



Terms:

- Substitute “Plasma Processes, LLC” for “Government”, “United States”, or equivalent phrases, throughout, unless specifically modified.
- Substitute “Plasma Processes, LLC Procurement Manager” for “Contracting Officer”, “Administrative Contracting Officer”, “ACO”, or equivalent phrases, throughout, unless specifically modified.
- Substitute the legal entity contracting with Plasma Processes, LLC, as named on the Purchase or Subcontract Order for “Contractor”, “Recipient”, “Grantee”, “Awardee”, or equivalent phrases, throughout, unless specifically modified.

Notes:

1. Do not substitute “Plasma Processes” for “Government”, “United States”, or equivalent phrases.
2. Do not substitute “Plasma Processes, LLC Procurement Manager” for “Contracting Officer”, “Administrative Contracting Officer”, “ACO”, or equivalent phrases.
3. Insert "and Plasma Processes, LLC" after “Government”, “United States”, or equivalent phrases.
4. Insert "or Plasma Processes, LLC" after “Government”, “United States”, or equivalent phrases.
5. Insert "and the Plasma Processes, LLC Procurement Manager" after “Contracting Officer" or equivalent phrases.
6. Insert "or the Plasma Processes, LLC Procurement Manager" after “Contracting Officer" or equivalent phrases.
7. Communications/notifications required by the clause between Contractor and the Contracting Officer shall be through Plasma Processes, LLC.

DOE Clauses:

SBIR/STTR-GTC-0005 – ALLOWABLE COSTS/APPLICABLE COST PRINCIPLES (Note 1)

Only applies if order is not Firm-Fixed Price

- a. In accordance with the applicable cost principles cited below, the allowable costs of this grant shall consist of the actual allowable direct costs incident to performance of the project, plus the allocable portion of the allowable indirect costs, if any, of the organization, less applicable credits. The allowable costs shall not exceed the amount shown on the face page of this order.
- b. The allowability of costs for work performed under this award and any subsequent subaward will be determined in accordance with the Federal cost principles applicable to the recipient or subrecipient in effect on the date of award or the date of the subaward, except as modified by other provisions of this award or subaward. The recipient or subrecipient shall specify in any cost-reimbursement contract under the grant or subaward the applicable cost principles cited in this provision that apply to the contractor.
- c. The Federal cost principles applicable to specific types of recipients, subrecipients, and contractors under grants and subawards are stated in 2 CFR 910.352 Cost Principles.

SBIR/STTR-GTC-0011 PROPERTY

Only applies if property will be acquired during the performance of this order

Real Property, Equipment and Supplies

- (1) No real property may be acquired under this order.
- (2) Equipment and supplies acquired by the grantee with Federal funds:

Equipment

The grantee shall be accountable for equipment under the grant with an acquisition cost per unit of \$5,000.00 or more, in accordance with 2 CFR 910.360. The recipient shall not encumber or permit any encumbrance on the equipment without the prior written approval of the DOE Contracting Officer.

Supplies

Any unused supplies that exceed an aggregate fair market value of \$5,000.00 must be accounted for during closeout of the award. The grantee may retain



these supplies under the following conditions:

- o Supplies are needed for other Federally sponsored projects or programs.
 - o The grantee compensates DOE for its share for those supplies that are sold or used on non-Federally sponsored activities.
- (3) Management Policy and Procedures. Grantee shall follow property management policies and procedures that provide for adequate control of the acquisition and use of the assets acquired under the grant as required in 2 CFR 200.313(d).
 - (4) Insurance. In accordance with 2 CFR 910.360(e), the grantee must, at a minimum, provide the equivalent insurance coverage for equipment acquired or improved with Federal funds as provided to property owned by the grantee.
 - (5) Additional Uses During and After the Project: Equipment may be made available for use on other projects or programs as authorized by 2 CFR 910.360(f).
 - (6) Disposition. In addition to the disposition procedures of 2 CFR 910.360, title to personal property may be transferred to the grantee where the DOE determines such transfer would be more cost effective than recovery of the property by the government.

SBIR/STTR-GTC-0016 FOREIGN TRAVEL

Foreign travel is not authorized except as identified in the approved budget.

SBIR/STTR-GTC-0024 PATENT RIGHTS (Note 1 except for (g)(3), where Note 3 applies)

***Special Note: Only applies when contracted work is for experimental, developmental or research work to be performed by a small business firm or nonprofit organization. If contract work is for experimental, developmental or research work to be performed by a large business, 2 CFR 910 Subpart D, Appendix A, Provision 2, Patent Rights (Large Business Firms)-No Waiver, will replace this clause. ***

a. Definitions

“Invention” means any invention or discovery which is or may be patentable or otherwise protectable under title 35 of the United States Code, or any novel variety of plant which is or may be protected under the Plant Variety Protection Act (7 U.S.C. 2321 et seq.).

“Made” when used in relation to any invention means the conception or first actual reduction to practice of such invention.

“Nonprofit organization” is defined in 2 CFR 200.70.

“Practical application” means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are to the extent permitted by law or Government regulations available to the public on reasonable terms.

“Small business firm” means a small business concern as defined at section 2 of Public Law 85–536 (16 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration. For the purpose of this clause, the size standards for small business concerns involved in Government procurement and subcontracting at 13 CFR 121.3 through 121.8 and 13 CFR 121.3 through 121.12, respectively, will be used.

“Subject invention” means any invention of the Recipient conceived or first actually reduced to practice in the performance of work under this award, provided that in the case of a variety of plant, the date of determination (as defined in section 41(d) of the Plant Variety Protection Act, 7 U.S.C. 2401(d) must also occur during the period of award performance.

b. Allocation of Principal Rights

The Recipient may retain the entire right, title, and interest throughout the world to each subject invention subject to the provisions of this Patent Rights clause and 35 U.S.C. 203. With respect to any subject invention in which the Recipient retains title, the Federal Government shall have a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the U.S. the subject invention throughout the world.

c. Invention Disclosure, Election of Title and Filing of Patent Applications by Recipient



- (1) The Recipient will disclose each subject invention to DOE through the Interagency Edison (iEdison) system at www.iEdison.gov identifying DOE as a funding agency within two (2) months after the inventor discloses it in writing to Recipient personnel responsible for the administration of patent matters. The disclosure to DOE shall be in the form of a written report and shall identify the award under which the invention was made and the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding to the extent known at the time of disclosure, of the nature, purpose, operation, and the physical, chemical, biological or electrical characteristics of the invention. The disclosure shall also identify any publication, on sale or public use of the invention and whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to DOE, the Recipient will promptly notify DOE of the acceptance of any manuscript describing the invention for publication or of any on sale or public use planned by the Recipient.
- (2) The Recipient will elect in writing whether or not to retain title to any such invention by notifying DOE within two years of disclosure to DOE. However, in any case where publication, on sale, or public use has initiated the one-year statutory period wherein valid patent protection can still be obtained in the U.S., the period for election of title may be shortened by the agency to a date that is no more than 60 days prior to the end of the statutory period.
- (3) The Recipient will file its initial patent application on an invention to which it elects to retain title within one year after election of title or, if earlier, prior to the end of any statutory period wherein valid patent protection can be obtained in the U.S. after a publication, on sale, or public use. The Recipient will file patent applications in additional countries or international patent offices within either ten months of the corresponding initial patent application, or six months from the date when permission is granted by the Commissioner of Patents and Trademarks to file foreign patent applications when such filing has been prohibited by a Secrecy Order.
- (4) Requests for extension of the time for disclosure to DOE, election, and filing under subparagraphs (c)(1), (2), and (3) of this clause may, at the discretion of DOE, be granted.

d. Conditions When the Government May Obtain Title

The Recipient will convey to DOE, upon written request, title to any subject invention:

- (1) If the Recipient fails to disclose or elect the subject invention within the times specified in paragraph (c) of this patent rights clause, or elects not to retain title; provided that DOE may only request title within 60 days after learning of the failure of the Recipient to disclose or elect within the specified times;
- (2) In those countries in which the Recipient fails to file patent applications within the times specified in paragraph (c) of this Patent Rights clause; provided, however, that if the Recipient has filed a patent application in a country after the times specified in paragraph (c) of this Patent Rights clause, but prior to its receipt of the written request of DOE, the Recipient shall continue to retain title in that country; or
- (3) In any country in which the Recipient decides not to continue the prosecution of any application for, to pay the maintenance fees on, or defend in a reexamination or opposition proceeding on, a patent on a subject invention.

e. Minimum Rights to Recipient and Protection of the Recipient Right to File

- (1) The Recipient will retain a non-exclusive royalty-free license throughout the world in each subject invention to which the Government obtains title, except if the Recipient fails to disclose the subject invention within the times specified in paragraph (c) of this Patent Rights clause. The Recipient's license extends to its domestic subsidiaries and affiliates, if any, within the corporate structure of which the Recipient is a party and includes the right to grant sublicenses of the same scope of the extent the Recipient was legally obligated to do so at the time the award was awarded. The license is transferable only with the approval of DOE except when transferred to the successor of that part of the Recipient's business to which the invention pertains.
- (2) The Recipient's domestic license may be revoked or modified by DOE to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted in accordance with applicable provisions at 37 CFR part 404 and the agency's licensing regulation, if any. This license will not be revoked in that field of use or the geographical areas in which the Recipient has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at discretion of the funding Federal



agency to the extent the Recipient, its licensees, or its domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.

- (3) Before revocation or modification of the license, the funding Federal agency will furnish the Recipient a written notice of its intention to revoke or modify the license, and the Recipient will be allowed thirty days (or such other time as may be authorized by DOE for good cause shown by the Recipient) after the notice to show cause why the license should not be revoked or modified. The Recipient has the right to appeal, in accordance with applicable regulations in 37 CFR part 404 and the agency's licensing regulations, if any, concerning the licensing of Government-owned inventions, any decision concerning the revocation or modification of its license.

f. Recipient Action to Protect Government's Interest

- (1) The Recipient agrees to execute or to have executed and promptly deliver to DOE all instruments necessary to:
 - (i) Establish or confirm the rights the Government has throughout the world in those subject inventions for which the Recipient retains title; and
 - (ii) Convey title to DOE when requested under paragraph (d) of this Patent Rights clause, and to enable the government to obtain patent protection throughout the world in that subject invention.
- (2) The Recipient agrees to require, by written agreement, its employees, other than clerical and nontechnical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the Recipient each subject invention made under this award in order that the Recipient can comply with the disclosure provisions of paragraph (c) of this Patent Rights clause, and to execute all papers necessary to file patent applications on subject inventions and to establish the Government's rights in the subject inventions. The disclosure format should require, as a minimum, the information requested by paragraph (c)(1) of this Patent Rights clause. The Recipient shall instruct such employees through the employee agreements or other suitable educational programs on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.
- (3) The Recipient will notify DOE of any decision not to continue prosecution of a patent application, pay maintenance fees, or defend in a reexamination or opposition proceeding on a patent, in any country, not less than 30 days before the expiration of the response period required by the relevant patent office.
- (4) The Recipient agrees to include, within the specification of any U.S. patent application and any patent issuing thereon covering a subject invention, the following statement: "This invention was made with Government support under (identify the award) awarded by (identify DOE). The Government has certain rights in this invention."

g. Subaward/Contract

- (1) The Recipient will include this Patent Rights clause, suitably modified to identify the parties, in all subawards/contracts, regardless of tier, for experimental, developmental or research work to be performed by a small business firm or nonprofit organization. The subrecipient/contractor will retain all rights provided for the Recipient in this Patent Rights clause, and the Recipient will not, as part of the consideration for awarding the subcontract, obtain rights in the subcontractors' subject inventions.
- (2) The Recipient will include in all other subawards/contracts, regardless of tier, for experimental, developmental or research work, the patent rights clause required by 2 CFR 910.362(c).
- (3) In the case of subawards/contracts at any tier, DOE, the Recipient, and the subrecipient/contractor agree that the mutual obligations of the parties created by this clause constitute a contract between the subrecipient/contractor and DOE with respect to those matters covered by the clause.

h. Reporting on Utilization of Subject Inventions

The Recipient agrees to submit on request periodic reports no more frequently than annually on the utilization of a subject invention or on efforts at obtaining such utilization that are being made by the Recipient or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the Recipient and such other data and information as DOE may reasonably specify. The Recipient also agrees to provide additional reports in connection with any march-in proceeding undertaken by DOE in accordance with paragraph (j) of this Patent Rights clause. As required by 35 U.S.C.



202(c)(5), DOE agrees it will not disclose such information to persons outside the Government without the permission of the Recipient.

i. Preference for United States Industry.

Notwithstanding any other provision of this Patent Rights clause, the Recipient agrees that neither it nor any assignee will grant to any person the exclusive right to use or sell any subject invention in the U.S. unless such person agrees that any products embodying the subject invention or produced through the use of the subject invention will be manufactured substantially in the U.S. However, in individual cases, the requirement for such an agreement may be waived by DOE upon a showing by the Recipient or its assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the U.S. or that under the circumstances domestic manufacture is not commercially feasible.

j. March-in-Rights

The Recipient agrees that with respect to any subject invention in which it has acquired title, DOE has the right in accordance with procedures at 37 CFR 401.6 and any supplemental regulations of the Agency to require the Recipient, an assignee or exclusive licensee of a subject invention to grant a non-exclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances and if the Recipient, assignee, or exclusive licensee refuses such a request, DOE has the right to grant such a license itself if DOE determines that:

- (1) Such action is necessary because the Recipient or assignee has not taken or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use;
- (2) Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the Recipient, assignee, or their licensees;
- (3) Such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the Recipient, assignee, or licensee; or
- (4) Such action is necessary because the agreement required by paragraph (i) of this Patent Rights clause has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject invention in the U.S. is in breach of such agreement.

k. Special Provisions for Awards With Nonprofit Organizations

If the Recipient is a nonprofit organization, it agrees that:

- (1) Rights to a subject invention in the U.S. may not be assigned without the approval of DOE, except where such assignment is made to an organization which has as one of its primary functions the management of inventions, provided that such assignee will be subject to the same provisions as the Recipient;
- (2) The Recipient will share royalties collected on a subject invention with the inventor, including Federal employee co-inventors (when DOE deems it appropriate) when the subject invention is assigned in accordance with 35 U.S.C. 202(e) and 37 CFR 401.10;
- (3) The balance of any royalties or income earned by the Recipient with respect to subject inventions, after payment of expenses (including payments to inventors) incidental to the administration of subject inventions, will be utilized for the support of scientific or engineering research or education; and
- (4) It will make efforts that are reasonable under the circumstances to attract licensees of subject inventions that are small business firms and that it will give preference to a small business firm if the Recipient determines that the small business firm has a plan or proposal for marketing the invention which, if executed, is equally likely to bring the invention to practical application as any plans or proposals from applicants that are not small business firms; provided that the Recipient is also satisfied that the small business firm has the capability and resources to carry out its plan or proposal. The decision whether to give a preference in any specific case will be at the discretion of the Recipient. However, the Recipient agrees that the Secretary of Commerce may review the Recipient's licensing program and decisions regarding small business applicants, and the Recipient will negotiate changes to its licensing policies, procedures or practices with the Secretary when the Secretary's review discloses that the Recipient could take reasonable steps to implement more effectively the requirements of this paragraph (k)(4).



I. Communications

All communications required by this Patent Rights clause should be sent to the DOE Patent Counsel.

m. Electronic Filing

Unless otherwise specified in the award, the information identified in paragraphs (f)(2) and (f)(3) may be electronically filed.

SBIR/STTR-GTC-0025 RIGHTS IN DATA – SBIR/STTR PROGRAM

Special Note: The Recipient grants access to PPLLC all data and rights therein necessary to fulfill the PPLLC's obligations to the Government or its Customer with respect to the prime contract or subcontract

Note 1 applies to (a), (b), & (d). Note 3 applies to (c), except in: (c)(iii) where Note 1 applies; (c)(2) where Notes 1 & 2 apply; (c)(3) where Note 4 applies. Note 4 applies to the first sentence in (e)(1). Notes 1 & 2 apply to (e). Notes 3 & 5 apply to (g). Note 4 applies to (h).

(a) Definitions.

- (1) Computer Software. Computer programs, source code, source code listings, object code listings, design details, algorithms, processes, flow charts, formulae, and related material that would enable the software to be reproduced, recreated, or recompiled. Computer Software does not include Computer Databases or Computer Software Documentation.
- (2) Data. All recorded information, regardless of the form or method of recording or the media on which it may be recorded. The term does not include information incidental to contract or grant administration, such as financial, administrative, cost or pricing or management information.
- (3) Form, Fit, and Function Data. Data relating to items, components, or processes that are sufficient to enable physical and functional interchangeability, and data identifying source, size, configuration, mating and attachment characteristics, functional characteristics, and performance requirements. For Computer Software it means data identifying source, functional characteristics, and performance requirements, but specifically excludes the source code, algorithms, processes, formulas, and flow charts of the software.
- (4) *Reserved*
- (5) Operations, Maintenance, Installation, or Training Purposes (OMIT) Data. Data that is necessary for operation, maintenance, installation, or training purposes (but not including detailed manufacturing or process data).
- (6) SBIR/STTR Computer Software Rights. The Federal Government's rights during the SBIR/STTR Protection Period in specific types of SBIR/STTR Data that are Computer Software.
 - (A) The Federal Government may use, modify, reproduce, release, perform, display, or disclose SBIR/STTR Data that are Computer Software within the Government. The Federal Government may exercise SBIR/STTR Computer Software Rights within the Government for:
 - (1) Use in Federal Government computers;
 - (2) Modification, adaptation, or combination with other Computer Software, provided that the Data incorporated into any derivative software are subject to the SBIR/STTR Computer Software Rights described herein and that the derivative software is marked as containing SBIR/ STTR Data;
 - (3) Archive or backup; or
 - (4) Distribution of a computer program to another Federal agency, without further permission of the Awardee, if the Awardee is notified of the distribution and the identity of the recipient prior to the distribution, and a copy of the SBIR/STTR Computer Software Rights included in the Funding Agreement is provided to the recipient.
 - (B) The Federal Government shall not release, disclose, or permit access to SBIR/STTR Data that is Computer Software for commercial, manufacturing, or procurement purposes without the written permission of the Awardee. The Federal Government shall not release, disclose, or permit access to



SBIR/STTR Data outside the Government without the written permission of the Awardee unless:

- (i) The non-Governmental entity has entered into a non-disclosure agreement with the Government that complies with the terms for such agreements outlined in § 8 of the SBIR/STTR Policy Directive; and
 - (ii) The release or disclosure is—
 - (I) To a Federal Government support service contractor or their subcontractor for purposes of supporting Government internal use or activities, including evaluation, diagnosis and correction of deficiencies, and adaptation, combination, or integration with other Computer Software provided that SBIR/ STTR Data incorporated into any derivative software are subject to the SBIR/STTR Computer Software Rights described herein; or
 - (II) Necessary to support certain narrowly-tailored essential Government activities for which law or regulation permits access of a non-Government entity to a contractors' data developed exclusively at private expense, non- SBIR/STTR Data, such as for emergency repair and overhaul.
- (7) SBIR/STTR Data. All Data developed or generated in the performance of an SBIR or STTR award, including Technical Data and Computer Software developed or generated in the performance of an SBIR or STTR award. The term does not include information incidental to contract or grant administration, such as financial, administrative, cost or pricing or management information.
- (8) SBIR/STTR Data Rights. The Federal Government's license rights in properly marked SBIR/STTR Data during the SBIR/STTR Protection Period are as follows: SBIR/STTR Technical Data Rights in SBIR/STTR Data that are Technical Data or any other type of Data other than Computer Software; and SBIR/STTR Computer Software Rights in SBIR/STTR Data that is Computer Software. Upon expiration of the protection period for SBIR/STTR Data, the Federal Government shall have Unlimited Rights and is relieved of all disclosure prohibitions and assumes no liability for unauthorized use of these data by third parties. The Federal Government receives Unlimited Rights in Form Fit, and Function Data, OMIT Data, and all unmarked SBIR/STTR Data.
- (9) SBIR/STTR Protection Period. The period of time during which the Federal Government is obligated to protect SBIR/STTR Data against unauthorized use and disclosure in accordance with SBIR/STTR Data Rights. The SBIR/STTR Protection Period begins at award of an SBIR/STTR Funding Agreement and ends twenty years from that date.
- (10) SBIR/STTR Technical Data Rights. The Federal Government's rights during the SBIR/STTR Protection Period in SBIR/STTR Data that are Technical Data or any other type of Data other than Computer Software.
- (A) The Federal Government may, use, modify, reproduce, perform, display, release, or disclose SBIR/STTR Data that are Technical Data within the Government; however, the Government shall not use, release, or disclose the data for procurement, manufacturing, or commercial purposes; or release or disclose the SBIR/STTR Data outside the Government except as permitted by paragraph (B) below or by written permission of the Awardee.
 - (B) SBIR/STTR Data that are Technical Data may be released outside the Federal Government without any additional written permission of the Awardee only if the non-Governmental entity or foreign government has entered into a non-disclosure agreement with the Federal Government that complies with the terms for such agreements outlined in § 8 of the SBIR/STTR Policy Directive and the release is:
 - (i) Necessary to support certain narrowly-tailored essential Government activities for which law or regulation permits access of a non-Government entity to a contractors' data developed exclusively at private expense, non- SBIR/STTR Data, such as for emergency repair and overhaul;
 - (ii) To a Government support services contractor in the performance of a Government support services contract for internal Government use or activities, including evaluation, diagnosis or modification, provided that SBIR/STTR Technical Data incorporated into any derivative Data are subject to the SBIR/STTR Technical Data Rights, and the release is not for commercial purposes

or manufacture;

(iii) To a foreign government for purposes of information and evaluation if required to serve the interests of the U.S. Government; or

(iv) To non-Government entities or individuals for purposes of evaluation.

(11) **Technical Data.** Recorded information, regardless of the form or method of the recording, of a scientific or technical nature (including Computer Software Documentation and Computer Databases). The term does not include Computer Software or financial, administrative, cost or pricing, or management information, or other data incidental to contract or grant administration. The term includes recorded Data of a scientific or technical nature that is included in Computer Databases.

(12) **Unlimited Rights.** The Government’s rights to access, use, modify, prepare derivative works, reproduce, release, perform, display, disclose, or distribute Data in whole or in part, in any manner and for any purpose whatsoever, and to have or authorize others to do so.

(b) **Allocation of SBIR/STTR Data Rights.**

(1) The Awardee retains ownership of all SBIR/STTR Data it develops or generates in the performance of an SBIR/STTR award. The Awardee retains all rights in SBIR/STTR Data that are not granted to the Federal Government in accordance with the SBIR/STTR Policy Directive. These rights of the Awardee do not expire.

(2) During the SBIR/STTR Protection Period, the Federal Government receives SBIR/STTR Technical Data Rights in appropriately marked SBIR/STTR Data that is Technical Data or any other type of Data other than Computer Software; and SBIR/STTR Computer Software Rights in appropriately marked SBIR/ STTR Data that is Computer Software.

(3) After the protection period, the Federal Government shall have Unlimited Rights.

(4) The Federal Government receives Unlimited Rights in Form Fit, and Function Data, OMIT Data, and all unmarked SBIR/STTR Data.

(c) **Identification and Delivery of SBIR/STTR Data.** Any SBIR/STTR Data delivered by the Awardee, and in which the Awardee intends to limit the Federal Government’s rights to SBIR/STTR Data Rights, must be delivered with restrictive markings. The Federal Government assumes no liability for the access, use, modification, reproduction, release, performance, display, disclosure, or distribution of SBIR/STTR Data without markings or data submitted with an identified distribution other than SBIR/STTR Data. The Awardee or its subcontractors or suppliers shall conspicuously and legibly mark all such SBIR/STTR Data with the appropriate legend and appropriately identify in all submissions to the Federal Government including proper identification as “20 YEAR SBIR/STTR DATA RIGHTS (2019)” in all submissions to Office of Scientific and Technical Information (OSTI).

(1) The authorized legend shall be placed on the first page or cover page of the document containing SBIR/STTR Data. Subsequent pages shall also include the authorized legend or simply “SBIR/STTR Protected Data”. If only portions of a page are subject to the asserted restrictions, the SBIR/STTR Awardee shall identify the restricted portions (e.g., by circling or underscoring with a note or other appropriate identifier). With respect to SBIR/STTR Data embodied in Computer Software, the legend shall be placed on:

1. The printed material or media containing the Computer Software; or
2. the transmittal document or storage container.

The legend shall read as follows:

20 YEAR SBIR/STTR DATA RIGHTS (2019)

Funding Agreement No _____ (e.g. DE-SC000nnnn)

Award Date _____ (Block 27 on the Assistance Agreement)

SBIR/STTR Protection Period: Twenty years from Award Date

SBIR/STTR Awardee _____



This report contains SBIR/STTR Data to which the Federal Government has received SBIR/STTR Technical Data Rights or SBIR/STTR Computer Software Rights during the SBIR/STTR Protection Period and Unlimited Rights afterwards, as defined in the Funding Agreement. Any reproductions of SBIR/STTR Data must include this legend.

(End of Legend)

(2) Data submitted without correct or appropriate markings may be corrected within 6 months from the date the data is delivered.

(d) Relation to patents. Nothing regarding SBIR/STTR Data Rights in this clause shall imply a license to or imply a requirement to license to the Federal Government any patent to a Subject Invention (as defined under the Bayh-Dole Act implemented at 37 CFR 401) made under an SBIR/STTR award. (End of Clause)

(e) Copyright.

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

(i) Except as otherwise specifically provided in this contract, the Awardee may assert copyright subsisting in any data first produced in the performance of this contract.

(ii) When asserting copyright, the Awardee shall affix the applicable copyright notice of 17 U.S.C. 401 or 402 and an acknowledgment of Government sponsorship (including award number).

(iii) For data other than computer software, the Awardee grants to the Government, and others acting on its behalf, a paid-up nonexclusive, irrevocable, worldwide license 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 Awardee 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, by or on behalf of the Government.

(2) Data not first produced in the performance of this contract. The Awardee shall not, without prior written permission of the Contracting Officer, incorporate in any data that are not first produced in the performance of this award unless the Awardee (i) identifies such 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.

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

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

The Awardee may withhold from delivery qualifying limited rights data and restricted computer software that are not identified in paragraphs (b)(1)(i), (ii), and (iii) of this clause. As a condition to this withholding, the Awardee shall identify the data being withheld, and furnish form, fit, and function data instead.

(g) Subcontracting. The Awardee shall obtain from its subcontractors all data and rights therein necessary to fulfill the Contractor's obligations to the Government under this contract. If a subawardee refuses to accept terms affording the Government those rights, the Awardee shall promptly notify the Contracting Officer of the refusal and not proceed with the subaward award without further authorization in writing from the Contracting Officer. SBIR/STTR rights apply to all SBIR/STTR awards, including subawards to such awards, that fall within the statutory definition of Phase I, II, or III of the SBIR/STTR Program, as described in the SBIR/STTR Policy Directive.

(h) Relationship to patents. 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.

FA-TC-0002.1 CONFERENCE SPENDING (FEBRUARY 2015) (Note 1)

The recipient shall not expend any funds on a conference not directly and programmatically related to the purpose for which the grant or cooperative agreement was awarded that would defray the cost to the United States Government of a conference held by any Executive branch department, agency, board, commission, or office for which the cost to the United States Government would otherwise exceed \$20,000, thereby circumventing the required notification by the head of any such Executive Branch department, agency, board, commission, or office to the Inspector General (or



senior ethics official for any entity without an Inspector General), of the date, location, and number of employees attending such conference.

FA-TC-0010 STATEMENT OF FEDERAL STEWARDSHIP (Note 3)

DOE/NNSA will exercise normal Federal stewardship in overseeing the project activities performed under this award. Stewardship activities include, but are not limited to, conducting site visits; reviewing performance and financial reports; providing technical assistance and/or temporary intervention in unusual circumstances to correct deficiencies which develop during the project; assuring compliance with terms and objectives have been accomplished.

FA-TC-0012 SITE VISITS (Note 3)

DOE/NNSA's authorized representatives have the right to make site visits at reasonable times to review project accomplishments and management control systems and to provide technical assistance, if required. You must provide, and must require your subrecipients to provide, reasonable access to facilities, office space, resources, and assistance for the safety and convenience of the government representatives in the performance of their duties. All site visits and evaluations must be performed in a manner that does not unduly interfere with or delay the work.

FA-TC-0014-CH PUBLICATIONS (Note 1)

- a. You are encouraged to publish or otherwise make publicly available the results of the work conducted under the award.
- b. An acknowledgment of Federal support and a disclaimer must appear in the publication of any material, whether copyrighted or not, based on or developed under this project, as follows:

Acknowledgment: "This material is based upon work supported by the U.S. Department of Energy, Office of Science, Office of [insert the SC Program Office funding the award, e.g., Basic Energy Sciences], [Add any additional acknowledgements or information requested by the sponsoring SC Program Office] under Award Number(s) [Enter the award number(s)]."

Disclaimer: "This report was prepared as an account of work sponsored by an agency of the United States Government. Neither the United States Government nor any agency thereof, nor any of their employees, makes any warranty, express or implied, or assumes any legal liability or responsibility for the accuracy, completeness, or usefulness of any information, apparatus, product, or process disclosed, or represents that its use would not infringe privately owned rights. Reference herein to any specific commercial product, process, or service by trade name, trademark, manufacturer, or otherwise does not necessarily constitute or imply its endorsement, recommendation, or favoring by the United States Government or any agency thereof. The views and opinions of authors expressed herein do not necessarily state or reflect those of the United States Government or any agency thereof."

FA-TC-0015 FEDERAL, STATE, AND MUNICIPAL REQUIREMENTS

You must obtain any required permits and comply with applicable federal, state, and municipal laws, codes, and regulations for work performed under this award.

FA-TC-0017.1 NATIONAL SECURITY: CLASSIFIABLE RESULTS ORIGINATING UNDER AN AWARD (DECEMBER 2014) (Note 1)

- a. This award is intended for unclassified, publicly releasable research. You will not be granted access to classified information. DOE/NNSA does not expect that the results of the research project will involve classified information. Under certain circumstances, however, a classification review of information originated under the award may be required. The Department may review research work generated under this award at any time to determine if it requires classification.
- b. Executive Order 12958 (60 Fed. Reg. 19,825 (1995)) states that basic scientific research information not clearly related to the national security shall not be classified. Nevertheless, some information concerning (among other things) scientific, technological, or economic matters relating to national security or cryptology may require classification. If you originate information during the course of this award that you believe requires classification, you must promptly:
 1. Notify the DOE Project Manager and the DOE Award Administrator;
 2. Submit the information by registered mail directly to the Director, Office of Classification and Information Control, SO-10.2; U.S. Department of Energy; P.O. Box A; Germantown, MD 20875-0963, for classification review.



3. Restrict access to the information to the maximum extent possible until you are informed that the information is not classified, but no longer than 30 days after receipt by the Director, Office of Classification and Information Control.
- c. If you originate information concerning the production or utilization of special nuclear material (i.e., plutonium, uranium enriched in the isotope 233 or 235, and any other material so determined under section 51 of the Atomic Energy Act) or nuclear energy, you must:
 1. Notify the DOE Project Manager and the DOE Award Administrator;
 2. Submit the information by registered mail directly to the Director, Office of Classification and Information Control, SO-10.2; U.S. Department of Energy; P.O. Box A; Germantown, MD 20875-0963, for classification review within 180 days of the date the recipient first discovers or first has reason to believe that the information is useful in such production or utilization; and
 3. Restrict access to the information to the maximum extent possible until you are informed that the information is not classified, but no longer than 90 days after receipt by the Director, Office of Classification and Information Control.
- d. If DOE determines any of the information requires classification, you agree that the Government may terminate the award with consent of the recipient in accordance with 2 CFR part 200.339(a)(3). All material deemed to be classified must be forwarded to the DOE, in a manner specified by DOE.
- e. If DOE does not respond within the specified time periods, you are under no further obligation to restrict access to the information.

FA-TC-0020 NOTICE REGARDING THE PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS -- SENSE OF CONGRESS (Note 1)

It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this award should be American-made.

FA-TC-0025E SUPPLIES (DECEMBER 2014)

See 2 CFR Part 200.314 for requirements pertaining to supplies acquired under a Federal award.

See also § 200.453 Materials and supplies costs, including costs of computing devices.

FA-TC-0041 REPORTING SUBAWARDS AND EXECUTIVE COMPENSATION (Note 1)

Only applies if order is equal to or greater than \$25,000

- a. (Removed)
- b. (Removed)
- c. Reporting of Total Compensation of Recipient Executives.
 1. Applicability and what to report. Unless you are exempt as provided in paragraph d. of this award term, within thirty (30) days, you shall report to Plasma Processes, LLC's Procurement Manager the names and total compensation of each of the recipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if:
 - i. In the recipient's preceding fiscal year, the recipient received;
 - (A) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
 - (B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and
 - ii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)
 2. (Removed)
- d. Exemptions.
 1. If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report:



- i. (Removed)
- ii. The total compensation of the five most highly compensated executives of any subrecipient.
- e. Definitions. For purposes of this award term:
 - 1. Entity means all of the following, as defined in 2 CFR part 25:
 - i. A Governmental organization, which is a State, local government, or Indian tribe;
 - ii. A foreign public entity;
 - iii. A domestic or foreign nonprofit organization;
 - iv. A domestic or foreign for-profit organization;
 - v. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.
 - 2. Executive means officers, managing partners, or any other employees in management positions.
 - 3. (Removed)
 - 4. (Removed)
 - 5. Total compensation means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):
 - i. Salary and bonus.
 - ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
 - iii. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
 - iv. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.
 - v. Above-market earnings on deferred compensation which is not tax-qualified.
 - vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

FA-TC-0065 LOBBYING RESTRICTIONS (MARCH 2012)

By accepting funds under this award, you agree that none of the funds obligated on the award shall be expended, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. 1913. This restriction is in addition to those prescribed elsewhere in statute and regulation.

FA-TC-0066.1 CORPORATE FELONY CONVICTION AND FEDERAL TAX LIABILITY ASSURANCES (MARCH 2014)

By entering into this agreement, the Recipient attests that it has not been convicted of a felony criminal violation under Federal law in the 24 months preceding the date of signature.

The Recipient further attests that it does not have any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

For purposes of these assurances, the following definitions apply:

A Corporation includes any entity that has filed articles of incorporation in any of the 50 states, the District of Columbia, or the various territories of the United States [but not foreign corporations]. It includes both for-profit and non-profit organizations.

FA-TC-0068.1 NONDISCLOSURE AND CONFIDENTIALITY AGREEMENTS ASSURANCES (JUNE 2015) (Note 1)

- (1) By entering into this agreement, the Recipient attests that it **does not and will not** require its employees or contractors to sign internal nondisclosure or confidentiality agreements or statements prohibiting or otherwise restricting its employees or contractors from lawfully reporting waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.
- (2) The Recipient further attests that it **does not and will not** use any Federal funds to implement or enforce any



nondisclosure and/or confidentiality policy, form, or agreement it uses unless it contains the following provisions:

- a. *“These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive order relating to (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection. The definitions, requirements, obligations rights, sanctions, and liabilities created by controlling Executive orders and statutory provisions are incorporated into this agreement and are controlling.”*
- b. The limitation above shall not contravene requirements applicable to Standard Form 312, Form 4414, or any other form issued by a Federal department or agency governing the nondisclosure of classified information.
- c. Notwithstanding provision listed in paragraph (a), a nondisclosure or confidentiality policy form or agreement that is to be executed by a person connected with the conduct of an intelligence or intelligence-related activity, other than an employee or officer of the United States Government, may contain provisions appropriate to the particular activity for which such document is to be used. Such form or agreement shall, at a minimum, required that the person will not disclose any classified information received in the course of such activity unless specifically authorized to do so by the United States Government. Such nondisclosure of confidentiality forms shall also make it clear that they do not bar disclosures to Congress, or to an authorized official of an executive agency or the Department of Justice, that are essential to reporting substantial violation of law.

FA-TC-0070 REPORTING MATTERS RELATED TO RECEIPT INTEGRITY AND PERFORMANCE (DECEMBER 2015) (Note 1)

a. General Reporting Requirements

If the total value of your currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this Federal award, then you as the recipient during that period of time must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIS)) about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition. This is a statutory requirement under section 872 of Public Law 110-417, as amended (41 U.S.C. 2313). As required by section 3010 of Public Law 111-212, all information posted in the designated integrity and performance system on or after April 15, 2011, expect past performance reviews require for Federal procurement contracts, will be publicly available.

- b. Submit the information required about each proceeding that:
 1. Is in connection with the award or performance of a grant, cooperative agreement, or procurement contract from the Federal Government;
 2. Reached its final disposition during the most recent five-year period; and
 3. Is one of the following:
 - (A) Criminal proceedings that resulted in a conviction, as defined in paragraph 5 of this award term and condition;
 - (B) A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more;
 - (C) An administrative proceeding, as defined in paragraph 5 of this award term and condition, that resulted in a finding of fault and liability and your payment of either a monetary fine or penalty of \$5,000 or more or reimbursement, restitution, or damages in excess of \$100,000; or
 - (D) Any other criminal, civil, or administrative proceeding if:
 - i. It could have led to an outcome described in paragraph 2.c.(1), (2), or (3) of this award term and condition;



- ii. It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on your part; and
- iii. The requirement in this award term and condition to disclose information about the proceeding does not conflict with applicable laws and regulations.

c. Reporting Procedures

Enter in the SAM Entity Management area the information that SAM requires about each proceeding described in paragraph 2 of this award term and condition. You do not need to submit the information a second time under awards that you received if you already provided the information through SAM because you were required to do so under Federal procurement contracts that you were awarded.

d. Reporting Frequency

During any period of time when you are subject to the requirement in paragraph 1 of this award term and condition, you must report proceedings information through SAM for the most recent five-year period, either to report new information about any proceeding(s) that you have not reported previously or affirm that there is no new information to report. Recipients that have Federal contract, grant, and cooperative agreement awards with a cumulative total value greater than \$10,000,000 must disclose semiannually any information about the criminal, civil, and administrative proceedings.

e. Definitions

For purposes of this award term and condition:

- 1. Administrative proceeding means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (e.g., Securities and Exchange Commission Administrative proceedings, Civilian Board of Contract Appeals proceedings, and Armed Services Board of Contract Appeals proceedings). This Includes proceedings at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include audits, site visits, corrective plans, or A. Reporting of Matters Related to Recipient Integrity and Performance.
- 2. Conviction, for purposes of this award term and condition, means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere.
- 3. Total value of currently active grants, cooperative agreements, and procurement contracts includes –
 - (A) Only the Federal share of the funding under any Federal award with a recipient cost share or match; and
 - (B) The value of all expected funding increments under a Federal award and options, even if not yet exercised.

National Policy Requirements:

By accepting funds under this agreement, the recipient agrees that it will comply with:

- 1. Applicable provisions of the following, national policies prohibiting discrimination:
 - a) On the basis of race, color, or national origin, in Title VI of the Civil Rights Act of 1964 (42 USC 2000d, et seq.) as implemented by 10 CFR Part 1040
 - b) On the basis of age, in the Age Discrimination Act of 1975 (42 USC 6101, et seq.), as implemented by 10 CFR Part 1040
 - c) On the basis of handicap, in Section 504 of the Rehabilitation Act of 1973 (29 USC 794) as implemented by Department of Justice regulations at 28 CFR Part 41 and 10 CFR Part 1040; and
- 2. Applicable provisions of the Clean Air Act (42 USC 7401, et seq.) and Clean Water Act (33 USC 1251, et seq.), as implemented by Executive Order 11738 [3 CFR, 1971-1975 Comp., p. 799]
- 3. Drug Free Workplace as implemented in 10 CFR Part 607
- 4. DUNS Number – 2 CFR Part 25 (if recipient is a first tier subrecipient)
- 5. Lobbying Prohibitions 31 USC 1352 as implemented by 10 CFR Part 601



6. Transparency Act, FFATA Public Law 109-282 (if order is meets or exceeds the threshold in 2 CFR 170 Appendix A)
7. Trafficking in Persons Act of 2000 as implemented by 2 CFR 175 and as it applies in 175.15(b)I
8. Use of United States Flag Vessels as implemented by 46 CFR 381
9. Patents, Trademarks and Copyrights as implemented in 35 USC 202-204 and 37 CFR 401