



DRAFT 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

This Draft Doc 2A (01-11) was written by ULA to anticipate what will be included in ULA's prime contract with its Government customers. ULA is in the process of negotiating new prime contracts and will finalize these terms and conditions upon award of definitized prime contracts. Any such revision would be subject to the Changes clause.

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. 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

This Contract is entered into by the parties in support of a U.S. Government contract. 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 the Procurement Representative" after "Contracting Officer" throughout the clause.
7. Insert "or the Procurement Representative" after "Contracting Officer" throughout the clause.

D. 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.

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

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

(a) 252.204-7008 EXPORT CONTROLLED ITEMS (APR 2010)

(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. Note 3 applies.)

(c) 252.223-7003 CHANGE IN PLACE OF PERFORMANCE - AMMUNITION AND EXPLOSIVES (DEC 1991) (Applies if this Contract involves ammunition or explosives. Notes 2 and 3 apply.)

(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 and if Work under the Contract will be performed in the United States or CONTRACTOR is recruiting employees in the United States to Work on the Contract. In f(1), "Contractor" shall mean "ULA." Note 2 applies to (c) the first time "Contracting Officer" appears.)

(e) 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.)

(f) 252.227-7030 TECHNICAL DATA—WITHHOLDING OF PAYMENT (MAR 2000) (Applies if there is technical data deliverables under this Contract. Notes 2 and 4 apply.)

(g) 252.235-7003 FREQUENCY AUTHORIZATION (DEC 1991) Alt I (AUG 2008) (Applicable if this Contract requires developing, producing, constructing, testing, or operating a device requiring a frequency authorization. Note 2 applies. Submit DD Form 1494 within thirty (30) days after contract award if frequency authorization is required.)

(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).)

(i) 252.249-7002 NOTIFICATION OF ANTICIPATED CONTRACT TERMINATION OR REDUCTION (OCT 2010) (Applicable if the value of this Contract exceeds \$650,000. Note 2 applies. Delete paragraph (d) (1) and the first five words of paragraph (d) (2).)650

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