

**HARVARD UNIVERSITY  
ATTACHMENT A**

*Terms and Conditions Applicable to Purchase Orders issued Under U.S. Government Contracts and Grants*

The Seller (sometimes hereinafter referred to as the "Contractor" or the "Subcontractor") agrees, with respect to this purchase order (sometimes hereinafter also referred to as an "order", "contract", or "subcontract"), to be bound by the following provisions:

**I. RENEGOTIATION**

(a) To the extent required by law, this contract is subject to the Renegotiations Act of 1951 (50 U.S.C. App.1211, et seq.), as amended, and to any subsequent act of Congress providing for the renegotiations of contracts. Nothing contained in this clause shall impose any renegotiation obligation with respect to this contract or any subcontract hereunder, which is not imposed by an act of Congress heretofore or hereafter enacted. Subject to the foregoing this contract shall be deemed to contain all the provisions required by section 104 of the Renegotiation Act of 1951, and by any such other act, without subsequent contract amendment specifically incorporating such provisions.

(b) The contractor agrees to insert the provisions of this clause, including this paragraph (b), in all Subcontracts, as that term is defined in section 103g of the Renegotiation Act of 1951, as amended.

**II. EQUAL EMPLOYMENT OPPORTUNITY AND CIVIL RIGHTS**

**This contractor and subcontractor shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a), to the extent applicable. These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.**

**III. CONTRACT WORK HOURS STANDARDS ACT-OVERTIME COMPENSATION**

This contract, to the extent that it is of a character specified in the Contract Work Hours Standards Act (40 U.S.C. 327-330), is subject to the following provisions and to all other applicable provisions and exceptions of such act and the regulations of the Secretary of Labor thereunder.

(a) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any laborer or mechanic in any workweek in which he is employed on such work to work in excess of eight hours in any calendar day or in excess of forty hours in such workweek or work subject to the provisions of the Contract Work Hours Standards Act unless such laborer or mechanic receives compensation at a rate not less than one and one-half times his basic rate for all such hours worked in excess of eight hours in any calendar day or in excess of forty hours in such workweek, whichever is the greater number of overtime hours.

(b) Violations: liability for unpaid wages; liquidated damages. In the event of any violation of the provisions of paragraph (a), the Contractor and any subcontractor responsible therefore shall be liable to any affected employee for his unpaid wages. In additions, such Contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic employed in violation of the provisions of paragraph (a) in the sum of \$10 for each calendar day on which such employee was required or permitted to be employed on such work in excess of eight hours or in excess of his standard workweek of forty hours without payment of the overtime wages required by paragraph (a).

(c) Withholding for unpaid wages and liquidated damages. The Contracting Officer may withhold from the Government Prime Contractor; from any moneys payable on account of work performed by the Contractor or subcontractor for unpaid wages and liquidated damages as provided in the provisions of paragraph (b).

(d) Subcontracts. The Contractor shall insert paragraphs (a) through (d) of this clause in all subcontracts, and shall require their inclusion in all subcontracts of any tier.

(e) The contractor shall indemnify and hold the University harmless from and against any and all claims, losses, damages, judgments, penalties, cost and expenses (including, without limitation, all expenses with respect to any administrative or court proceedings and reasonable attorneys' fees) arising out of or in connection with any violation or alleged violation of the Contract Work Hours Standards Act or any applicable regulation, rulings or interpretations thereunder, in the performance of any or all parts of this purchase order or subcontract by the contractor or by any subcontractor, seller or other party, and that this indemnity shall survive the completion or termination of this purchase order or subcontract.

**IV. EXAMINATION OF RECORDS**

The Contractor agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of three years after final payment under this contract, have access to and the right to examine any directly pertinent books, documents, papers and records of the Contractor involving transactions related to this contract. This paragraph applies only to contracts exceeding \$100,000 and does not apply to agreements for public utility services at rates established for uniform applicability to the general public.

**V. NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT**

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

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

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

#### **VI. THE ANTI-KICKBACK ACT OF 1986**

(Ref. FAR 3.502-2 effective September 2, 1988) prohibits any person from providing or attempting to provide any kickback. This act further prohibits any person from soliciting, accepting, or attempting to accept any kickback, and from incorporating, directly or indirectly, the amount of the kickback into the contract price charged by the prime contractor to the United States or by the subcontractor to the prime contractor or higher tier subcontractor.

#### **VII. DEBARMENT**

This purchase order is issued upon the understanding that the seller is not a debarred, suspended, or ineligible party as defined in the rules implementing Executive Order 12549 and agrees to notify Harvard immediately if it is placed on the Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs. A copy of the rules implementing Executive Order 12549 may be obtained from Harvard.

A *Debarment Certification Form* must be completed by Subcontractors, Vendors of Procurements \$25,000 or more and by Trainees on federal training grants.

#### **VIII. CLAUSES AND CERTIFICATIONS**

(Refer to Attachment "A.1") This contract incorporates the following clauses by reference, with the same force and effect, as if they were given in full text. Upon request, the UNIVERSITY will make their full text available. Also, full text and additional clauses may be accessed electronically at <http://www.arnet.gov/far/>

#### **IX. ADDITIONAL CLAUSES AND CERTIFICATIONS**

This contract incorporates the following clauses by reference, with the same force and effect, as if they were given in full text. Upon request, the UNIVERSITY will make their full text available.

#### **DEPARTMENT OF HEALTH AND HUMAN SERVICES ACQUISITION REGULATION/PUBLIC HEALTH SERVICE ACQUISITION REGULATION (HHSAR)/(PHSAR) (48 CHAPTER 3) CLAUSES:**

- 1) HHSAR 352.270-1, Accessibility of Meetings, Conferences and Seminars to Persons with Disabilities (APRIL 1984)
- 2) PHS 352.280-1b, Protection of Human Subjects (OCTOBER 1986)

#### **NATIONAL INSTITUTES OF HEALTH (NIH) RESEARCH CONTRACTING (RC) CLAUSES:**

The following clauses are attached and made a part of this contract:

- 1) NIH (RC)-7, Procurement of Certain Equipment (APRIL 1984) (OMB Bulletin 81-16).
- 2) NIH (RC)-11, Research Patient Care Costs (4/1/84).

#### **ADDITIONAL FAR CONTRACT CLAUSES INCLUDED IN FULL TEXT**

This contract incorporates the following clauses in full text

#### **FEDERAL ACQUISITION REGULATION (FAR) (48 CFR CHAPTER 1) CLAUSES:**

#### **FAR Clause 52.244-6, SUBCONTRACTS FOR COMMERCIAL ITEMS AND COMMERCIAL COMPONENTS (OCTOBER 1998)**

**Commercial item**, as used in this clause, has the meaning contained in the clause at 52.202-1, Definitions.

**Subcontract**, as used in this clause, includes a transfer of commercial items between divisions, subsidiaries, or affiliates of the Contractor or SUBCONTRACTOR at any tier.

A) To the maximum extent practicable, the Contractor shall incorporate, and require its SUBCONTACTORS at all tiers to incorporate, commercial items or nondevelopmental items as components of items to be supplied under this contract.

B) Notwithstanding any other clause of this contract, the Contractor is not required to include any FAR provision or clause, other than those listed below to the extent they are applicable and as may be required to establish the reasonableness of prices under Part 15, in a subcontract at any tier for commercial items or commercial components:

- 1) 52.222-26, Equal Opportunity (E.O. 11246);
- 2) 52.222-35, Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era (38 U.S.C. 4212(a));
- 3) 52.222-36, Affirmative Action for Workers with Disabilities (29 U.S.C. 793; and
- 4) 52.247-64, Preference for Privately Owned U.S.-Flagged Commercial Vessels (46 U.S.C. 1241) (flow down not required for subcontracts awarded beginning May 1, 1996).

#### **X. PROCUREMENTS ISSUED UNDER GOVERNMENT GRANTS**

Procurements made with Federal funds are subject to compliance with the standards and requirements as set forth in OMB Circular A-110, Appendix A (Contract Provisions) and OMB Circular A-133, Paragraph 5. All procurement requirements contained in the above referenced Circulars are incorporated herein by reference. A *Debarment Certification Form* is required (See VII. Debarment). Anti-Lobbying Certification to be provided to the Harvard Office of Sponsored Research.

#### **XI. OCCUPATIONAL SAFETY AND HEALTH ACT**

To the extent that the products sold and/or services rendered to the buyer are covered by standards or regulations promulgated by the U.S. Department of Labor under the Occupational Safety and Health Act of 1970 (29 U.S. Code Sec. 651, Public Law 91-596), the seller agrees to comply with such standards or regulations.

App. ONR 7/29/97

**ATTACHMENT A.1**

**FEDERAL ACQUISITION REGULATION (FAR) (48 CFR CHAPTER 1) CLAUSES:**

<b>Clause No.</b>	<b>Title</b>	<b>Clause No.</b>	<b>Title</b>
52.202-1	Definitions	52.222-12	Contract Termination - Debarment
52.203-3	Gratuities (over \$100,000)	52.222-14	Disputes concerning Labor Standards
52.203-5	Covenant Against Contingent Fees(over \$100,000)	52.222-15	Certification of Eligibility
52.203-6	Restrictions on SUBCONTACTOR Sales to the Gov't (Over \$100,000)	52.222-21	Certification on Non-segregated facilities
52.203-7	Anti-Kickback Procedures (Over \$100,000)	52.222-26	Equal Opportunity
52.203-8	Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity (Over \$100,000)	52.222-35	Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era
52.203-10	Price or Fee Adjustment for Illegal or Improper Activity (Over \$100,000)	52.222-36	Affirmative Action for worker's with Disabilities
52.203-11	Certification and disclosure regarding payments to influence Federal transactions	52.222-37	Employ. Reports on Disabled Veterans and Vets of the Vietn.Era
52.203-12	Limitation on Payments to Influence Certain Federal Transaction (Over \$100,000)	52.222-41	Service contract Act of 1965 as Amended
52.204-2	Security Requirements	52.223-1	Clean Air and Water Certification **
52.208-1	Requires sources for Jewel Bearings	52.223-2	Clean Air and Water (Over \$100,000)
52.209-5	Certification regarding debarment, suspension, proposed debarment, and other responsibility matters	52.223-3	Hazardous Material Identification and Material Safety Data
52.209-6	Protecting the Government's Interests when subcontracting with contractors debarred, suspended, or proposed for debarment (over \$25,000)	52.223-6	Drug-Free Workplace
52.215-2	Audit and Records - Negotiation (Over \$100,000)	52.223-14	Toxic Chemical Release Reporting
52.215-8	Order of Precedence - Uniform Contract Format	52.225-1	Buy American Act Balance of Payments Program
52.215-10	Price Reduction for Defective Cost or Pricing data	52.225-9	Trade Agreements Act
52.215-12	SUBCONTACTOR Cost or Pricing Data (Over \$500,000)	52.225-11	Restriction on Certain Foreign Purchases
52.215-14	Integrity of Unit Prices (Over \$100,000)	52.225-13	Restriction on Foreign Purchases
52.215-15	Pension Adjustments and Asset Reversions	52.227-1	Authorization and Consent, Alternate I (April 1984)
52.215-18	Reversion or Adjustment of Plans-for Post Retirement Benefits (PRB) other than Pensions	52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement (Over \$100,000)
52.215-19	Notification of Ownership changes	52.227-10	Filing of Patent Application, classified subject matter
52.215-21	Requirements for cost or pricing Data or Information Other than Cost or Pricing Data - Modifications	52.227-11	Patent Rights - Retention by the Contractor (short form)
52.215-24	Subcontractor Cost or Pricing Data	52.227-12	Patent Rights (long form)
52.215-26	Integrity of Unit Prices	52.227-14	Rights in Data - General, Alternate IV (June 1987)
52.219-8	Utilization of Small Business Concerns (Over \$100,000)	52.232-9	Limitation on Withholding of Payments
52.219-9	Woman-owned small business subcontracting plan (Over \$500K)	52.232-22	Limitation of Funds
52.219-16	Liquidated Damages - Subcontracting Plan (Over \$500,000)	52.232-23	Assignment of Claims
52.220-3	Labor Area Surplus Concerns	52.232-25	Prompt Payment
52.222-1	Notice to the government of labor dispute	52.232-34	Payment by Electronic Funds Transfer - Other than Cent.Cont.Reg.
52.222-3	Convict Labor	52.233-1	Disputes
52.222-6	Davis Bacon Act - Standards Overtime Compensation	52.233-3	Protest after Award
52.222-7	Withholding of funds	52.242-13	Bankruptcy (Over \$100,000)
52.222-8	Payroll and basic records	52.242-1	Stop Work Order
52.222-9	Apprentices and trainees	52.244-2	Subcontracts, Alternate (Aug'98) If written consent to subcontract is required, the identified subcontracts are listed in Article B
52.222-10	Compliance with Copeland Act	52.244-5	Competition in Subcontracting (Over \$100,000)
		52.245-2	Government Property (Fixed-Price Contracts, Time, Material,Labor
		52.246-23	Limitation of Liability (Over \$100,000)
		52.247-63	Preference for US Flag Air Carriers
		52.247-64	Preference for privately owned US Flag Commercial Vessels
		52.249-4	Termination for the Convenience of the Gov't (Services/short form)
		52.253-1	Computer generated forms
		**	Certification provided to Harvard Office of Sponsored Research

**DEPT. OF HEALTH & HUMAN SERVICES ACQUISITION REGULAT. (HHSAR) (48 CFR CHAPTER 3) CLAUSES:**

**DEPT. OF DEFENSE SUPPLEMENT TO FAR, CLAUSES:**

352.202-1	Definitions - Alternate I (April 1984)	252.203-7001	Special Prohibition Employment
352.228-7	Insurance - Liability to Third Persons	252.204-7000	Disclosure of Information
352.232-9	Withholding of Contract Payments	252.225-7009	Duty free entry - qualify's county end products and supplies
352.233-70	Litigation and Claims	252.225-7010	Duty free, Additional provisions
352.242-71	Final decisions on Audit Findings	252.225-7026	Reporting of overseas subcontracts
352.249-14	Excusable Delays	252.227-7013	Rights in technical data and computer software
352.270-5	Key Personnel	252.227-7018	Restrictive markings on technical data
352.270-6	Publication and Publicity	232-227-7037	Validation of restrictive markings on technical data
352.270-7	Paperwork Reduction Act		