

ATTACHMENT J.3

APPENDIX C

SPECIAL FINANCIAL INSTITUTION ACCOUNT AGREEMENT

**Applicable to the Operation of
PPPL**

Contract No. DE-AC02-09CH11466



Department of Energy
Princeton Site Office
P.O. Box 102
Princeton, New Jersey 08542

Shirley A. Bird
Vice President, Treasury Management
PNC Bank, N.A.
Two Tower Center Blvd, 23rd Floor
East Brunswick, NJ 08816

Dear Ms. Bird:

SUBJECT: BANK LETTER OF CREDIT

Enclosed for your records is an original of our new banking agreement between the Department of Energy, the Trustees of Princeton University, and PNC Bank.

If you have any questions or require additional information, please contact Brian Bozarth at (609) 243-3727.

Sincerely,

A handwritten signature in cursive script that reads "Raymond Kimble".

Raymond M. Kimble
Contracting Officer

Encl.: As Stated.

cc: K. Molinaro, PrUn, w/original

**SPECIAL FINANCIAL INSTITUTION ACCOUNT AGREEMENT
FOR USE WITH THE PAYMENTS CLEARED FINANCIAL ARRANGEMENT**

Agreement entered into this, 10th day of Sept. 2009, between the UNITED STATES OF AMERICA, represented by the Department of Energy (hereinafter referred to as "DOE"), and The Trustees of Princeton University, (hereinafter referred to as the "Contractor") and PNC Bank, National Association, a national bank association existing under the laws of the United States of America, located at East Brunswick, New Jersey, (hereinafter referred to as the "Financial Institution").

RECITALS

- (a) On the effective date of October 1, 2009, DOE and the Contractor entered into Agreement(s) No. DE-AC02-09CH11466 or a Supplemental Agreement(s) thereto, providing for the transfer of funds on a payments-cleared basis.
- (b) DOE requires that amounts transferred to the Contractor thereunder be deposited in a special demand deposit account at a financial institution covered by Department of the Treasury approved Government deposit insurance organizations that are identified in I TFM 6-9000.

These special demand deposits must be kept separate from the Contractor's general or other funds, and the parties are agreeable to so depositing said amounts with the Financial Institution.

- (c) The Special Demand Deposit Account shall be designated "Trustees of Princeton University, Princeton Plasma Physics Laboratory Account" operated by the DOE.

COVENANTS

In consideration of the foregoing, and for other good and valuable considerations, it is agreed that:

- (1) The Government shall have a title to the credit balance in said account to secure the repayment of all funds transferred to the Contractor, and said title shall be superior to any lien, title, or claim of the Financial Institution or others with respect to such accounts.
- (2) The Financial Institution shall be bound by the provisions of said Agreement(s) between DOE and the Contractor, specifically Clauses H-36, I.135, I. 136, and I. 137 of Contract No. DE-AC02-09CH11466, relating to the transfer of funds into and withdrawal of funds from the above Special Demand Deposit Account which are hereby incorporated into this Agreement by reference, but the Financial Institution shall not be responsible for the application of funds withdrawn from said account.

After receipt by the Financial Institution of directions from DOE, the Financial Institution shall act thereon and shall be under no liability to any party hereto for any action taken in accordance with the said written directions. Any written directions received by the Financial Institution from the Government upon DOE stationery and purporting to be signed by, or signed at the written direction of, the Government may, insofar as the rights, duties, and the liabilities of the Financial Institution are concerned, be considered as having been properly issued and filed with the Financial Institution by DOE.

- (3) DOE, or its authorized representatives, shall have access to financial records maintained by the Financial Institution with respect to such Special Demand Deposit Account at all reasonable times and for all reasonable purposes, including, but without limitation to, the inspection or copying of such financial records and any or all memoranda, checks, payment requests, correspondence, or documents pertaining thereto other than internal Financial Institution memoranda or correspondence and records which are privileged or which contain confidential or proprietary information of the Financial Institution. Such financial records shall be preserved by the Financial Institution for a period of 6 years after the final payment under the Agreement.
- (4) In the event of the service of any writ of attachment, levy or execution, or commencement of garnishment proceedings with respect to the Special Demand Deposit Account, the Financial Institution shall promptly notify DOE and the Trustees of Princeton University at:

Raymond M. Kimble
Contracting Officer
U.S. Department of Energy
Office of Science
Princeton Site Office
P.O. Box 102, MS#36
Princeton, NJ 08542-0102

Kenneth R. Molinaro
Controller
Princeton University
Office of the Controller
P.O. Box 35
Princeton, NJ 08543-0035

- (5) DOE shall authorize funds that shall remain available to the extent obligations have been incurred in good faith thereunder by the Contractor to the Financial Institution for the benefit of the "Special Demand Deposit Account." The Financial Institution agrees to honor upon presentation for payment all payments issued by the Contractor and to restrict all withdrawals against the funds authorized to an amount sufficient to maintain the average daily balance in the Special Demand Deposit Account in a net positive and as close to zero as administratively possible. The Financial Institution agrees to service the account in this manner based on the requirements and specifications contained in the 25th day of June, 2009 solicitation. The Financial Institution agrees that per item costs, detailed in an attachment to this Agreement, "Proposed New Contract Pricing – October 1, 2009 to September 30, 2014 Princeton Plasma Physics Lab," contained in the Financial Institution's aforesaid bid will remain constant during the term of this Agreement. The Financial Institution shall

calculate the monthly fees based on services rendered and invoice the Contractor. The Contractor shall issue a check or automated clearing house authorization transfer to the Financial Institution in payment thereof.

- (6) The Financial Institution shall post collateral, acceptable under Department of the Treasury Circular 176, with the Federal Reserve Financial Bank in an amount equal to the net balances in all of the accounts included in this Agreement (including the non-interest-bearing time deposit account), less the Department of the Treasury-approved deposit insurance.
- (7) This Agreement, with all its provisions and covenants, shall be in effect for a term of five (5) years, beginning on the 1st day of October, 2009 and ending on the 30th day of September, 2014, with the option to extend the contract for two one-year periods at the same unit service charge rates.
- (8) DOE, the Contractor, or the Financial Institution may terminate this Agreement at any time within the agreement period upon submitting written notification to the other parties 90 days prior to the desired termination date. The specific provisions for operating the account during this 90-day period are contained in Covenant 11.
- (9) DOE or the Contractor may terminate this Agreement at any time upon 30 days' written notice to the Financial Institution if DOE or the Contractor, or both parties, find that the financial Institution has failed to substantially perform its obligations under this Agreement or that the Financial Institution is performing its obligations in a manner that precludes administering the program in an effective and efficient manner or that precludes the effective utilization of the Government's cash resources.
- (10) Notwithstanding the provisions of Covenants 8 and 9, in the event that the Agreement, referenced in Recital (a), between DOE and the Contractor is not renewed or is terminated, this Agreement between DOE, the Contractor, and the Financial Institution shall be terminated automatically upon the delivery of written notice to the Financial Institution.
- (11) In the event of termination, the Financial Institution agrees to retain the contractor's "Special Demand Deposit Account" for a 90-day period to clear outstanding payment items. During this 90-day period, DOE will ensure that the Financial Institution will have sufficient funds to cover all outstanding payment items presented for payment.
 - a. During this 90-day period, if the amount of checks paid daily is less than \$5,000, the Financial Institution is authorized to draw down the minimum \$5,000 from the Federal Reserve Bank; however, any excess balance of funds resulting will not be subject to the payment of interest to DOE. After the balance is depleted, the Financial Institution also is authorized to draw down in \$5,000 increments to preclude overdrafts, up to the end of the 90-day period.

- b. After all checks have been paid, or expiration of the 90 day period, whichever occurs first, the Financial Institution will forward the balance of the daily ledger balance by check made payable to the U.S. Department of Energy and mailed to:

Department of Energy
Chicago Operations Office
Financial Services
9800 South Cass Avenue, Building 201
Argonne, IL 60439

- c. During the 90-day period, the Financial Institution will bill the Contractor for the actual service charges rendered.
- d. During the 90-day period, it is further understood that:
- (1) The Financial Institution shall maintain collateral in an amount sufficient to collateralize the highest daily balance in the special Demand Deposit Account, less Federal Deposit Insurance Corporation coverage on the accounts.
 - (2) All service charges shall be consistent with the amounts reflected in this Agreement.
 - (3) All terms and conditions of the proposal submitted by the Financial Institution that are not inconsistent with the 90-day addition term shall remain in effect.
 - (4) This Agreement shall continue in effect, with exception of the following:
 - (i) Financial Arrangement (Covenant 5)
 - (ii) The term of this Agreement (Covenant 7)
 - (iii) Termination of Agreement (Covenant 8 and 9)

The Financial Institution has submitted the attachments entitled: (1) Commercial Financial Institution's Representations and Certifications; (2) Technical Representations and Certifications; (3) Schedule of Bank Processing Charges and (4) Bank Statement of Daily Status of Federal Funds on Hand. These forms have been accepted by the Contractor and the Government and are incorporated herein with the document entitled "Financial Institution's Information on Payments Cleared Financing Arrangement" as an integral part of this Agreement.

IN WITNESS WHEREOF the parties hereto have caused this Agreement, which consists of 7 pages, including the signature pages, to be executed as of the day and year first above written.

Date Signed

WITNESS

(Typed Name of Witness)

(Signature of Witness)

Note: In the case of a corporation, a witness is not required. Type or print names under all signatures

(Typed Name of Witness)

(Signature of Witness)

Note: In the case of a corporation, a witness is not required. Type or print names under all signatures

By Kim E. Tafe
(Typed Name of Contracting Officer)

Kim E Tafe
(Signature of Contracting Officer)

The Trustees of Princeton University
(Typed Name of Contractor)

By Kenneth R. Molinaro
(Typed Name of Contractor's Representative)

Kenneth R Molinaro
(Signature of Contractor's Representative)

Controller
(Title)

Princeton University – Princeton, New Jersey
(Address)

9/8/09
(Date Signed)

PNC Bank, National Association
(Typed Name of Financial Institution)

By Shirley A. Bird
(Typed Name of Financial Institution Representative)

Shirley A Bird
(Signature of Financial Institution Representative)

Vice President, Treasury Management
(Title)

Two Towers Center
East Brunswick, New Jersey 08819
(Address)

9-4-09
(Date Signed)

NOTE

The Contractor, if a corporation, shall cause the following Certificate to be executed under its corporate seal, provided that the same officer shall not executive both the Agreement and the Certificate.

CERTIFICATE

I, Patricia A. Halliday certify that I am the Associate Secretary of the corporation named as Contractor herein; that Kenneth R. Molinaro, who signed this Agreement on behalf of the Contractor, was then Contrastler of said corporation; and that said Agreement was duly signed for and in behalf of said corporation by authority of its governing body and is within the scope of its corporate powers.

Patricia A. Halliday
(Corporate Seal) (Signature)

9/8/09
(Date)

NOTE

Financial Institution, if a corporation, shall cause the following Certificate to be executed under its corporate seal, provided that the same officer shall not execute both the Agreement and the Certificate.

CERTIFICATE

I, Shirley Coghlan, certify that I am the Asst. Secretary of the corporation named as Financial Institution herein; that Shirley Bird, who signed this Agreement on behalf of the Financial Institution, was then Vice President of said corporation; and that said Agreement was duly signed for and in behalf of said corporation by authority of its governing body and is within the scope of its corporate powers.

Shirley J. Coghlan
(Corporate Seal) (Signature)

9-4-09
(Date)