



Doc 2 A

DEFENSE FEDERAL ACQUISITION REGULATION SUPPLEMENT (DFARS) FLOWDOWN PROVISIONS FOR SUBCONTRACTS/PURCHASE ORDERS FOR COMMERCIAL ITEMS UNDER A U.S. GOVERNMENT PRIME CONTRACT

A. INCORPORATION OF DFARS CLAUSES

The Defense Federal Acquisition Regulation Supplement (DFARS) clauses referenced below are incorporated herein by reference, with the same force and effect as if they were given in full text, and are applicable, including any notes following the clause citation, to this Contract. If the date or substance of any of the clauses listed below is different from the date or substance of the clause actually incorporated in the Prime Contract referenced by number herein, the date or substance of the clause incorporated by said Prime Contract shall apply instead. The Contracts Disputes Act shall have no application to this Contract. Any reference to a "Disputes" clause shall mean the "Disputes" clause of this Contract.

B. GOVERNMENT SUBCONTRACT

(a) This Contract is entered into by the parties in support of a U.S. Government contract.

(b) As used in the clauses referenced below and otherwise in this Contract:

1. "Commercial Item" means a commercial item as defined in FAR 2.101.
2. "Contract" means this Contract.
3. "Contracting Officer" shall mean the U.S. Government Contracting Officer for ULA's government prime contract under which this Contract is entered.
4. "Contractor" or "Offeror" means the CONTRACTOR, as defined in DOC 2, acting as the immediate (first tier) subcontractor to ULA.
5. "Prime Contract" means the contract between ULA and the U.S. Government or between ULA and its higher-tier contractor who has a contract with the U.S. Government.
6. "Subcontract" means any contract placed by the Contractor or lower-tier subcontractors under this Contract

C. NOTES

1. Substitute "ULA" for "Government" or "United States" throughout this clause.
2. Substitute "Procurement Representative" for "Contracting Officer", "Administrative Contracting Officer", and "ACO" throughout this clause.
3. Insert "and ULA" after "Government" throughout this clause.
4. Insert "or ULA" after "Government" throughout this clause.
5. Communication/notification required under this clause from/to the Contractor to/from the Contracting Officer shall be through ULA.
6. Insert "and ULA" after "Contracting Officer" throughout the clause.
7. Insert "or Procurement Representative" after "Contracting Officer" throughout the clause.

D. AMENDMENTS REQUIRED BY PRIME CONTRACT

CONTRACTOR agrees that upon the request of ULA it will negotiate in good faith with ULA relative to amendments to this Contract to incorporate additional provisions herein or to change provisions hereof, as ULA may reasonably deem necessary in order to comply with the provisions of the applicable Prime Contract or with the provisions of amendments to such Prime Contract. If any such amendment to this Contract causes an increase or decrease in the cost of, or the time required for, performance of any part of the Work under this Contract, an equitable adjustment shall be made pursuant to the "Changes" clause of this Contract.

E. PRESERVATION OF THE GOVERNMENT'S RIGHTS

If ULA furnishes designs, drawings, special tooling, equipment, engineering data, or other technical or proprietary information (Furnished Items) to which the U.S. Government owns or has the right to authorize the use of, nothing herein shall be construed to mean that ULA, acting on its own behalf, may modify or limit any rights the Government may have to authorize the CONTRACTOR's use of such Furnished Items in support of other U.S. Government prime contracts.

F. PROVISIONS OF THE DEPARTMENT OF DEFENSE FEDERAL ACQUISITION REGULATION SUPPLEMENT (DFARS)

1. The following DFARS clauses apply to this Contract as indicated:

(a) 252.219-7003 SMALL, SMALL DISADVANTAGED AND WOMEN-OWNED SMALL BUSINESS SUBCONTRACTING PLAN (DoD CONTRACTS) (APR 2007) (Applicable if FAR 52.219-9 applies to this Contract. Delete paragraph (g).)

(b) 252.223-7002 SAFETY PRECAUTIONS FOR AMMUNITION AND EXPLOSIVES (MAY 1994) (Applies if this Contract involves ammunition or explosives. Note 2 applies except in paragraph (c)(4) where it means "Contracting Officer" as it relates to government personnel. "Government" means "ULA and the Government.")

(c) 252.223-7003 CHANGE IN PLACE OF PERFORMANCE AMMUNITION AND EXPLOSIVES (DEC 1991) (Applies if this contract involves ammunition or explosives. Note 2 applies. Note 3 applies.)

(d) 252.226-7001 UTILIZATION OF INDIAN ORGANIZATIONS, INDIAN-OWNED ECONOMIC ENTERPRISES, AND NATIVE HAWAIIAN SMALL BUSINESS CONCERNS (SEP 2004) (Applies if this Contract exceeds \$500,000. In f(1), "Contractor" shall mean "ULA." Note 2 applies to (c) the first time "Contracting Officer" appears.)

(e) 252.227-7015 TECHNICAL DATA - COMMERCIAL ITEMS (NOV 1995) (Applicable if technical data is to be delivered under this Contract.)

(f) 252.227-7025 LIMITATION ON THE USE OR DISCLOSURE OF GOVERNMENT FURNISHED INFORMATION MARKED WITH RESTRICTIVE LEGENDS (JUN 1995) (In paragraph (c)(1) Note 1 applies.)

(g) 252.227-7037 VALIDATION OF RESTRICTIVE MARKINGS ON TECHNICAL DATA (SEP 1999)

(h) 252.247-7023 TRANSPORTATION OF SUPPLIES BY SEA (MAY 2002) (Applicable if this Contract meets the criteria set forth in paragraph (b) (2) of the clause. Applicable in lieu of FAR 52.247-64 in all Contracts for ocean transportation of supplies. In the first sentence of paragraph (g), insert a period after "Contractor" and delete the balance of the sentence. Paragraphs (f) and (g) shall not apply if this Contract is at or below \$100,000. Notes 1 and 2 apply to paragraph (g).)