



**DOC 353
IMPORT AND EXPORT CLAUSES**

- 1. Applicable to U.S. CONTRACTORS who provide to or receive from ULA any export controlled data, hardware and/or defense services.**

AUTOMATED EXPORT SYSTEM (AES)

For any shipment exported from the United States 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. Where applicable, CONTRACTOR as the Foreign Principal Party in Interest (FPPI) agrees to notify their designated U.S. freight forwarder in writing of this arrangement and to furnish to ULA a copy of the export bill of lading verifying that the AES authorization provided by ULA has been properly listed.

- 2. Applicable to U.S. and Non-U.S. CONTRACTORS who provide to or receive from ULA any export-controlled data, hardware and/or defense services.**

OBTAINING EXPORT/IMPORT AUTHORIZATIONS

Both parties shall reasonably cooperate with each other at their own cost in obtaining the authorization for exports or imports required for this Contract. Reasonable cooperation shall include providing necessary documentation, including import, end-user and retransfer certificates.

- 3. Applicable to Non-U.S. CONTRACTORS who provide to or receive from ULA any export controlled data, hardware and/or defense services.**

A. THIRD COUNTRY / DUAL NATIONALS

CONTRACTOR agrees to identify to ULA all third country/dual nationals working on this Contract. For all Work on this Contract CONTRACTOR agrees to comply with US export and import laws relating to third country/dual nationals.

B. RETRANSFER OF EXPORT CONTROLLED DATA AND/OR HARDWARE

CONTRACTOR will not retransfer ULA-provided export-controlled hardware or data to a sub-tier supplier(s) or any other non-U.S. party without prior approval from ULA. CONTRACTOR may have to obtain a Confidentiality Agreements before ULA can approve a retransfer.

C. USE, CONTROL, RIGHTS TO, AND MARKING OF CONTROLLED ITEMS.

(i) CONTRACTOR shall use export-controlled technical data and/or hardware, when furnished by ULA under the ITAR, only in the provision of data and/or services and manufacture of Work in accordance with this Contract.

(ii) CONTRACTOR shall not disclose or provide export-controlled technical data and/or hardware furnished by or derived from ULA to any Non-U.S. Person either in the United States or abroad before obtaining written authorization from ULA or from the U.S. Department of State Office of Defense Trade Controls and/or applicable U.S. Government agency. However, if CONTRACTOR is a Non-US Person, it may disclose or provide export-controlled technical data and/or hardware furnished by ULA to CONTRACTOR's employees who are nationals of CONTRACTOR's country of incorporation or other entities authorized under written authority provided by the applicable U.S. Government agency where the CONTRACTOR obtains prior written permission from the ULA to use such authority.

(iii) CONTRACTOR acquires no rights to export-controlled technical data and/or hardware furnished by ULA except to use them to perform under this Contract. CONTRACTOR shall not purport to convey to any subcontractor or person any greater rights in the data than CONTRACTOR has. CONTRACTOR may convey to subcontractors the right to use the export-controlled technical data and/or hardware only as required to perform their subcontracts. CONTRACTOR must ensure all ULA furnished export-controlled technical data and/or hardware are identified as such to a subcontractor, upon transfer, to ensure proper handling of such items and compliance to applicable export and import laws.

(iv) CONTRACTOR shall deliver the articles manufactured in accordance with this Contract only to ULA in the United States or, with ULA's authorization, to the U.S. Government.

- (v) Upon completion or termination of this Contract, ULA may require CONTRACTOR to:
- (i) return to ULA all technical data and/or hardware furnished by ULA pursuant to this Contract; or
 - (ii) destroy such technical data and to certify in writing to such destruction.

(vi) CONTRACTOR agrees, in addition to the above procedures established by the ITAR, to place the following legend on all technical data obtained, used, generated, or delivered in performance of this Contract:

WARNING: EXPORT CONTROLLED

“This document contains technical data whose export is restricted by the Arms Export Control Act (Title 22, U.S.C. Sec 2751 et seq) or Export Administration Act of 1979, as amended, Title 50 U.S.C.; App. 2401, et seq. Violators of these export laws are subject to severe criminal penalties. (DoD Directive 5230.25)”

(vii) CONTRACTOR shall impose these requirements, (i) through (vi) inclusive, suitably revised to properly identify the parties, on all subcontractors in performance of subcontracts.

D. UNITED STATES CUSTOMS AND BORDER PROTECTION’S CUSTOMS TRADE PARTNERSHIP AGAINST TERRORISM (C-TPAT)

(CONTRACTOR should not make changes and/or modifications, billable to ULA, to current security systems and procedures without first obtaining ULA’S concurrence.)

C-TPAT is an initiative between business and government to protect global commerce from terrorism and increase the efficiencies of global transportation. The program calls for importers, carriers and brokers to establish policies to enhance their own security practices and those of their business partners involved in their supply chain. Such practices may include but are not limited to the following:

- 1) Procedural Security – Procedures in place to protect against unmanifested material being introduced in the supply chain.
- 2) Physical Security – Buildings constructed to resist intrusion, perimeter fences, locking devices, and adequate lighting.
- 3) Access Controls – Positive identification of all employees, visitors, and suppliers.
- 4) Personnel Security – Employment screening, background checks and application verifications.
- 5) Education and Training Awareness – Security awareness training, incentives for participation in security controls.

CONTRACTOR agrees to work with ULA and appropriate industry and governmental agencies, as necessary, to develop and implement policies and processes consistent with the C-TPAT initiative to ensure the safe and secure transport of Work under this Contract.

E. IMPORTER OF RECORD

(Applicable when CONTRACTOR must clear any Work under this Contract through United States Customs)

CONTRACTOR is responsible for clearing the Work through United States Customs. CONTRACTOR will neither cause nor permit ULA’s name to be shown as “Importer Of Record” on any customs declaration form or other documentation.

F. CHANGES IN STATUS

Where the CONTRACTOR is a signatory or party under a ULA export agreement (e.g.TAA, MLA, DWA) or license, CONTRACTOR shall provide prompt notification to the ULA in the event of changed circumstances including, but not limited to, change in name, address, ownership, organization restructure with another company, ineligibility, violation or potential violation of the ITAR, or the initiation or existence of a U.S. Government investigation, that could affect CONTRACTOR’S performance under this Contract.

G. DUTY DRAWBACK

For imported, duty paid merchandise that ULA subsequently re-exports, ULA retains all duty-drawback rights. The CONTRACTOR agrees to support ULA in a timely manner by providing necessary documentation to claim duty drawbacks.

H. FREE-TRADE AGREEMENTS

Should an item imported directly from a foreign supplier be eligible for a free or reduced duty rate under a specific trade program such as NAFTA, Generalized System of Preferences-GSP, or other region/country specific free trade agreement, the CONTRACTOR agrees to provide and maintain documentation necessary to support such claims. ULA will provide information to the CONTRACTOR regarding any duty minimization opportunities.

I. SHIPPING INSTRUCTIONS/COOPERATION IN EXPEDITING CUSTOMS CLEARANCE

(Applicable if the Work under this Contracts will be delivered under terms that require ULA to clear the Work through United States Customs)

CONTRACTOR will notify the Procurement Representative (30) thirty days in advance of any delivery of Work under this Contract, so that the Procurement Representative can provide instructions as to the shipping and customs forms that will need to accompany the Work. CONTRACTOR agrees to provide the documentation that is required by ULA, completed in accordance with ULA's instructions.

CONTRACTOR agrees to take all other action reasonably requested by ULA to expedite customs clearance in the United States for the Work.