

## ATTACHMENT A

### RESEARCH FOUNDATION OF THE CITY UNIVERSITY OF NEW YORK FLOW-DOWN CLAUSES APPLICABLE TO FEDERAL AWARD (GRANTS & COOPERATIVE AGREEMENTS) FUNDED PURCHASES

If a PO involves the use of funds from a Federal government award or funds from a subcontract at any tier that is funded by a Federal government award, the following clauses from the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards ("Uniform Guidance"), Appendix II are incorporated into and form a part of the terms and conditions of the Contract. The full text of the Uniform Guidance may be found at [2 CFR Part 200](#). The Vendor agrees to flow down all applicable clauses from the Uniform Guidance to lower-tier subcontractors.

**1. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148):** Where applicable, all prime construction contracts in excess of \$2,000 must comply with the Davis-Bacon Act (40 U.S.C 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must pay wages not less than once a week. If the Davis-Bacon Act applies to this PO, Research Foundation included a copy of the current prevailing wage determination issued by the Department of Labor in the solicitation, and award of this PO is conditioned upon the acceptance of the wage determination. Research Foundation will report all suspected or reported violations of the Davis-Bacon Act to the Federal Awarding Agency.

**2. Copeland "Anti-Kickback" Act (40 U.S.C 3145):** Where applicable, all prime construction contracts over \$2,000 are subject to the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations. Contractor (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act prohibits Contractors or subcontractors from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. Research Foundation will report all suspected or reported violations to the Federal awarding agency.

**3. Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333):** Where applicable, all contracts over \$100,00 that involve the use of mechanics or laborers, Vendors must comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C 3702 of the Act, each Vendor must compute the wages of every mechanics and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worked is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or material or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

**4. Rights to Inventions Made Under a Contract or Agreement:** For POs awarded by Research Foundation under a "funding agreement," as defined in 37 CFR part 401.2(a) between a Federal Awarding Agency and Research Foundation, if Research Foundation or Vendor wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under the "funding agreement," Research Foundation or Vendor must comply with the requirements of 37 CFR Part 40, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreement," and any implementing regulations issued by the awarding agency.

**5. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387) as amended:** For Contracts and subgrants of amounts in excess of \$150,000, the Contractor must comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations will be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

**6. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352):** Vendors that apply or bid for an award exceeding \$100,000 must file the required certification required by this statute. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or

any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to Research Foundation.

**7. Procurement of recovered materials:** A Vendor that is a state agency or agency of a political subdivision of a state and its subcontractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of the Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

**8. HHS-NIH Requirements:** As applicable, Vendor shall comply with the Public Policy Requirements applicable to contractors providing routine goods and/or services as set forth in HHS Grants Policy Statement and NIH Grants Policy Statement.

**9. Conflict:** In the event that any terms in this Attachment A conflict with the General Terms and Conditions of the PO, the terms of this Attachment A will apply.

## RESEARCH FOUNDATION OF THE CITY UNIVERSITY OF NEW YORK FLOW-DOWN CLAUSES APPLICABLE TO FEDERAL CONTRACT FUNDED PURCHASES

If a PO involves the use of funds from a Federal government contract or subcontract at any tier, the following provisions from the Federal Acquisition Regulations ("FAR") and the Defense Federal Acquisition Regulation Supplement ("DFARS"), as in effect or as updated, amended, or revised from time to time, are incorporated into the Purchase Order by this reference where applicable and form a part of the terms and conditions of the Purchase Order. The Vendor agrees to flow down all applicable clauses to lower-tier subcontractors.

**Provisions Applicable to Purchases of "Commercial Items."** Only the following provisions are required for Purchase Orders involving the acquisition of "commercial items" (as defined at FAR 52.202-1). In general, a "commercial item" is a product or service that is available to the general public in the commercial marketplace.

FAR 52.202-1 Definitions (Nov. 2013)

FAR 52.203-13 Contractor Code of Business Ethics and Conduct (Oct. 2015)

FAR 52.203-17 Contractor Employee Whistleblower Rights and Requirement To Inform Employees of Whistleblower Rights (Apr. 2014)

FAR 52.219-8 Utilization of Small Business Concerns (Nov. 2016)

FAR 52.222-26 Equal Opportunity (Sept. 2016)

FAR 52.222-35 Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Oct. 2015)

FAR 52.222-36 Affirmative Action for Workers with Disabilities (Jul. 2014)

FAR 52.222-37 Employment Reports on Veterans (Feb. 2016)

FAR 52.222-40 Notification of Employee Rights Under the National Labor Relations Act (Dec 2010)

FAR 52.222-50 Combating Trafficking in Persons (Mar. 2015)

FAR 52.222-54 Employment Eligibility Verification (Oct. 2015)

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FAR 52.225-26 Contractors Performing Private Security Functions Outside The United States (Oct. 2016)

FAR 52.232-40 Providing Accelerated Payments to Small Business Subcontractors (Dec. 2013)

FAR 52.244-6 Subcontracts for Commercial Items (Jan. 2017)

FAR 52.247-64 Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb. 2006) DFARS 252.211-7003 Item Identification and Valuation (Mar. 2016)

DFARS 252.219-7004 Small Business Subcontracting Plan (Test Program) (Oct. 2014) DFARS 252.223-7008 Prohibition on Hexavalent Chromium (Jun. 2013)

DFARS 252.225-7009 Restriction on Acquisition of Certain Articles Containing Specialty Metals (Oct. 2014)

DFARS 252.225-7013 Duty-Free Entry (May 2016)

DFARS 252.227-7015 Technical Data – Commercial Items (Feb. 2014)

DFARS 252.227-7037 Validation of Restrictive Markings on Technical Data (Sept. 2016)

DFARS 252.229-7011 Reporting of Foreign Taxes – U.S. Assistance Programs (Sep. 2005)

DFARS 252.235-7002 Animal Welfare (Dec. 2014)

DFARS 252.235-7004 Protection of Human Subjects (Jul. 2009)

DFARS 252-236-7013 Requirement for Competition Opportunity for American Steel Producers, Fabricators, and Manufacturers (Jun. 2013)

DFARS 252.244-7000 Subcontracts for Commercial Items (Jun. 2013)

DFARS 252.246-7003 Notification of Potential Safety Issues (Jun. 2013)

DFARS 252.247-7003 Pass-Through of Motor Carrier Fuel Surcharge Adjustment to the Cost Bearer (June. 2013)

DFARS 252.247-7023 Transportation of Supplies by Sea (Apr. 2014)

DFARS 252.247-7024 Notification of Transportation of Supplies by Sea (March 2000)