PPPL General Provisions for Non-Commercial Subcontracts
Reference List
Part A - Common Clauses
SUBCONTRACT NO. _____

The following clauses, the full texts of which are set forth below, are hereby incorporated in and made part of the above-cited subcontract.

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PPPL General Provisions for Non-Commercial Subcontracts
Part A - Common Clauses

A1. ISSUANCE UNDER GOVERNMENT CONTRACT (JUN 1987)

This subcontract is issued under a prime contract with the United States of America. It does not bind or purport to bind the Government notwithstanding any approval or consent that may be required hereunder.

A2. DEFINITIONS (JUN 2009)

(a) "Agency" means any executive department, military department or defense agency, or other agency or independent establishment of the U.S. Government.

(b) "Agency head" or "head of the agency" means the Secretary (Attorney General, Administrator, Governor, Chairperson, or other chief official, as appropriate) of the agency, unless otherwise indicated, including any deputy or assistant chief official of the executive agency.

(c) Commercial component" means any component that is a commercial item.

(d) "Commercial item" means--

(Not applicable if this Subcontract is for personal services; construction; architect-engineer services; or dismantling, demolition, or removal of improvements.)

(1) Any item, other than real property, that is of a type customarily used by the general public or by non-governmental entities for nongovernmental purposes and that--

(i) Has been sold, leased, or licensed to the general public; or

(ii) Has been offered for sale, lease, or license to the general public;

(2) Any item that evolved from an item described in paragraph (d)(1) of this clause through advances in technology or performance and that is not yet available in the commercial marketplace, but will be available in the commercial marketplace in time to satisfy the delivery requirements under a Government solicitation;

(3) Any item that would satisfy a criterion expressed in paragraphs (d)(1) or (d)(2) of this clause, but for--

(i) Modifications of a type customarily available in the commercial marketplace; or

(ii) Minor modifications of a type not customarily available in the commercial marketplace made to meet Federal Government requirements. "Minor" modifications means modifications that do not significantly alter the nongovernmental function or essential physical characteristics of an item or component, or change the purpose of a process. Factors to be considered in determining whether a modification is minor include the value and size of the modification and the comparative value and size of the final product. Dollar values and percentages may be used as guideposts, but are not conclusive evidence that a modification is minor;

(4) Any combination of items meeting the requirements of paragraphs (d)(1), (2), (3), or (5) of this clause that are of a type customarily combined and sold in combination to the general public;

(5) Installation services, maintenance services, repair services, training services, and other services if –

(i) Such services are procured for support of an item referred to in paragraphs (d)(1), (2), (3), or (4) of this clause, regardless of whether such services are provided by the same source or at the same time as the item; and

(ii) —The source of such services provides similar services contemporaneously to the general public under terms and conditions similar to those offered to the Federal Government;

(6) Services of a type offered and sold competitively in substantial quantities in the commercial marketplace based on established catalog or market prices for specific tasks performed or specific outcomes to be achieved and under standard commercial terms and conditions. For purposes of these services –

(i) "Catalog price" means a price included in a catalog, price list, schedule, or other form that is regularly maintained by the manufacturer or vendor, is either published or otherwise available for inspection by customers, and states prices at which sales are currently, or were last, made to a significant number of buyers constituting the general public; and

(ii) "Market prices" means current prices that are established in the course of ordinary trade between buyers and sellers free to bargain and that can be substantiated through competition or from sources independent of the offerors.

(7) Any item, combination of items, or service referred to in paragraphs (d)(1) through (d)(6), notwithstanding the fact that the item, combination of items, or service is transferred between or among separate divisions, subsidiaries, or affiliates of a Contractor; or

(8) A nondevelopmental item, if the procuring agency determines the item was developed exclusively at private expense and sold in substantial quantities, on a competitive basis, to multiple State and local Governments.

(e) "Component" means any item supplied to the Government as part of an end item or of another component, except that for use in 52.225-9, and 52.225-11 see the definitions in 52.225-9(a) and 52.225-11(a).

(f) "Contracting Officer" means a federal employee with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings. The term includes certain authorized representatives of the Contracting Officer acting within the limits of their authority as delegated by the Contracting Officer.

(g) "Nondevelopmental item" means--

(1) Any previously developed item of supply used exclusively for governmental purposes by a Federal

agency, a State or local government, or a foreign government with which the United States has a mutual defense cooperation agreement;

(2) Any item described in paragraph (g)(1) of this definition that requires only minor modification or modifications of a type customarily available in the commercial marketplace in order to meet the requirements of the procuring department or agency; or

(3) Any item of supply being produced that does not meet the requirements of paragraph (g)(1) or (f)(2) solely because the item is not yet in use.

(h) "Executive agency" means an instrumentality of the Federal Government bound by the Federal Acquisition Regulation.

(i) Except as otherwise provided in this Subcontract, the term "subcontracts" includes, but is not limited to, purchase orders and changes and modifications to purchase orders under this Subcontract.

(j) The term "DOE" means the Department of Energy.

(k) The term "patent counsel" shall mean the DOE patent counsel.

(l) The term "Princeton" shall mean the Trustees of Princeton University or any duly authorized representative or representatives thereof.

(m) The term "Director of Procurement" shall mean the individual duly authorized to enter into contractual agreements on behalf of the Trustees of Princeton University and to manage the Procurement Division of the Princeton Plasma Physics Laboratory.

(n) The term "Princeton Subcontract Administrator" shall mean the person within the Procurement Division who has been delegated authority by the Director of Procurement to act on behalf of the University in all administrative matters pertaining to the subcontract.

(o) The term "Princeton Technical Representative" shall mean the person within the Princeton Plasma Physics Laboratory designated in writing by the Director of Procurement as being responsible for day-to-day monitoring of the Subcontractor's progress and ensuring the Subcontractor's compliance with the stated subcontract scope of work and related technical matters.

A3. ANTI-KICKBACK PROCEDURES (JUL 1995)

(a) Definitions.

"Kickback," as used in this clause, means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided, directly or indirectly, to any prime Contractor, prime Contractor employee, subcontractor, or subcontractor employee for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contract or in connection with a subcontract relating to a prime contract.

"Person," as used in this clause, means a corporation, partnership, business association of any kind, trust, joint-stock company, or individual.

"Prime contract," as used in this clause, means a contract or contractual action entered into by the United States for the purpose of obtaining supplies, materials, equipment, or services of any kind.

"Prime Contractor" as used in this clause, means a person who has entered into a prime contract with the United States.

"Prime Contractor employee," as used in this clause, means any officer, partner, employee, or agent or a prime Contractor.

"Subcontract," as used in this clause, means a contract or contractual action entered into by a prime Contractor or subcontractor for the purpose of obtaining supplies, materials, equipment, or services of any kind under a prime contract.
"Subcontractor," as used in this clause, (1) means any person, other than the prime Contractor, who offers to furnish or furnishes any supplies, materials, equipment, or services of any kind under a prime contract or a subcontract entered into in connection with such prime contract, and (2) includes any person who offers to furnish or furnishes general supplies to the prime Contractor or a higher tier subcontractor.

"Subcontractor employee," as used in this clause, means any officer, partner, employee, or agent of a subcontractor.

(b) The Anti-Kickback Act of 1986 (41 U.S.C. 51-58) (the Act), prohibits any person from--

(1) Providing or attempting to provide or offering to provide any kickback;

(2) Soliciting, accepting, or attempting to accept any kickback; or

(3) Including, directly or indirectly, the amount of any kickback in the contract price charged by a prime Contractor to the United States or in the contract price charged by a subcontractor to a prime Contractor or higher tier subcontractor.

(c)(1) Reserved.

(2) When the Subcontractor has reasonable grounds to believe that a violation described in paragraph (b) of this clause may have occurred, the Subcontractor shall promptly report in writing the possible violation. Such reports shall be made to the inspector general of the contracting agency, the head of the contracting agency if the agency does not have an inspector general, or the Department of Justice.

(3) The Subcontractor shall cooperate fully with any Federal agency investigating a possible violation described in paragraph (b) of this clause.

(4) The Contracting Officer may (i) offset the amount of the kickback against any monies owed by the United States under the prime contract and/or (ii) direct that the Prime Contractor withhold from sums owed a subcontractor under the prime contract the amount of the kickback. The Contracting Officer may order that monies withheld under subdivision (c)(4)(ii) of this clause be paid over to the Government unless the Government has already offset those monies under subdivision (c)(4)(i) of this clause. In either case, the Prime Contractor shall notify the Contracting Officer when the monies are withheld.

(5) The Subcontractor agrees to incorporate the substance of this clause, including subparagraph (c)(5) but excepting subparagraph (c)(1), in all lower tier subcontracts under this subcontract.

A4. 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 subcontract 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).

A5. ACCOUNTS, RECORDS, AND INSPECTION (JUN 2009)

(This clause is applicable to all subcontracts (including fixed-price or unit-price subcontracts or purchase orders) of any tier entered into hereunder where, under the terms of the subcontract, costs incurred are a factor in determining the amount payable to the subcontractor.)

(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 AAC 2-2, 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 subcontract, shall be the property of the Government, and shall be delivered to Princeton 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 AAC 2-2, 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 Subcontractor 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 or lower-tier subcontractor's directly pertinent records involving transactions related to this subcontract or a lower tier subcontract hereunder and to interview any current employee regarding such transactions.

(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.

A6. NOTICE TO PRINCETON OF LABOR DISPUTES (FEB 1997)

If the Subcontractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this subcontract, the Subcontractor shall immediately give notice, including all relevant information, to Princeton's Subcontract Administrator.

A7. PREFERENCE FOR U.S.-FLAG AIR CARRIERS (JUN 2003)

(a) "International air transportation," means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States.

"United States," means the 50 States, the District of Columbia, and outlying areas.

"U.S.-flag air carrier," as used in this clause, means an air carrier holding a certificate under section 49 U.S.C. Chapter 411.

(b) Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act) requires that all Federal agencies and Government contractors and subcontractors use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag air carrier is available to provide such services.

(c) If available, the Subcontractor, in performing work under this subcontract, to use U.S.-flag air carriers for international air transportation of personnel (and their personal effects) or property.

(d) In the event that the Subcontractor selects a carrier other than a U.S.-flag air carrier for international air transportation, the Subcontractor shall include a statement on vouchers involving such transportation essentially as follows:

STATEMENT OF UNAVAILABILITY OF U.S.-FLAG AIR CARRIERS

International air transportation of persons (and their personal effects) or property by U.S.-flag air carrier was not available or it was necessary to use foreign-flag air carrier service for the following reasons (see section 47.403 of the Federal Acquisition Regulation): [State reasons]

_____

(End of Statement)

(e) The Subcontractor shall include the substance of this clause, including this paragraph (e), in each lower tier subcontract or purchase order under this subcontract that may involve international air transportation.

A8. ASSIGNMENT (OCT 1997)

(a) Neither this subcontract nor any interest therein nor claim there under shall be assigned or transferred by the Subcontractor except as expressly authorized in writing by Princeton.

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

A9. MATERIAL AND WORKMANSHIP (APR 1984)

(a) All equipment, material, and articles incorporated into the work covered by this subcontract shall be new and of the most suitable grade for the purpose intended, unless otherwise specifically provided in this subcontract. References in the specifications to equipment, material, articles, or patented processes by trade name, make, or catalog number, shall be regarded as establishing a standard of quality and shall not be construed as limiting competition. The Subcontractor may, at its option, use any equipment, material, article, or process that, in the judgment of Princeton, is equal to that named in the specifications, unless otherwise specifically provided in this subcontract.

(b) The Subcontractor shall obtain Princeton's approval of the machinery and mechanical and other equipment to be incorporated into the work. When requesting approval, the Subcontractor shall furnish to Princeton the name of the manufacturer, the model number, and other information concerning the performance, capacity, nature, and rating of the machinery and mechanical and other equipment. When required by this subcontract or by Princeton, the Subcontractor shall also obtain Princeton's approval of the material or articles that the Subcontractor contemplates incorporating into the work. When requesting approval, the Subcontractor shall provide full information concerning the material or articles. When directed to do so, the Subcontractor shall submit samples for approval at the Subcontractor's expense, with all shipping charges prepaid. Machinery, equipment, material, and articles that do not have the required

approval shall be installed or used at the risk of subsequent rejection.

(c) All work under this subcontract shall be performed in a skillful and workmanlike manner. Princeton may require, in writing, that the Subcontractor remove from the work any employee Princeton deems incompetent, careless, or otherwise objectionable.

A10. INDEMNITY (OCT 1997)

(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 of the Indemnitees, done with intent by the Indemnitees to cause loss, damage or injury, (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.

A11. HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA (JAN 1997) (ALTERNATE I) (JUL 1995)

(a) Hazardous material, as used in this clause, includes any material defined as hazardous under the latest version of Federal Standard No. 313 (including revisions adopted during the term of the subcontract).

(b) The offeror must list any hazardous material, as defined in paragraph (a) of this clause, to be delivered under this subcontract. The hazardous material shall be properly identified and include any applicable identification number, such as National Stock Number or Special Item Number. This information shall also be included on the Material Safety Data Sheet submitted under this Subcontract.

Material (If none, insert None)

_____
_____
_____

Identification No.

_____
_____
_____

(c) This list must be updated during performance of the subcontract whenever the Subcontractor determines that any other material to be delivered under this subcontract is hazardous.

(d) The apparently successful offeror agrees to submit, for each item as required prior to award, a Material Safety Data Sheet, meeting the requirements of 29 CFR 1910.1200(g) and the latest version of Federal Standard No. 313, for all hazardous material identified in paragraph (b) of this clause. Data shall be submitted in accordance with Federal Standard No. 313, whether or not the apparently successful offeror is the actual manufacturer of these items. Failure to submit the Material Safety Data Sheet prior to award may result in the apparently successful offeror being considered non-responsive and ineligible for award.

(e) If, after award, there is a change in the composition of the item(s) or a revision to Federal Standard No. 313, which renders incomplete or inaccurate the data submitted under paragraph (d) of this clause or the certification submitted under paragraph (c) of this clause, the Subcontractor shall promptly notify Princeton and resubmit the data.

(f) Neither the requirements of this clause nor any act or failure to act by Princeton shall relieve the Subcontractor of any responsibility or liability for the safety of Government, Princeton, subcontractor, or lower-tier subcontractor personnel or property.

(g) Nothing contained in this clause shall relieve the Subcontractor from complying with applicable Federal, State, and local laws, codes, ordinances, and regulations (including the obtaining of licenses and permits) in connection with hazardous material.

(h) Princeton's and the Government's rights in data furnished under this subcontract with respect to hazardous material are as follows:

(1) To use, duplicate and disclose any data to which this clause is applicable. The purposes of this right are to-

(i) Apprise personnel of the hazards to which they may be exposed in using, handling, packaging, transporting, or disposing of hazardous materials;

(ii) Obtain medical treatment for those affected by the material; and

(iii) Have others use, duplicate, and disclose the data for Princeton and the Government for these purposes.

(2) To use, duplicate, and disclose data furnished under this clause, in accordance with subparagraph (h)(1) of this clause, in precedence over any other clause of this contract providing for rights in data.

(3) Princeton is not precluded from using similar or identical data acquired from other sources.

(i) Except as provided in paragraph (i)(2) the Subcontractor shall prepare and submit a sufficient number of Material Safety Data Sheets (MSDS's), meeting the requirements of 29 CFR 1910.1200(g) and the latest version of Federal Standard No. 313, for all hazardous materials identified in paragraph (b) of this clause.

(1) For items shipped to consignees, the Subcontractor shall include a copy of the MSDS with the packing list or other suitable shipping document, which accompanies each shipment. Alternatively, the Subcontractor is permitted to transmit MSDS's to consignees in advance of receipt of shipments by consignees, if authorized in writing by Princeton.

(2) For items shipped to consignees identified by mailing address as agency depots, distribution centers or customer supply centers, the Subcontractor shall provide one copy of the MSDS's in or on each shipping container. If affixed to the outside of each container, the MSDS must be placed in a weather resistant envelope.

A12. WHISTLEBLOWER PROTECTION FOR SUBCONTRACTOR EMPLOYEES (DEC 2000)

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

(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 Princeton directly related to activities at DOE-owned or -leased sites.

A13. RESOLUTION OF DISPUTES (OCT 1997)

(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.

A14. COVENANT AGAINST CONTINGENT FEES (APR 1984)

(a) The Subcontractor warrants that no person or agency has been employed or retained to solicit or obtain this subcontract upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, Princeton shall have the right to annul this contract without liability or, in its discretion, to deduct from the subcontract price or consideration, or otherwise recover, the full amount of the contingent fee.

(b) "Bona fide agency," as used in this clause, means an established commercial or selling agency, maintained by a contractor for the purpose of securing business, that neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts or subcontracts under Government contracts nor holds itself out as being able to obtain any Government contracts or subcontracts under Government contracts through improper influence.

"Bona fide employee," as used in this clause, means a person, employed by a contractor and subject to the contractor's supervision and control as to time, place, and manner of performance, who neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds out as being able to obtain any Government contract or contracts through improper influence.

"Contingent fee," as used in this clause, means any commission, percentage, brokerage, or other fee that is contingent upon the success that a person or concern has in securing a Government contract.

"Improper influence," as used in this clause, means any influence that induces or tends to induce a Government employee or officer to give consideration or to act regarding a Government contract on any basis other than the merits of the matter.

A15. PREFERENCE FOR PRIVATELY OWNED U.S.-FLAG COMMERCIAL VESSELS (FEB 2006)

(a) Except as provided in paragraph (e) of this clause, the Cargo Preference Act of 1954 (46 U.S.C. App. 1241(b)) requires that Federal departments and agencies shall transport in privately owned U.S.-flag commercial vessels at least 50 percent of the gross tonnage of equipment, materials, or commodities that may be transported in ocean vessels (computed separately for dry bulk carriers, dry cargo liners, and tankers). Such transportation shall be accomplished when any equipment, materials, or commodities, located within or outside the United States that may be transported by ocean vessel are—

(1) Acquired for a U.S. Government agency account;

(2) Furnished to, or for the account of, any foreign nation without provision for reimbursement;

(3) Furnished for the account of a foreign nation in connection with which the United States advances funds or credits, or guarantees the convertibility of foreign currencies; or

(4) Acquired with advance of funds, loans, or guaranties made by or on behalf of the United States.

(b) The subcontractor shall use privately owned U.S.-flag commercial vessels to ship at least 50 percent of the gross tonnage involved under this contract (computed separately for dry bulk carriers, dry cargo liners, and tankers) whenever shipping any equipment, materials, or commodities under the conditions set forth in paragraph (a) of this clause, to the extent that such vessels are available at rates that are fair and reasonable for privately owned U.S.-flag commercial vessels.

(c) (1) The subcontractor shall submit one legible copy of a rated on-board ocean bill of lading for each shipment to Princeton.

(2) The subcontractor shall furnish these bill of lading copies (i) within 20 working days of the date of loading for shipments originating in the United States, or (ii) within 30 working days for shipments originating outside the United States. Each bill of lading copy shall contain the following information:

(A) Sponsoring U.S. Government agency.
(B) Name of vessel.
(C) Vessel flag of registry.
(D) Date of loading.
(E) Port of loading.
(F) Port of final discharge.
(G) Description of commodity.
(H) Gross weight in pounds and cubic feet if available.
(I) Total ocean freight revenue in U.S. dollars.

(d) The subcontractor shall insert the substance of this clause, including this paragraph (d), in all lower tier subcontracts or purchase orders under this subcontract, except those described in paragraph (e)(4).

(e) The requirement in paragraph (a) does not apply to—

(1) Cargoes carried in vessels as required or authorized by law or treaty;

(2) Ocean transportation between foreign countries of supplies purchased with foreign currencies made available, or derived from funds that are made available, under the Foreign Assistance Act of 1961 (22 U.S.C. 2353);

(3) Shipments of classified supplies when the classification prohibits the use of non-Government vessels; and

(4) Subcontracts or purchase orders for the acquisition of commercial items unless—

(i) This contract is—

(A) A contract or agreement for ocean transportation services; or

(B) A construction contract; or

(ii) The supplies being transported are—

(A) Items the subcontractor is reselling or distributing to the Government without adding value. (Generally, the subcontractor does not add value to the items when it subcontracts items for f.o.b. destination shipment); or

(B) Shipped in direct support of U.S. military—

(1) Contingency operations;

(2) Exercises; or

(3) Forces deployed in connection with United Nations or North Atlantic Treaty Organization humanitarian or peacekeeping operations.

(f) Guidance regarding fair and reasonable rates for privately owned U.S.-flag commercial vessels may be obtained from the:

Office of Costs and Rates
Maritime Administration
400 Seventh Street, SW
Washington DC 20590
Phone: (202) 366-4610.

A16. COMMERCIAL BILL OF LADING NOTATIONS (FEB 2006)

When Princeton authorizes supplies to be shipped on a commercial bill of lading and the Subcontractor will be reimbursed these transportation costs as direct allowable costs, the Subcontractor shall ensure before shipment is made that the commercial shipping documents are annotated as follows:

(a) if the Government is shown as the consignor or consignee, the annotation shall be:

"Transportation is for the U.S. Department of Energy and the actual total transportation charges paid to the carrier(s) are assignable to, and shall be reimbursed by, the Government.

(b) If the Government is not shown as the consignor or consignee, the annotation shall be:

"Transportation is for the U.S. Department of Energy and the actual total transportation charges paid to the carrier(s) by the consignee shall be reimbursed by Princeton, pursuant to cost-reimbursement contract No. DE-AC02-09CH11466. This may be confirmed by contacting U.S. Department of Energy, Princeton Site Office, P.O. Box 102, Princeton, NJ 08542, fax 609-243-2032.

A17. PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (SEP 2006)

(a) The Government suspends or debars contractors to protect the Government's interests. The Subcontractor shall not enter into any lower tier subcontract in excess of $30,000 with a contractor that is debarred, suspended, or proposed for debarment unless there is a compelling reason to do so.

(b) The Subcontractor shall require each proposed lower tier subcontractor, whose lower tier subcontract will exceed $30,000, to disclose to the Subcontractor, in writing, whether as of the time of award of the lower tier subcontract, the lower tier subcontractor, or its principals, is or is not debarred, suspended, or proposed for debarment by the Federal Government.

(c) A corporate officer or a designee of the Subcontractor shall notify Princeton's Subcontract Administrator, in writing, before entering into a sub-subcontract with a party that is debarred, suspended, or proposed for debarment (see FAR 9.404 for information in the Excluded Parties List System). The notice must include the following:

(1) The name of the lower tier subcontractor.

(2) The Subcontractor's knowledge of the reasons for the lower tier subcontractor being in the Excluded Parties List System.

(3) The compelling reason(s) for doing business with the lower tier subcontractor notwithstanding its inclusion in the Excluded Parties List System.

(4) The systems and procedures the Subcontractor has established to ensure that it is fully protecting the Government's interests when dealing with such lower tier subcontractor in view of the specific basis for the party's debarment, suspension, or proposed debarment.

A18. MATERIAL REQUIREMENTS (AUG 2000)

(a) Definitions.
As used in this clause--

"New" means composed of previously unused components, whether manufactured from virgin material, recovered material in the form of raw material, or materials and by-products generated from, and reused within, an original manufacturing process; provided that the supplies meet contract requirements, including but not limited to, performance, reliability, and life expectancy.

"Reconditioned" means restored to the original normal operating condition by readjustments and material replacement.
"Recovered material" means waste materials and by-products recovered or diverted from solid waste, but the term does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process.

"Remanufactured" means factory rebuilt to original specifications.

"Virgin material" means--

(1) Previously unused raw material, including previously unused copper, aluminum, lead, zinc, iron, other metal or metal ore; or

(2) Any undeveloped resource that is, or with new technology will become, a source of raw materials.

(b) Unless this subcontract otherwise requires virgin material or supplies composed of or manufactured from virgin material, the Subcontractor shall provide supplies that are new, reconditioned, or remanufactured, as defined in this clause.

(c) A proposal to provide unused former Government surplus property shall include a complete description of the material, the quantity, the name of the Government agency from which acquired, and the date of acquisition.

(d) A proposal to provide used, reconditioned, or remanufactured supplies shall include a detailed description of such supplies and shall be submitted to the Princeton for approval.

(e) Used, reconditioned, or remanufactured supplies, or unused former Government surplus property, may be used in subcontract performance if the Subcontractor has proposed the use of such supplies, and Princeton has authorized their use.

A19. GOVERNMENT-FURNISHED PROPERTY (JUN 2007)

(a) Definitions. As used in this clause—

"Acquisition cost" means the cost to acquire a tangible capital asset including the purchase price of the asset and costs necessary to prepare the asset for use. Costs necessary to prepare the asset for use include the cost of placing the asset in location and bringing the asset to a condition necessary for normal or expected use.

"Cannibalize" means to remove serviceable parts from one item of equipment in order to install them on another item of equipment.

"Subcontractor-acquired property" means property acquired, fabricated, or otherwise provided by the Subcontractor for performing a contract, and to which the Government has title.

"Subcontractor inventory" means—

(1) Any property acquired by and in the possession of a Subcontractor or lower-tier subcontractor under a subcontract for which title is vested in the Government and which exceeds the amounts needed to complete full performance under the entire subcontract;

(2) Any property that the Government is obligated or has the option to take over under any type of subcontract, e.g., as a result either of any changes in the specifications or plans thereunder

or of the termination of the subcontract (or lower-tier subcontract thereunder), before completion of the work, for the convenience or at the option of the Government; and

(3) Government-furnished property that exceeds the amounts needed to complete full performance under the entire subcontract.

"Subcontractor's managerial personnel" means the Subcontractor's directors, officers, managers, superintendents, or equivalent representatives who have supervision or direction of—

(1) All or substantially all of the Subcontractor's business;

(2) All or substantially all of the Subcontractor's operation at any one plant or separate location; or

(3) A separate and complete major industrial operation.

"Demilitarization" means rendering a product unusable for, and not restorable to, the purpose for which it was designed or is customarily used.

"Discrepancies incident to shipment" means any differences (e.g., count or condition) between the items documented to have been shipped and items actually received.

"Equipment" means a tangible asset that is functionally complete for its intended purpose, durable, nonexpendable, and needed for the performance of a subcontract. Equipment is not intended for sale, and does not ordinarily lose its identity or become a component part of another article when put into use.

"Government-furnished property" means property in the possession of, or directly acquired by, the Government and subsequently furnished to the Subcontractor for performance of a subcontract.

"Government property" means all property owned or leased by the Government. Government property includes both Government-furnished and Subcontractor-acquired property.

"Material" means property that may be consumed or expended during the performance of a subcontract, component parts of a higher assembly, or items that lose their individual identity through incorporation into an end-item. Material does not include equipment, special tooling and special test equipment.

"Nonseverable" means property that cannot be removed after construction or installation without substantial loss of value or damage to the installed property or to the premises where installed.

"Plant equipment" as used in this part, means personal property of a capital nature (including equipment, machine tools, test equipment, furniture, vehicles, and accessory and auxiliary items) for use in manufacturing supplies, in performing services, or for any administrative or general plant purpose. It does not include special tooling or special test equipment.

"Precious metals" means silver, gold, platinum, palladium, iridium, osmium, rhodium, and ruthenium.

"Property" means all tangible property, both real and personal.

"Property Administrator" means an authorized representative of the Contracting Officer appointed in accordance with agency procedures, responsible for administering the subcontract requirements and obligations relating to Government property in the possession of a Subcontractor. For purposes of this subcontract, Princeton will function as the Property Administrator.

"Provide" means to furnish, as in Government-furnished property, or to acquire, as in subcontractor-acquired property.

"Real property" means land and rights in land, ground improvements, utility distribution systems, and buildings and other structures. It does not include foundations and other work necessary for installing special tooling, special test equipment, or plant equipment.

"Sensitive property" means property potentially dangerous to the public safety or security if stolen, lost, or misplaced, or that shall be subject to exceptional physical security, protection, control, and accountability. Examples include weapons, ammunition, explosives, controlled substances, radioactive materials, hazardous materials or wastes, or precious metals.

"Surplus property" means excess personal property not required by any Federal agency as determined by the Administrator of the General Services Administration (GSA).

(b) Property management.

(1) The Subcontractor shall have a system to manage (control, use, preserve, protect, repair and maintain) Government property in its possession. The system shall be adequate to satisfy the requirements of this clause. In doing so, the Subcontractor shall initiate and maintain the processes, systems, procedures, records, and methodologies necessary for effective control of Government property, consistent with voluntary consensus standards and/or industry-leading practices and standards for Government property management except where inconsistent with law or regulation. During the period of performance, the Subcontractor shall disclose any significant changes to their property management system to Princeton prior to implementation.

(2) The Subcontractor's responsibility extends from the initial acquisition and receipt of property, through stewardship, custody, and use until formally relieved of responsibility by authorized means,

including delivery, consumption, expending, disposition, or via a completed investigation, evaluation, and final determination for lost, damaged, destroyed, or stolen property. This requirement applies to all Government property under the Subcontractor's accountability, stewardship, possession or control, including its vendors or lower-tier subcontractors (see paragraph (f)(1)(v) of this clause).

(3) The Subcontractor shall include the requirements of this clause in all lower-tier subcontracts under which Government property is acquired or furnished for subcontract performance.

(c) Use of Government property. The Subcontractor shall use Government property, either furnished or acquired under this subcontract, only for performing this subcontract, unless otherwise provided for in this subcontract or approved by Princeton. The Subcontractor shall not modify, cannibalize, or make alterations to Government property unless this subcontract specifically identifies the modifications, alterations or improvements as work to be performed.

(d) Government-furnished property.

(1) Princeton shall deliver to the Subcontractor the Government-furnished property described in this subcontract. Princeton shall furnish related data and information needed for the intended use of the property. The warranties of suitability of use and timely delivery of Government-furnished property do not apply to property acquired or fabricated by the Subcontractor as subcontractor-acquired property and subsequently transferred to another subcontract with this Subcontractor.

(2) The delivery and/or performance dates specified in this subcontract are based upon the expectation that the Government-furnished property will be suitable for subcontract performance and will be delivered to the Subcontractor by the dates stated in the subcontract.

(i) If the property is not delivered to the Subcontractor by the dates stated in the subcontract, Princeton shall, upon the Subcontractor's timely written request, consider an equitable adjustment to the subcontract.

(ii) In the event property is received by the Subcontractor, or for Government-furnished property after receipt and installation, in a condition not suitable for its intended use, Princeton shall, upon the Subcontractor's timely written request, advise the Subcontractor on a course of action to remedy the problem. Such action may include repairing, replacing, modifying, returning, or otherwise disposing of the property at Princeton's expense. Upon completion of the required action(s), Princeton shall consider an equitable adjustment to the subcontract (see also paragraph (f)(1)(ii)(A) of this clause).

(iii) Princeton may, at its option, furnish property in an “as-is” condition. The Subcontractor will be given the opportunity to inspect such property prior to the property being provided. In such cases, Princeton makes no warranty with respect to the serviceability and/or suitability of the property for subcontract performance. Any repairs, replacement, and/or refurbishment shall be at the Subcontractor's expense.

(3)(i) Princeton may by written notice, at any time—

(A) Increase or decrease the amount of Government-furnished property under this subcontract;

(B) Substitute other Government-furnished property for the property previously furnished, to be furnished, or to be acquired by the Subcontractor for the Government under this subcontract; or

(C) Withdraw authority to use property.

(ii) Upon completion of any action(s) under paragraph (d)(3)(i) of this clause, and the Subcontractor's timely written request, Princeton shall consider an equitable adjustment to the Subcontract.

(e) Title to Government property.

(1) The Government shall retain title to all Government-furnished property. Title to Government property shall not be affected by its incorporation into or attachment to any property not owned by the Government, nor shall Government property become a fixture or lose its identity as personal property by being attached to any real property.

(2) Fixed-price subcontracts.

(i) All Government-furnished property and all property acquired by the Subcontractor, title to which vests in the Government under this paragraph (collectively referred to as “Government property”), are subject to the provisions of this clause.

(ii) Title to each item of equipment, special test equipment and special tooling acquired by the Subcontractor for the Government under this subcontract shall pass to and vest in the Government when its use in performing this subcontract commences or when Princeton has paid for it, whichever is earlier, whether or not title previously vested in the Government.

(iii) If this subcontract contains a provision directing the Subcontractor to purchase material for which Princeton will reimburse the Subcontractor as a direct item of cost under this subcontract—

(A) Title to material purchased from a vendor shall pass to and vest in the Government upon the vendor's delivery of such material; and

(B) Title to all other material shall pass to and vest in the Government upon—

(1) Issuance of the material for use in subcontract performance;

(2) Commencement of processing of the material or its use in subcontract performance; or

(3) Reimbursement of the cost of the material by Princeton, whichever occurs first.

(3) Title under Cost-Reimbursement or Time-and-Material Subcontracts or Cost-Reimbursable subcontract line items under Fixed-Price Subcontracts.

(i) Title to all property purchased by the Subcontractor for which the Subcontractor is entitled to be reimbursed as a direct item of cost under this subcontract shall pass to and vest in the Government upon the vendor's delivery of such property.

(ii) Title to all other property, the cost of which is reimbursable to the Subcontractor, shall pass to and vest in the Government upon—

(A) Issuance of the property for use in subcontract performance;

(B) Commencement of processing of the property for use in subcontract performance; or

(C) Reimbursement of the cost of the property by Princeton, whichever occurs first.

(iii) All Government-furnished property and all property acquired by the Subcontractor, title to which vests in the Government under this paragraph (e)(3)(iii) (collectively referred to as "Government property)", are subject to the provisions of this clause.

(f) Subcontractor plans and systems.

(1) Subcontractors shall establish and implement property management plans, systems, and procedures at the contract, program, site or entity level to enable the following outcomes:

(i) Acquisition of Property. The Subcontractor shall document that all property was acquired consistent with its engineering, production planning, and material control operations.

(ii) Receipt of Government Property. The Subcontractor shall receive Government property (document the receipt), record the information necessary to meet the record requirements of paragraph (f)(1)(iii)(A)(1) through (5) of this clause, identify as Government owned in a manner appropriate to the type of property (e.g., stamp, tag, mark, or other identification), and manage any discrepancies incident to shipment.

(A) Government-furnished property. The Subcontractor shall furnish a written statement to Princeton containing all relevant facts, such as cause or condition and a recommended course(s) of action, if overages, shortages, or damages and/or other discrepancies are discovered upon receipt of Government-furnished property.

(B) Subcontractor-acquired property. The Subcontractor shall take all actions necessary to adjust for overages, shortages, damage and/or other discrepancies discovered upon receipt, in shipment of Subcontractor-acquired property from a vendor or supplier, so as to ensure the proper allocability and allowability of associated costs.

(iii) Records of Government property. The Subcontractor shall create and maintain records of all Government property accountable to the subcontract, including Government-furnished and Subcontractor-acquired property.

(A) Property records shall enable a complete, current, auditable record of all transactions and shall, unless otherwise approved by Princeton, contain the following:

(1) The name, part number and description, manufacturer, model number, and National Stock Number (if needed for additional item identification tracking and/or disposition).

(2) Quantity received (or fabricated), issued, and balance-on-hand.

(3) Unit acquisition cost.

(4) Unique-item identifier or equivalent (if available and necessary for individual item tracking).

(5) Unit of measure.

(6) Accountable contract number or equivalent code designation.

(7) Location.

(8) Disposition.

(9) Posting reference and date of transaction.

(10) Date placed in service.

(B) Use of a Receipt and Issue System for Government Material. When approved by Princeton, the Subcontractor may maintain, in lieu of formal property records, a file of appropriately cross-referenced documents evidencing receipt, issue, and use of material that is issued for immediate consumption.

(iv) Physical inventory. The Subcontractor shall periodically perform, record, and disclose physical inventory results. A final physical inventory shall be performed upon contract completion or termination. Princeton may waive this final inventory requirement, depending on the circumstances (e.g., overall reliability of the Subcontractor's system or the property is to be transferred to a follow-on contract).

(v) Lower-tier subcontractor control.

(A) The Subcontractor shall award lower-tier subcontracts that clearly identify assets to be provided and shall ensure appropriate flow down of subcontract terms and conditions (e.g., extent of liability for loss, damage, destruction or theft of Government property).

(B) The Subcontractor shall assure its lower-tier subcontracts are properly administered and reviews are periodically performed to determine the adequacy of the lower-tier subcontractor's property management system.

(vi) Reports. The Subcontractor shall have a process to create and provide reports of discrepancies; loss, damage, destruction, or theft; physical inventory results; audits and self-assessments; corrective actions; and other property related reports as directed by Princeton.

(A) Loss, damage, destruction, or theft. Unless otherwise directed by Princeton, the Subcontractor shall investigate and promptly furnish a written narrative of all incidents of loss, damage, destruction, or theft to Princeton as soon as the facts become known or when requested by Princeton.

(B) Such reports shall, at a minimum, contain the following information:

(1) Date of incident (if known).

(2) The name, commercial description, manufacturer, model number, and National Stock Number (if applicable).

(3) Quantity.

(4) Unique Item Identifier (if available).

(5) Accountable Contract number.

(6) A statement indicating current or future need.

(7) Acquisition cost, or if applicable, estimated scrap proceeds, estimated repair or replacement costs.

(8) All known interests in commingled property of which the Government property is a part.

(9) Cause and corrective action taken or to be taken to prevent recurrence.

(10) A statement that the Government will receive any reimbursement covering the loss, damage, destruction, or theft, in the event the Subcontractor was or will be reimbursed or compensated.

(11) Copies of all supporting documentation.

(12) Last known location.

(13) A statement that the property did or did not contain sensitive or hazardous material, and if so, that the appropriate agencies were notified.

(vii) Relief of stewardship responsibility. Unless the subcontract provides otherwise, the Subcontractor shall be relieved of stewardship responsibility for Government property when such property is—

(A) Consumed or expended, reasonably and properly, or otherwise accounted for, in the performance of the subcontract, including reasonable inventory adjustments of material as determined by Princeton; or Princeton granted relief of responsibility for loss, damage, destruction or theft of Government property;

(B) Delivered or shipped from the Subcontractor's plant, under Government instructions, except when shipment is to a lower-tier subcontractor or other location of the Subcontractor; or

(C) Disposed of in accordance with paragraphs (j) and (k) of this clause.

(viii) Utilizing Government property.

(A) The Subcontractor shall utilize, consume, move, and store Government Property only as authorized under this subcontract. The Subcontractor shall promptly disclose and report Government property in its possession that is excess to subcontract performance.

(B) Unless otherwise authorized in this subcontract or by Princeton the Subcontractor shall not commingle Government property with property not owned by the Government.

(ix) Maintenance. The Subcontractor shall properly maintain Government property. The Subcontractor's maintenance program shall enable the identification, disclosure, and performance of normal and routine preventative maintenance and repair. The Subcontractor shall disclose and report to Princeton the need for replacement and/or capital rehabilitation.

(x) Property closeout. The Subcontractor shall promptly perform and report to Princeton subcontract property closeout, to include reporting, investigating and securing closure of all loss, damage, destruction, or theft cases; physically inventorying all property upon termination or completion of this subcontract; and disposing of items at the time they are determined to be excess to contractual needs.

(2) The Subcontractor shall establish and maintain Government accounting source data, as may be required by this subcontract, particularly in the areas of recognition of acquisitions and dispositions of material and equipment.

(3) The Subcontractor shall establish and maintain procedures necessary to assess its property management system effectiveness, and shall perform periodic internal reviews and audits. Significant findings and/or results of such reviews and audits pertaining to Government property shall be made available to Princeton.

(g) Systems analysis.

(1) Princeton and the Government shall have access to the Subcontractor's premises and all Government property, at reasonable times, for the purposes of reviewing, inspecting and evaluating the Subcontractor's property management plan, systems, procedures, records, and supporting

documentation that pertains to Government property.

(2) Records of Government property shall be readily available to authorized Government personnel and shall be safeguarded from tampering or destruction.

(3) Should it be determined by Princeton that the Subcontractor's property management practices are inadequate or not acceptable for the effective management and/or control of Government property under this subcontract, and/or present an undue risk to the Government, the Subcontractor shall immediately take all necessary corrective actions as directed by Princeton.

(4) The Subcontractor shall ensure Princeton and the Government access to lower subcontractor premises, and all Government property located at lower-tier subcontractor premises, for the purposes of reviewing, inspecting and evaluating the lower-tier subcontractor's property management plan, systems, procedures, records, and supporting documentation that pertains to Government property.

(h) Subcontractor Liability for Government Property.

(1) Unless otherwise provided for in the subcontract, the Subcontractor shall not be liable for loss, damage, destruction, or theft to the Government property furnished or acquired under this subcontract, except when any one of the following applies—

(i) The risk is covered by insurance or the Subcontractor is otherwise reimbursed (to the extent of such insurance or reimbursement). The allowability of insurance costs shall be determined in accordance with 31.205-19.

(ii) The loss, damage, destruction, or theft is the result of willful misconduct or lack of good faith on the part of the Subcontractor's managerial personnel. Subcontractor's managerial personnel, in this clause, means the Subcontractor's directors, officers, managers, superintendents, or equivalent representatives who have supervision or direction of all or substantially all of the Subcontractor's business; all or substantially all of the Subcontractor's operation at any one plant or separate location; or a separate and complete major industrial operation.

(iii) Princeton has, in writing, revoked the Government's assumption of risk for loss, damage, destruction, or theft, due to a determination under paragraph (g) of this clause that the Subcontractor's property management practices are inadequate, and/or present an undue risk to the Government, and the Subcontractor failed to take timely corrective action. If the Subcontractor can establish by clear and convincing evidence that the loss, damage, destruction, or theft of Government property occurred while the Subcontractor had adequate property management practices or the loss, damage, destruction, or theft of Government property did not result from the Subcontractor's failure to maintain adequate property management practices, the Subcontractor shall not be held liable.

(2) The Subcontractor shall take all reasonable actions necessary to protect the Government property from further loss, damage, destruction, or theft. The Subcontractor shall separate the damaged and undamaged Government property, place all the affected Government property in the best possible order, and take such other action as the Princeton directs.

(3) The Subcontractor shall do nothing to prejudice the Government's rights to recover against third parties for any loss, damage, destruction, or theft of Government property.

(4) Upon the request of Princeton, the Subcontractor shall, at Princeton's expense, furnish to Princeton all reasonable assistance and cooperation, including the prosecution of suit and the execution of instruments of assignment in favor of the Government in obtaining recovery.

(i) Equitable adjustment. Equitable adjustments under this clause shall be made in accordance with the procedures of the Changes clause. The right to an equitable adjustment shall be the Subcontractor's exclusive remedy and Princeton shall not be liable to suit for breach of contract for the following:

(1) Any delay in delivery of Government-furnished property.

(2) Delivery of Government-furnished property in a condition not suitable for its intended use.

(3) An increase, decrease, or substitution of Government-furnished property.

(4) Failure to repair or replace Government property for which Princeton is responsible.

(j) Subcontractor inventory disposal. Except as otherwise provided for in this subcontract, the Subcontractor shall not dispose of Subcontractor inventory until authorized to do so by Princeton.

(1) Scrap to which the Government has obtained title under paragraph (e) of this clause.

(i) Subcontractor with an approved scrap procedure.

(A) The Subcontractor may dispose of scrap resulting from production or testing under this subcontract without Government approval. However, if the scrap requires demilitarization or is sensitive property, the Subcontractor shall submit the scrap on an inventory disposal schedule.

(B) For scrap from other than production or testing the Subcontractor may prepare scrap lists in lieu of inventory disposal schedules (provided such lists are consistent with the approved scrap procedures), except that inventory disposal

schedules shall be submitted for scrap aircraft or aircraft parts and scrap that—

(1) Requires demilitarization;

(2) Is a classified item;

(3) Is generated from classified items;

(4) Contains hazardous materials or hazardous wastes;

(5) Contains precious metals; or

(6) Is dangerous to the public health, safety, or welfare.

(ii) Subcontractor without an approved scrap procedure. The Subcontractor shall submit an inventory disposal schedule for all scrap. The Subcontractor may not dispose of scrap resulting from production or testing under this contract without Princeton approval.

(2) Predisposal requirements.

(i) Once the Subcontractor determines that Subcontractor-acquired property is no longer needed for subcontract performance, the Subcontractor in the following order of priority—

(A) May contact Princeton if use of the property in the performance of other Government contracts is practical;

(B) May purchase the property at the acquisition cost; or

(C) Shall make reasonable efforts to return unused property to the appropriate supplier at fair market value (less, if applicable, a reasonable restocking fee that is consistent with the supplier's customary practices).

(ii) The Subcontractor shall list, on Standard Form 1428, Inventory Disposal Schedule, property that was not used in the performance of other Government contracts under paragraph (j)(2)(i)(A) of this clause, property that was not purchased under paragraph (j)(2)(i)(B) of this clause, and property that could not be returned to a supplier under paragraph (j)(2)(i)(C) of this clause.

(3) Inventory disposal schedules.

(i) The Subcontractor shall use Standard Form 1428, Inventory Disposal Schedule, to identify—

(A) Government-furnished property that is no longer required for performance of this subcontract, provided the terms of another Government contract do not require the Government to furnish that property for performance of this subcontract;

(B) Subcontractor-acquired property, to which the Government has obtained title under paragraph (e) of this clause, which is no longer required for performance of that subcontract; and

(C) Termination inventory.

(ii) The Subcontractor may annotate inventory disposal schedules to identify property the Subcontractor wishes to purchase from the Government.

(iii) Unless the Princeton has agreed otherwise, or the subcontract requires electronic submission of inventory disposal schedules, the Subcontractor shall prepare separate inventory disposal schedules for—

(A) Special test equipment with commercial components;

(B) Special test equipment without commercial components;

(C) Printing equipment;

(D) Information technology (e.g., computers, computer components, peripheral equipment, and related equipment);

(E) Precious metals;

(F) Mononuclear hazardous materials or hazardous wastes; or

(G) Nuclear materials or nuclear wastes.

(iv) The Subcontractor shall describe the property in sufficient detail to permit an understanding of its intended use. Property with the same description, condition code, and reporting location may be grouped in a single line item.

(4) Submission requirements. The Subcontractor shall submit inventory disposal schedules to Princeton no later than—

(i) 30-days following the Subcontractor's determination that a Government property item is no longer required for performance of this contract;

(ii) 60 days, or such longer period as may be approved by Princeton, following completion of subcontract deliveries or performance; or

(iii) 120 days, or such longer period as may be approved by Princeton following subcontract termination in whole or in part.

(5) Corrections. Princeton may—

(i) Reject a schedule for cause (e.g., contains errors, determined to be inaccurate); and

(ii) Require the Subcontractor to correct an inventory disposal schedule.

(6) Post submission adjustments. The Subcontractor shall notify Princeton at least 10 working days in advance of its intent to remove an item from an approved inventory disposal schedule. Upon approval of Princeton, or upon expiration of the notice period, the Subcontractor may make the necessary adjustments to the inventory schedule.

(7) Storage.

(i) The Subcontractor shall store the property identified on an inventory disposal schedule pending receipt of disposal instructions. Princeton's failure to furnish disposal instructions within 120 days following acceptance of an inventory disposal schedule may entitle the Subcontractor to an equitable adjustment for costs incurred to store such property on or after the 121st day.

(ii) The Subcontractor shall obtain Princeton's approval to remove Government property from the premises where the property is currently located prior to receipt of final disposition instructions. If approval is granted, any costs incurred by the Subcontractor to transport or store the property shall not increase the price or fee of this Subcontract or any Government contract. The storage facility shall be appropriate for assuring the property's physical safety and suitability for use. Approval does not relieve the Subcontractor of any liability for such property under this subcontract.

(8) Disposition instructions.

(i) If Princeton does not furnish disposition instructions to the Subcontractor within 45 days following acceptance of a scrap list, the Subcontractor may dispose of the listed scrap in accordance with the Subcontractor's approved scrap procedures.

(ii) The Subcontractor shall prepare for shipment, deliver f.o.b. origin, or dispose of Subcontractor inventory as directed by Princeton. If not returned to Princeton, the Subcontractor shall remove and destroy any markings identifying the property as U.S. Government-owned property prior to its disposal.

(iii) Princeton may require the Subcontractor to demilitarize the property prior to shipment or disposal. In such cases, the Subcontractor may be entitled to an equitable adjustment under paragraph (i) of this clause.

(9) Disposal proceeds. As directed by Princeton, the Subcontractor shall credit the net proceeds from the disposal of Subcontractor inventory to the subcontract, or to the Treasury of the United States as miscellaneous receipts.

(10) Lower-tier subcontractor inventory disposal schedules. The Subcontractor shall require its lower-tier subcontractors to submit inventory disposal schedules to the Subcontractor in accordance with the requirements of paragraph (j)(4) of this clause.

(k) Abandonment of Government property.

(1) Princeton shall not abandon sensitive Government property or termination inventory without the Subcontractor's written consent.

(2) Princeton, upon notice to the Subcontractor, may abandon any nonsensitive Government property in place, at which time all obligations of the Government regarding such property shall cease.

(3) Princeton has no obligation to restore or rehabilitate the Subcontractor's premises under any circumstances; however, if Government-furnished property is withdrawn or is unsuitable for the intended use, or if other Government property is substituted, then the equitable adjustment under paragraph (i) of this clause may properly include restoration or rehabilitation costs.

(l) Communication. All communications under this clause shall be in writing.

(m) Subcontracts outside the United States. If this subcontract is to be performed outside of the United States and its outlying areas, the words "Government" and "Government-furnished" (wherever they appear in this clause) shall be construed as "United States Government" and "United States Government-furnished," respectively.

A20. AUTHORIZATION AND CONSENT (DEC 2007)

(This clause is mandatory for agreements in excess of the simplified acquisition threshold)
(a) The Government authorizes and consents to all use and manufacture, in performing this Subcontract or any subcontract at any tier, of any invention described in and covered by a United States patent—(1) Embodied in the structure or composition of any article the delivery of which is accepted by Princeton under this subcontract; or (2) Used in machinery, tools, or methods whose use necessarily results from compliance by the Subcontractor or a lower-tier subcontractor with (i) specifications or written provisions forming a part of this subcontract or (ii) specific written instructions given by Princeton's Subcontract Administrator directing the manner of performance. The entire liability to the Government for infringement of a patent of the United States shall be determined solely by the provisions of the indemnity clause, if any, included in this subcontract or any subcontract hereunder (including any lower-tier subcontract), and the Government assumes liability for all other infringement to the extent of the authorization and consent herein above granted.

(b) The Subcontractor shall include the substance of this clause, including this paragraph (b), in all lower-tier subcontracts that are expected to exceed the simplified acquisition threshold. However, omission of this clause from any subcontract, including those at or below the simplified acquisition threshold, does not affect this authorization and consent.

[If this agreement is primarily for R&D work the following will be substituted for paragraph (a)]

(a) The Government authorizes and consents to all use and manufacture of any invention described in and covered by a United States patent in the performance of this subcontract or any subcontract at any tier.

A21. PATENT INDEMNITY (APR 1984) (Modified per DEAR 970.5227-6) (DEC 2000)

(a) The Subcontractor shall indemnify Princeton and the United States of America and their officers, agents, and employees against liability, including costs, for

infringement of any United States patent (except a patent issued upon an application that is now or may hereafter be withheld from issue pursuant to a Secrecy Order under 35 U.S.C. 181) arising out of the manufacture or delivery of supplies, the performance of services, or the construction, alteration, modification, or repair of real property (hereinafter referred to as "construction work") under this subcontract, or out of the use or disposal by or for the account of Princeton of such supplies or construction work.

(b) This indemnity shall not apply unless the Subcontractor shall have been informed as soon as practicable by Princeton of the suit or action alleging such infringement and shall have been given such opportunity as is afforded by applicable laws, rules, or regulations to participate in its defense. Further, this indemnity shall not apply to—

(1) An infringement resulting from compliance with specific written instructions of Princeton directing a change in the supplies to be delivered or in the materials or equipment to be used, or directing a manner of performance of the contract not normally used by the Subcontractor;

(2) An infringement resulting from addition to or change in supplies or components furnished or construction work performed that was made subsequent to delivery or performance; or

(3) A claimed infringement that is unreasonably settled without the consent of the subcontractor, unless required by final decree of a court of competent jurisdiction.

A22. NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (DEC 2007)

(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 Subcontract of which the Subcontractor has knowledge.

(b) In the event of any claim or suit against Princeton or 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 under this subcontract, the Subcontractor shall furnish, through Princeton, to the Government, when requested by Princeton, all evidence and information in the Subcontractor's possession pertaining to such claim or suit. Such evidence and information shall be furnished at the expense of Princeton except where the Subcontractor has agreed to indemnify Princeton and the Government.

(c) The Subcontractor shall include the substance of this clause, including this paragraph (c), in all subcontracts that are expected to exceed the simplified acquisition threshold.

A23. ADDITIONAL DATA REQUIREMENTS (JUN 1987)

(This clause is mandatory in subcontracts for experimental, developmental, research, or demonstration work (other than basic or applied research to be performed solely by a university or college where the contract amount will be $500,000 or less).

(a) In addition to the data (as defined in the clause at 52.227-14, Rights in Data--General clause or other equivalent included in this subcontract) specified elsewhere in this subcontract to be delivered, Princeton's Subcontract Administrator may, at any time during subcontract performance or within a period of 3 years after acceptance of all items to be delivered under this subcontract, order any data first produced or specifically used in the performance of this subcontract.

(b) The Rights in Data--General clause or other equivalent included in this subcontract is applicable to all data ordered under this Additional Data Requirements clause. Nothing contained in this clause shall require the Subcontractor to deliver any data the withholding of which is authorized by the Rights in Data--General or other equivalent clause of this subcontract, or data which are specifically identified in this subcontract as not subject to this clause.

(c) When data are to be delivered under this clause, the Subcontractor will be compensated for converting the data into the prescribed form, for reproduction, and for delivery.

(d) Princeton's Subcontract Administrator may release the Subcontractor from the requirements of this clause for specifically identified data items at any time during the 3-year period set forth in paragraph (a) of this clause.

A24. RIGHTS TO PROPOSAL DATA (TECHNICAL) (JUN 1987)

Except for data contained on pages _____thru_____, it is agreed that as a condition of award of this subcontract, and notwithstanding the conditions of any notice appearing thereon, the Government shall have unlimited rights (as defined in the "Rights in Data--General" clause contained in this subcontract) in and to the technical data contained in the proposal dated (identified in the subcontract agreement), upon which this subcontract is based.

A25. RIGHTS IN DATA—GENERAL (DEC 2007) [with Alternate V and DEAR 927.409(a)]

(a) Definitions.

(1) Computer data bases, as used in this clause, means a collection of data in a form capable of, and for the purpose of, being stored in, processed, and operated on by a computer. The term does not include computer software.

(2) Computer software, as used in this clause, means (i) computer programs which are data comprising a series of instructions, rules, routines, or statements, regardless of the media in which recorded, that allow or cause a computer to perform a specific operation or series of operations and (ii) data comprising source code listings, design details, algorithms, processes, flow charts, formulae, and related material that would enable the computer program to be produced, created, or compiled. The term does not include computer data bases.

(3) Data, as used in this clause, means recorded information, regardless of form or the media on

which it may be recorded. The term includes technical data and computer software. For the purposes of this clause, the term does not include data incidental to the administration of this Subcontract, such as financial, administrative, cost and pricing, or management information.

(4) Form, fit, and function data, as used in this clause, means data relating to items, components, or processes that are sufficient to enable physical and functional interchangeability, as well as data identifying source, size, configuration, mating, and attachment characteristics, functional characteristics, and performance requirements; except that for computer software it means data identifying source, functional characteristics, and performance requirements but specifically excludes the source code, algorithm, process, formulae, and flow charts of the software.

(5) Limited rights data, as used in this clause, means data, other than computer software, developed at private expense that embody trade secrets or are commercial or financial and confidential or privileged. The Government's rights to use, duplicate, or disclose limited rights data are as set forth in the Limited Rights Notice of subparagraph (g)(2) of this section if included in this clause.

(6) Restricted computer software, as used in this clause, means computer software developed at private expense and that is a trade secret; is commercial or financial and is confidential or privileged; or is published copyrighted computer software, including minor modifications of any such computer software. The Government's rights to use, duplicate, or disclose restricted computer software are as set forth in the Restricted Rights Notice of subparagraph (g)(3) of this section if included in this clause.

(7) Technical data, as used in this clause, means recorded data, regardless of form or characteristic, that are of a scientific or technical nature. Technical data does not include computer software, but does include manuals and instructional materials and technical data formatted as a computer data base.

(8) Unlimited rights, as used in this clause, means the rights of the Government to use, disclose, reproduce, prepare derivative works, distribute copies to the public, including by electronic means, and perform publicly and display publicly, in any manner, including by electronic means, and for any purpose whatsoever, and to have or permit others to do so.

(b) Allocation of rights.

(1) Except as provided in paragraph (c) of this clause, the Government shall have unlimited rights in—

(i) Data first produced in the performance of this Subcontract;

(ii) Form, fit, and function data delivered under this Subcontract;

(iii) Data delivered under this Subcontract (except for restricted computer software) that constitute manuals or instructional and training material for installation, operation, or routine maintenance and repair of items, components, or processes delivered or furnished for use under this Subcontract; and

(iv) All other data delivered under this Subcontract unless provided otherwise for limited rights data or restricted computer software in accordance with paragraph (g) of this clause.

(2) The Subcontractor shall have the right to—

(i) Assert copyright in data first produced in the performance of this Subcontract to the extent provided in paragraph (c)(1) of this clause;

(ii) Use, release to others, reproduce, distribute, or publish any data first produced or specifically used by the Subcontractor in the performance of this Subcontract, unless provided otherwise in paragraph (d) of this clause;

(iii) Substantiate the use of, add, or correct limited rights, restricted rights, or copyright notices and to take other appropriate action, in accordance with paragraphs (e) and (f) of this clause; and

(iv) Protect from unauthorized disclosure and use those data that are limited rights data or restricted computer software to the extent provided in paragraph (g) of this clause.

(c) Copyright—

(1) Data first produced in the performance of this Subcontract.

(i) Unless provided otherwise in paragraph (d) of this clause, the Subcontractor may, without prior approval of the Contracting Officer, assert copyright in scientific and technical articles based on or containing data first produced in the performance of this Subcontract and published in academic, technical or professional journals, symposia proceedings, or similar works. The prior, express written permission of the Contracting Officer is required to assert copyright in all other data first produced in the performance of this Subcontract.

(ii) When authorized to assert copyright to the data, the Subcontractor shall affix the applicable copyright notices of 17 U.S.C. 401 or 402, and an acknowledgment of Government sponsorship (including Subcontract number).

(iii) For data other than computer software, the Subcontractor grants to the Government, and others acting on its behalf, a paid-up, nonexclusive, irrevocable, worldwide license in such copyrighted data to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly by or on behalf of the Government. For computer software, the Subcontractor grants to the Government, and others acting on its behalf, a paid-up, nonexclusive, irrevocable, worldwide license in such copyrighted computer software to reproduce, prepare derivative works, and perform publicly and display publicly (but not to distribute copies to the public) by or on behalf of the Government.

(2) Data not first produced in the performance of this Subcontract. The Subcontractor shall not, without the prior written permission of the Contracting Officer, incorporate in data delivered under this Subcontract any data not first produced in the performance of this Subcontract unless the Subcontractor—

(i) Identifies the data; and

(ii) Grants to the Government, or acquires on its behalf, a license of the same scope as set forth in paragraph (c)(1) of this clause or, if such data are restricted computer software, the Government shall acquire a copyright license as set forth in paragraph (g)(4) of this clause (if included in this Subcontract) or as otherwise provided in a

collateral agreement incorporated in or made part of this Subcontract.

(3) Removal of copyright notices. The Government will not remove any authorized copyright notices placed on data pursuant to this paragraph (c), and will include such notices on all reproductions of the data.

(d) Release, publication, and use of data. The Subcontractor shall have the right to use, release to others, reproduce, distribute, or publish any data first produced or specifically used by the Subcontractor in the performance of this Subcontract, except—

(1) As prohibited by Federal law or regulation (e.g., export control or national security laws or regulations);

(2) As expressly set forth in this Subcontract; or

(3) The Subcontractor agrees not to assert copyright in computer software first produced in the performance of this Subcontract without prior written permission of the DOE Patent Counsel assisting the contracting activity. When such permission is granted, the Patent Counsel shall specify appropriate terms, conditions, and submission requirements to assure utilization, dissemination, and commercialization of the data. The Subcontractor, when requested, shall promptly deliver to Patent Counsel a duly executed and approved instrument fully confirmatory of all rights to which the Government is entitled.

(e) Unauthorized marking of data.

(1) Notwithstanding any other provisions of this Subcontract concerning inspection or acceptance, if any data delivered under this Subcontract are marked with the notices specified in paragraph (g)(3) or (g) (4) if included in this clause, and use of the notices is not authorized by this clause, or if the data bears any other restrictive or limiting markings not authorized by this Subcontract, the Contracting Officer may at any time either return the data to the Subcontractor, or cancel or ignore the markings. However, pursuant to 41 U.S.C. 253d, the following procedures shall apply prior to canceling or ignoring the markings.

(i) The Contracting Officer will make written inquiry to the Subcontractor affording the Subcontractor 60 days from receipt of the inquiry to provide written justification to substantiate the propriety of the markings;

(ii) If the Subcontractor fails to respond or fails to provide written justification to substantiate the propriety of the markings within the 60-day period (or a longer time approved in writing by the Contracting Officer for good cause shown), the Government shall have the right to cancel or ignore the markings at any time after said period and the data will no longer be made subject to any disclosure prohibitions.

(iii) If the Subcontractor provides written justification to substantiate the propriety of the markings within the period set in paragraph (e)(1)(i) of this clause, the Contracting Officer will consider such written justification and determine whether or not the markings are to be cancelled or ignored. If the Contracting Officer determines that the markings are authorized, the Subcontractor will be so notified in writing. If the Contracting Officer determines, with concurrence of the head of the contracting activity, that the markings are not authorized, the Contracting Officer will furnish the Subcontractor a written determination, which determination will become the final agency decision regarding the appropriateness of the markings unless the Subcontractor files suit in a court of competent jurisdiction within 90 days of receipt of the Contracting Officer's decision. The Government will continue to abide by the markings under this paragraph (e)(1)(iii) until final resolution of the matter either by the Contracting Officer's determination becoming final (in which instance the Government will thereafter have the right to cancel or ignore the markings at any time and the data will no longer be made subject to any disclosure prohibitions), or by final disposition of the matter by court decision if suit is filed.

(2) The time limits in the procedures set forth in paragraph (e)(1) of this clause may be modified in accordance with agency regulations implementing the Freedom of Information Act (5 U.S.C. 552) if necessary to respond to a request thereunder.

(3) Except to the extent the Government's action occurs as the result of final disposition of the matter by a court of competent jurisdiction, the Subcontractor is not precluded by paragraph (e) of the clause from bringing a claim, in accordance with the Disputes clause of this Subcontract, that may arise as the result of the Government removing or ignoring authorized markings on data delivered under this Subcontract.

(f) Omitted or incorrect markings.

(1) Data delivered to the Government without any restrictive markings shall be deemed to have been furnished with unlimited rights. The Government is not liable for the disclosure, use, or reproduction of such data.

(2) If the unmarked data has not been disclosed without restriction outside the Government, the Subcontractor may request, within 6 months (or a longer time approved by the Contracting Officer in writing for good cause shown) after delivery of the data, permission to have authorized notices placed on the data at the Subcontractor's expense. The Contracting Officer may agree to do so if the Subcontractor—

(i) Identifies the data to which the omitted notice is to be applied;

(ii) Demonstrates that the omission of the notice was inadvertent;

(iii) Establishes that the proposed notice is authorized; and

(iv) Acknowledges that the Government has no liability for the disclosure, use, or reproduction of any data made prior to the addition of the notice or resulting from the omission of the notice.

(3) If data has been marked with an incorrect notice, the Contracting Officer may—

(i) Permit correction of the notice at the Subcontractor's expense if the Subcontractor identifies the data and demonstrates that the correct notice is authorized; or

(ii) Correct any incorrect notices.

(g) Protection of limited rights data and restricted computer software.

(1) The Subcontractor may withhold from delivery qualifying limited rights data or restricted computer software that are not data identified in paragraphs

(b)(1)(i), (ii), and (iii) of this clause. As a condition to this withholding, the Subcontractor shall—

(i) Identify the data being withheld; and

(ii) Furnish form, fit, and function data instead.

(2) Limited rights data that are formatted as a computer database for delivery to the Government shall be treated as limited rights data and not restricted computer software.

(3) [Reserved]

(h) Lower-Tier Subcontracting. The Subcontractor shall obtain from its lower-tier subcontractors all data and rights therein necessary to fulfill the Subcontractor's obligations to the Government under this Subcontract. If a lower-tier subcontractor refuses to accept terms affording the Government those rights, the Subcontractor shall promptly notify the Contracting Officer of the refusal and shall not proceed with the subcontract award without authorization in writing from the Contracting Officer.

(i) Relationship to patents or other rights. Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government.

(j) (*Alternate V*) The Subcontractor agrees, except as may be otherwise specified in this Subcontract for specific data deliverables listed as not subject to this paragraph, that the Contracting Officer may, up to three years after acceptance of all deliverables under this Subcontract, inspect at the Subcontractor's facility any data withheld pursuant to paragraph (g)(1) of this clause, for purposes of verifying the Subcontractor's assertion of limited rights or restricted rights status of the data or for evaluating work performance. Where the Subcontractor whose data are to be inspected demonstrates to the Contracting Officer that there would be a possible conflict of interest if a particular representative made the inspection, the Contracting Officer shall designate an alternate inspector.

A26. BANKRUPTCY (JUL 1995)

In the event the Subcontractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Subcontractor agrees to furnish, by certified mail or electronic commerce method authorized by the subcontract, written notification of the bankruptcy to Princeton's Subcontract Administrator responsible for administering the subcontract. This notification shall be furnished within five days of the initiation of the proceedings relating to bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of Government contract numbers and contracting offices for all Government contracts against which final payment has not been made. This obligation remains in effect until final payment under this subcontract.

A27. KEY PERSONNEL (APR 1994)

(Applicable when invoked in the Subcontract Agreement)

The personnel specified in an attachment to this subcontract are considered to be essential to the work being performed hereunder. Prior to diverting any of the specified individuals to other programs, the Subcontractor shall notify Princeton's Subcontract Administrator reasonably in advance and shall submit justification (including proposed substitutions) in sufficient detail to permit evaluation of the impact on the program. No diversion shall be made by the Subcontractor without the written consent of Princeton's Subcontract Administrator, provided that Princeton's Subcontract Administrator may ratify in writing such diversion and such ratification shall constitute the consent required by this clause. The attachment to this subcontract may be amended from time to time during the course of the subcontract to either add or delete personnel, as appropriate.

A28. 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 be removed by the Subcontractor as 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.

A29. PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY (JAN 1997)

If the Government in any way reduces Princeton's contract fee in accordance with the provisions of the clause at Part 52.203-10 of the Federal Acquisition Regulation entitled "Price or Fee Adjustment for Illegal or Improper Activity" for violations of the Act by the Subcontractor, the Subcontractor and Princeton agree that:

(a) Princeton shall be entitled to a commensurate reduction (or set-off) in the Subcontract price or fee.

(b) Princeton may, at its sole discretion, terminate the Subcontract for default.

(c) The rights and remedies of Princeton specified in (a) and (b) are not exclusive, and are in addition to any other rights and remedies provided by law or under this Subcontract.

A30. COMPLIANCE WITH INTERNET PROTOCOL VERSION 6 (IPV6) IN ACQUIRINGINFORMATION TECHNOLOGY (JAN 2006)

If this purchase order or subcontract involves the acquisition of Information Technology (IT) that uses Internet Protocol (IP) technology, the Subcontractor agrees that: (1) all deliverables that involve IT that uses IP (products, services, software, etc.) will comply with IPv6 standards and interoperate with both IPv6 and IPv4 systems and products; and (2) it has IPv6 technical support for development and implementation and fielded product man-agreement available. If the Subcontractor plans to offer a deliverable that involves IT that is not initially compliant, the Subcontractor agrees to: (1) obtain Princeton's approval before starting work on the deliverable; (2) provide a migration path and firm commitment to upgrade to IPv6 for all application and product features by June 2008; and (3) have IPv6 technical support for development and implementation and fielded product management available.

Should the Subcontractor find that the statement of work or specifications of this purchase order or subcontract do not conform to the IPv6 standard, it must notify Princeton of such nonconformance and act in accordance with instructions of Princeton.

A31. ENVIRONMENTALLY PREFERABLE PURCHASING FOR DESKTOP OR LAPTOP COMPUERS OR MONITORS (2007)

When the Subcontract requires the specification or delivery of desktop or laptop computers or monitors in a DOE facility, the Subcontractor will specify or deliver Electronic Product Environmental Acquisition Tool (EPEAT) registered products conforming to the IEEE 1680-2006 Standard, provided such products are available, are life cycle cost efficient, and meet applicable performance requirements. Information on EPEAT-registered computer products is available at **www.epeat.net**."

A32. WALSH-HEALY PUBLIC CONTRACTS ACT (JAN 2009)

If this contract is for the manufacturing or furnishing of materials, supplies, articles, or equipment in an amount that exceeds or may exceed $10,000.00 and is otherwise subject to the Walsh-Healy Public Contracts Act, as amended (41 U.S. Code 35), there are hereby incorporated by reference all representations and stipulations required by said Act and regulations issued thereunder by the Secretary of Labor, such representations and stipulations being subject to all applicable rulings and interpretations of the Secretary of Labor which are now or may hereafter be in effect.

A33. COMMON SECURITY CONFIGURATIONS IN INFORMATION TECHNOLOGY ACQUISITIONS (APR 2009) (applicable to acquisition of computer hardware and software)

All information technology acquired under this Subcontract shall include and incorporate the appropriate information technology security policies and requirements, including use of common security configurations available from the National Institute of Standards and Technology's website at http://checklists.nist.gov.

PPPL General Provisions for Non-Commercial Subcontracts
Part A - Common Clauses

AAC 1 & 2. CLAUSES, 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 "Supplier". The FAR clauses are available through the General Services Administration (GSA) at http://www.acqnet.gov/far/ and the DEAR clauses area available at http://www.management.energy.gov/DEAR.htm, or they may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. To the maximum extent practicable, the Subcontractor 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 Subcontractor 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 Subcontractor shall include the terms of this clause, including this statement, in lower-tier subcontracts awarded under this Agreement.

AAC 1 FAR CLAUSES INCORPORATED BY REFERENCE

Clause:	Title:	FAR Reference:
AAC 1-1	**PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL (For All Agreements where access to a Princeton IT resource is required, OR an on-site presence of more than 6 months is required)**	**52.204-9**
AAC 1-2	**FACILITIES CAPITAL COST OF MONEY (This clause is applicable if the Subcontractor separately identifies facilities capital cost of money in its proposal)**	**52.215-16**
AAC 1-3	**WAIVER OF FACILITIES CAPITAL COST OF MONEY (This clause is applicable if the Subcontractor DOES NOT separately identify facilities capital cost of money in its proposal)**	**52.215-17**
AAC1-4	**UTILIZATION OF SMALL BUSINESS CONCERNS**	**52.219-8**
AAC 1-5	**CONTRACT WORK HOURS AND SAFETY STANDARDS ACT OVERTIME COMPENSATION (This clause applies to subcontracts that may require or involve the employment of laborers and mechanics)**	**52.222-4**
AAC 1-6	**WALSH-HEALEY PUBLIC CONTRACTS ACT**	**52.222-20**
AAC 1-7	**PROHIBITION OF SEGREGATED FACILITIES(This clause is applicable to subcontracts greater than $10,000)**	**52.222-21**
AAC 1-8	**EQUAL OPPORTUNITY (This clause is applicable to subcontracts greater than $10,000)**	**52.222-26**
AAC 1-9	**AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES (This clause is applicable to subcontracts greater than $10,000.**	**52.222-36**
AAC 1-10	**COMBATING TRAFFICKING IN PERSONS**	**52.222-50**
AAC 1-11	**BUY AMERICAN ACT – SUPPLIES (This clause is applicable to subcontracts valued greater than $25,000)**	**52.225-1**
AAC 1-12	**STATE OF NEW MEXICO GROSS RECEIPTS AND COMPENSATING TAX**	**52.229-10**
AAC 1-13	**RESTRICTIONS ON CERTAIN FOREIGN PURCHASES**	**52.225-13**
AAC 1-14	**SUBCONTRACTS FOR COMMERCIAL ITEMS**	**52.244-6**

AAC 2 DEAR CLAUSES INCORPORATED BY REFERENCE

Clause:	Title:	DEAR Reference:
AAC 2-1	**SENSITIVE FOREIGN NATIONS CONTROLS**	**952.204-71**
AAC 2-2	**ACCESS TO AND OWNERSHIP OF RECORDS (This clause applies to cost-reimbursement type subcontracts if any of the following factors is present: (1) the value of the subcontract is greater than $2 million (unless specifically waived by Princeton); (2) Princeton determines that the subcontract is, or involves, a critical task related to Princeton's contract with DOE; or (3) the subcontract includes Clause T2, Integration of Environment, Safety, and Health into Work Planning and Execution, or a similar clause.)**	**970.5204-3**
AAC 2-3	**REFUND OF ROYALTIES (This clause applies to subcontracts at any tier in which the amount of royalties reported during negotiation of the subcontract exceeds $250)**	**970.5227-8**

PPPL General Provisions for Non-Commercial Subcontracts
Part A - Common Clauses

AAC 2-4	**STATE AND LOCAL TAXES**	**970.5229-1**
AAC2-5	**RESEARCH MISCONDUCT (This clause is applicable to subcontracts for research)**	**952.235-71**
AAC2-6	**COMPUTER SECURITY (applicable to all subcontracts where access is provided to computers owned, leased or operated on behalf of the DOE)**	**952.204-77**