incorporate commercial items or non-developmental items as components of items to be supplied under this Agreement. The Supplier is not required to include any FAR provisions or clauses other than those listed below to the extent that they are applicable and as may be required to establish the reasonableness of prices under FAR 15, in a subcontract at any tier for commercial items or components. The Supplier shall include the terms of this clause, including this statement, in lower-tier subcontracts awarded under this Agreement.

<u>Clause:</u>	<u>Title:</u>	<u>FAR Reference:</u>
5.1	UTILIZATION OF SMALL BUSINESS CONCERNS (FOR ALL AGREEMENTS GREATER THAN \$500,000)	52.219-8
5.2	SMALL BUSINESS SUBCONTRACTING PLAN (FOR ALL AGREEMENTS GREATER THAN \$500,000)	52.219-9
5.3	EQUAL OPPORTUNITY	52.222-26
5.4	EQUAL OPPORTUNITY FOR SPECIAL DISABLED VETERANS, VETERANS OF THE VIET NAM ERA, AND OTHE ELIGIBLE VETERANS (APPLICABLE FOR ALL AGREEMENTS GREATER THAN \$25,000)	52.222-35
5.5	AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES (FOR ALL AGREEMENTS GREATER THAN \$10,000)	52.222-36
5.6	EMPLOYMENT REPORTS ON SPECIAL DISABLED VETERANS, VETERANS OF THE VIET NAM ERA, AND OTHER ELIGIBLE VETERANS (FOR ALL AGREEMENTS GREATER THAN \$10,000)	52.222-37
5.7	PRIVACY ACT NOTIFICATION	52.224-1
5.8	PRIVACY ACT	52.224-2
<u>Clause:</u>	<u>Title:</u>	<u>DEAR Reference:</u>
5.9	ACCESS TO AND OWNERSHIP OF RECORDS	970.5204-3
5.10	PATENT INDEMNITY – SUBCONTRACTS	970.5227-6

NOTHING FOLLOWS