PPPL General Terms and Conditions for
Commercial Items and Services

- The following clauses, and those incorporated in A37, are hereby made part of this Agreement.

A1 ISSUANCE UNDER GOVERNMENT CONTRACT

This Agreement is issued under a prime contract between Princeton University and United States Department of Energy (Contract No. DE-AC02-09CH11466) to manage and operate the Princeton Plasma Physics Laboratory. This Agreement does not bind or purport to bind the United States Government notwithstanding any approval or consent that may be required hereunder.

A2 DEFINITIONS

The following terms shall have the meanings below:
(a) "Agreement" means the contract; or purchase order; or Basic Ordering Agreement (BOA); or Task Agreement, and any modifications thereto, including all contract documents (Contract Documents). The Agreement includes without limitation the specifications, drawings, General Terms and Conditions and any special or supplemental terms and conditions, when incorporated into this Agreement by reference or otherwise.
(b) "Princeton" means Princeton University acting under a Prime Contract between Princeton and the United States Government (Government) for the operation of Princeton Plasma Physics Laboratory (referred to as PPPL or Laboratory), and includes the successor to, or any duly authorized representative of Princeton.
(c) "PPPL," or "the Laboratory" refers to the Princeton Plasma Physics Laboratory site at Forrestal Campus, Plainsboro, New Jersey.
(d) "Contract" is the document (including but not limited to contract; or purchase order; or Basic Ordering Agreement (BOA); or Task Agreement) that is executed by both Princeton and the Contractor that creates the Agreement.
(e) "Contract Documents" means all documents that comprise this Agreement including without limitation, the specifications, drawings, the General Terms and Conditions and any special or supplemental terms and conditions, when incorporated into this Agreement by reference or otherwise.
(f) "Contractor" means any person or organization that has entered into this Agreement with Princeton.
(g) "Government" means the United States of America including the U.S. Department of Energy (DOE) or any duly authorized representative(s) thereof.
(h) "Prime Contract" means the contract between Princeton and the Government.
(i) The clause at FAR 52.202-1, Definitions, is incorporated herein by reference.

A3 ORDER OF PRECEDENCE

In the event of an inconsistency among provisions of this Agreement, the inconsistency shall be resolved by giving precedence in the following order:
(a) the Contract,
(b) special terms and conditions included in or incorporated by reference in the Contract,
(c) Supplemental Terms and Conditions,
(d) General Terms and Conditions,
(e) the Statement of Work,
(f) specifications and
(g) drawings, if any, incorporated in this Agreement by reference or otherwise.

A4 ACCEPTANCE OF AGREEMENT, SURVIVABILITY

Contractor, by signing this Agreement or delivering the supplies or performing the services identified herein, agrees to comply with all the terms and conditions and all specifications and other documents that this Agreement incorporates by reference or attachment. Princeton hereby objects to any terms and conditions contained in any acknowledgment of this Agreement that are different from or in addition to those mentioned in this document. Failure of Princeton to enforce any of the provisions of this Agreement shall not be construed as evidence to interpret the requirements of this Agreement, nor a waiver of any requirement, nor of the right of Princeton to enforce each and every provision. All rights and obligations shall survive final performance of this Agreement.

A5 COMPLETE AGREEMENT

This Agreement expresses the entire agreement and understanding of the parties with respect to the subject matter hereof and supersedes any prior oral and written agreements between the parties. It may only be modified in writing executed by both Princeton and the Contractor except as otherwise stated herein.

A6 UNENFORCEABILITY OF UNAUTHORIZED OBLIGATIONS (a) Except as stated in paragraph (b) of this clause, when any supply or service acquired under this contract is subject to any End Use License Agreement (EULA), Terms of Service (TOS), or similar legal instrument or agreement, that includes any clause requiring Princeton or the Government to indemnify the Contractor or any person or entity for damages, costs, fees, or any other loss or liability that would create an Anti-Deficiency Act violation (31 U.S.C 1341), the following shall govern:

(1) Any such clause is unenforceable against Princeton and the Government unless separately and specifically agreed to.

(2) Neither Princeton nor any Princeton authorized end user shall be deemed to have agreed to such clause by virtue of it appearing in the EULA, TOS, or similar legal instrument or agreement. If the EULA, TOS, or similar legal instrument or agreement is invoked through an "I agree" click box or other comparable mechanism (e.g., "click-wrap" or "browse-wrap" agreements), execution does not bind Princeton or any Princeton authorized end user to such clause.

(3) Any such clause is deemed to be stricken from the EULA, TOS, or similar legal instrument or agreement.

(b) Paragraph (a) of this clause does not apply to indemnification by Princeton that is expressly authorized by statute and specifically authorized under applicable Princeton procedures.

A7 REPORTING ENVIRONMENTAL, SAFETY, HEALTH & TECHNICAL CONCERNS

The Contractor will ensure that all Contractor employees are notified quarterly that they have the right to report environment, safety, health and technical concerns that have not been resolved through routine work processes through the Department of Energy Differing Professional Opinion (DPO) process (the DOE DPO) process can be found in Attachment 2 to DOE O 442.2 and at http://www.hss.doe.gov/nuclearsafety/qa/dpo.html.

The notification must provide points of contact (name, phone number and email addresses of DPO Managers) as listed on the DOE DPO web page, as well as the DOE DPO web page address.

A8 ASSIGNMENT

Neither this Agreement nor any interest therein nor claim there under shall be assigned or transferred by the Contractor except as expressly authorized in writing by Princeton, provided that the Contractor or its assignee's rights to be paid amounts due as a result of performance of this Agreement may be assigned to a bank, trust company or other financing institution, including any federal lending institution. This Agreement is assignable by Princeton to the Government or to a successor contractor for the operation of PPPL. The Contractor agrees to look solely to the Government or to such successor contractor for payment of the part so assigned, and to execute a novation agreement so recognizing the successor contractor if requested to do so by Princeton.

A9 DISPUTES

(a) Good Faith Negotiation. The parties agree that they will attempt in good faith to resolve through negotiation any dispute, claim or controversy arising out of or relating to this Agreement. Either party may initiate negotiations by providing written notice in letter form to the other party, setting forth the subject of the dispute and the relief requested. The recipient of such notice agrees to respond in writing within five days with a statement of its position on and recommended solution to the dispute. If the dispute is not resolved by this exchange of correspondence, then representatives of each party with full settlement authority will meet at a mutually agreeable time and place within fifteen days of the date of the initial notice in order to exchange relevant information and perspectives, and to attempt to resolve the dispute. If the dispute is not resolved by these negotiations, the matter will be submitted to Judicial Arbitration and Mediation Services (JAMS), or its successor, for mediation, following the procedure described in Subparagraph B, below. Pending settlement or a final judgment, the Contractor will proceed diligently with performance of this Agreement according to the instructions of Princeton's contractual representative.

(b) Mediation. Except as provided in this Agreement, the parties agree that neither will commence any civil action with respect to any dispute, claim or controversy arising out of or relating to this Agreement until the matter has been submitted to JAMS (45 Broadway, 28th Floor, New York, NY 10006, 212-751-2700), its successor, for mediation and that process has been completed. Either party may commence mediation by providing to JAMS and the other party a written request for mediation, setting forth the subject of the dispute and the relief requested. The parties agree to cooperate with JAMS and with one another in selecting a mediator from JAMS panel of neutrals, and in scheduling the mediation proceedings. The parties covenant that they will participate in the mediation in good faith, and that they will share equally in its costs. The parties further agree that they will treat as confidential all offers, promises, conduct and statements, whether oral or written, made in the course of the mediation by any of the parties, their agents, employees, experts and attorneys, and by the mediator and any JAMS employees. The parties also agree that they will treat any such communications as privileged and inadmissible for any purpose, including impeachment, in any litigation or other proceeding involving the parties, provided that evidence that is otherwise admissible or discoverable will not be rendered inadmissible or non-discoverable as a result of its use in the mediation. Either party may seek equitable relief prior to the mediation to preserve the status quo pending the completion of that process. Except for such an action to obtain equitable relief, neither party may commence a civil action with respect to the matters submitted to mediation until after the completion of the initial mediation session, or forty-five (45) days after the date of filing the written request for mediation, whichever occurs first. Mediation may continue after the commencement of a civil action, if the parties so desire. The provisions of this Article may be enforced by any court of competent jurisdiction, and the party seeking enforcement will be entitled to an award of all costs, fees and expenses, including attorney's fees, to be paid by the party against whom enforcement is ordered.

(c) Waiver of Right to Litigate in Court Before Completing Negotiation and Mediation and Waiver of Right to Jury Trial and Designation of Court Sitting in the State of New Jersey. The Contractor agrees to submit all disputes, claims or controversies arising out of or relating to this

Agreement to negotiation and then mediation as described above before bringing any action in court. The Contractor further acknowledges that, in the event it brings any such action in court, it will bring that action in a court sitting in the State of New Jersey, and it further acknowledges that it is hereby waiving any right that it might possess to demand a jury trial for the litigation of that action. The Contractor further acknowledges that it is giving up any rights to judicial remedies and procedures to the extent that this agreement does not specifically provide for them. The Contractor further acknowledges that its agreement to the provision for this Agreement is voluntary

A10 NO WAIVER

Princeton's acceptance of the goods or services delivered hereunder and its subsequent use thereof shall not constitute a waiver of any improper materials or workmanship, or Princeton's rights and remedies with respect to them. Princeton's acceptance and its subsequent use of goods or services delivered after the agreed upon delivery date shall not constitute a waiver by Princeton of any rights arising from said late delivery.

A11 EXCUSABLE DELAYS

The Contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as acts of God or the public enemy, acts of Princeton, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify Princeton in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to Princeton of the cessation of such occurrence.

A12 TERMINATION FOR CONVENIENCE

Princeton reserves the right to terminate this Agreement, or any part hereof, for its convenience or that of the Government. In the event of such termination, Princeton's Procurement Division shall deliver a notice specifying the extent of the termination and its effective date. The Contractor shall immediately stop all work so terminated and shall immediately cause any and all of its affected suppliers and subcontractors to cease work. Subject to the terms of this Agreement, Princeton shall be liable only for payment under the payment provisions of this Agreement for services rendered prior to the notice of termination, plus reasonable charges that the Contractor can demonstrate to Princeton's satisfaction using its standard record keeping system, have resulted from the termination. The Contractor shall not be paid for any work performed or costs incurred which reasonably could have been avoided. In no event shall the agreed amount exceed the total price of the Agreement.

A13 TERMINATION FOR DEFAULT

(a) Ten days after giving the Contractor written notice of its intent, Princeton may terminate this Agreement for default, in whole or in part, if the Contractor fails to comply with any of the terms of this Agreement, fails to make progress so as to endanger performance of this Agreement or fails to provide adequate assurance of future performance. In this event, Princeton shall not be liable for any services or supplies not accepted.

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

(c) Princeton's rights and remedies under this Article are in addition to any other rights and remedies provided by law or under this Agreement.

A14 PAYMENT

(a) Princeton shall make payment for accepted services performed and/or items that have been delivered to the destination(s) set forth in this Agreement. Unless otherwise provided, terms of payment shall be net 30 days from submission of the Contractor's proper invoice (unless Princeton does not approve such invoice). Invoices submitted by the Contractor anywhere other than to Accounts_Payable@pppl.gov unless otherwise specified in this Agreement, are not deemed to have been officially received for payment term purposes. Any offered discount shall be taken if payment is made within the discount period indicated by the Contractor. Payments may be made either by check or electronic funds transfer, at Princeton's option. Payment shall be deemed to have been made as of the date of mailing or the date on which the electronic funds transfer was made. Unless otherwise specified in this Agreement, Princeton may make payment on partial deliveries which it accepts.

(b) If the Contractor becomes aware of a duplicate contract financing or invoice payment or that Princeton has otherwise overpaid on a contract financing or invoice payment, the Contractor shall remit the overpayment amount to the payment office cited in the Contract along with a description of the overpayment.

A15 CHANGES

Any changes or modifications in the Terms and Conditions of this Agreement may be made only by written agreement of the parties and with written approval of PPPL's Procurement Division Director or designee.

A16 INSPECTION AND ACCEPTANCE

The Contractor shall only tender for acceptance those items that conform to the requirements of this Agreement. Princeton reserves the right to inspect or test any supplies or services that have been tendered for acceptance. Princeton may require repair or replacement of nonconforming supplies or reperformance of nonconforming services at no increase in price. Princeton must exercise its post-acceptance rights:

(a) within a reasonable time after the defect was discovered, and

(b) before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

A17 TAXES

The Agreement price includes all applicable federal, state, and local taxes and duties. In determining the applicability of any tax or duty, due consideration shall be given to the relationship of the subject matter of this Agreement to the Government, and the fact that Princeton is exempt from New Jersey State and local sales and use taxes under Exempt Organization Certificate E-210-634-501.

A18 TITLE AND RISK OF LOSS

Unless specified elsewhere in this Agreement, title to items furnished under this Agreement shall pass to the Government upon acceptance, regardless of when or where Princeton takes physical possession. If Princeton makes partial or progress payments, title shall pass to the Government for the items covered by the payment. Unless the Agreement specifically provides otherwise, risk of loss or damage to the items provided under this Agreement shall remain with the Contractor until delivery of the items to the destination specified in the Agreement.

A19 WARRANTY

Contractor warrants that the items under this Agreement shall be in accordance with Contractor's affirmation, description, sample, or model and compliant with all requirements of this Agreement. The warranty shall begin upon acceptance and extend for a period of:

(a) the manufacturer's warranty period or six months, whichever is longer, if the Contractor is not the manufacturer and has not modified the item; or,

(b) one year or the manufacturer's warranty period, whichever is longer, if the Contractor is the manufacturer of that item or has modified it.

If any nonconformity with the item appears within that time, the Contractor shall promptly repair or replace such items or re-perform services. Transportation of replacement items and return of nonconforming items and repeat performance of services shall be at the Contractor's expense. If repairs or replacement items or reperformance of services is not timely, Princeton may elect to return the nonconforming items or repair or replace them or reprocure the services at the Contractor's expense. The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this Agreement.

A20 LIMITATION OF LIABILITY

Except as otherwise provided by an express or implied warranty, the Contractor will not be liable to Princeton for consequential damages resulting from any defect or deficiencies in accepted items.

A21 COMPLIANCE WITH LAWS

(a) The Contractor shall comply with all applicable federal, state, local laws and ordinances, executive orders, all pertinent lawful orders, rules and regulations, including those applicable by reason of the fact that this Agreement is issued under the Prime Contract and such compliance shall be a material requirement of this Agreement. If the Contractor is required to obtain licenses and/or permits to comply with this Article, it will do so without additional expense to Princeton.

(b) The Contractor warrants that each chemical substance constituting or contained in items furnished by this Agreement is on the list of substances published by the Administrator of the Environmental Protection Agency pursuant to the Toxic Substances Control Act, as amended. With each delivery the Contractor shall provide Princeton any applicable Material Safety Data Sheet as required by the Occupational Safety and Health Act and applicable regulations including, without exception, 29 CFR 1910.1200.

A22 EXPORT CONTROL

(a) Contractor must comply with all U.S. export control laws and regulations, including the International Traffic in Arms Regulations (ITAR), 22 CFR Parts 120 through 130, Export Administration Regulations (EAR), 15 CFR Parts 730 through 774, and Atomic Energy Act of 1954 (Public Law 83-703), Nuclear Regulatory Commission 10 CFR Part 110 and Department of Energy 10 CFR Part 810, in the performance of this Agreement. In the absence of available license exemptions or exceptions, the Seller must obtain the appropriate licenses or other approvals, if required, for exports of hardware, technical data, and software, or for the provision of technical assistance.

(b) The Contractor must obtain export licenses, if required, before using foreign persons in the performance of this Agreement, where the foreign person will have access to export-controlled technical data or software.

(c) The Contractor is responsible for all regulatory record-keeping requirements associated with the use of licenses and license exemptions and exceptions.

(d) The Contractor shall include this clause in subcontracts hereunder.

A23 COMPLIANCE WITH INTERNET PROTOCOL VERSION 6 (IPv6) IN ACQUIRING INFORMATION TECHNOLOGY

This clause is applicable if this contract involves the acquisition of Information Technology (IT) that uses Internet Protocol (IP) technology. The Contractor agrees that:

(a) all deliverables that involve (IT) that uses (IP) (products, services, software, etc.) comply with IPv6 standards and interoperate with both IPv6 and IPv4 systems and products; and

(b) it has IPv6 technical support for fielded product management, development and implementation available.

If the Contractor plans to offer a deliverable that offers IT that is not initially compliant, the Contractor agrees to:

(c) obtain Princeton's approval before starting work on the deliverable; and

(d) have IPv6 technical support for fielded product management, development and implementation available.

Should the Contractor find that the Statement of Work or specifications of this contract do not conform to IPv6 standards, it must notify Princeton of such nonconformance and act in accordance with Princeton's instructions.

A24 AUTHORIZATION AND CONSENT

The Government has given its authorization and consent for all use and manufacture of any invention described in and covered by a patent of the United States in the performance of this Agreement or any part hereof or any amendment hereto or any subcontract hereunder (including any lower-tier subcontract) which is expected to exceed $100,000.

A25 PATENT INDEMNITY-SUPPLIES AND SERVICES

If the amount of this Agreement is in excess of $10,000, the Contractor shall indemnify Princeton, the Government, and their officers, agents, and employees against liability, including costs, for infringement of any United States letters patent (except U.S. letters patent issued upon an application which is now or may hereafter be kept secret or otherwise withheld from issue by order of the Government) arising out of the manufacture or delivery of supplies or out of construction, alteration, modification, or repair of real property (hereinafter referred to as "construction work") under this Agreement, or out of the use or disposal by or for the account of the Government or Princeton of such supplies or construction work. The foregoing indemnity shall not apply unless the Contractor shall have been informed as soon as practicable by the Government (with notice to 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 the defense thereof, and further, such indemnity shall not apply to:

(a) An infringement resulting from compliance with specific written instructions of Princeton or the Government 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 Agreement not normally used by the Contractor.

(b) An infringement resulting from addition to, or change in, such supplies or components furnished or construction work performed which addition or change was made subsequent to delivery or performance by the Contractor, or

(c) A claimed infringement which is settled without the consent of the Contractor, unless required by final decree of a court of competent jurisdiction.

A26 REPORTING OF ROYALTIES

If this Agreement is in an amount which exceeds $10,000 and if any royalty payments totaling more than $250 are directly involved in the Agreement or are reflected in the Agreement price to Princeton, the Contractor agrees to report in writing to the Government through Princeton during the performance of this Agreement and prior to its completion or final settlement the amount of any royalties or other payments paid or to be paid by it directly to others in connection with the performance of this Agreement together with the names and addresses of licensors to whom such payments are made and either the patent numbers involved or such other information as will permit identification of the patents or other basis on which royalties are to be paid. The approval of DOE or Princeton of any individual payments or royalties shall not stop the Government at any time from contesting the enforceability, validity or scope of, or title to, any patent under which a royalty or payments are made.

A27 NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT

The provisions of this clause shall be applicable only if the amount of this Agreement exceeds $100,000.

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

(b) In the event of any claim or suit against the Government on account of any alleged patent or copyright infringement arising out of the performance of this Agreement or out of the use of any supplies furnished or work or services performed hereunder, the Contractor shall furnish to the Government when requested by the Government or Princeton, all evidence and information in possession of the Contractor pertaining to such suit or claim. Such evidence and information shall be furnished at the expense of the Government except where the Contractor has agreed to indemnify the Government or Princeton.

(c) This clause shall be included in all subcontracts.

A28 SUSPECT/ COUNTERFEIT ITEMS

(a) "Suspect Items" are items, for which there is an indication by visual inspection, testing, or other information that it may not conform to established Government or industry-accepted specifications or national consensus standards.

(b) “Counterfeit Items” are suspect items that are a copy or substitute without legal authority to do so or whose material, performance, or characteristics are knowingly misrepresented by the supplier, distributor, or manufacturer.

Forms of misrepresentation include, but are not limited to, the following:

i) falsified product sources (counterfeits);
ii) falsified or modified quality assurance records;
iii) false marking as to class, type, or grade;
iv) mixing of unmarked materials with marked materials;
v) false labeling as to qualification or acceptance by testing/certifying organizations and
vi) used and/or refurbished products misrepresented as new products.

Types of materials, parts, and components, known to have been misrepresented include, but are not limited to:

vii) lifting materials such as slings, hooks, cables, and shackles;
viii) threaded fasteners fraudulently marked as high-strength bolts;
ix) refurbished electrical circuit breakers sold under false certifications;
x) valves;
xi) piping and piping components;
xii) electrical devices;
xiii) channel members, plate, bar, and flanges; and
xiv) other structural items.

S/CIs may pose immediate and potential threats to the safety of DOE and contractor workers, the public, and the environment. Failure of a safety or mission critical system due to an S/CI could also have security implications at DOE facilities.

(c) Items 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 Laboratory site.

(d) If suspect/counterfeit parts are furnished under this Agreement and are found on the Laboratory site, such parts shall be impounded by Princeton or they shall be removed by the Contractor as directed by Princeton. The Contractor shall promptly replace such parts with supplies

acceptable to Princeton and the Contractor shall be liable for all costs relating to impoundment, removal, and replacement. Princeton may turn such parts over to the U.S. Office of the Inspector General for investigation and reserves the right to withhold payment pending the outcome of any investigation.

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

A29 APPLICABLE LAW

The parties agree that the federal common law of government contracts will govern the construction and interpretation of this Agreement and all claims arising under or related to this Agreement or work performed under this Agreement or claims of breach of this Agreement, regardless of the forum in which any party to this Agreement brings action. For purposes of this Agreement, the federal common law of government contracts will consist of the interpretation of contract clauses and the law enunciated and applied to government contracts by the Boards of Contract Appeals, the Comptroller General (CG), and Federal Courts having jurisdiction over the Boards or the CG. The term "Board of Contract Appeals" means those established under the Contract Disputes Act of 1978, 41 U.S.C. 607(a)(1), and successor bodies.

A30 PRESS RELEASES AND OTHER PUBLIC DISSEMINATION OF CONTRACT INFORMATION

Press releases through print, broadcast or other media concerning the award, performance, results or conclusions from the work under this Contract shall not be made or otherwise distributed to the public without prior written consent by Princeton. Any material proposed to be released shall be submitted to the PPPL Office of Communications no later than two weeks prior to the intended press release.

A31 IDENTIFICATION OF EMPLOYEES FAR 52.222-54

If this Agreement exceeds $3,500 and is for services in the United States, this Agreement incorporates by reference FAR 52.222-54 Employment Eligibility Verification. This clause is not applicable to services purchased with a commercially available off-the-shelf (COTS) item or a COTS item with minor modifications performed and normally provided for the item by the COTS provider.

A32 BANKRUPTCY

If the Contractor enters into any proceeding relating to bankruptcy, it shall give written notice to Princeton's Procurement and Property Management Division (PPM) via certified mail with five (5) days of initiating the proceedings. The notification shall include the date on which the proceeding was filed, the identity and location of the court and a listing, by Contract number, of all Princeton agreements for which final payment has not been made.

A33 INTELLECTUAL PROPERTY INDEMNITY

The Contractor shall indemnify Princeton and the Government and their officers, agents, and employees against alleged or actual liability, including costs of any nature whatsoever, for the Contractor's infringement or misappropriation of third party intellectual property, including, but not limited to, patents, copyrights, trademarks, or trade secrets that the Contractor has used, included, or embodied in its performance of the Contract. The Contractor will promptly notify Princeton in the event it is notified that it has infringed or misappropriated a third party's intellectual property; in the event that infringement or misappropriation has occurred, in addition to the indemnification and at Princeton's sole option, the Contractor will either procure the rights for Princeton and the Government to use the intellectual property or Princeton will terminate the Contract for cause.

A34 NEW MATERIALS

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

A35 REPRESENTATOIN REGARDING CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

Contractors are prohibited from providing-

(1) A service that connects to the facilities of a third-party such as backhaul, roaming, or interconnection arrangements; or
(2) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

A36 COMMON SECURITY CONFIGURATIONS IN INFORMATION TECHNOLOGY ACQUISITIONS (applicable to acquisition of computer hardware and software)

All information technology acquired under this Agreement shall include 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.

A37 CLAUSES INCORPORATED BY REFERENCE

This Agreement incorporates 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 Agreement, with the same force and effect as if they were in full text. The FAR and DEAR clauses are available at https://www.acquisition.gov/ or they may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. Whenever necessary to make the context of the clauses applicable to this Agreement, the term "Contractor" shall mean the Contractor, the term "Contract" shall mean this Agreement, and where noted or where necessary to derive proper meaning in a subcontract situation the terms "DOE", "Government" and "Contracting Officer" shall mean Princeton, except the terms "DOE", "Government" and "Contracting Officer" do not change: (a) in the phrases "Government Property", "Government-Furnished Property", "Government Equipment" and "Government-Owned Equipment", or, where otherwise intended that title, ownership or rights are to remain with the Government; or (b) where statute or regulation vests authority exclusively in specific agencies or officials; or (c) where otherwise specifically modified in this Agreement. However, except in clauses FAR 52.227-1, "Authorization and Consent" , FAR 52.227- 14, "Rights in Data-General", FAR 52.227-16, "Additional Data Requirements", FAR 52.227-23, "Rights to Proposal Data (Technical)", DEAR 952.227-11, "Patent Rights by the Contractor (Short Form)", DEAR 952.227-13, "Patent Rights Acquisition by the Government", DEAR 970.5227-1, "Rights in Data-Facilities", DEAR 970.5227-4, "Authorization and Consent" and DEAR 970.5227-5, "Notice and Assistance Regarding Patent and Copyright Infringement", in which clauses "Government" shall mean the U. S. Government and "Contracting Officer" shall mean the DOE Contracting Officer for the Prime Contract with Princeton.

Article	Title of Clause	FAR Ref.
A38	Contractor Code of Business Ethics and Conduct (agreements greater than $5,500,000)	52.203-13
A39	Contractor Employee Whistleblower Rights and Requirements to Inform Employees of Whistleblower Rights	52.203-17
A40	Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements	52.203-19
A41	Personal Identity Verification of Contractor Personnel	52.204-9
A42	Basic Safeguarding of Covered Contractor Information Systems	52.204-21
A43	Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities	52.204-23
A44	Required Sources for Helium and Helium Usage Data (agreements involving a major helium requirement)	52.208-8
A45	Utilization of Small Business Concerns	52.219-8
A46	Small Business Subcontracting Plan	52.219-9
A47	Contract Work Hours and Safety Standards Act – Overtime Compensation	52.222-4
A48	Non-Displacement of Qualified Workers	52.222-17
A49	Prohibition of Segregated Facilities	52.222.21
A50	Equal Opportunity	52.222-26
A51	Equal Opportunity for Veterans (agreements of $150,000 or more) (Oct 2015)	52.222-35
A52	Equal Opportunity for Workers with Disabilities (agreements greater than $15,000)	52.222-36
A53	Employment Reports on Veterans (agreements of $150,000 or more)	52.222-37
A54	Notification of Employee Rights Under the National Labor Relations Act	52.222-40
A55	Combating Trafficking in Persons	52.222-50
A56	Employment Eligibility Verification	52.222-54
A57	Establishing a Minimum Wage for Contractors (E.O. 13658)	52.222-55
A58	Paid Sick Leave Under Executive Order 13706	52.222-62
A59	Affirmative Procurement of Biobased Products Under Service and Construction Contracts	52.223-2
A60	Hazardous Material Identification and Material Safety Data	52.223-3
A61	Energy Efficiency in Energy-Consuming Products	52.223-15
A62	Acquisition of EPEAT®-Registered Personal Computer Products	52.223-16
A63	Affirmative Procurement of EPA Designated Items in Service and Construction Contracts	52.223-17
A64	Contractor Policy to Ban Text Messaging While Driving	52.223-18
A65	Privacy Training	52.224-3
A66	Buy American Act – Supplies	52.225-1
A67	Duty-Free Entry	52.225-8
A68	Restrictions on Certain Foreign Purchases	52.225-13
A69	Patent Indemnity	52-227-3

A70	Providing Accelerated Payments to Small Business Subcontractors	52.232-40
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A73	Whistleblower Protection for Contractor Employees	952.203-70
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