



### DOC 3

## SUBCONTRACTS/PURCHASE ORDERS (ALL AGENCIES) FOR NON-COMMERCIAL ITEMS UNDER A U.S. GOVERNMENT PRIME CONTRACT

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### SECTION I: GENERAL PROVISIONS

#### DEFINITIONS

As used herein, the following terms shall have the meanings set forth below:

- (a) "Background Intellectual Property" means all Intellectual Property Made by or for a party apart from the performance of Work under this Contract.
- (b) "Contract" means the instrument of contracting, such as "Purchase Order", "PO", "Subcontract", or other such type designation, that includes these General Provisions, all referenced documents, exhibits, and attachments. If these terms and conditions are incorporated into a "master" agreement that provides for releases, (in the form of a Purchase Order or other such document) the term "Contract" shall also mean the release document for the Work to be performed.
- (c) "CONTRACTOR" means the party identified on the face of this Contract with whom ULA is contracting. CONTRACTOR shall mean the same as supplier, seller, vendor or other such type designation.
- (d) "Dispute(s)" means any dispute, claim, controversy, or proceeding of whatever nature arising out of, in connection with, or relating to the Contract, or breach thereof, whether sounding in contract, tort, or otherwise
- (e) "FAR" means the Federal Acquisition Regulation, issued as Chapter 1 of Title 48, Code of Federal Regulations.
- (f) "Foreground Intellectual Property" means all Intellectual Property Made by or for a party in the performance of Work under this Contract.
- (g) "Intellectual Property" means all (i) inventions, discoveries and improvements, (ii) all documented information in whatever form such as information embodied in drawings, test data, specifications, process documents, technical reports, and computer software (e.g., object code and source code) and related computer software documentation, and (iii) all domestic and foreign legal and statutory rights to the foregoing, including but not limited to, patents, trade secrets, copyrights, mask work registrations, and the like.
- (h) "Made" means conceived, developed, first produced, or created.

- (i) "Personal Information" means any non-public personal information provided by an individual to ULA, including any Personally Identifiable Information or Protected Health Information.
- (j) "Personally Identifiable Information (PII)" means any information which can potentially be used to uniquely identify, contact, or locate a single person.
- (k) "ULA Procurement Representative" means the person authorized by ULA's cognizant procurement organization to administer and/or execute this Contract.
- (l) "Protected Health Information (PHI)" means medical records and information of an individual as defined by Health Insurance Portability and Accountability Act of 1996 as amended.
- (m) "Special Provisions" means ULA's contractual terms and conditions documents that call out unique contractual requirements as they pertain to requirements including, but not limited to, quality assurance, conditions of shipment, property management, site requirements, as applicable.
- (n) "Subcontractor" means CONTRACTOR's vendors, sellers, or suppliers at any tier.
- (o) "Supplemental Documents" means ULA's contractual terms and conditions documents that supplement this Doc 3, Subcontracts/Purchase Orders (All Agencies) For Non-Commercial Items Under A U.S. Government Prime Contract document.
- (p) "ULA" means United Launch Alliance, LLC as identified on the face of the Contract.
- (q) "ULA's Customer" means any Government or commercial agency/entity, or organization ULA is under, or will be under, contract to support
- (r) "Work" means all required labor, articles, materials, supplies, goods, services and deliverable data, information and records embodying such information constituting the subject matter of this Contract.

## **1. ACCEPTANCE, MERGER AND SEVERABILITY**

(a) CONTRACTOR's execution of this Contract, written acknowledgment, acceptance of payment, or commencement of performance, shall constitute CONTRACTOR's unqualified acceptance of this Contract.

(b) Unless expressly accepted in writing by ULA, and incorporated into this Contract, additional or differing terms or conditions proposed by CONTRACTOR or included in CONTRACTOR's acknowledgment are objected to by ULA and have no effect.

(c) This Contract integrates, merges, and supersedes any prior offers, negotiations, proposals, term sheets, and agreements concerning the subject matter hereof and, constitutes the entire agreement between the parties.

(d) Each clause, paragraph and subparagraph of this Contract is severable, and if one or more of them are declared invalid or unlawful, the remaining provisions of this Contract will remain in full force and effect.

(e) The headings and tables used in this Contract are inserted for the convenience of the parties and shall not define or limit the scope or the intent of the provisions of this Contract.

(f) The provisions of this Contract, including all exhibits and attachments, shall be binding upon and inure to the benefit of the parties and their respective successors and any permitted assignees.

## **2. CONTRACT DIRECTION**

(a) Only the ULA Procurement Representative has authority to make changes to this Contract. All changes must be in writing.

(b) ULA personnel other than the ULA Procurement Representative may from time to time render assistance, give technical advice, or discuss or effect an exchange of information with CONTRACTOR's personnel concerning the Work hereunder. No such action shall be deemed to be a change under the "Changes" clause of this Contract and shall not be the basis for an equitable adjustment.

(c) Under the "Changes" clause of this Contract, the ULA Procurement Representative may direct changes as to the terms and conditions of this Contract required to meet ULA's obligations under Government prime contracts.

(d) Except as otherwise provided herein, all notices to be furnished by the CONTRACTOR shall be in writing and sent to the ULA Procurement Representative.

### **3. DISPUTES, GOVERNING LAW, AND LEGAL NOTIFICATIONS**

(a) Any Dispute that is not disposed of by mutual agreement or alternative dispute resolution may be decided by recourse to an action at law or in equity. Until final resolution of any Dispute hereunder, CONTRACTOR shall diligently proceed with the performance of this Contract as directed by ULA. **Each party hereby irrevocably waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect to any litigation directly or indirectly arising out of under or in connection with this Contract.**

(b) This Contract, and any Dispute shall be governed in accordance with the laws of the State of Colorado, excluding that State's conflicts of law provisions. Any lawsuit filed regarding this Contract shall be filed in either the Colorado District Court located in Arapahoe County, Colorado or the United States District Court located in Denver, Colorado. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Contract.

(c) Any provision in this Contract that is (i) incorporated in full text or by reference from the Federal Acquisition Regulation (FAR), Defense Federal Acquisition Regulation Supplement (DFARS), or any other agency-specific regulation; or (ii) incorporated in full text or by reference from any agency regulation that implements or supplements the FAR or; (iii) that is substantially based on any such agency regulation or FAR provision, shall be construed and interpreted according to the federal common law of government contracts as enunciated and applied by federal judicial bodies or courts, boards of contract appeals, and quasi-judicial agencies of the Federal Government.

(d) CONTRACTOR agrees to provide ULA with prompt written notification of any legal action, subpoena, claim, notice, demand or other legal proceeding brought against CONTRACTOR relating to or arising out of the Work performed under this Contract.

### **4. RIGHTS AND REMEDIES**

(a) Except as otherwise limited in this Contract, the rights and remedies set forth herein are cumulative and in addition to any other rights or remedies that the parties may have at law or in equity. Any failures, delays or forbearances of either party in insisting upon or enforcing any provisions of this Contract, or in exercising any rights or remedies under this Contract, shall not be construed as a waiver or relinquishment of any such provisions, rights or remedies; rather, the same shall remain in full force and effect.

(b) ULA's approval of CONTRACTOR's technical and quality specifications, drawings, plans, procedures, reports, and other documents shall not relieve CONTRACTOR of its obligations to comply with the requirements of this Contract.

### **5. COMPLIANCE WITH LAWS**

(a) In performing this Contract, CONTRACTOR agrees to comply with all applicable local, state, and federal laws, orders, rules, regulations, codes and ordinances ("Laws") as well as all licenses/permits issued in connection with the performance of this Contract that may affect performance of this Contract. CONTRACTOR shall not knowingly take any action that would cause ULA to be in violation of any such Laws, regulations, or licenses/permits. CONTRACTOR shall cooperate with, and provide access to, regulatory agencies or other authorities acting in an enforcement or compliance role. CONTRACTOR shall indemnify, defend and hold harmless ULA against any liability, fine or penalty that may be imposed upon ULA as a result of CONTRACTOR's failure to comply with such Laws, regulations, or licenses/permits.

(b) CONTRACTOR represents that each chemical substance constituting or contained in Work sold or otherwise transferred to ULA hereunder is on the approved list of chemical substances compiled and published by the Administrator of the Environmental Protection Administration pursuant to the Toxic Substances Control Act (15 U.S.C. Sec. 2601 et seq.) as amended.

(c) CONTRACTOR, at its expense, shall provide reasonable cooperation to ULA and ULA's Customer in conducting any investigation regarding the nature and scope of any failure by CONTRACTOR or its personnel to comply with applicable Laws that may relate to or affect the performance of CONTRACTOR's obligations under this Contract.

(d) CONTRACTOR shall provide to ULA with each delivery any Safety Data Sheet applicable to the Work in conformance with and containing such information as required by the Occupational Safety and Health Act of 1970 as amended and regulations promulgated thereunder, or its State approved counterpart.

(e) CONTRACTOR represents and warrants that it is not disqualified from receiving federal government contracts, meaning that it is not an excluded party as recorded in the System for Award Management (SAM) exclusion file available at SAM.gov. CONTRACTOR agrees to notify ULA immediately upon learning that it, any controlling owner, or any of its Subcontractor or affiliates performing work on this Contract have been excluded or proposed for exclusion from federal contracting in the exclusion file published at SAM.gov.

## **6. ETHICAL BUSINESS PRACTICES**

CONTRACTOR is responsible for maintaining an ethics and compliance program that is consistent with ULA's Supplier Code of Conduct (available on ULA's Supplier website, <https://www.ulalaunch.com/resources/doing-business-with-ula>), as appropriate for CONTRACTOR's business, throughout the performance of this Contract. CONTRACTOR shall ensure that persons performing work under this Contract are aware of the importance of ethical behavior and comply with the Code of Conduct. If, at any time, CONTRACTOR becomes aware of a violation of ULA's Supplier Code of Conduct in connection with this Contract, CONTRACTOR agrees to promptly notify ULA, either through communication with ULA's Procurement Representative, or through ULA's Confidential Ethics Helpline, at 1-800-511-4173. Nothing contained herein shall be construed to alter CONTRACTOR's requirements to comply with 52.203-13, Contractor Code of Business Ethics and Conduct.

## **7. CONFLICTS OF INTEREST**

(a) CONTRACTOR warrants that it is and shall remain free of any obligation or restriction that would interfere or be inconsistent with or present a conflict of interest concerning the Work to be furnished by CONTRACTOR under this Contract. CONTRACTOR is responsible for determining, in good faith, whether its activities or relationships, or those of its personnel, present or could present a conflict of interest. CONTRACTOR shall immediately notify ULA of any change in circumstance(s) that creates an actual, apparent, or potential conflict of interest. Prohibited conflicts of interest include those described in FAR Part 9.5.

(b) For the purposes of this clause, a conflict of interest exists if: (i) because of other business or organizational activities or relationships (including relationships with ULA's Customers or ULA's competitors), CONTRACTOR is unable to render impartial advice or assistance to ULA, or CONTRACTOR's objectivity in performing the Work under this Contract is otherwise impaired; or (ii) CONTRACTOR personnel performing Work under the Contract has a financial interest, personal activity, or relationship that impairs that employee's ability to act impartially on behalf of CONTRACTOR in the performance of the Contract.

## **8. EXPORT CONTROL**

(a) Proprietary Information includes technical data, defense services, software, and/or hardware furnished, including access to ULA facilities, in connection with this Contract and is subject to United States ("U.S.") export and import laws and regulations. CONTRACTOR agrees to comply with all such laws and regulations, including U.S. sanctions, and obtaining the appropriate U.S. Government authorization prior to exporting to a Foreign Person as defined in 22 C.F.R. 120.63, within the U.S. or abroad, as applicable. CONTRACTOR shall flow down the obligations of this subparagraph to its Subcontractors.

(b) CONTRACTOR certifies that only U.S. Persons, as defined in 22 C.F.R. 120.62, who are located in the U.S., will have access to subject data, services, software, and/or hardware. CONTRACTOR further certifies that only U.S. Persons shall engage directly in with ULA in any manner. CONTRACTOR represents Information Technology ("IT") systems (including, but not limited to, cloud services and email systems/services) that receive, store, process, or transmit ULA export controlled information are located in the U.S. and prevent access to subject data by Foreign Persons, unless compliant with 22 CFR 120.54. CONTRACTOR represents that it is not subject to foreign ownership or control, as defined in 22 CFR 120.65, by a proscribed, sanctioned, or otherwise prohibited entity or individual; and CONTRACTOR will promptly notify ULA in writing of any change in circumstance that would affect this representation. CONTRACTOR agrees that no proscribed, sanctioned, or otherwise prohibited entity or individual will have access to ULA Proprietary Information, even if non-export controlled. CONTRACTOR shall flow down the obligations of this subparagraph to its Subcontractors.

(c) CONTRACTOR certifies that no item delivered under this Contract, or any component thereof, will be sourced from a country or entity subject to U.S. sanctions and/or embargoes. CONTRACTOR is responsible for monitoring published lists of sanctioned entities to ensure that the prior statement remains accurate throughout Contract performance. If

CONTRACTOR becomes aware that any lower tier subcontractor, or the country of origin of a component, becomes subject to the above during Contract performance, CONTRACTOR shall immediately notify ULA in writing.

(d) CONTRACTOR represents that it is registered with the United States Department of State, Directorate of Defense Trade Controls and that it maintains an effective export and import compliance program.

(e) The exporter of record, who directly exports to a Foreign Person, has the ultimate responsibility to determine export jurisdiction, applicable license requirements, and to meet the applicable export laws and regulations. CONTRACTOR's responsibility to comply with all applicable laws and regulations regarding export-controlled items exists independent of, and is not established or limited by, the information provided by this clause. Nothing in this Contract changes, supersedes, or waives any of the requirements of applicable Federal laws, Executive Orders, and regulations regarding export control. CONTRACTOR should resolve any questions regarding compliance with the ITAR or Export Administration Regulations ("EAR"), including export classification determinations, by consulting with its Empowered Official or counsel, as applicable

(f) The CONTRACTOR agrees to cooperate with ULA for assessments, and other fact-finding as required, to ensure compliance to U.S. export/import laws and regulations or as required to address a potential or actual violation of U.S. export/import laws or regulations. The CONTRACTOR will provide input for such activities in a timely and accurate manner. CONTRACTOR shall flow down the obligations of this subparagraph to its Subcontractors.

(g) The CONTRACTOR agrees to provide to ULA timely and accurate reporting of fees and commissions paid related to Part 130 of the ITAR, as applicable. CONTRACTOR certifies that, except as otherwise reported to ULA, it has not paid, or offered, nor agreed to pay, and will not pay, offer, or agree to pay, in respect of any sale for which an export license or approval is required, political contributions, fees or commissions in amounts as specified in 22 C.F.R. 130.9. CONTRACTOR shall flow down the obligations of this subparagraph to its Subcontractors.

(h) For any shipment exported from the U.S. in which ULA is the U.S. Principal Party in Interest ("USPPI"), ULA prohibits the filing of Electronic Exporter Information ("EEI") via the Automated Export System ("AES") by any party except ULA or a ULA-approved forwarder.

(i) When CONTRACTOR is responsible for clearing the Work through U.S. Customs and Border Protection ("CBP"), CONTRACTOR will neither cause nor permit ULA's name to be shown as "Importer of Record" on any customs declaration form or other documentation. CONTRACTOR shall obtain written approval from ULA prior to drop shipping hardware originating from a foreign country. CONTRACTOR's failure to obtain ULA's prior written approval may result in ULA rejecting the shipment upon delivery.

(j) ULA has partnered with U.S. Customs and Border Protection in the Customs - Trade Partnership Against Terrorism ("C-TPAT") program. For imports into the U.S. in support of this Contract, CONTRACTOR shall only utilize customs brokers, freight brokers, freight forwarders, and carriers that are C-TPAT validated by U.S. Customs and Border Protection. CONTRACTOR shall flow down the obligations of this subparagraph to its Subcontractors.

## **9. ASSIGNMENT**

CONTRACTOR shall not assign any of its rights or interest in this Contract or subcontract all or substantially all of its performance of this Contract, without ULA's prior written consent. CONTRACTOR may assign rights to be paid amounts due, or to become due, to a financing institution if ULA is promptly furnished a signed copy of such written assignment reasonably in advance of the due date for payment of any such amounts. Amounts assigned by CONTRACTOR under this clause shall be subject to ULA setoff or recoupment for any present or future claims ULA may have of ULA against CONTRACTOR. No assignment by CONTRACTOR will in any way operate to enlarge, alter, or change any obligation of ULA under this Contract. ULA shall have the right to make settlements and/or adjustments in price without notice to any assignee financing institution. Any permitted assignment under this provision shall not act to release CONTRACTOR from its obligations under this Contract.

## **10. TIMELY PERFORMANCE**

(a) CONTRACTOR's timely performance is of the essence and is a material element of this Contract. No acts of ULA, including without limitation, modifications of this Contract or acceptance of late deliveries, shall constitute waiver of this clause.

(b) Unless advance shipment has been authorized in writing by ULA, ULA may store at CONTRACTOR's expense, or return, shipping charges collect, all Work delivered in advance of the scheduled delivery date.

- (c) If CONTRACTOR becomes aware of difficulty in performing the Work, including but not limited to any potential scheduling delays, CONTRACTOR shall immediately notify ULA, in writing, giving pertinent details. This notification shall not change any performance or delivery schedule. Upon ULA's request, CONTRACTOR shall provide adequate assurances of future performance and delivery schedule.
- (d) If CONTRACTOR has knowledge that any actual or potential labor Dispute is delaying or threatens to delay the timely performance of this Contract, CONTRACTOR shall immediately give notice, including all relevant information, to the ULA Procurement Representative.
- (e) In the event of a termination for convenience or a Contract change, no claim will be allowed for any manufacture or procurement in advance of CONTRACTOR's normal flow time unless there has been prior written consent by ULA.
- (f) Throughout the Contract's period of performance, CONTRACTOR shall monitor and promptly notify ULA of any and all obsolescence issues that can be reasonably anticipated to adversely affect the availability of items or materials currently used in production for ULA.

## **11. PACKING AND SHIPMENT**

- (a) CONTRACTOR shall be responsible for ensuring the proper packaging of goods hereunder in accordance with best commercial practice in accordance with ASTM D3951 "Commercial Packaging", unless specific packing instructions are provided. Except as stated in this Contract, CONTRACTOR shall not charge ULA for packing, crating, freight, local cartage, and/or any other related packaging and shipment services. CONTRACTOR shall comply with ULA's written shipping instructions at all times.
- (b) A complete packing list shall be enclosed with all shipments. CONTRACTOR shall mark containers or packages with necessary lifting, loading, and shipping information, including the ULA Contract number, Contract line, item number, ULA material number, shipment quantity, dates of shipment, and the names and addresses of consignor and consignee. Bills of lading shall include this Contract number.

(c) Unless otherwise specified in this Contract, delivery shall be Free On Board (FOB) Origin (place of shipment, as described in the Uniform Commercial Code Section 2-319).

## **12. FINAL ACCEPTANCE**

- (a) ULA's final acceptance shall be at destination.
- (b) No inspection, testing, payment, or acceptance of the Work by ULA shall relieve CONTRACTOR of its obligations to furnish and warrant all Work in accordance with the requirements of this Contract or impair any rights of ULA. ULA's final inspection and acceptance shall be at destination.
- (c) If CONTRACTOR delivers non-conforming Work, ULA may, in addition to any other remedies available at law or at equity: (i) accept all or part of such Work at an equitable price reduction; (ii) reject and return such Work for credit or refund; or (iii) require CONTRACTOR, at CONTRACTOR's expense, to make all repairs, modifications, or replacements necessary to conform the Work with Contract requirements.
- (d) CONTRACTOR shall not re-tender rejected Work without notifying ULA in writing and disclosing the corrective action taken.
- (e) Work shall not be supplied or delivered in excess of quantities specified in this Contract. CONTRACTOR shall be liable for handling charges and return shipment costs for any excess quantities. If excess Work is manufactured with reference to, or use of, ULA's proprietary information or materials, CONTRACTOR agrees that, pursuant to clause 17. "Protection of Confidential Information" and, as appropriate clause 21. "Intellectual Property" of this Contract, it will not sell or offer such Work for sale to anyone other than ULA without ULA's prior written consent.

## **13. COUNTERFEIT PARTS**

(a) For the purposes of this clause:

- (i) Counterfeit Part as defined herein includes, but is not limited to, the supply of Electronic Parts and services related to "Electronic Part" that is, contains, or is suspected to contain, an unlawful or unauthorized reproductions, substitutions, or alterations that have been knowingly mismarked, misidentified, or otherwise misrepresented to be an authentic, unmodified part from the original manufacturer, or a source with the express written authority of the original manufacturer or current design activity, including an authorized aftermarket manufacturer. Unlawful or unauthorized

substitution includes used parts represented as new, or the false identification of grade, serial number, lot number, date code, or performance characteristics.

(ii) Electronic Part means an integrated circuit, a discrete electronic component (including, but not limited to, a transistor, capacitor, resistor, or diode), a circuit assembly, or embedded software or firmware.

(iii) "Suspect Counterfeit Electronic Part" means an electronic part for which credible evidence (including, but not limited to, visual inspection or testing) provides reasonable doubt that the electronic part is authentic.

(b) Counterfeit Parts consists of items delivered under this Contract that are at the lowest level of separately identifiable items (e.g. articles, components, goods, and assemblies).

(c) CONTRACTOR shall not deliver Counterfeit Parts or Suspect Counterfeit Electronic Parts to ULA under this Contract.

(d) CONTRACTOR shall only purchase parts and material, including without limitation, Electronic Parts to be delivered or incorporated into Work to ULA directly from the Original Component Manufacturer (OCM)/Original Equipment Manufacturer (OEM), or through an OCM/OEM authorized distributor chain. Parts shall not be acquired from independent distributors or brokers unless approved in advance and in writing by ULA. ULA reserves the right to reject CONTRACTOR's written request for use of parts or materials, including but not limited to Electronic Parts, from independent distributors or brokers.

(e) CONTRACTOR shall immediately notify ULA in writing with the pertinent facts if CONTRACTOR becomes aware or suspects that it has furnished Counterfeit Parts. When requested by ULA, CONTRACTOR shall provide OCM/OEM documentation that authenticates traceability of the affected parts to the applicable OCM/OEM. CONTRACTOR, at its expense, shall provide reasonable cooperation to ULA in conducting any investigation regarding delivery of Counterfeit Work under this Contract.

(f) This clause applies in addition to any quality provision, specification, statement of work or other provision included in this Contract addressing the authenticity of Work. To the extent such provisions conflict with this clause, this clause prevails.

(g) To the extent that this Contract involves delivery of parts, CONTRACTOR shall develop and implement policies and procedures to eliminate Counterfeit Parts, including but not limited to Counterfeit Electronic Parts, from CONTRACTOR's supply chain, including training of personnel; inspection and testing; mechanisms to enable traceability of parts to OCMs/OEMs; methodologies to identify suspect Counterfeit Parts rapidly; and flow down of Counterfeit Parts avoidance and detection requirements to all lower-tier subcontractors.

(h) In the event that Work delivered under this Contract constitutes, includes, or is suspected to include Counterfeit Parts, CONTRACTOR shall, at its expense, promptly replace such Counterfeit Parts, including Electronic Parts, with genuine parts conforming to the requirements of this Contract. Notwithstanding any other provision in this Contract, CONTRACTOR shall be liable for all costs relating to the removal and replacement of Counterfeit Parts including, without limitation, ULA's costs of removing Counterfeit Parts, of installing replacement parts and of any testing necessitated by the reinstallation of parts after Counterfeit Parts have been exchanged. The remedies contained in this paragraph are in addition to any remedies ULA may have at law, equity or under other provisions of this Contract.

(i) CONTRACTOR agrees to defend, indemnify and hold harmless ULA, its officers, directors, employees, consultants, agents, affiliates, successors, permitted assigns, members, owners, and Customers from any losses, costs, claims, causes of action, penalties, liabilities, expenses, including attorney fees, all expenses of litigation and/or settlement, and court costs caused in whole or in part by the actions or omissions of CONTRACTOR, its officers, employees, agents, suppliers, or Subcontractors in relation to Counterfeit Parts. Any limitation of liability in this Contract shall not apply to this clause 13. "Counterfeit Parts".

(j) If CONTRACTOR is providing Electronic Parts, CONTRACTOR makes the following certification:

Acceptance of this Contract constitutes confirmation by CONTRACTOR that it is the Original Equipment Manufacturer (OEM)/Original Component Manufacturer (OCM), or a franchised or authorized distributor of the OEM/OCM for the Work CONTRACTOR is supplying to ULA under this Contract. CONTRACTOR further warrants that OEM/OCM acquisition documentation that authenticates traceability of the components to that applicable OEM/OCM is available upon request. If CONTRACTOR is not the OEM/OCM or a franchised or authorized distributor, CONTRACTOR confirms by acceptance of this Contract that it has been authorized in writing to procure parts or materials from the

OEM/OCM or a franchised or authorized distributor of the OEM/OCM which documentation is available to ULA upon request.

(k) CONTRACTOR shall include paragraphs (a) through (g), (j) and this paragraph (k) of this clause or equivalent provisions in lower tier subcontracts for the delivery of items or parts that will be included in or furnished as Work to ULA.

#### **14. SOURCES OF SUPPLY**

(a) CONTRACTOR shall seek, to the greatest extent reasonably practicable, to procure items and services from sources that are located, mined, produced, or manufactured in the United States.

(b) CONTRACTOR shall not deliver items or materials (including end products and any components thereof) sourced from any country listed on the ITAR proscribed country list located at 22 CFR § 126.1, with the limited exception of raw materials and lower level components available as commercial off the shelf (COTS) items. With respect to such raw materials or COTS items, CONTRACTOR further agrees and certifies:

(i) No software that is developed in a proscribed country shall be delivered to ULA

(ii) CONTRACTOR shall not supply to ULA, or incorporate into any product or Work supplied to ULA, any item or component manufactured in a proscribed country that could be attached to a ULA computer or that could connect to a ULA network and is capable of storing, processing, or transmitting information

(iii) CONTRACTOR shall not disclose to any supplier based in a proscribed country information that is proprietary to ULA, relates to ULA, or which could be used to identify ULA as the ultimate customer for any order; and

(iv) In the event of a failure of any Work delivered under the Contract, CONTRACTOR must be able to support any failure investigation without reliance on the participation of any company or individual from a proscribed country.

(c) CONTRACTOR shall immediately notify ULA in writing if it is aware of, or becomes aware of, reliance on specific foreign sources of supply, at any tier, for items critical to the functioning or operation of any Work to be delivered to ULA. For the purposes of this provision, "reliance on" means that CONTRACTOR could not reasonably procure critical items from an alternate source, and therefore would be unable to deliver Work to ULA if any single foreign source becomes unavailable.

(d) CONTRACTOR is responsible for the continuous monitoring of its supply chain to ensure that all Work and any changes that impact the Work to be provided to ULA maintains in compliance with the requirements of this clause 14. "Sources of Supply".

(e) Independent of the proscribed country prohibition, CONTRACTOR shall not rely on a foreign company or foreign individual during an anomaly investigation.

#### **15. QUALITY MANAGEMENT SYSTEM**

(a) CONTRACTOR shall provide and maintain a quality management system to an industry-recognized Quality Standard and in compliance with any other specific quality requirements identified in this Contract.

(b) All quality records regarding Work performed under this Contract shall be kept complete and available to ULA and ULA's Customers for the period set forth in the clause 16. "Maintenance of Records" of this Contract. Quality records include, but are not limited to, receiving and inspection records consisting of reports reflecting receipt and inspection of supplies, equipment, and materials, and production records of quality control, reliability, and inspection. The CONTRACTOR shall contact ULA for written ULA approval prior to CONTRACTOR's disposal of quality records before the end of the retention period as defined in clause 16(a), "Maintenance of Records".

(c) CONTRACTOR shall promptly notify ULA of any violation of, change in status, or deviation from CONTRACTOR's approved quality control system. CONTRACTOR shall notify ULA of any Work delivered to ULA during the period of any such violation, change or deviation.



(d) If CONTRACTOR becomes aware of any nonconformance in the Work purchased under this Contract, CONTRACTOR shall notify the Procurement Representative immediately.

(e) In the event CONTRACTOR receives a Supplier Corrective Action Request (SCAR), CONTRACTOR shall respond to ULA within fifteen (15) days from receipt.

(f) CONTRACTOR shall ensure that persons performing work under this Contract are aware of their contribution to product or service conformity and their contribution to product safety.

## **16. MAINTENANCE OF RECORDS**

(a) CONTRACTOR shall maintain complete and accurate records relating to its performance of the Work to substantiate that CONTRACTOR performed all tasks required by the Contract. CONTRACTOR shall maintain all financial and quality records pertaining to its performance of the Work. Unless a longer period is specified elsewhere in the Contract or by law or regulation, CONTRACTOR shall retain such records for six (6) years from final payment under this Contract.

(b) ULA shall have access to such records, and any other records CONTRACTOR is required to maintain under this Contract, for the purpose of audit during normal business hours, upon reasonable notice for so long as such records are required to be retained.

## **17. PROTECTION OF CONFIDENTIAL INFORMATION**

(a) CONTRACTOR agrees to comply with the terms of any Confidentiality Agreement entered into by the parties and respect any proprietary and other restrictive markings that may be applied by ULA to anything provided hereunder to CONTRACTOR and shall be handled in accordance with the requirements in clause 34. Information Security and Access to ULA Facilities. Information provided by ULA to CONTRACTOR may include information owned or controlled by ULA as well as proprietary, confidential, and/or trade secret information entrusted to ULA by a third party which may be restrictively marked as being proprietary to that third party. Information provided by ULA to CONTRACTOR remains the property of ULA or the property of such third party and such information, including tangible items conveying or embodying such information, is deemed the proprietary, confidential and/or trade secret information of ULA or such third party. Such information may be used by CONTRACTOR solely in accordance with the terms of any Confidentiality Agreement and for the purposes of this Contract. CONTRACTOR may not disclose such information to any third party without prior written consent of ULA, except as authorized by any Confidentiality Agreement. CONTRACTOR shall comply with any direction from ULA to return or destroy confidential information disclosed under this Contract.

(b) CONTRACTOR shall also comply with the information security requirements outlined in clause 29. "Information Security and Access to ULA Networks".

(c) Unless there is a Confidentiality Agreement in effect between the parties, ULA personnel are not authorized to receive any information in confidence from CONTRACTOR. Accordingly, all communications of any kind from CONTRACTOR to ULA shall be deemed to be on a non-confidential basis unless CONTRACTOR and ULA have executed a Confidentiality Agreement protecting CONTRACTOR information which is incorporated into this Contract.

(d) CONTRACTOR shall not use ULA proprietary information, confidential information, or trade secret information for the purpose of training, developing, or creating Artificial Intelligence (AI) models, machine learning algorithms, or AI generated code, without ULA's prior written authorization for the use of ULA information. If ULA provides written authorization for such purpose, CONTRACTOR shall implement appropriate and commercially reasonable policies to prevent misappropriation, inadvertent disclosure, or improper use of ULA data.

## **18. PROTECTION OF PERSONAL INFORMATION**

CONTRACTOR personnel and its Subcontractors shall take reasonable and prudent action to protect against unauthorized use or disclosure of any Personal Information that CONTRACTOR personnel or its Subcontractors receive or come into contact with. CONTRACTOR personnel and its Subcontractors shall not disclose any Personal Information to entities or persons who do not have a need to receive such information or who are located outside the United States. CONTRACTOR shall use encryption if, as part of Work under this Contract, CONTRACTOR must send Personal Information electronically.

## **19. PUBLIC RELEASE OF INFORMATION**

Except as required by law, CONTRACTOR shall not publicly release any information, including confirmation or denial with respect to this Contract, the subject matter hereof, or CONTRACTOR's relationship with ULA, and shall publish ULA's logo, without the prior written approval of ULA.

## **20. COMMUNICATION WITH ULA'S CUSTOMER**

ULA shall be solely responsible for all liaison and coordination with ULA's Customer as it affects the applicable prime contract, this Contract, and any related contract. CONTRACTOR shall not engage in direct communication with ULA's Customer related to this Contract unless explicitly required in another clause. If CONTRACTOR engages in direct communication with ULA's Customer related to this Contract, CONTRACTOR shall notify ULA immediately and provide ULA a copy of any such communication.

## **21. INTELLECTUAL PROPERTY**

(a) All Foreground Intellectual Property Made by or for CONTRACTOR, either alone or with others, in the performance of this Contract will be (i) the exclusive property of ULA, (ii) delivered to ULA promptly upon request, and (iii) protected and used in accordance with the 17. "Protection of Confidential Information" clause.

(b) CONTRACTOR will (i) promptly disclose to ULA in writing all inventions conceived, developed or first reduced to practice in the performance of this Contract, and (ii) execute all papers, cooperate with ULA and perform all acts necessary in connection with the filing, prosecution or assignment of related patents or patent applications on behalf of ULA.

(c) To the extent permitted under United States or foreign copyright law, all works of authorship, including documents, drawings, test data, software, software documentation, photographs, videotapes, sound recordings and images, created by or for CONTRACTOR, either alone or with others in the performance of this Contract, will be works made for hire, with the copyrights therein vesting in ULA. The copyrights in all other such works that fall under this paragraph, including the exclusive rights therein, will be promptly transferred and formally assigned free of charge to ULA.

(d) CONTRACTOR grants to ULA, and to ULA's Customers and ULA's Customer's subcontractors, an irrevocable, nonexclusive, royalty-free, fully paid-up, transferable, worldwide license under any Background Intellectual Property owned or controlled by CONTRACTOR, but only to the extent that such Background Intellectual Property of CONTRACTOR is necessary to facilitate ULA's or ULA's Customers', subcontractors', or suppliers' use or enjoyment of the Work being delivered under this Contract and the Foreground Intellectual Property including but not limited to analysis and/or testing in support of ULA's requirements.

(e) All authorizations with respect to the provision and sharing of Foreground Intellectual Property, Background Intellectual Property and/or the Work performed under this Contract shall be governed by (i) this section, (ii) the terms of the Confidentiality Agreement executed by and between CONTRACTOR and ULA which Confidentiality Agreement is incorporated by reference and made a part of this Contract, and (iii) the regulatory data rights clauses incorporated into and made a part of this Contract.

(f) CONTRACTOR warrants that the Intellectual Property and/or Work performed or delivered under this Contract will not infringe or otherwise violate the Intellectual Property rights of any third party. CONTRACTOR shall indemnify, defend and hold harmless ULA, its customers, officers, agents, employees, suppliers, and subcontractors from and against any loss, damage or liability including attorney's fees and costs, based on a claim of infringement or misappropriation of any third party's Intellectual Property rights by the Work or Intellectual Property performed or delivered hereunder. ULA shall notify CONTRACTOR promptly of any such claim and, at CONTRACTOR's option and expense, shall provide to CONTRACTOR reasonable and necessary information, assistance (at CONTRACTOR's expense) and authority to defend or settle said claim. If required by ULA, CONTRACTOR shall provide proof of having sufficient resources or insurance to support this indemnification obligation. In case any Work or Intellectual Property provided hereunder is held in any lawsuit to constitute a violation of such third party's Intellectual Property rights and its use is enjoined, CONTRACTOR shall at its option and expense (i) procure for ULA the right to continue using the Work and/or Intellectual Property, or (ii) modify the same to make it non-infringing, or (iii) replace the same with Work and/or Intellectual Property that is non-infringing and acceptable to ULA. CONTRACTOR shall not have any liability for infringement or misappropriation if the alleged infringement or misappropriation would not have occurred except for ULA's unauthorized modification of the Work and/or Intellectual Property or unauthorized combination with other articles, materials, supplies, goods or Intellectual Property. Any limitation of liability in this Contract shall not apply clause 21. Intellectual Property.

## **22. FURNISHED PROPERTY**

(a) ULA may provide to CONTRACTOR property owned by either ULA or ULA's Customer (Furnished Property). Furnished Property shall be used only for the performance of this Contract.

(b) Title to Furnished Property shall remain with ULA or ULA's Customer. CONTRACTOR shall clearly mark (if not so marked) all Furnished Property to show its ownership.

(c) Except for reasonable wear and tear, CONTRACTOR shall be responsible for, and shall promptly notify ULA in writing of any loss or damage to Furnished Property. Without additional charge, CONTRACTOR shall manage, maintain, and preserve Furnished Property in accordance with good commercial practice.

(d) At ULA's request, and/or upon completion of this Contract, the CONTRACTOR shall submit, in a form acceptable to ULA, inventory lists of Furnished Property and shall deliver to ULA or make such other disposal as may be directed by ULA in writing.

(e) Any Government Property clause contained in this Contract shall apply in lieu of paragraphs (a) through (d) above with respect to Government-Furnished Property, or property to which the Government takes title under this Contract.

(f) CONTRACTOR shall be solely responsible to seek Authorization (as prescribed in FAR 52.245-9) for use of other than ULA owned/accountable property in support of this Contract, and CONTRACTOR shall be solely liable for any rental fees associated with such property.

### **23. PROHIBITED SOFTWARE**

(a) This clause only applies to Work that includes the delivery of software (including software residing on hardware).

(b) As used herein, "Prohibited License" means the General Public License ("GPL") or Lesser/Library GPL, Affero GPL, Reciprocal Public License (RPL), the Artistic License (e.g., PERL), the Mozilla Public License, the Netscape Public License, the Sun Community Source License, Eclipse Public License, Creative Commons CC-BY-SA, IBM Public License, or variations thereof that are open source, publicly available, or free, including without limitation licenses referred to as "GPL Compatible, Free Software License."

(c) As used herein, "Prohibited Software" means software that incorporates or embeds software in, or uses software in connection with, as part of, bundled with, or alongside any (1) software that is licensed under a Prohibited License, or (2) software provided under any license that (a) subjects the delivered software to any Prohibited License, or (b) requires the delivered software to be licensed for the purpose of making derivative works or be redistributable at no charge, or (c) obligates ULA to sell, loan, distribute, disclose or otherwise make available or accessible to any third party (i) the delivered software, or any portion thereof, in object code and/or source code formats, or (ii) any products incorporating the delivered software, or any portion thereof, in object code and/or source code formats; or (3) software that is prohibited by any applicable law or regulation.

(d) Unless CONTRACTOR has obtained ULA's prior written consent, which ULA may withhold in its sole discretion, CONTRACTOR shall not provide or otherwise deliver to ULA, any Prohibited Software in connection with this Contract.

(e) CONTRACTOR shall defend, indemnify, and hold harmless ULA, ULA's officers, directors, employees, consultants, agents, affiliates, successors, permitted assigns, members, owners, and suppliers from and against any claims, damages, losses, costs, and expenses, including reasonable attorney's fees, relating to the use or delivery of Prohibited Software in connection with or under this Contract. No other provision in this Contract, including but not limited to clause 39, "Indemnification", shall be construed to limit the liabilities or remedies of the parties for the CONTRACTOR's use of Prohibited Software in connection with this Contract or for the CONTRACTOR's delivery of Prohibited Software under this Contract.

### **24. CONTRACTOR IDENTIFICATION**

(a) CONTRACTOR personnel and its Subcontractors working at ULA or ULA's Customer's site(s) must identify themselves as contractors or subcontractors during meetings, telephone conversations, in electronic messages, or correspondence related to this Contract and shall not hold themselves out as ULA employees.

(b) CONTRACTOR-occupied facilities within ULA, at ULA's site(s), or ULA's Customer's site(s) such as offices, separate rooms, or cubicles must be clearly identified with CONTRACTOR supplied signs, name plates or other identification, showing that these are work areas for CONTRACTOR and/or Subcontractor personnel.

### **25. GRATUITIES/KICKBACKS**

(a) No gratuities (in the form of entertainment, gifts or otherwise) for the purpose of obtaining or rewarding favorable treatment as a supplier or favorable treatment for ULA, and no kickbacks, shall be offered or given by CONTRACTOR to

any employee of ULA, any ULA Customer, any Government entity or employee, or any foreign official, foreign political party, or official thereof.

(b) CONTRACTOR shall contact ULA's Ethics Helpline, at 1-800-511-4173, if any employee of ULA requests a gratuity and/or kickback, or if any individual or entity requests a gratuity or kickback in relation to this Contract.

(c) By accepting this Contract, CONTRACTOR certifies and represents that it has not made or solicited and will not make or solicit kickbacks in violation of FAR 52.203-7 or the Anti-Kickback Act of 1986 (41 USC 87), both of which are incorporated herein by this specific reference, except that paragraph (c)(1) of FAR 52.203-7 shall not apply.

## **26. INDEPENDENT CONTRACTOR RELATIONSHIP**

CONTRACTOR is an independent contractor for all purposes. CONTRACTOR shall have complete control over the performance of, and the details for accomplishing, the Work. In no event shall CONTRACTOR or its personnel, agents, representatives, or employees be deemed to be personnel, agents, representatives, or employees of ULA. CONTRACTOR shall be solely responsible for its employees to include payment of all compensation and benefits for all Work performed. CONTRACTOR shall comply with all requirements and obligations relating to such personnel under any personnel or employment contracts and federal, state and local laws. Should CONTRACTOR personnel claim that he or she is an employee of ULA or file a claim for compensation or benefits, CONTRACTOR shall indemnify and defend ULA against any such claim. CONTRACTOR shall also indemnify and defend ULA against any liability, fine or penalty that may be imposed upon ULA for CONTRACTOR's failure to comply with its personnel or employment contracts or federal, state or local law.

## **27. INSURANCE**

(a) The provisions of this subparagraph (a) shall apply only in the event that CONTRACTOR, its personnel, employees, agents, consultants, permitted assigns, or Subcontractors enter the site(s) of ULA or ULA's Customers to perform Work under this Contract.

(i) CONTRACTOR and its Subcontractors shall maintain for the performance of this Contract the following types of insurance:

- (1) Worker's Compensation in amounts as required by law, including U.S. Longshoreman and Harbor Worker's Act, if applicable, and Employer's Liability at a limit no less than \$1 Million. This policy shall include a Waiver of Subrogation in favor of ULA.
- (2) Employer's Liability (EL) at a limit of no less than \$1 Million per each accident or per each employee for disease. This policy shall include a Waiver of Subrogation in favor of ULA.

(2) Commercial Automobile Liability covering all owned, non-owned and hired vehicles, including loading and unloading thereof at a limit of no less than \$1 Million per occurrence, or in such higher amounts as ULA may require.

(ii) If CONTRACTOR is entering ULA premises at the Cape Canaveral Space Force Station, Vandenberg Space Force Base, or any other "aviation premises", to work on any aviation product or provide aviation-related services, CONTRACTOR shall maintain Aviation Products and Completed Operations Liability for bodily injury or property damage, independent contractor coverage and contractual liability at a limit no less than \$5Millin each occurrence and in the annual aggregate.

(b) For Work performed under this Contract, despite location of performance, CONTRACTOR and its Subcontractors shall maintain for the performance of this Contract, Commercial General Liability covering (as applicable) Premises Liability, Contractual Liability, Products and Completed Operations and Personal Injury Liability at a limit of no less than \$3 Million each occurrence and annual aggregate. This policy shall name ULA as an additional insured and include a Waiver of Subrogation in favor of ULA. CONTRACTOR also agrees to provide any other insurance ULA may reasonably require or provide proof that CONTRACTOR already maintains such insurance.

(c) For any insurance required by this clause, insurance must be maintained through an insurer with a minimum AM Best rating of A- VII. Additionally, CONTRACTOR shall provide ULA thirty (30) days advance written notice prior to the effective date of any cancellation or material change in the term or coverage of any of CONTRACTOR's required insurance, provided however such notice shall not relieve CONTRACTOR of its obligations to carry the required insurance. CONTRACTOR shall send a "Certificate of Insurance" showing CONTRACTOR's compliance with these requirements to the ULA Procurement Representative upon request. Insurance maintained pursuant to this clause shall be considered

primary in respect to the interest of ULA and is not contributory with any insurance which ULA may carry. CONTRACTOR's obligations to carry insurance coverages are freestanding and are not affected by any other language in this Contract.

## **28. ACCESS TO ULA FACILITIES**

(a) CONTRACTOR and its Subcontractors granted access to ULA facilities shall comply with all site requirements, including any health and safety requirements released by ULA.

(b) CONTRACTOR is required to perform background checks for all personnel who require regular unescorted access to ULA facilities. Background checks must be performed before CONTRACTOR personnel can receive a ULA access badge. Such background checks shall, at a minimum, verify that the individual requiring regular unescorted access to ULA facilities meets the following requirements:

- (1) The individual is a U.S. Person as defined in 22 C.F.R. Part 120.62
- (2) No state criminal felony convictions – 7 year search using Residence/Academic/Employment for past 5 years
- (3) No federal criminal convictions – 7 year search using Residence/Academic/Employment for past 5 years
- (4) The individual is not on the Global Terrorist Watch Alert

(c) CONTRACTOR shall notify ULA if any individuals who will require regular unescorted access to ULA facilities include former ULA employees. ULA reserves the right to object to facilities access by former ULA employees if such access is deemed to be contrary by ULA to ULA's interest or policies.

(d) CONTRACTOR shall ensure that CONTRACTOR personnel on site at ULA facilities comply with all site requirements and policies. While on site at ULA facilities, CONTRACTOR personnel shall (i) not carry or possess weapons of any kind; (ii) not manufacture, sell, distribute, dispense, possess, use or be under the influence of illicit substances, illegal drugs, alcohol, or THC infused beverages; (iii) not possess hazardous materials without ULA's prior written authorization; (iv) only have access to and remain in areas authorized by ULA; (v) not conduct any non-ULA related business activities (such as interviews, hirings, dismissals or personal solicitations); (vi) not send or receive non-ULA related mail through ULA's or third party's mail systems; (vii) not sell, advertise or market any products or memberships, or distribute printed, written or graphic materials without ULA's prior written authorization or as permitted by law; and (viii) follow instruction from ULA in the event of an actual or imminent safety or environmental hazard.

(e) All persons, property, and vehicles entering or leaving ULA facilities are subject to search.

(f) CONTRACTOR shall promptly notify ULA in writing and provide a report of any (i) accidents or security incidents involving loss of or misuse or damage to ULA, ULA's Customer, or third party intellectual or physical assets, and (ii) threats, harassment, or altercations of any kind.

(g) CONTRACTOR shall ensure that CONTRACTOR personnel: (i) do not remove ULA, Customer, or third party assets from ULA facilities without prior written authorization from ULA; (ii) use ULA, Customer, or third party assets only for purposes of this Contract; (iii) only connect with, interact with or use computer resources, networks, programs, tools or routines authorized by ULA; and (iv) do not share or disclose user identifiers, passwords, cipher keys or computer dial port telephone numbers. ULA may periodically audit CONTRACTOR's data residing on ULA, Customer, or third-party assets at ULA facilities.

(h) ULA may, at its sole discretion, direct CONTRACTOR to remove any CONTRACTOR personnel from ULA facilities and require that such personnel not be reassigned to any ULA facilities under this Contract.

(i) Violation of this clause may result in termination of this Contract, in addition to any other remedy available to ULA at law or in equity. CONTRACTOR shall reimburse ULA, Customer, or a third party for any unauthorized use of ULA, Customer, or third-party assets.

(j) CONTRACTOR shall immediately notify the ULA Procurement Representative in writing of any unauthorized conduct or non-compliance with the obligations set forth herein.

(k) CONTRACTOR shall immediately report to ULA all emergencies (e.g., medical, fire, spills or release of any hazardous material) and non-emergency incidents (e.g., job-related injuries or illnesses) related to ULA facilities or the Work. In addition, CONTRACTOR shall promptly provide ULA with a copy of any CONTRACTOR reports provided to governmental authorities of such incidents.

## **29. INFORMATION SECURITY AND ACCESS TO ULA NETWORK**

### **(a) Adequate Controls for CONTRACTOR Information Systems:**

(i) This paragraph is applicable if any CONTRACTOR information systems will process, store, or transmit any information, not intended for public release (including any proprietary, confidential, or trade secret information, as well as any information subject to other limitations on dissemination), that is generated for, or provided by or on behalf of ULA or ULA's Customer under this Contract (hereinafter Covered Information Systems). Such safeguarding measures shall, at a minimum, comply with the applicable FAR and/or DFARS clauses regarding the safeguarding of information incorporated into this Contract unless ULA provides written additional guidance regarding the measures that should be applied to such information. If ULA notifies CONTRACTOR that a Cybersecurity Maturity Model Certification (CMMC) certificate is required, CONTRACTOR will cooperate with ULA to obtain a CMMC certificate at the CMMC level required by ULA.

(ii) Other requirements. This clause does not relieve CONTRACTOR of any other safeguarding requirements specified elsewhere in this Contract.

### **(b) CONTRACTOR Personnel Having Access to ULA Information Systems:**

If ULA provides CONTRACTOR or CONTRACTOR personnel with access to ULA Information Technology Systems (ULA IT Systems), including any ULA networks, intranet, VPN access, ULA-provided email, or ULA-provided computer, but excluding any folders or file transfer protocols established specifically for the sharing of information between ULA and third parties, then CONTRACTOR agrees:

(i) Neither CONTRACTOR nor its personnel shall transfer any ULA or third party proprietary information found on such ULA IT Systems to any non-ULA IT Systems without first consulting and obtaining written approval from ULA Information Technology Security to establish that appropriate controls are in place.

(ii) CONTRACTOR is required to perform background checks for all personnel granted logical access to the ULA network. Such background checks shall, at a minimum, verify that the individual granted logical access to the ULA network meets the requirements set forth in clause 29(b). In addition, CONTRACTOR shall notify ULA if any individuals who will require access to ULA IT systems include former ULA employees. ULA reserves the right to object to access by former ULA employees if such access is deemed to be contrary to ULA's interests or policies.

(iii) CONTRACTOR shall provide written notification to the ULA Procurement Representative, within 24 hours, when CONTRACTOR or sub-tier contractor personnel who have been granted logical access to ULA and/or ULA customer networks are terminated, transferred, removed or no longer supporting this Contract. Such notice shall reference the actual date of personnel termination, transfer, or removal.

(c) CONTRACTOR agrees that CONTRACTOR IT systems are protected against malware, including ransomware, and CONTRACTOR has taken commercially reasonable steps to mitigate foreseeable risks. In the event of a breach, CONTRACTOR will provide timely written notification within 72 hours of the incident. CONTRACTOR will indemnify ULA for any failures by CONTRACTOR to use commercially reasonable steps.

(d) If CONTRACTOR becomes aware of any compromise of information, or a breach, used in the performance of this Contract or provided by ULA to CONTRACTOR, its officers, employees, agents, suppliers, or subcontractors (an "Incident"), CONTRACTOR shall take appropriate immediate actions to investigate and contain the Incident and any associated risks, including written notification within seventy-two (72) hours to ULA after learning of the Incident. As used in this clause, "compromise" means that information has been exposed to unauthorized access, inadvertent disclosure, known misuse, loss, destruction, or alteration other than as required to perform the Work. CONTRACTOR shall provide reasonable cooperation to ULA in conducting any investigation regarding the nature and scope of any Incident. Any CONTRACTOR or ULA costs incurred in investigating or remediating Incidents shall be borne by CONTRACTOR.

(e) Any ULA provided information identified as proprietary or subject to restrictions on public disclosure by law or regulation shall be encrypted (i) if transmitted via the Internet, or (ii) during electronic storage if potentially accessible by the Internet or otherwise by non-authorized users.

(f) The provisions set forth above are in addition to and do not alter, change or supersede any obligations contained in a proprietary information agreement between the parties.

(g) CONTRACTOR shall provide periodic security training to its personnel on relevant threats and business requirements, such as social-engineering attacks, sensitive data handling, causes of unintentional data exposure, and security incident identification and reporting.

(h) Subcontracts. CONTRACTOR shall include the substance of this clause, including this paragraph (c), in subcontracts under this Contract (including subcontracts for the acquisition of commercial items, other than commercially available off-the-shelf items), in which the subcontractor will operate a Covered Information System or in which Subcontractor personnel will have access to ULA networks.

### **30. PAYMENTS, TAXES, AND DUTIES**

(a) Unless otherwise provided on the face of the PO, terms of payment shall be net sixty (60) days from the latest of the following: (i) ULA's receipt of the CONTRACTOR's proper invoice; (ii) scheduled delivery date of the Work; (iii) actual completion or performance of the Work; or (iv) actual delivery of the Work.

(b) Each payment made shall be subject to reduction for amounts deemed by ULA or CONTRACTOR to not have been properly payable, and shall also be subject to reduction for overpayments. CONTRACTOR shall promptly notify ULA in writing of any such overpayments identified by CONTRACTOR through any means.

(c) ULA may at any time deduct, offset, or set off CONTRACTOR's claims for amounts due or to become due against any claims that ULA has or may have arising out of this Contract or any other contract between the parties. This may include, but is not limited to, the value of any prepaid Work rejected or returned for nonconformance and amounts arising from CONTRACTOR delays, failure to perform, or failure to meet Contract specifications.

(d) If, during an audit of a contractor business system as defined in DFARS 252.242-7005, the Government issues a final determination to CONTRACTOR to withhold payments on amounts due, CONTRACTOR shall immediately notify ULA. Once notified of a significant deficiency, ULA shall have the right to direct the CONTRACTOR in writing to withhold 5% from all invoices on cost, labor-hour, and time-and-materials contracts and ULA may withhold 5% of amounts due from all invoices for progress payments or performance-based payments until the Government has determined that CONTRACTOR has corrected all significant deficiencies.

(e) Payment shall be deemed to have been made as of the date of mailing ULA's payment or electronic funds transfer.

(f) With the exception of sales/use tax, and unless otherwise specified, prices include all applicable federal, state, local and foreign taxes, duties, tariffs, and similar fees imposed by any government, all of which shall be listed separately on the invoice. When taxable and non-taxable items (i.e., materials and labor) are invoiced under this Contract, taxable versus non-taxable items shall be separately stated. If Work purchased under this Contract qualifies for tax exemption, then CONTRACTOR shall provide an exemption certificate to ULA.

(g) CONTRACTOR shall not include in its invoices any proprietary information or export controlled information, covered information (if applicable), or any other confidential, proprietary or controlled for which information whose release is otherwise restricted by federal law or regulation.

### **31. PRECEDENCE**

Any inconsistencies in this Contract shall be resolved in accordance with the following descending order of precedence: (i) Face of the Purchase Order, Task Order, or long form Contract (if applicable); (ii) Prime Contract Flowdown Documents (if applicable); (iii) Supplemental Documents (if applicable); (iv) this Baseline Terms and Conditions *Doc 3 Subcontracts/Purchase Orders (All Agencies) for Non-Commercial Items Under a U.S. Government Prime Contract*; (v) any Confidentiality Agreement; (vi) any Special Provisions Documents (if applicable) (vii) Statement of Work; (viii) Specifications; (ix) Drawings; and (x) any other exhibits of this Contract.

### **32. SURVIVABILITY**

If this Contract expires, is completed or is terminated, CONTRACTOR shall not be relieved of those obligations contained in:

(a) The following clauses:

Acceptance, Merger, and Severability  
Compliance with Laws

Counterfeit Parts  
Disputes, Governing Law, and Legal Notification  
Export Control  
Furnished Property  
Gratuities/Kickbacks  
Indemnification  
Independent Contractor Relationship  
Information Security and Access to ULA Network  
Insurance  
Intellectual Property  
Maintenance of Records  
Prohibited Software  
Protection of Confidential Information  
Protection of Personal Information  
Quality Management System  
Public Release of Information  
Warranty

(b) Those U. S. Government flowdowns or other requirements included in this Contract that by their nature survive; and

(c) Any Confidentiality Agreement entered into by the parties applicable to this Contract.

### **33. WARRANTY**

(a) CONTRACTOR warrants that it will perform any Work or services under this Contract in a non-negligent manner and with the highest degree of professional skill and sound practices and judgment recognized in the industry with respect to Work or services of a similar nature.

(b) CONTRACTOR warrants that all Work furnished pursuant to this Contract must (i) strictly conform to the applicable statement of work, specifications, drawings, samples, descriptions, and other requirements of this Contract, (ii) be free from defects in design, material, and workmanship, (iii) not be or contain Counterfeit Parts, as defined in this Contract, and (iv) comply with all applicable legislative and regulatory requirements in effect during the term of this Contract. This warranty shall begin upon final acceptance of the Work by ULA and extend for a period of two (2) years thereafter or longer as agreed between ULA and CONTRACTOR or as required by any specified shelf-life requirements. If any non-conforming Work is identified within the warranty period, CONTRACTOR, at ULA's option, shall promptly repair or replace the non-conforming Work at CONTRACTOR's expense. Transportation of replacement Work shall be at CONTRACTOR's expense. If repair or replacement of Work is not timely, ULA may elect to return, repair, replace, or repurchase the nonconforming work at CONTRACTOR's expense.

(c) All warranties in this Contract shall run to ULA and ULA's Customers.

(d) The warranties in this Contract are in addition to all other claims, rights, and remedies available to ULA at law.

### **34. INDEMNIFICATION**

CONTRACTOR shall defend, indemnify, and hold harmless ULA, its officers, directors, employees, consultants, agents, personnel, affiliates, successors, permitted assigns, members, owners, and Customers from and against all losses, costs, claims, causes of action, damages, liabilities, and expenses, including attorney's fees, all expenses of litigation and/or settlement, and court costs, arising from any violation of this Contract, act, or omission of CONTRACTOR, its officers, employees, personnel, agents, suppliers, vendors, or subcontractors at any tier, in the performance of any of its obligations under this Contract.

### **35. REPORTING REQUIREMENTS (52.204-10)**

*This requirement may apply if this Contract is valued at \$25,000 or more, as directed by ULA's Procurement Representative.*

As required by the Federal Funding Accountability and Transparency Act (Transparency Act), Public Law 109–282, CONTRACTOR shall provide to ULA Form F 213, Executive Compensation Certification, prior to award, and annually thereafter. The law requires that all reported information required in FAR 52.204-10 Reporting Executive Compensation and First-Tier Subcontract Awards, be made public. ULA will post all required information at <https://www.sam.gov>.



### **36. PRIORITY RATING**

If so identified, this Contract is a "rated order" certified for national defense use, and the CONTRACTOR shall follow all the requirements of the Defense Priorities and Allocation System Regulation (15 C.F.R. Part 700).

### **37. ENABLING CUSTOMER INSIGHT AND ACCESS**

- (a) CONTRACTOR acknowledges that ULA's Customer may have reserved certain insight and access rights into ULA's performance under ULA's contracts with its customers, and that in order to meet its obligations to ULA's Customer, ULA may require CONTRACTOR's support and cooperation. If required by ULA, CONTRACTOR shall provide insight into CONTRACTOR tasks and milestones to ULA's Customer ("Customer Insight").
  - (i) Customer Insight includes:
    - Observation and discussion of technical activities
    - Access to CONTRACTOR's and its Subcontractors' existing data and documentation
    - Meeting attendance, attendance at reviews, tests and compliance evaluations.
    - Providing access to CONTRACTOR facilities utilized in the performance of this Contract.
  - (ii) Customer Insight does not include approval/disapproval rights, the right to direct CONTRACTOR action, nor the right to require new data or documents to be created.
- (b) Customer Insight may be exercised through ULA's Customer directly, or through support contractors who furnish independent and impartial advice or technical assistance directly to ULA's Customer in support of the Customer's management and oversight of a program or effort. These contractors provide services to ULA's Customer including Advisory and Assistance Services (A&AS), Systems Engineering and Technical Assistance (SETA), Systems Engineering and Integration (SE&I), Independent Verification and Validation (IV&V), or Launch Service Integrating Contractor (LSIC) services. CONTRACTOR agrees to cooperate with such support contractors in the performance of this Contract, subject to coordination with ULA.

## **SECTION II: FAR FLOWDOWN PROVISIONS**

### **A. INCORPORATION OF FAR CLAUSES**

The Federal Acquisition Regulation (FAR) 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. The full text for a FAR clause may be accessed electronically at the following address: <https://www.acquisition.gov/far/>

### **B. INTERPRETATION OF TERMS**

As used in the FAR clauses referenced below and otherwise in this Contract:

1. "Commercial Product" or "Commercial Service" means a commercial product or commercial service as defined in FAR 2.101.
2. "Contracting Officer" shall mean the U.S. Government Contracting Officer for ULA's government prime contract under which this Contract is entered.
3. "Contractor" and "Offeror" means the CONTRACTOR, as defined in these terms and conditions, acting as the immediate (first-tier) subcontractor to ULA.
4. "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.
5. "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 "ULA 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. FAR FLOWDOWN CLAUSES: ALL CONTRACTS FOR NON-COMMERCIAL ITEMS UNDER A GOVERNMENT PRIME**

##### **1. The following FAR clauses apply to this Contract:**

- (a) FAR 52.203-13 CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT (NOV 2021) (Applies only if the value of this Contract exceeds the threshold specified in FAR 3.1004(a) on the date of Contract award and the period of performance is more than 120 days; Paragraph (c) does not apply if this Contract is for the acquisition of a commercial product or commercial service or if the CONTRACTOR has represented itself as a small business concern pursuant to the award of this Contract. Disclosures made under this clause shall be made directly to the Government entities identified in the clause, with a copy to ULA.) (Nothing contained herein shall be construed to alter CONTRACTOR's requirements to comply with FAR 52.203-13 Contractor Code of Business Ethics and Conduct.)
- (b) FAR 52.203-19 PROHIBITION ON REQUIRING CERTAIN INTERNAL CONFIDENTIALITY AGREEMENTS OR STATEMENTS (JAN 2017)
- (c) FAR 52.204-23 PROHIBITION ON CONTRACTING FOR HARDWARE, SOFTWARE, AND SERVICES DEVELOPED OR PROVIDED BY KASPERSKY LAB AND OTHER COVERED ENTITIES (DEC 2023)
- (d) FAR 52.204-25 PROHIBITION ON CONTRACTING FOR CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT (NOV 2021)
- (e) FAR 52.209-06 PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (JAN 2025) (Note 2 applies.) (Applies if this Contract exceeds the threshold specified in FAR 9.405-2(b) on the date of Contract award except for the procurement of commercially available off-the-shelf items.)
- (f) (b) FAR 52.203-12 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (JUN 2020) (CONTRACTOR disclosure forms and those of Contractor's lower tier subcontract will be provided to ULA.) (Applies if Contract exceeds the threshold specified in FAR 3.808 on the date of subcontract award.) (Note 4 applies to paragraph (e).)
- (g) FAR 52.203-14 DISPLAY OF HOTLINE POSTER(S) (OCT 2015) (Applies if the Contract exceeds the threshold specified in FAR 3.1004(b)(1) on the date of award, except when the Contract is for the acquisition of a commercial product or a commercial, or is performed entirely outside the United States.)
- (h) FAR 52.215-20 REQUIREMENTS FOR COST OR PRICING DATA OR INFORMATION OTHER THAN COST OR PRICING DATA (OCT 2010) (Note 2 applies.)
- (i) FAR 52.204-30 FEDERAL ACQUISITION SUPPLY CHAIN SECURITY ACT ORDERS – PROHIBITION (DEC 2023) (In the event the CONTRACTOR, identifies, or is notified by a lower-tier subcontractor of, a covered article as defined in 41 U.S.C. 4713, CONTRACTOR shall notify the ULA Procurement Representative immediately, CONTRACTOR shall report the information in paragraph (d)(2) of the clause to the ULA Procurement Representative.)

- (j) FAR 52.215-21 REQUIREMENTS FOR COST OR PRICING DATA OR INFORMATION OTHER THAN COST OR PRICING DATA - MODIFICATIONS (OCT 2010) ALT III (OCT 1997) (Note 2 applies. Insert "CD/DVD" in (c) of Alt III.)
- (k) FAR 52.219-08 UTILIZATION OF SMALL BUSINESS CONCERNS (JAN 2025)
- (l) FAR 52.222-35 EQUAL OPPORTUNITY FOR VETERANS (JUN 2020) (Applies only if the value of this Contract equals or exceeds the threshold specified in FAR 22.1303(a) on the date of Contract award.) (Applies to Contracts not exempt by the rules, regulations, or orders of the Secretary of Labor.)
- (m) FAR 52.222-36 EQUAL OPPORTUNITY FOR WORKERS WITH DISABILITIES (JUN 2020) (Applies to Contracts not exempt by the rules, regulations, or orders of the Secretary of Labor.) (Applies only if the value of this Contract equals or exceeds the threshold specified in FAR 22.1408(a) on the date of Contract award.)
- (n) FAR 52.222-37 EMPLOYMENT REPORTS ON VETERANS (JUN 2020) (Applies only if the value of this Contract equals or exceeds the threshold specified in FAR 22.1303(a) on the date of Contract award.) (Applies to Contracts not exempt by the rules, regulations, or orders of the Secretary of Labor.)
- (o) FAR 52.222-50 COMBATING TRAFFICKING IN PERSONS (NOV 2021) (The requirements in paragraph (h) of this clause apply only to any portion of the Contract that is for supplies, other than commercially available off-the-shelf items, acquired outside the United States, or services to be performed outside the United States; and exceeds \$550,000.) (In paragraph (e) insert "and ULA" after "Government". Note 5 applies.)
- (p) FAR 52.225-13 RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (JUN 2008)
- (q) (b) FAR 52.226-8 ENCOURAGING CONTRACTOR POLICY TO BAN TEXT MESSAGING WHILE DRIVING (AUG 2011) (Applies to Contracts that exceed the micro-purchase threshold in FAR 2.101 on the date of subcontract award.) (Note 4 applies to paragraph (c).)
- (r) FAR 52.227-14 RIGHTS IN DATA GENERAL (MAY 2014) (Alt II (DEC 2007) applies to the extent that it becomes necessary for CONTRACTOR to deliver limited rights data. Alt III (DEC 2007) applies to the extent that it becomes necessary for CONTRACTOR to deliver restricted computer software.)
- (s) FAR 52.232-17 INTEREST (MAY 2014) (Note 1 applies.)
- (t) FAR 52.234-01 INDUSTRIAL RESOURCES DEVELOPED UNDER DEFENSE PRODUCTION ACT TITLE III (SEP 2016) (Notes 1 and 2 apply.)
- (u) FAR 52.242-13 BANKRUPTCY (JUL 1995) (Notes 1 and 2 apply.)
- (v) FAR 52.242-15 STOP-WORK ORDER (AUG 1989) (Notes 1 and 2 apply.)
- (w) FAR 52.242-17 GOVERNMENT DELAY OF WORK (APR 1984) (In paragraph (b)(1) insert 10 for the number of days.)
- (x) FAR 52.244-06 SUBCONTRACTS FOR COMMERCIAL ITEMS (JAN 2025) (DEVIATION FEB 2025)
- (y) FAR 52.247-63 PREFERENCE FOR U.S.-FLAG AIR CARRIERS (JAN 2025) (Applicable if Contract involves international air transportation.)

**2. The following FAR clauses apply to this Contract if the value of this Contract equals or exceeds \$3,500:**

- (a) FAR 52.222-54 EMPLOYMENT ELIGIBILITY VERIFICATION (NOV 2020) (Applicable if the Contract is performed in the United States, and is for (i) commercial or noncommercial services (except for commercial services that are part of the purchase of a COTS item, or an item that would be a COTS item, but for minor modifications, performed by the COTS provider and are normally provided for that COTS item); or (ii) construction.)

**3. The following FAR clauses apply to this Contract if the value of this Contract equals or exceeds \$10,000:**

- (a) FAR 52.222-40 NOTIFICATION OF EMPLOYEE RIGHTS UNDER THE NATIONAL LABOR RELATIONS ACT (DEC

2010) (Applies to Contracts not exempt by the rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 3 of Executive Order 13496.)

**4. The following FAR clauses apply to this Contract if the value of this Contract equals or exceeds \$150,000:**

- (a) FAR 52.203-10 PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY (May 2014) (If the Government reduces ULA's price or fee for violation of the Act by CONTRACTOR or its Subcontractors at any tier, ULA may withhold from sums owed CONTRACTOR the amount of the reduction. Note 1 applies to paragraph (d).)
- (b) FAR 52.215-02 AUDIT AND RECORDS-NEGOTIATION (OCT 2010) (Applicable if: (1) CONTRACTOR is required to furnish cost or pricing data, or (2) the Contract requires CONTRACTOR to furnish cost, funding, or performance reports. Note 3 applies.)

**7. The following FAR clauses apply to this Contract if the value of this Contract exceeds \$250,000:**

- (a) FAR 52.203-06 RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (SEP 2006)
- (b) FAR 52.203-17 CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS (NOV 2023)

**8. The following FAR clauses apply to this Contract if the value of this Contract equals or exceeds \$700,000:**

- (a) FAR 52.219-09 SMALL BUSINESS SUBCONTRACTING PLAN (JAN 2025) (Applicable if the CONTRACTOR is not a small business.) (Note 2 is applicable to paragraph (c) only.) (The CONTRACTOR's subcontracting plan is incorporated herein by reference.)

**9. The following FAR clauses apply to this Contract if the value of this Contract equals or exceeds \$2,000,000**

- (a) FAR 52.215-12 SUBCONTRACTOR COST OR PRICING DATA (OCT 2010) (Applicable if not otherwise exempt under FAR 15.403.)
- (b) FAR 52.215-13 SUBCONTRACTOR COST OR PRICING DATA - MODIFICATIONS (OCT 2010) (Applicable for modifications if not otherwise exempt under FAR 15.403.)

**11. The following FAR clauses apply to this Contract as indicated:**

- (a) FAR 52.203-08 CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY (MAY 2014) (This clause applies to this Contract if the CONTRACTOR, its employees, officers, director or agents participated personally and substantially in any part of the preparation of a proposal for this Contract. The CONTRACTOR shall indemnify ULA for any and all losses suffered by ULA due to violations of the Act (as set forth in this clause) by CONTRACTOR or its Subcontractors at any tier.) (Note 1 applies.)
- (b) FAR 52.204-02 SECURITY REQUIREMENTS (MAR 2021) (Applicable if the Work under this Contract requires access to classified information ("Confidential", "Secret" or "Top Secret"). The reference in paragraph (c) to the Changes clause shall be deemed to refer to clause 2. "Contract Direction" of this Contract.)
- (c) FAR 52.204-21 BASIC SAFEGUARDING OF COVERED CONTRACTOR INFORMATION SYSTEMS (NOV 2021) (Applicable to Contracts for which Contract performance will involve storage, processing, or transmitting non-public contract information on CONTRACTOR Information systems.) (Note 4 applies.)
- (d) FAR 52.215-10 PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA (AUG 2011) (Applicable if submission of cost or pricing data is required. Notes 2 and 4 apply except the first time "Contracting Officer" appears in paragraph (c)(1). Rights and obligations under this clause shall survive completion of the Work and final payment under this Contract.)
- (e) FAR 52.215-11 PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA - MODIFICATIONS (AUG 2011) (Applicable if submission of cost or pricing data is required for modifications. Notes 2 and 4 apply except the first time "Contracting Officer" appears in paragraph (d)(1). Rights and obligations under this clause shall survive completion of the Work and final payment under this Contract.)
- (f) FAR 52.215-15 PENSION ADJUSTMENTS AND ASSET REVERSIONS (OCT 2010) (Applicable if this Contract meets the applicability requirements of FAR 15.408(g). Note 5 applies.)

(g) FAR 52.215-16 FACILITIES CAPITAL COST OF MONEY (JUN 2003) (Applicable only if this Contract is subject to the Cost Principles at FAR Subpart 31.2 and the CONTRACTOR proposed facilities capital cost of money in its offer.)

(h) FAR 52.215-17 WAIVER OF FACILITIES CAPITAL COST OF MONEY (OCT 1997) (Applicable only if this Contract is subject to the Cost Principles at FAR Subpart 31.2 and the CONTRACTOR did not propose facilities capital cost of money in its offer.)

(i) FAR 52.215-18 REVERSION OR ADJUSTMENT OF PLANS FOR POST-RETIREMENT BENEFITS (PRB) OTHER THAN PENSIONS (JUL 2005) (Applicable if this Contract meets the applicability requirements of FAR 15.408(j). Note 5 applies.)

(j) FAR 52.215-19 NOTIFICATION OF OWNERSHIP CHANGES (OCT 1997) (Applicable if this Contract meets the applicability requirements of FAR 15.408(k). Note 5 applies.)

(k) FAR 52.227-09 REFUND OF ROYALTIES (APR 1984) (Applies when reported royalties exceeds \$250. Notes 1 and 2 apply.)

(l) FAR 52.227-10 FILING OF PATENT APPLICATIONS- CLASSIFIED SUBJECT MATTER (DEC 2007) (Applies if this Contract involves classified subject matter.)

(m) FAR 52.230-02 COST ACCOUNTING STANDARDS (OCT 2015) (This clause applies to Contracts in excess of \$2,000,000, unless CONTRACTOR is determined to be exempt from CAS coverage, or subject to modified CAS coverage. "United States" means "United States or ULA." Delete paragraph (b) of the clause.)

(n) FAR 52.230-03 DISCLOSURE AND CONSISTENCY OF COST ACCOUNTING PRACTICES (OCT 2015) (This clause applies to Contracts in excess of \$2,000,000 when CONTRACTOR is determined to be subject to modified CAS coverage. "United States" means "United States or ULA". Delete paragraph (b) of the clause.)

(o) FAR 52.230-06 ADMINISTRATION OF COST ACCOUNTING STANDARDS (JUN 2010) (Applicable if FAR 52.230- 2 or FAR 52.230-3 applies.)

(p) FAR 52.233-03 PROTEST AFTER AWARD (AUG 1996) (In the event ULA's customer has directed ULA to stop performance of the Work under the prime contract under which this Contract is issued pursuant to FAR 33.1, ULA may, by written order to CONTRACTOR, direct CONTRACTOR to stop performance of the Work called for by this Contract. "30 days" means "20 days" in paragraph (b)(2). Note 1 applies except the first time "Government" appears in paragraph (f). In paragraph (f) add after "33.104(h) (1)" the following: "and recovers those costs from ULA".)

(q) FAR 52.243-06 CHANGE ORDER ACCOUNTING (APR 1984) (Applicable if the prime contract requires Change Order Accounting. Note 2 applies.)

(r) FAR 52.248-01 VALUE ENGINEERING (OCT 2010) (Note 1 applies, except in paragraphs (c)(5) and (m), where Note 3 applies and except in (b)(3) where Note 4 applies, and where "Government" precedes "cost" throughout. Note 2 applies.)

## **F. FAR FLOWDOWN CLAUSES: FIXED PRICE CONTRACTS FOR NON-COMMERCIAL ITEMS UNDER A GOVERNMENT PRIME**

***The Following clauses apply to this Contract if it is a Fixed Price Contract (For Cost Reimbursable or Time and Material Contracts, reference the applicable Doc 3 Cost Reimbursable Supplement or Doc 3 T&M Supplement)***

(a) FAR 52.243-01 CHANGES - FIXED PRICE (AUG 1987) (Alt II applies.) (Notes 1 and 2 apply.)

(b) FAR 52.246-04 INSPECTION OF SERVICES - FIXED PRICE (AUG 1996) (Note 3 applies except in paragraphs (e) and (f) where Note 1 applies.)

(c) FAR 52.249-02 TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED-PRICE) (APR 2012) (Notes 1 and 2 apply. Note 4 applies to the first time "Government" appears in paragraphs (b)(4) and (b)(6), it applies to all of paragraph (b)(8) and it applies to the second time "Government" appears in paragraph (d). In paragraph (n) "Government"

means "ULA and the Government". In paragraph (c) "120 days" is changed to "60 days". In paragraph (d) "15 days" is changed to "30 days", and "45 days" is changed to "60 days". In paragraph (e) "1 year" is changed to "6 months". Paragraph (j) is deleted. In paragraph (l) "90 days" is changed to "45 days". Settlements and payments under this clause may be subject to the approval of the Contracting Officer.)

(d) FAR 52.249-08 DEFAULT (FIXED-PRICE SUPPLY AND SERVICE) (APR 1984) (Notes 1 and 2 apply, except Note 1 is not applicable to paragraph (c). Note 4 applies to the second and third time "Government" appears in paragraph (e). Add the words "or pandemics" after the word "epidemics" in paragraph (c). Timely performance is a material element of this Contract.)

(e) FAR 52.215-23 LIMITATION OF PASS THROUGH CHARGES (OCT 2009)(Applies to Contracts that are over \$2,000,000.)

### **SECTION III: CERTIFICATIONS AND REPRESENTATIONS**

**This clause contains certifications and representations that are material representations of fact upon which ULA will rely in making awards to CONTRACTOR. By submitting its written offer, or providing oral offers/quotations at the request of ULA, or accepting any contract, CONTRACTOR certifies to the representations and certifications as set forth below in this clause. These certifications shall apply whenever these terms and conditions are incorporated by reference in any contract, agreement, other contractual document, or any quotation, request for quotation (oral or written), request for proposal or solicitation (oral or written), issued by ULA. CONTRACTOR shall immediately notify ULA of any change of status with regard to these certifications and representations.**

**(a) FAR 52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions**  
(Applies to Contracts that equal or exceed \$150,000.)

(i) CONTRACTOR hereby certifies to the best of its knowledge and belief that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on its behalf in connection with the awarding of this Contract.

(ii) If any registrants under the Lobbying Disclosure Act of 1995 have made a lobbying contact on behalf of the CONTRACTOR with respect to this Contract, the CONTRACTOR shall complete and submit OMB Standard Form LLL, Disclosure of Lobbying Activities, to provide the name of the registrants. The CONTRACTOR need not report regularly employed officers or employees of the CONTRACTOR to whom payments of reasonable compensation were made.

**(b) FAR 52.209-05 Certification Regarding Responsibility Matters.**

(i) CONTRACTOR certifies that, to the best of its knowledge and belief, that CONTRACTOR and/or any of its Principals (as defined in FAR 52.209-05):

(1) are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

(2) have not, within a three-year period, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) contract or subcontract; violation of Federal or State antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal tax laws, or receiving stolen property; and

(3) are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in subdivision (2).

(ii) CONTRACTOR shall provide immediate written notice to ULA if, any time prior to award of any contract, it learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

**(c) CONTRACTOR Systems.**

CONTRACTOR certifies that its business systems (as defined in DFARS 252.242-7005) have not been disapproved by the US Government. CONTRACTOR shall immediately notify ULA of any change in their system approvals.