



PRIME CONTRACT REQUIREMENTS

**LICENSED LAUNCH ACTIVITY**

(a) As required by 14 C.F.R. part 440 of the regulations of the Federal Aviation Administration (FAA) of the U.S. Department of Transportation, the reciprocal waiver of claims in this clause between ULA and CONTRACTOR applies when ULA conducts a launch under 51 U.S.C. ch. 509. This reciprocal waiver of claims implements the provisions of §440.17(c) of the Commercial Space Transportation Licensing Regulations, 14 CFR Ch. III (the “Regulations”). This clause applies to ULA’s licensed activity, where ULA is the “Licensee” described by the Regulations. In consideration of the mutual releases and promises contained herein, the Parties hereby agree to the provisions contained in subparagraphs (b)-(g):

(b) The following definitions will apply to this clause only:

“Contractors and Subcontractors” means those entities that are involved at any level, directly or indirectly, in Licensed Activities or Permitted Activities, and includes suppliers of property and services, and the component manufacturers of the launch vehicle.

“Customer” means ULA’s Customer or any other customer defined by §440.3 of the Regulations.

“Launch License” means any license issued by the Associate Administrator for Commercial Space Transportation, FAA, to ULA, including all license orders issued in connection with the License, under 51 U.S.C. Subtitle V, chapter 509.

Except as otherwise defined herein, terms used in this Clause and defined in the Regulations shall have the same meaning as contained in 51 U.S.C. Subtitle V, ch. 509, or the Regulations, respectively.

(c) Waiver and Release of Claims.

(i) ULA hereby waives and releases claims it may have against CONTRACTOR and each of CONTRACTOR’S Contractors and Subcontractors, for Property Damage it sustains and for Bodily Injury or Property Damage sustained by its own employees, resulting from Licensed Activity, regardless of fault.

(ii) CONTRACTOR hereby waives and releases claims it may have against ULA, the United States, any Customer, and each of their respective Contractors and Subcontractors, and against any space flight participant, for Property Damage it sustains and for Bodily Injury or Property Damage sustained by its own employees, resulting from Licensed Activity, regardless of fault.

(e) Assumption of Responsibility.

ULA and CONTRACTOR shall each be responsible for Property Damage it sustains and for Bodily Injury or Property Damage sustained by its own employees, resulting from Licensed Activities, regardless of fault. ULA and CONTRACTOR shall each hold harmless and indemnify each other, the United States, any Customer, and the Contractors and Subcontractors of each, and any space flight participant, for Bodily Injury or Property Damage sustained by its own employees, resulting from Licensed Activities, regardless of fault.

(f) Extension of Assumption of Responsibility and Waiver and Release of Claims.

(i) ULA shall extend the requirements of the waiver and release of claims, and the assumption of responsibility, hold harmless, and indemnification, as set forth in paragraphs (c)(i) and (e), respectively, to its Contractors and Subcontractors by requiring them to waive and release all claims they may have against CONTRACTOR and each of its Contractors and Subcontractors, and to agree to be responsible, for Property Damage they sustain and to be responsible, hold harmless, and indemnify CONTRACTOR and each of its Contractors and Subcontractors, for Bodily Injury or Property Damage sustained by their own employees, resulting from Licensed Activities, regardless of fault.

(ii) CONTRACTOR shall extend the requirements of the waiver and release of claims, and the assumption of responsibility, hold harmless and indemnification, as set forth in paragraphs (c)(i)(ii) and (e), respectively, to its Contractors and Subcontractors by requiring them to waive and release all claims they may have against ULA, the United States, and any Customer, and each of their respective Contractors and Subcontractors, and any space flight participant and to be responsible, hold harmless and indemnify ULA, the United States, and any Customer, and each of their respective Contractors and Subcontractors, and any space flight

participant, for Bodily Injury or Property Damage sustained by their own employees, resulting from Licensed Activities, regardless of fault.

(g) Indemnification.

(i) ULA shall hold harmless and indemnify CONTRACTOR and its directors, officers, servants, agents, subsidiaries, employees and assignees, or any of them, from and against liability, loss, or damage arising out of claims that ULA's Contractors, and Subcontractors, or any Customer, may have for Property Damage sustained by them and for Bodily Injury or Property Damage sustained by their employees, resulting from Licensed Activities and arising out of ULA's failure to implement properly the waiver requirement of 14 C.F.R. §440.17.

(ii) CONTRACTOR shall hold harmless and indemnify ULA, any Customer, and the United States, and any of their directors, officers, servants, agents, subsidiaries, employees and assignees, or any of them, from and against liability, loss, or damage arising out of claims that CONTRACTOR's Contractors and Subcontractors may have for Property Damage sustained by them and for Bodily Injury or Property Damage sustained by their employees, resulting from Licensed Activities and arising out of CONTRACTOR'S failure to implement properly the waiver requirement of 14 C.F.R. § 440.17.

(h) Miscellaneous.

(i) Nothing contained herein shall be construed as a waiver or release by ULA or CONTRACTOR of any claim by an employee of ULA or CONTRACTOR, respectively, for Bodily Injury or Property Damage, resulting from Licensed Activities.

(ii) Notwithstanding any provision of this Agreement to the contrary, any waiver, release, assumption of responsibility or agreement to hold harmless and indemnify herein shall not apply to claims for Bodily Injury or Property Damage resulting from willful misconduct of any of the Parties, the Contractors and Subcontractors of any of the Parties, the United States, the Contractors and Subcontractors of the United States, any Customer, the Contractors and Subcontractors of any Customer, any space flight participant, and in the case of ULA, CONTRACTOR, any Customer, and the Contractors and Subcontractors of each of them, the directors, officers, agents and employees of any of the foregoing, and in the case of the United States, its agents.

(iii) CONTRACTOR and ULA shall each be responsible for such insurance as they deem necessary to protect their respective property. Any such insurance procured by one Party shall provide that the insurers shall waive all rights of subrogation against the other Party and, in the case of insurance procured by ULA, a waiver of subrogation for the benefit of CONTRACTOR's Contractors Subcontractors and, in the case of CONTRACTOR, a waiver of subrogation for the benefit of ULA's Contractors and Subcontractors, ULA's Customers, the United States, and their respective Contractors and Subcontractors and space flight participants.

(iv) This clause shall be governed by and construed in accordance with United States Federal law.