



**Doc 350**

**COMMERCIAL SPACE OPERATIONS SUPPORT AGREEMENT BETWEEN ULA AND THE UNITED STATES GOVERNMENT**

*This document applies for all Contracts where Work will be performed at Vandenberg Air Force Base or Cape Canaveral Air Force Station.*

CONTRACTOR acknowledges that ULA is a party to the Commercial Space Operations Support Agreement (“CSOSA”) dated August 15, 2008 which governs the use of United States Government launch and test ranges associated with ULA’s commercial and United States Government launch activities. A copy of the CSOSA is available upon request.

CONTRACTOR further acknowledges that in connection with CONTRACTOR’s activities under this Contract, CONTRACTOR is a “Customer” as defined under the CSOSA and, therefore, is subject to certain terms and conditions under the CSOSA in addition to any other terms and conditions contained elsewhere in this Contract. The CONTRACTOR agrees to comply with the following terms and conditions applicable to CONTRACTOR’s status as a Customer under the CSOSA.

This Document allocates responsibility for damage and liability arising from or relating to performance of this Contract and any activities conducted by CONTRACTOR on United States Government facilities subject to the CSOSA.

1. CONTRACTOR agrees that the United States Government, its contractors and subcontractors, and the employees of any of them, are not responsible to the CONTRACTOR, its subcontractors, or its employees, regardless of fault or causation, for any damage, liability, or financial loss that:

- a. is incurred by the CONTRACTOR, its subcontractors, or its employees, and
- b. arises from or relates to any activities conducted by the CONTRACTOR under this Contract, including any activities of CONTRACTOR performed on any United States Government facilities subject to the CSOSA.

2. The CONTRACTOR shall indemnify and hold the United States Government, its contractors and subcontractors, and the employees of any of them, harmless from all suits, claims, or demands by any person, for any damage or liability that:

- a. is incurred by the Government, its contractors and subcontractors, or the employees of any of them, and
- b. arises from or relates to any activities conducted by the CONTRACTOR under this Contract, including any activities of CONTRACTOR performed on any United States Government facilities subject to the CSOSA.

The CONTRACTOR’s obligation to indemnify and hold harmless under Section 2 of this Document does not apply to damage or liability that is caused by the United States Government, its contractors or subcontractors, or the employees of any of them, if the damage or liability exceeds the terms or the amount of available insurance CONTRACTOR is required to carry under the CSOSA.

3. The CONTRACTOR agrees:

- a. that the United States Government, its contractors and subcontractors, and the employees of any of them are not responsible, as specified in Section 1 of this Document, for any damage, liability, or financial loss to the CONTRACTOR, its subcontractors, and the employees of any them,
- b. to indemnify and hold the United States Government, its contractors and subcontractors, and the employees of any of them harmless, as specified in Section 2 of this Document, for damage or liability caused by the CONTRACTOR, its subcontractors, and the employees of any of them,
- c. that in lieu of requiring the CONTRACTOR to pay for damage to United States Government property that the CONTRACTOR, its subcontractors, and the employees of any of them causes, the United States Government may require the CONTRACTOR to repair or replace the United States Government property at no cost to the United States Government, and

d. that CONTRACTOR recognizes the United States Government contractors and subcontractors as third party beneficiaries of any agreements between ULA and CONTRACTOR for the imposition of terms upon CONTRACTOR relating to compliance with the CSOSA.

4. The CONTRACTOR, at no cost to the United States Government, shall obtain, or cause to be obtained, insurance with terms, amounts, and exclusions or policy limitations acceptable to ULA to protect the United States Government, its contractors and subcontractors, and the employees of any of them, from the damage or liability for which the CONTRACTOR is liable or agrees to indemnify and hold the United States Government, its contractors and subcontractors, or the employees of any of them, harmless under this Contract.

5. In addition to being subject to the insurance requirements of this Contract, the CONTRACTOR is subject to established or general United States Government liability insurance requirements with respect to access to and use of United States Government property or United States Government contractor or subcontractor property. These requirements include, but are not limited to, obtaining and maintaining insurance, at no cost to the United States Government, of at least the types and in the minimum amounts set forth in the ULA general provisions DOC and Comprehensive Automobile Liability (bodily injury: \$200,000 per person and \$500,000 per accident; and \$20,000 property damage).

6. CONTRACTOR shall provide to ULA:

a. a copy of each certificate of insurance required by this Contract; and

b. any performance bond(s) required by the United States Government for CONTRACTOR's activities conducted on any United States Government facilities covered under the CSOSA.

c. CONTRACTOR shall provide to ULA each document described in Section 6 of this Document, within 14 calendar days prior to commencement of the activity to which the document relates. On an annual basis, a copy of all policy exclusions or limitations currently applicable to CONTRACTOR's insurance policies, required under this Contract, shall be provided to ULA.

d. CONTRACTOR shall also allow ULA or the United States Government to review any insurance policy, required to be maintained by CONTRACTOR under the terms of this Contract, within a reasonable period of time after receipt of ULA's written request.

7.

a. The United States Government shall be an additional insured under each insurance policy required of the CONTRACTOR for United States Government protection under this Contract. (This requirement does not extend to workers' compensation.) CONTRACTOR agrees that all proceeds of insurance required for United States Government protection and obtained by or under the control of the CONTRACTOR shall first be applied to satisfy CONTRACTOR's obligations to the United States Government under this Contract.

b. Each insurance policy referred to in Section 5 of this Document shall renounce all rights of subrogation against the Government, except for:

(1) any damage, liability, or financial loss incurred by the CONTRACTOR, its subcontractors, or its employees, caused by intentional misconduct on the part of United States Government managerial personnel, or

(2) any damage or liability incurred by the United States Government, its contractors and subcontractors, or the employees of any of them, caused by intentional misconduct on the part of United States Government managerial personnel.

c. Any right of subrogation against United States Government contractors or subcontractors or their employees shall not limit the obligation of the CONTRACTOR to indemnify and hold harmless the United States Government and its employees. Further, any right of subrogation against United States Government contractors or subcontractors is limited to any insurance that they carry, unless the damage or liability is caused by intentional misconduct on the part of CONTRACTOR's or its subcontractor's managerial personnel.

8. With respect to each of the insurance policies required of the CONTRACTOR, CONTRACTOR shall require its insurer to provide ULA (a) written notice at least 30 calendar days before cancellation or a material change in policy coverage and (b) copies of any policy modifications as they occur, if requested by ULA.

9. The extent of CONTRACTOR's responsibility under this Contract for damage or liability shall not be reduced or eliminated by amounts which are within the deductible amounts of CONTRACTOR's insurance policies. Damage or liability for which the

CONTRACTOR must indemnify and hold the United States Government, its contractors and subcontractors, and the employees of any of them, harmless under this Contract, that is not covered by insurance because of policy exclusions for which insurance coverage without the exclusions could not be purchased on the world market on reasonable terms and conditions, shall be deemed to exceed the terms or amount of available insurance required under this Contract; provided that should such damage or liability occur, the CONTRACTOR shall have the burden of establishing that insurance coverage without the exclusions could not have been purchased on the world market on reasonable terms and conditions.

10. CONTRACTOR's insurance, performance bond(s), and obligations under this Contract shall not be the exclusive recourse of ULA or the United States Government to recover for damage or liability from CONTRACTOR or its insurer, or to otherwise obtain legal or equitable relief from CONTRACTOR or its insurer.

11. CONTRACTOR shall immediately (a) notify ULA of any claim or action against, or damage suffered or incurred by, CONTRACTOR arising from or related to performance of this Contract relating to activities on United States Government facilities subject to the CSOSA, and (b) provide ULA with copies of all pertinent papers CONTRACTOR receives regarding any such claim, action, or damage.

12. ULA and CONTRACTOR agree to cooperate in obtaining relevant reports and other information in connection with the presentation by the United States Government or ULA of any claim under insurance required by this Contract.