

## GEORGE WASHINGTON STANDARD TERMS & CONDITIONS

**THIS PURCHASE ORDER IS SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS WHICH ARE MADE A PART THEREOF BY REFERENCE.**

### **Part 1: Terms and Conditions** (Applicable to all Suppliers)

**1. Formation of Contract.** Supplier's commencement of work or shipment of goods hereunder (whichever occurs first) shall be deemed an effective mode of acceptance of the University's offer to purchase contained in this purchase order (PO). Any acceptance of this PO is limited to acceptance of the express terms it contains. Any proposal for additional or different terms or any attempt by Supplier to vary in any degree any of the terms of this PO in Supplier's acceptance is hereby objected to and rejected, but such proposal shall not operate as a rejection of this offer to purchase unless such variances are in the terms of the description, quantity, price, or delivery schedule of the goods or services. Such proposal for additional or different terms shall be deemed a material alteration thereof, and this offer shall be deemed accepted by the Supplier without such additional or different terms. If this PO shall be deemed an acceptance of a prior offer by Supplier, such acceptance is limited to the express terms contained in this PO. Additional or different terms or any attempt by Supplier to vary in any degree any of the terms of this PO shall be deemed material and shall be rejected. However, this PO shall not operate as a rejection of the Supplier's offer unless it contains variances in the terms of the description, quantity, price, or delivery schedule of the goods or services.

**2. Cancellation.** The University reserves the right at any time for its convenience to cancel this PO as to all or any portion of the goods then not shipped or services then not performed, subject to an equitable adjustment between the parties as to any work or materials (but not to include standard stock) then in progress. Supplier shall not be paid for any amount of lost profits on canceled orders, or for any avoidable costs incurred after receipt of notice of cancellation, including but not limited to any costs incurred by Supplier's suppliers or subcontractors which Supplier could reasonably have avoided. No termination for convenience shall relieve Supplier or University of its obligations as to any goods or services previously delivered hereunder. Any claim for adjustment hereunder must be asserted within thirty (30) days after the date of Supplier's receipt of notice of cancellation.

**3. Termination for cause.** The University may terminate this PO or any part hereof at any time for cause in the event Supplier fails to comply with any of the terms and conditions of this PO, including, without limitation, late delivery or performance, the delivery of defective or non-conforming goods or services, or failure to provide the University with reasonable assurances of future performance. In the event of termination for cause, the University shall not be liable to Supplier for any amount, and Supplier shall be liable to University for any and all damages sustained by reason of the default which gave rise to the termination.

**4. Warranty.** Supplier expressly warrants that all goods and services furnished under this PO shall conform to all specifications and industry standards, and will be free from

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defects, including, where applicable and without limitation, defects in material, workmanship, and title. Supplier warrants that all goods and services furnished hereunder will be merchantable and will be safe and appropriate for the purposes for which goods and services of that kind are normally used. If Supplier knows or has reason to know the particular purpose for which the University intends to use the goods or services, Supplier warrants that such goods and services will be fit for such particular purpose. Supplier warrants that goods or services furnished will conform in all respects to samples, advertisements and other forms of representation made to the University regarding the goods or services purchased or supplied. Inspection, test, acceptance or use of the goods or services furnished hereunder by the University shall not affect the Supplier's obligation under this warranty, and such obligations shall survive inspection, test, acceptance and use. Supplier's warranty shall run to the University, its successors, assigns, customers, faculty, staff and students. Supplier may not negate, exclude, limit, or modify in any way any warranty otherwise available to University. Supplier agrees to promptly replace or correct defects of any goods or services not conforming to the foregoing warranty, without expense to the University, when notified of such nonconformity by the University, provided the University elects to provide Supplier with the opportunity to do so. In the event of failure of Supplier to correct defects in or replace nonconforming goods or services promptly, the University, after reasonable notice to Supplier, may make such corrections or replace such goods and services and charge Supplier the cost incurred by the University in doing so. These warranties are in addition to those otherwise offered by Supplier and Manufacturer.

**5. Set-off.** All claims for money due or to become due to the University from Supplier shall be subject to deduction or setoff by the University against any amounts owed to Supplier from University arising out of this or any other transaction with Supplier. The University may exercise its set-off rights without prior notice to Supplier.

**6. Waiver.** The University's delay or failure to enforce any term or condition of this PO shall not operate to waive such term or condition. Any such waiver must be expressed by the University in an authorized writing.

**7. Delivery.** Wherever this PO sets a date or time for the delivery of goods and services, time is of the essence. The University may regard the failure to deliver in a timely manner as a breach of these terms and conditions, entitling the University to all rights and remedies at law, in equity, and under the specific remedies of this PO. Title and risk of loss or damage to items ordered herein shall remain with Supplier until delivered to and accepted by the University. All packaging, carting, transportation, and insurance charges are to be paid for by the Supplier, unless otherwise specifically stated in the PO. All goods shipped shall be free of liens or encumbrances. The Supplier shall furnish satisfactory evidence of freedom from any such liens or encumbrances if requested to do by the University.

**8. Indemnification.** Supplier shall defend and indemnify the University against, and shall hold the University harmless from, any claims made by any person or entity as a result of injuries, damages, expenses and losses incurred by such a person or entity,

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including without limitation such person's or entity's and the University's legal costs and attorney's fees (hereinafter collectively "Liabilities"), arising out of or relating to Supplier's performance or failure to perform pursuant to this PO, except to the extent that the Liabilities are a result of the direct and sole negligence of the University. This provision shall survive the termination or completion of the work or expiration of this PO.

**9. Insurance.** Supplier must provide to the University's Purchasing Department a Certificate of Insurance with proof of the following amounts of coverage:

a) Commercial General Liability insurance written on occurrence basis with the following limits:

General Aggregate Limit	\$2,000,000
Products/Completed Operations	\$2,000,000 aggregate
Personal Injury and Adv. Injury Limit	\$1,000,000 ea. person/organization
Bodily Injury & Property Damage Limit	\$1,000,000 each occurrence
Fire Damage	\$1,000,000 (any one fire)
Medical Expense	\$5,000 (any one person)

(Pollution Liability Endorsement of \$1,000,000 per occurrence will also be needed in the event hazardous materials are to be involved. If this contract requires the disposal of hazardous materials, all disposal locations must be approved by the Office of Risk Management.)

No exclusions for: Product/Completed Operations; Contractual Liability; Independent Contractors; Personal & Advertising Injury.

b) Automobile Liability: Any Auto Owned, Hired and Non-Owned Combined Single Limit for Bodily Injury & Property Damage \$1,000,000.

For Transportation of Hazardous Materials: Automobile liability insurance with an MCS-90 endorsement for \$5,000,000 and Pollution Liability of \$1,000,000 each accident.

c) Excess "Umbrella" Liability \$2,000,000 ea. occurrence/aggregate.  
The umbrella coverage should be no more restrictive than underlying coverage.

d) Workers' Comp. Statutory Coverage as required by law.

e) Employers' Liability \$1,000,000 each accident; \$1,000,000 each employee – disease; \$1,000,000 aggregate disease.

"The George Washington University" is to be named as an additional insured on all liability policies, except for Workers Compensation. The foregoing insurance and limits of coverage are to be considered as minimum requirements under this Agreement, and in

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no way shall limit Supplier's liability. Each policy of insurance shall be issued in a company or companies licensed to do business in the District of Columbia, maintaining a Best's rating of at least A-, VII, and shall provide for written notification to University at least thirty (30) days prior to termination or restrictive amendment. The correct certificate holders' name must be shown as: "The George Washington University, Office of Risk Management, 2025 F Street, NW, Suite 101, Washington, DC 20052."

These are minimum insurance requirements and are subject to change based on the contract amount and the type of activity. Refer to the updated Contract Matrix maintained by GW's Office of Risk Management for more contract specific requirements at [www.gwu.edu/~riskmgnt/insurance/contract\\_matrix.pdf](http://www.gwu.edu/~riskmgnt/insurance/contract_matrix.pdf).

**10. Assignment.** None of Supplier's duties to perform its obligations under this PO may be delegated or assigned to another person or party without the prior written consent of the University's Purchasing Department. The University may assign this PO to any affiliate, or successor in interest to all or any part of its operations without prior notice to Supplier.

**11. Access to Records.** Supplier shall preserve and permit University or any of University's duly-authorized representatives to examine and audit all directly pertinent books, documents, papers and records of Supplier involving transactions related to this PO for the purpose of making audits, examinations, excerpts and transcripts for a period of three (3) years after final payment hereunder. Supplier agrees to refund to University any overpayments disclosed by any audit.

**12. Publicity.** Supplier shall not, in any way or in any form, publicize or advertise the fact that Supplier is supplying goods or providing services to University without the express written approval of the University.

**13. Remedies not Exclusive.** The remedies available to University under this PO are not exclusive, but are in addition to such other remedies available to University by law, or in any way arising out of Supplier's performance under this PO.

**14. Applicable law.** This PO, and all disputes arising hereunder, shall be governed by the laws of the District of Columbia, and the parties commit to the jurisdiction and venue of the courts located in The District of Columbia, to adjudicate any dispute arising under or relating to this PO.

**15. Modifications in Writing.** The PO, when accepted as indicated herein, may not be modified, amended, rescinded, or in any way varied, except by a writing signed by the parties.

**16. Electronic/Facsimile Transmission.** If the PO is transmitted by electronic means of transmission, such transmission shall have the legal significance of a duly executed original delivered to the Supplier.

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**17. Sales and Use Taxes.** University is a 501(c) (3) organization and is exempt from sales and use taxes. A Federal Tax Exemption Certificate will be furnished upon request.

**18. Cancellation for Conflict of Interest.** Supplier asserts that no conflict of interest exists between any University employee and Supplier. This PO is subject to cancellation if there is found to be a conflict of interest between a University employee and Supplier. Refer to the University "Conflict Of Interest Policy For Non-Faculty Employees" located at <http://my.gwu.edu/files/policies/ConflictofInterestNonFacultyFINAL.pdf>.

**19. Conflict with Provisions in Written Agreement.** In the event of a conflict between the terms of this PO and the terms and conditions of a separate written agreement executed by the University and Supplier in connection with a transaction governed hereby, the terms which are most favorable to the University shall prevail.

**20. Invoicing.** Each order must have an original and duplicate invoice, clearly displaying the corresponding PO number(s), mailed to "THE GEORGE WASHINGTON UNIVERSITY, SCO - ACCOUNTS PAYABLE DEPARTMENT, 44983 Knoll Square, Bldg 2, Suite 265, Ashburn, VA 20147". Accounts Payable may return invoices which do not comply with University policy. Questions regarding University invoicing policies or procedures should be directed to the SCO - Accounts Payable.

**21. IP Ownership.** The University will own all rights, title and interest in any and all intellectual property rights created in the performance or otherwise arising from this purchase, and Supplier will execute any assignments or other documents needed for the University to perfect such rights, provided that, for research collaboration pursuant to subcontracts under sponsored research agreements administered by the University's Office of Sponsored Programs, intellectual property rights will be governed by the terms of the grant or contract to the University to the extent such grant or contract requires intellectual property terms to apply to subcontractors.

### **Part 2: Compliance and Certifications** (Applicable to all Suppliers)

**C1. Debarment.** Supplier certifies that neither it nor any of its Principals (officers, directors, owners, partners, key employees, principal investigators, researchers or management or supervisory personnel) is presently debarred, suspended, proposed for debarment, declared ineligible or excluded from participation in this transaction or in any federal grant, benefit, contract or program (including but not limited to Medicare and Medicaid and Federal Health Care Programs) by any Federal department or agency. (See Executive Orders 12549 and 12689, 45 CFR part 76, 48 CFR part 9; 42 USC sect. 1320a-7). To the extent necessary to assure the accuracy of its certification, Supplier agrees to conduct searches of the List of Parties Excluded from Federal Procurement and Non-procurement Programs maintained by the General Services Administration (<http://epls.arnet.gov/>) and the List of Excluded Individuals and Entities maintained by the Department of Health and Human Services (<http://oig.hhs.gov>) prior to making its

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certification. Supplier acknowledges that the certification is a material representation of fact upon which University is relying in entering into this transaction. Supplier agrees to provide immediate written notice to University if it learns at any time that its certification was erroneous when submitted or if, during the term of this PO, it, or any of its Principals, is debarred, suspended, proposed for debarment, declared ineligible or excluded from participation in this transaction or in any federal grant, benefit, contract or program. If subcontracting is permitted by this PO, Supplier agrees that it will include this clause, without modification, in all subcontracts and subprojects, and in all solicitations for subcontract and subproject proposals. Supplier agrees that debarment, suspension, proposed debarment or suspension, ineligibility or exclusion of Supplier, or any of its Principals or subcontractors, shall constitute cause for immediate termination of this Agreement by University.

**C2. Anti-Terrorism.** Supplier agrees to comply with all Federal anti-terrorism rules and regulations. Supplier's signature below shall serve as certification that, to the best of Supplier's knowledge, Supplier (a) is not, (b) has not been designated as, (c) is not owned, affiliated, or controlled by, and (D) does not support, assist or aid a suspected terrorist organization or individual as defined by Federal law including, but not limited to, Executive Order 13224.

**C3. Hazardous Materials.** If Supplier intends to bring onto the premises or take away from the University any hazardous chemicals or intends to engage in any activities which might reasonably be expected to create a danger or hazard to employees or other persons at the University, then in advance of any such activity, Supplier shall submit to the Office of Risk Management for review and approval its program for compliance with the University's Hazardous Waste Management Plan (HWMP) and its schedule and methods for performing such activities. Supplier will adhere to its approved program in the performance of all work to be done on University premises. Supplier is given notice hereby that the University has a Hazardous Waste Management Plan pursuant to the RCRA 1976 enactment and in compliance with EPA and District of Columbia regulations, and that Supplier should obtain further information regarding GW's HWMP by calling The Office of Risk Management at 202-994-3265.

**C4. Worker's Rights.** The University is committed to conducting their business affairs in a socially responsible and ethical manner and protecting and preserving the global environment. For this reason, all University Supplier's must adopt or comply with a Fair Labor code of conduct in the conduct of its business.

**C5. Supplier Diversity Initiative Program (MBE/WBE).** The University voluntarily maintains a Supplier Diversity Initiative Program as part of its efforts to increase participation of minority and women vendors (MBE/WBE). GW seeks to achieve this goal through primary and second-tier suppliers. All primary suppliers must submit a plan with their bids, indicating how they intend to use minority and women vendors as their second-tier suppliers. Each plan will be evaluated based on good-faith efforts and will consider the following factors:

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-- Availability of minority/women vendors who can supply the goods and services requested in the bid documents

-- Competitiveness of the prospective second-tier suppliers.

The use of local minority and women-owned businesses strengthens our commitment to the local community. In all cases, however, it is expected that the vendors meet the criteria relating to price, service, and delivery. Supplier diversity will be one, but not the sole, consideration in all contract awards. Ultimately it will be left to the discretion of the primary supplier as to which second-tier suppliers it uses. When a contract is awarded, the supplier is required to maintain its second-tier effort and to submit monthly reports on its progress.

**C6. Federal Equal Employment Opportunity Law Compliance.** The University is a federal contractor and as such we expect your firm to comply with all applicable federal equal opportunity laws, orders and regulations, including without limitation, Executive Order 11246, the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1972, the Rehabilitation Act of 1973, the Vietnam Era Veterans Readjustment Assistance Act of 1974, the Americans With Disabilities Act of 1990, and the Civil Rights Act of 1991.

You may expect to receive requests from time to time for confirmation of compliance with the foregoing.

**C7. Certification and Disclosure Regarding Payments to Influence Certain Federal Transaction.** Supplier certifies that to the best of Supplier's knowledge and belief it has read, fully understands and certifies that no funds have been paid to any person for influencing or attempting to influence in connection with the awarding of this PO in violation of FAR 52.203 11 or 12.

### **Part 3: Service Terms** (Applicable to all Suppliers providing Services)

**S1. Independent Contractor.** Supplier is an independent contractor, and shall not act or purport to act as an agent, representative or employee of the University. Supplier will determine the means and methods of performing its services. Supplier will supply all equipment, tools, materials, parts, supplies and labor (and the transportation of the same) required to perform except as the University has otherwise agreed in writing. Supplier is solely responsible for payment of income, social security, and other employment taxes due to the proper taxing authorities. No payroll or employee taxes of any kind shall be withheld or paid with respect to payments to Supplier or its employees. The payroll or employment taxes that are subject of this paragraph include but are not limited to FICA, FUTA, federal personal income tax, state personal income tax, state disability insurance tax, and state unemployment insurance tax.

**S2. Personal Property/Equipment.** University shall have no responsibility for the loss, theft, mysterious disappearance of, or damage to equipment, tools, materials, supplies, and other personal property of Supplier or its agents or employees that may be brought onto University premises or stored at University, except for damage caused by the direct and sole negligence of University.

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**S3. Work Authorization.** Supplier will ensure that if any of its employees assigned to work under this PO are not a US worker (i.e., US citizen, lawful permanent resident, temporary legal resident, refugee, or asylee), the terms of his/her visa status will permit the employee and/or Consultant to perform and accept payments legally for services provided as an independent contractor under this Agreement. Supplier warrants further to the University that it will properly complete I-9 forms for each employee Supplier hires to perform services for the University during the period of this PO. Supplier hereby indemnifies the University for any costs, expense, penalties and damages, including reasonable attorneys' fees, arising out of Supplier's failure to comply with its obligations under IRCA relating to the hiring and employment of unauthorized aliens.

**S4. Standard of Care.** Supplier will provide adequate and competent staff and supervision thereof, and will in all respects perform with at least that degree of care, skill and diligence normally exercised by persons regularly engaged in Supplier's business or profession.

**S5. Lawful Compliance.** Supplier and its employees will comply with all applicable laws, ordinances and regulations of governmental authorities and with the rules and regulations of the University and its insurers while on the University's premises. To verify compliance with the foregoing, Supplier will permit University officials to inspect Supplier's on site operations at any time.

**S6. Licensed Professions.** Supplier represents and warrants that Supplier (and each person or entity, if any, acting for or on behalf of Supplier) has all licenses, certificates, and other professional credentials required by law to perform the purchased services. If Supplier, persons in Supplier's employ, or persons otherwise acting for or on behalf of Supplier are so required to maintain professional licensure, certification or similar credentials in order to perform the purchased services, then in addition to the requirements set forth in Part 1, section 9 above, Supplier must maintain Professional Liability coverage on all professionals with limits of at least \$1,000,000 per occurrence and \$3,000,000 aggregate. If professional liability insurance is required under this section, then proof of such coverage shall be included in Supplier's Certificate of Insurance.

### **Part 4: Federal Compliance Terms** (Applicable To Suppliers Paid With Federally-Sourced Funds)

**F1. Applicability.** The terms of this Part 4 apply to the purchase of any goods and services by the University using federally-sourced funds. If Supplier is not otherwise aware of whether the funds are sourced from a federal grant or contract, then Supplier shall inquire of the University.

**F2. Compliance.** All goods and services sold hereunder shall be produced, sold, delivered and furnished in compliance with all laws and regulations applicable to procurement under loans, grants or other financial support of the United States

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government agency or agencies which have provided that support ("Funding Agency"). This includes, but is not limited to, the Procurement Standards set forth in Subpart C of OMB Circular A-110 and the applicable provisions of the Federal Acquisition Regulation, together with any additions or supplements thereto promulgated by the Funding Agency ("FAR").

**F3. Access to Records.** The access to records set forth in paragraph 11 of Part 1 above shall apply to the Funding Agency, the Controller General of the United States and any duly-authorized representatives thereof.

**F4. Equal Opportunity.** Supplier shall comply with E.O. 11246, "Equal Employment Opportunity", as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR, part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

**F5. Anti-Kickback.** Supplier, if engaged hereby for construction or repair in an amount in excess of \$2000, shall comply with (a) the Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented by Department of Labor Regulations (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").

**F6. Davis-Bacon.** Supplier, if engaged hereby for construction or repair in an amount in excess of \$2000, shall comply with the Davis-Bacon Act (40 U.S.C. 276a to a-7), as supplemented by Department of Labor regulations (29 CFR part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction").

**F7. Hours and Standards.** Supplier, if engaged hereby for construction in an amount in excess of \$2000 or other work in an amount of \$2500 that involves the employment of mechanics or laborers, shall comply with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR part 5).

**F8. Inventions.** All rights of the Federal Government and the University to any resulting inventions are reserved to them in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements" and any applicable implementing regulations.

**F9. Environmental.** Supplier, if engaged hereby for an amount in excess of \$100,000, shall comply with all applicable standards, orders and regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). Violations must be reported to Purchaser and/or federal agencies as required under OMB Circular A-110.

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**F10. Anti-Lobbying.** Supplier, if engaged hereby for an amount in excess of \$100,000, shall comply with the requirements of the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352), by providing to Purchaser all certifications required thereunder regarding the disclosure of the use of funds for lobbying.

**F11. Flow-Down.** Supplier will assure that any subcontract let hereunder includes clauses F3 through this F11, where such inclusion is required under OMB Circular A-110.

**F12. Federal Acquisition Regulation.** Incorporated herein by reference are those provisions of the FAR which by their terms are to be flowed down to a procurement of the sort provided for here. All such provisions are incorporated with the same force and effect as if they were given in full text and apply to Supplier as Contractor, including provisions for the further flow-down of such provisions to subcontracts entered into by Supplier. A listing of FAR provisions is available from Purchaser on Supplier's request or on-line at <http://www.arnet.gov/far/>. By their terms, not all listed provisions apply to this transaction. In particular, and without limitation to the foregoing, in the acquisition of "commercial items" or "commercial components" (as those are defined 48 CFR 52.202-1), FAR provisions are not required to be included, other than those listed below to the extent they are applicable and as may be required to establish the reasonableness of prices under 48 CFR Part 15:

- 1) 52.219-8, Utilization of Small Business Concerns (15 U.S.C. 637 (d)(2) and (3))(see 52.244-6 (c) (1)(i) for applications if any) to Supplier and sub-contractor of Supplier;
- 2) 52.222-26, Equal Opportunity (E.O. 11246);
- 3) 52.222-35, Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era (38 U.S.C. 4212(a));
- 4) 52.222-36, Affirmative Action for Workers with Disabilities (20 U.S.C. 793);
- 5) 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).

### Additional FAR Provisions:

Applies to all orders for contracts: Pricing Adjustment – DFAR 252.243-7002, Notice to the Government of Labor Disputes – FAR 52.222-1, Preference for US Flag Air Carriers – FAR 52.247-63, Use of US Flag Commercial Vessels – FAR 52.247-64, Buy American Act Supplies – FAR 52.225-3, Disputes – FAR 52.233-1, Hazardous Materials Identification and Material Safety Date – FAR 52.223-3, Americans with Disabilities Act of 1990- PL 101-33642, Authorization and Consent – FAR 52.227-1, Duty Free Entry – DFAR 252.225-7013, Reporting of Overseas Subcontracts – DFAR 252-225-7025, Rights in Technical Data for Noncommercial Items – DFAR 252.227-7013, Rights in Noncommercial Technical Data and Computer Software SBIR Program – DFAR 252.227-7018, Validation of Restrictive Markings on Technical Data – DFAR 252.227-7037, Drug Free Work Place Cost or Pricing Data Modifications – FAR 52.223-6, Restrictions on Certain Foreign Purchases – FAR 52.225-13, Patents Subcontracts – DFAR 252.227-7034 and Patents Reporting of Subject Inventions – DFAR 252.227-7039.

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Applies to all orders for contracts over \$2,500: Contract Work Hours and Safety Standards Act-Overtime Compensation – FAR 52.222-4, Affirmative Action for Workers with Disabilities – FAR 52.222-36 and Service Contracts Act of 1965 as Amended – FAR 52.222-41.

Applies to all orders for contracts over \$10,000: Equal Opportunity – FAR 52.222-26, Utilization of Small Business Concerns – FAR 52.219-8, Prohibition of Segregated Facilities – FAR 52.222-21, Instructions to Offerors-Competitive Acquisition – FAR 52.215-1, Audit and Records – FAR 52.215-2, Walsh Healy Public Contracts Act – FAR 52.222-19 and 20 and Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era and Other Eligible Veterans – FAR 52.225-35.

Applies to all orders for contracts over \$25,000: Integrity of Unit Price – FAR 52.215-14, Notice of Assistance Regarding Patent and Copyright Infringement – FAR 52.227-2, Debarment and Suspension – FAR 52.209-5 and 6 and Responsibility for Supplies – FAR 52.246-16.

Applies to all orders for contracts over \$100,000: Anti-Kickback – FAR 52.203-7, Restrictions of Subcontractor Sales to Government – FAR 52.203-6, Limitations on Payments to Influence Certain Government Transactions – FAR 52.203-12, Price Reduction for Defective Cost or Pricing Data – FAR 52.214-27, Subcontractor Cost or Pricing Data – FAR 52.214-28, Waiver of Limitation on Severance Payments to Foreign Nationals – FAR 52.237-9, Prohibition on Persons Convicted of Fraud or Other Defense-Contract-Related Felonies – DFAR 252.203-7001, Oral Attestation of Securing Responsibilities – DFAR 252.204-7005 and the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).

Applies to all orders for contracts over \$500,000: Small Business Subcontracting Program – FAR 52.219-9 and Subcontractor Cost or Pricing Data Modifications – FAR 52-215-12 and 13.

### **Part 5: Health Record Terms** (Applicable To All Suppliers With Access To Patient Care Information)

**P1. Definitions.** Terms used herein shall have the meanings ascribed to them in the federal privacy and security regulations issued pursuant to the Health Insurance Portability and Accountability Act ("HIPAA") and codified at 45 C.F.R. parts 160 and 164, as may be amended from time to time (the "Rule"). "GW-PHI" shall mean Protected Health Information that Supplier receives, uses, creates, maintains or transmits on behalf of University under this PO.

### **P2. Permitted or Required Uses and Disclosures of GW-PHI by Supplier.**

Except as otherwise limited under this PO, Supplier may (a) use and disclose GW-PHI only as reasonably necessary to perform its obligations under the PO, provided that such use or disclosure would not violate the Rule if done by the University; (b) use GW-PHI for its proper management and administration and to carry out its legal responsibilities; and (c) disclose GW-PHI to a third party for the purpose of Supplier's proper management and administration or to carry out its legal responsibilities, provided that: (i) the disclosures are required by law; or (ii) Supplier obtains reasonable assurances from

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the third party that the GW-PHI will be held confidentially and used or further disclosed only as required by law or for the purpose for which it was disclosed to the third party, and the third party notifies Supplier of any instances of which it becomes aware in which the confidentiality of the GW-PHI has been breached.

**P3. Restriction on Use or Disclosure of GW-PHI.** Supplier will not use or disclose GW-PHI other than as permitted or required by this PO or as required by law.

**P4. Safeguards.** Supplier will use appropriate safeguards to prevent use or disclosure of GW-PHI other than as provided for by this PO. Supplier will implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of electronic GW-PHI no later than April 21, 2005.

**P5. Mitigation.** Supplier will mitigate, to the extent practicable, any harmful effect that is known to Supplier of a use or disclosure of GW-PHI by Supplier in violation of the requirements of this PO.

**P6. Reporting.** Supplier will report to the University any use or disclosure of GW-PHI not provided for by this PO or security incident of which Supplier becomes aware.

**P7. Agents and Subcontractors.** Subcontractor will ensure that all of its subcontractors and agents that receive, use or have access to GW-PHI agree, in writing, to essentially the same restrictions and conditions on the use and/or disclosure of GW-PHI that apply through this PO to Supplier with respect to such information, and to implement reasonable and appropriate safeguards to protect such GW-PHI.

**P8. Access.** At the request of, and in the reasonable time and manner specified by, the University, Supplier will provide access to GW-PHI in a designated record set to the University, or, if directed by the University, to an individual in order to permit the University to meet the applicable Rule's access requirements.

**P9. Amendment of GW-PHI.** At the request of, and in the reasonable time and manner specified by, the University, Supplier will make amendment(s) to GW-PHI in a designated record set, in order to permit the University to meet the Rule's amendment requirements.

**P10. Open Books.** Supplier will make its internal practices, books and records, including policies and procedures, relating to the use and disclosure of GW-PHI, available to the Secretary of Health and Human Services ("Secretary"), in the reasonable time and manner specified by the Secretary, for purposes of the Secretary's determining the University's compliance with the Rule.

**P11. Accounting of Disclosures.** Supplier will document disclosures of GW-PHI and information related to such disclosures as would be required for the University to respond to an individual's request for an accounting of disclosures of GW-PHI in

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accordance with the Rule's requirements; and will provide such information to the University in a reasonable time and manner specified by the University, to permit the University to respond to an individual's request for an accounting of disclosures of GW-PHI in accordance with the Rule's requirements.

**P12. Return or Destruction of GW-PHI.** Within thirty (30) days of the termination of the PO, Supplier will return to the University or destroy all GW-PHI in its possession or control, including such GW-PHI that is in the possession of Supplier's subcontractors and agents, and if feasible, retain no copies of such GW-PHI. If Supplier considers return or destruction of the GW-PHI infeasible, Supplier will notify the University of the conditions that make return or destruction infeasible, and if the University agrees that return or destruction is infeasible, Supplier may retain the GW-PHI, provided that it will extend all protections contained in this PO to its use and/or disclosure of any retained GW-PHI, and limit any further uses and/or disclosures to the purposes that make the return or destruction of the GW-PHI infeasible.

**P13. Remedies.** In the event of a material breach of this Part 5 by Supplier, the University may at any time thereafter, and in its sole discretion, either: (a) notify Supplier of the breach in writing, providing an opportunity for Supplier to cure the breach, and terminate this PO if Supplier does not cure the breach within the time specified by the University in such notice; or (b) immediately terminate this PO on written notice to Supplier.