



**DOC 6  
COMMERCIAL PURCHASE ORDERS/AGREEMENTS FOR CONSULTANTS**

**SECTION I: GENERAL PROVISIONS**

**Definitions**

- |   |  |  |
|---|--|--|
| 1. Acceptance, Merger and Severability            | 14. Inspection and Acceptance              | 28. Conflicts of Interest                          |
| 2. Changes  | 15. Maintenance of Records                 | 29. Independent Contractor Relationship            |
| 3. Disputes, Governing Law and Legal Notification | 16. Protection of Confidential Information | 30. Insurance                                      |
| 4. Rights and Remedies                            | 17. Protection of Personal Information     | 31. Access to ULA Facilities                       |
| 5. Compliance with Laws                           | 18. Public Release of information          | 32. Information Security and Access to ULA Network |
| 6. Export Control                                 | 19. Communication with ULA's Customer      | 33. Price Warranty                                 |
| 7. Force Majeure                                  | 20. Intellectual Property and Indemnity    | 34. Reporting Requirements                         |
| 8. Default  | 21. Furnished Property                     | 35. Travel Costs                                   |
| 9. Termination for Convenience                    | 22. Documentation and Training             | 36. Payments, Taxes, and Duties                    |
| 10. Stop Work                                     | 23. Contractor Identification              | 37. Precedence                                     |
| 11. Assignment                                    | 24. Gratuities/Kickbacks                   | 38. Survivability                                  |
| 12. Bankruptcy                                    | 25. No Solicitation                        | 39. Warranty                                       |
| 13. Timely Performance                            | 26. Mandatory Disclosure Requirements      | 40. Indemnification                                |
|   | 27. Compliance and Ethics                  |  |

**SECTION II: SUPPLEMENT FOR TIME AND MATERIAL COMMERCIAL PURCHASE ORDERS/AGREEMENTS FOR CONSULTANTS**

**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 (such as Release Purchase Orders [RPO]), the term "Contract" shall also mean the Release Purchase Order for the Work to be performed.
- (c) "CONTRACTOR" means the party identified on the face of this Contract with whom ULA is contracting.
- (d) "Foreground Intellectual Property" means all Intellectual Property Made by or for a party in the performance of Work under this Contract.
- (e) "Intellectual Property" means all (i) inventions, discoveries and improvements, (ii) all documented information in whatever form such as information embodied in drawings, 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.
- (f) "Made" means conceived, developed, first produced, or created.
- (g) "Personal Information" means any non-public personal information provided by an individual to ULA, including any Personally Identifiable Information or Protected Health Information.
- (h) "Personally Identifiable Information" (PII) means any information which can potentially be used to uniquely identify, contact, or locate a single person. Items which might be considered PII include, but are not limited to:
  - Social security number
  - Unlisted and/or unpublished personal telephone number
  - Unlisted and/or unpublished home address
  - Personal email address
  - IP address (in some cases)

- Vehicle registration plate number
- Driver's license number
- Credit card numbers
- Digital identity

(i) "Protected Health Information" (PHI) means medical records and information of an individual as defined by HIPAA (Health Insurance Portability and Accountability Act of 1996).

(j) "Procurement Representative" means the person authorized by ULA's cognizant procurement organization to administer and/or execute this Contract.

(k) "Subcontractor" means CONTRACTOR's, vendors or suppliers at any tier.

(l) "ULA" means UNITED LAUNCH ALLIANCE, LLC, as identified on the face of this Contract.

(m) "ULA's Customer" means any Government or commercial agency/entity ULA is under or will be under contract to support.

(n) "Work" means all required labor, articles, materials, supplies, goods, services and deliverable information and materials constituting the subject matter of this Contract.

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

(a) CONTRACTOR's 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, and agreements concerning the subject matter hereof and constitutes the entire agreement between the parties.

(d) Each clause, paragraph and sub-paragraph of this Contract is severable, and if one or more of them are declared invalid, 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 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. CHANGES**

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

(b) The Procurement Representative may at any time, by written notice, and without notice to sureties or assignees, make changes within the general scope of this Contract in any one or more of the following: (i) description of services; (ii) time of performance; and (vi) place of performance. If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of this Contract, ULA shall make an equitable adjustment in this Contract price and/or delivery schedule, and modify this Contract accordingly. Changes to the time of performance will be subject to a price adjustment only. CONTRACTOR must request any equitable adjustment under this clause within thirty (30) days from the date of receipt of the written change order from ULA. Failure to agree to any adjustment shall be resolved in accordance with the "Disputes" clause of this Contract. However, nothing contained in this "Changes" clause shall excuse CONTRACTOR from proceeding without delay in the performance of this Contract as changed.

(c) ULA personnel other than the Procurement Representative may from time to time render assistance or 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 and shall not be the basis for equitable adjustment.

(c) The parties shall mutually agree to any other changes not specifically identified in (b).

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

(a) All disputes under this Contract that are not disposed of by mutual agreement 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.

(b) This Contract, and all claims relating to or arising out of this Contract, or the breach thereof, whether sounding in contract, tort or otherwise, 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) 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 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") that may affect performance of this Contract, to include the Fair Labor Standards Act ("FLSA"), 29 U.S.C. Chapter 8, and any related state laws. CONTRACTOR shall cooperate with, and provide access to, regulatory agencies and 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.

(b) CONTRACTOR represents and warrants that it and its personnel providing Work under this Contract are 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, its personnel providing Work under this Contract, or any of its affiliates have been included or proposed for inclusion in the exclusion file published at SAM.gov.

### **6. EXPORT CONTROL**

(a) Technical data, defense services, software and/or hardware furnished under or in connection with this Contract may be subject to export or import control laws and regulations and may be subject to export or import laws and regulations of the U.S. and/or other countries. All parties agree to comply with export, import, and sanctions laws, and will obtain the appropriate USG authorization prior to exporting to a Foreign Person within the U.S. or abroad, as applicable. The substance of this subparagraph shall be flowed down to Subcontractors.

(b) CONTRACTOR certifies that only U.S. Persons, as defined in 22 CFR 120.15, will be recipients of subject data, services, software and/or hardware and participate directly in telecons, meetings and/or email with ULA. If direct participation by Foreign Persons is required, prior notice must be provided by CONTRACTOR, and approval received from ULA, to ensure that the appropriate export authorizations are in place. CONTRACTOR shall not distribute, transfer, or transmit any export controlled item, information or services (even if incorporated into other products), except in compliance with applicable export laws and authorities. CONTRACTOR further certifies that it

has a US-based information technology system with access controls to prevent access to subject data by Foreign Persons. CONTRACTOR will not transfer export controlled information via any e-mail or transfer system except those specifically provided and/or approved by ULA. All work pursuant to this Contract shall be performed in the United States. The substance of this subparagraph shall be flowed down to Subcontractors.

(c) CONTRACTOR is required to be registered with the State Department, Directorate of Defense Trade Controls, if it engages in the business of either exporting or manufacturing (whether exporting or not) defense articles (i.e. ITAR-controlled parts, technical data) or furnishing of defense services, and represents that it maintains an effective export and import compliance program. CONTRACTOR represents that it is not owned or controlled by a foreign entity, or a sanctioned or denied party unless prior notification has been provided and approved by ULA.

(d) 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 EAR, including export classification determinations, by consulting with its Empowered Official, other internal global trade resources, or counsel, as applicable. Contractor may also consult with the Department of State regarding any questions relating to compliance with the ITAR, or with the Department of Commerce regarding any questions relating to compliance with the EAR.

(e) The CONTRACTOR agrees to reasonably cooperate with ULA for assessments, audits and other fact-finding required to ensure compliance to U.S. export/import laws and regulations or as part of an investigation or corrective action related to a potential or actual violation of U.S. export/import laws and regulations. The CONTRACTOR will provide input for such activities in a timely and accurate manner. The substance of this subparagraph shall be flowed down to Subcontractors.

(f) The CONTRACTOR agrees to provide timely and accurate reporting of fees and commissions paid related to Part 130 of the ITAR, when 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 CFR 130.9. This subparagraph shall be flowed down to any authorized Subcontractors, as applicable.

(g) CONTRACTOR shall indemnify and hold harmless ULA, its officers, employees, and agents from any losses, costs, claims, causes of action, damages, liabilities, and 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 its export/import activities. Any limitation of liability in this Contract shall not apply to this clause.

## **7. FORCE MAJEURE**

(a) Neither ULA nor CONTRACTOR shall be liable for, any failure of performance due to events beyond their reasonable control and without their fault or negligence. Such events include War; warlike operation; insurrection; riot; fire; flood; explosion; accident; act of God; act of a public enemy; terrorism; acts of the government in its sovereign or contractual capacity; epidemic; and quarantine restriction,. In all cases, the affected party shall use reasonable efforts to avoid or minimize all such failures.

(b) In order to be excused from performance under subparagraph (a) above, CONTRACTOR shall promptly upon the start of the qualifying event, notify ULA in writing and provide a complete and detailed description of such event, the date of commencement, an estimate of the probable period of delay, and explanation indicating how such event was beyond the control of the CONTRACTOR, and a description of efforts CONTRACTOR will make to minimize the length of delay. Upon the end of the event CONTRACTOR shall submit a written notice stating the impact to the schedule and evidence justifying the length of the delay. At ULA's option, the Contract may be completed with such adjustments to delivery schedule as are reasonably required by the delay or this Contract may be terminated by ULA without additional cost, except for payment for Work completed prior to the commencement of the delay.

## **8. DEFAULT**

(a) ULA, by written notice, may terminate this Contract for default, in whole or in part, if CONTRACTOR (i) fails to comply with any of the terms of this Contract; (ii) fails to make progress so as to endanger performance of this Contract; (iii) fails to provide adequate assurance of future performance; (iv) files or has filed against it a petition in bankruptcy; or (v) becomes insolvent or suffers a material adverse change in financial condition. CONTRACTOR shall have ten (10) days (or such longer period as ULA may authorize in writing) to cure any such failure after receipt of notice from ULA. Default involving delivery schedule delays, bankruptcy or adverse change in financial condition shall not be subject to the cure provision.

(b) Following a termination for default of this Contract, CONTRACTOR shall be compensated at the Contract price only for Work actually delivered and accepted. In addition, ULA may require CONTRACTOR to deliver and transfer title to ULA any supplies and materials, manufacturing materials or drawings, reports or other Contract deliverables that CONTRACTOR has specifically produced or acquired for the terminated portion of this Contract. Upon direction from ULA, CONTRACTOR shall also protect and preserve property in its possession in which ULA or ULA's Customer has an interest. ULA may withhold from any amount due under this Contract any sum ULA determines to be necessary to protect ULA or ULA's Customer against loss because of outstanding liens or claims of former lien holders. CONTRACTOR shall be liable for ULA's excess re-procurement costs.

(c) Upon the occurrence and during the continuation of a default, ULA may exercise any and all rights and remedies available to it under applicable law and equity, including without limitation, cancellation of this Contract. If after termination for default under this Contract, it is determined that CONTRACTOR was not in default, such termination shall be deemed a termination for convenience and CONTRACTOR's remedies shall be limited to those contained in the "Termination for Convenience" clause.

(d) CONTRACTOR shall continue all Work not terminated or cancelled.

## **9. TERMINATION FOR CONVENIENCE**

(a) ULA may terminate part or all of this Contract for its convenience and without cause, at any time, by giving written notice to CONTRACTOR. Such termination shall not constitute default.

(b) Upon termination, in accordance with ULA written direction, CONTRACTOR will immediately: (i) Cease work; (ii) Prepare and submit to ULA an itemization of all completed and partially completed deliverables and services; (iii) Deliver to ULA any and all Work completed up to the date of termination at the agreed upon prices; and (iv) Deliver upon request any Work in process. In the event ULA terminates for its convenience after performance has commenced, ULA will compensate CONTRACTOR for the actual, allowable, reasonable, allocable and substantiated costs, plus a reasonable profit for Work performed up to and including the date of termination provided CONTRACTOR uses reasonable efforts to mitigate ULA's liability under this clause, except where such other provision governing termination liability has been agreed to between the parties and incorporated into this Contract.

(c) Any termination settlement proposal shall be submitted to ULA promptly, but in no event later than sixty (60) days from the effective date of the termination, unless otherwise authorized in writing by the Procurement Representative. In no event shall the amount of any settlement be in excess of the Contract value.

(d) CONTRACTOR shall continue all Work not terminated. In no event shall ULA be liable for lost or anticipated profits, unabsorbed indirect costs or overhead, or for any sum in excess of the total Contract price.

## **10. STOP WORK**

(a) CONTRACTOR shall stop Work for up to one hundred (100) days in accordance with any written notice received from ULA, or for such longer period of time as the parties may agree and shall take all reasonable steps to minimize the incurrence of costs allocable to the Work during the period of Work stoppage.

(b) Within such period, ULA shall either terminate in accordance with the provisions of this Contract or continue the Work by written notice to CONTRACTOR. In the event of a continuation, an equitable adjustment in accordance with the principles of the "Changes" clause shall be made to the price, performance schedule, or other provision(s) affected by the Work stoppage, if applicable, provided that the claim for equitable adjustment is made within thirty (30) days after date of notice to continue.

## **11. 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 assignment reasonably in advance of the due date for payment of any such amounts. Amounts assigned shall be subject to setoff or recoupment for any present or future claims of ULA against CONTRACTOR. ULA shall have the right to make settlements and/or adjustments in price without notice to any assignee financing institution.

## **12. BANKRUPTCY**

In the event the CONTRACTOR enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the CONTRACTOR agrees to furnish written notification of the bankruptcy to the Procurement Representative. This notification shall be furnished within five (5) days of the initiation of the proceedings relating to bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, the case number, and a listing of all Contracts with ULA. This obligation remains in effect until final payment under this Contract.

## **13. TIMELY PERFORMANCE**

(a) CONTRACTOR's timely performance is of the essence and is a material element of this Contract.

(b) If CONTRACTOR becomes aware of difficulty in performing the Work, CONTRACTOR shall timely notify ULA, in writing, giving pertinent details. This notification shall not change any performance schedule.

## **14. INSPECTION AND ACCEPTANCE**

(a) ULA and ULA's Customer may inspect all Work at reasonable times and places. No such inspection 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.

(b) 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 such Work; or (iii) require CONTRACTOR, at CONTRACTOR's expense, to make all repairs, modifications, or replacements necessary to conform the Work with Contract requirements. CONTRACTOR shall not re-tender rejected Work without disclosing the corrective action taken.

## **15. MAINTENANCE OF RECORDS**

(a) CONTRACTOR shall maintain complete and accurate records, including financial records, relating to its performance of the Work to substantiate that CONTRACTOR performed all tasks required by the Contract. Such records shall include, but not be limited to, applicable time sheets, job cards, phone bills, travel receipts and job summaries. CONTRACTOR shall retain such records for six (6) years from final payment of 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..

## **16. PROTECTION OF CONFIDENTIAL INFORMATION**

(a) Information provided by ULA to CONTRACTOR remains the property of ULA and such information, including tangible items conveying or embodying such information, is deemed the proprietary, confidential and/or trade secret information of ULA. Information provided by ULA to CONTRACTOR remains the property of ULA and such information, including tangible items conveying or embodying such information, is deemed the proprietary, confidential and/or trade secret information of ULA. Such information may be used by CONTRACTOR solely for the purposes of this Contract. CONTRACTOR may not disclose to any third party such information without the prior written consent of ULA.

(b) CONTRACTOR shall ensure each of its personnel providing Work to ULA under or in connection with this Contract signs and complies with the Intellectual Property and Confidentiality Agreement (IPCA) provided by ULA to CONTRACTOR. CONTRACTOR shall retain IPCAs signed by each individual.

(c) ULA personnel are not authorized to receive any information in confidence from CONTRACTOR or its personnel. All communications of any kind from CONTRACTOR to ULA, accordingly, shall be deemed to be on a non-confidential basis. CONTRACTOR shall ensure that its personnel do not use information proprietary or

otherwise sensitive to any company other than ULA in the performance of Work under or in connection with this Contract.

#### **17. 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.

#### **18. PUBLIC RELEASE OF INFORMATION**

Except as required by law, no public release of any information, or confirmation or denial of same, with respect to this Contract or the subject matter hereof, will be made by CONTRACTOR without the prior written approval of ULA.

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

ULA shall be solely responsible for all liaison and coordination with ULA's Customer as it affects this Contract and any related contract, unless explicitly required in another clause. If another clause requires direct communication with ULA's Customer, CONTRACTOR shall notify ULA immediately and provide ULA a copy of the communication.

#### **20. INTELLECTUAL PROPERTY AND INDEMNITY**

(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 ("Assigned Intellectual Property"), (ii) delivered to ULA promptly upon request, and (iii) protected and used in accordance with the "Information of ULA" clause.

(b) CONTRACTOR will (i) promptly disclose in writing all inventions conceived, developed or first reduced to practice in the performance of this Contract to ULA 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, 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, suppliers, and 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 would otherwise interfere with ULA's or ULA's customers', subcontractors', or suppliers' use or enjoyment of the Work being delivered under this Contract or the Assigned Intellectual Property.

(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 and shall indemnify ULA, its customers, agents, employees, 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 Assigned Intellectual Property provided hereunder in any suit is held to constitute 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 Assigned Intellectual Property, or (ii) modify the same to make it non-infringing, or (iii) replace the same with Work and/or Assigned 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 to this paragraph.

## **21. FURNISHED PROPERTY**

If CONTRACTOR will provide Work within ULA's facilities, ULA shall provide reasonable accommodation for office space, computers and supplies. CONTRACTOR shall be accountable for any property that ULA has explicitly authorized to be removed from ULA facilities; e.g., laptops, and immediately return any Furnished Property to ULA upon expiration or termination of their Work. Final payment to the CONTRACTOR may be withheld pending return of ULA Furnished Property.

## **22. DOCUMENTATION AND TRAINING**

(a) CONTRACTOR shall provide the required documentation listed below completed by each individual providing Work under this Contract before that individual starts performing any Work.

- Non-employee Government Conflict of Interest (COI) Questionnaire
- Individual Certification Packet

(b) CONTRACTOR shall ensure that all its personnel complete any required entrance and exit paperwork and training.

## **23. CONTRACTOR IDENTIFICATION**

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

## **24. 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, and no kickbacks, shall be offered or given by CONTRACTOR to any employee of ULA or ULA's Customer.

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

## **25. NO SOLICITATION**

During the course of this Contract, if working within ULA or ULA's Customer's site(s), CONTRACTOR shall not actively recruit or solicit ULA's personnel or employees that have become known to CONTRACTOR as a result of the Work performed under this Contract without ULA's approval.

## **26. MANDATORY DISCLOSURE REQUIREMENTS**

(a) CONTRACTOR shall report, and shall have its personnel report, any Potentially Disclosable Matter that they become aware of that is related to performance of a ULA contract to the ULA Law Department or ULA Ethics. CONTRACTOR shall cooperate with ULA in investigating any Potentially Disclosable Matter.

(b) Potentially Disclosable Matter is any of the following:

(i) Fraud, False Statements and False Claims

- (a) Any statement, orally or in writing, that a Person has made to any employee or representative of the government that the Person knew to be false.
- (b) Creation or use of any document by a Person in connection with any government contract that the Person knew to be false or misleading.



- (c) Knowing failure by a Person to deliver products or services that conform to requirements of a government contract.
- (d) Knowing creation of a false record by a Person related to performance of a ULA contract.
- (e) Knowing concealment by a Person of a fact from the government that should have been disclosed to the government.
- (f) Any TINA certification that ULA or a subcontractor has submitted that contained any error.
- (g) Any submission by a Person of a request for payment to ULA that the Person knew, at the time of submittal, was inaccurate or overstated.
- (h) Any knowing mischarging of time by a Person.
- (i) Knowing failure by a Person to perform a process or test required by a contract.
- (j) Any violation by any Person of CPS-026 (Procurement Integrity Act Compliance).
- (k) Any misuse of government property.

(ii) Bribery

- (a) Any gift or gratuity that has been provided in violation of CPS-004 (Gifts, Bribes and Kickbacks).
- (b) Any gift or payment of anything of value to a United States government employee by a Person, where such payment is intended to influence that government employee to take or refrain from taking any action in his or her official capacity.
- (c) Any gift or gratuity that has been provided to a Person in violation of CPS-004 (Gifts, Bribes and Kickbacks).

(iii) Conflict of Interest

- (a) Any violation of HR-011 (Employing Current or Former U.S. Military Personnel and Federal Government Employees) in connection with hiring and use of a former government employee by a Person.
- (b) Any violation by a Person of CPS-026 (Procurement Integrity Act Compliance) and CPS-010 (Management of Conflicts of Interest).

(c) Definitions applicable to this clause

(i) "Know", "knowing" or "knew," when used to qualify a matter described in this clause means that the Person either had actual knowledge of the matter, that the Person should have known of the matter or that the Person proceeded with reckless disregard for the matter.

(ii) "Person" means any employee of ULA or any subcontractor, as well as any contract labor, consultant, agent or other representative of ULA or any subcontractor. Person also means ULA or any subcontractor as a whole.

**27. COMPLIANCE AND ETHICS**

(a) CONTRACTOR shall ensure that its personnel providing Work under this Contract are aware of ULA's Code of Ethics and Business Conduct and other applicable ULA Corporate policies, procedures and directives posted in the Command Media Library located on the ULA Intranet. CONTRACTOR shall require its personnel providing Work under this Contract to take compliance or other training as designated by ULA and shall require them to sign the ULA Code of Conduct prior to beginning performance. For training other than compliance training required by ULA, CONTRACTOR may delegate in writing to ULA the ability to inform directly CONTRACTOR's personnel of the requirement to take the training.

(b) Additionally, CONTRACTOR shall ensure its personnel providing Work under this Contract complete programs provided by ULA. CONTRACTOR shall also ensure that its personnel providing Work under this Contract are aware of and comply with any applicable ULA corporate command media posted on ULA internal website in the Command Media Library.

(c) If, at any time, Contractor becomes aware of a violation of ULA's Code of Ethics and Business Conduct in connection with this Contract, CONTRACTOR agrees to notify ULA, either through communication with ULA's Procurement Representative, or through ULA's Confidential Ethics Helpline, at 1-800-511-4173.

**28. CONFLICTS OF INTEREST (COI)**

(a) Individual COIs: CONTRACTOR shall ensure that any of its personnel providing Work under this Contract who are current or former government employees comply with the conflict of interest requirements in Chapter 11 of Title 18 of the U.S. Code and 41 U.S.C. §423.

(b) Organizational:

(i) Definitions - In this clause:

(a) "Affiliates" means employees or officers of the CONTRACTOR and first-tier subcontractors involved in the performance of this Contract, or in the decision making process concerning this Contract.

(b) "Interest" means financial interest.

(c) "Organizational" means that the financial, contractual, organizational and other interests of CONTRACTOR personnel performing Work under this Contract shall be deemed to be the interests of the CONTRACTOR.

(ii) Warranty Against Existing Conflicts of Interest

(a) The CONTRACTOR warrants that it and its affiliates do not have any contracts with or any substantial interest in a ULA supplier, competitor or customer, other than those disclosed to ULA.

(b) The CONTRACTOR recognizes that during the term of this Contract ULA may have new suppliers, customers, or competitors. Once aware of any new ULA supplier, customer, or competitor, the CONTRACTOR agrees to immediately disclose to ULA information concerning any contract or interest if the contract or interest arises during the term of this Contract.

(iii) ULA shall have the sole discretion to determine whether a potential organizational conflict of interest exists concerning any interest or contract which arises or is identified during the term of this contract. ULA may take such steps as are necessary in the best interest of ULA to eliminate potential conflict of interest.

(iv) Waiver. Any request for waiver of this clause shall be submitted in writing and shall set forth all relevant facts in support of the request for a waiver including proposed contractual safeguards or job procedures to mitigate conflicting roles which might produce an Organizational Conflict of Interest.

## **29. 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 agents, representatives or employees be deemed to be agents, representatives or employees of ULA. CONTRACTOR shall be solely responsible for its personnel to include payment of all compensation and benefits, for all Work performed. CONTRACTOR shall comply with all requirements and obligations relating to its personnel under employment contracts and federal, state and local law. Should a CONTRACTOR employee, agent or representative claim that he/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 employment contracts or federal, state or local law.

## **30. INSURANCE**

(a) The provisions of this subparagraph (a) shall apply only in the event that CONTRACTOR, its employees, agents, or Subcontractors enter the site(s) of ULA or ULA's Customers for any reason in connection with 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) 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.

(b) CONTRACTOR shall maintain professional liability insurance coverage to insure it against any claim for damages arising out of any acts or omissions in connection with CONTRACTOR establishment or operation of the CONTRACTOR Work specified herein. Such coverage shall not be less than five million dollars (\$5,000,000) per occurrence and twenty million dollars (\$20,000,000) in the aggregate. This policy shall name ULA as an additional insured and include a Waiver of Subrogation in favor of ULA.

(c) 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 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.

(d) 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 Procurement Representative upon request. Insurance maintained pursuant to this clause shall be considered primary as respects 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.

### **31. ACCESS TO ULA FACILITIES**

(a) CONTRACTOR and its Subcontractors granted access to ULA facilities shall comply with all site requirements.

(b) CONTRACTOR shall ensure that all ULA badges are returned to ULA upon expiration or termination of Work. Final payment to the CONTRACTOR may be withheld pending reconciliation of the issued badges.

(c) 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 regular unescorted access to ULA facilities granted logical access to the ULA network meets the following requirements:

- (i) The individual is a U.S. Person as defined in 22 C.F.R. Part 120
- (ii) No state criminal felony convictions – 7 year search using Residence/Academic/Employment for past 5 years
- (iii) No federal criminal convictions – 7 year search using Residence/Academic/Employment for past 5 years
- (iv) The individual is not on the Global Terrorist Watch Alert

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

(a) CONTRACTOR Employees Having Access to ULA Information Systems:

- (i) If ULA provides CONTRACTOR or any employees of CONTRACTOR 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 that it, and its employees, will not transfer any ULA or third party proprietary information found on such ULA IT Systems to any non-ULA IT Systems without first consulting 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 33(b).

(b) Adequate Controls for CONTRACTOR Information Systems:

(i) This paragraph (b) is applicable if CONTRACTOR will process or store any information, not intended for public release (including any personal, proprietary, confidential, export controlled 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 Controlled Information).

(ii) CONTRACTOR shall apply safeguarding requirements and procedures to protect any Controlled Information. CONTRACTOR will not transfer Controlled Information via any e-mail or transfer system except those specifically provided and/or approved by ULA. Unless CONTRACTOR otherwise notifies ULA Information Technology Security to establish an appropriate security plan, requirements and procedures for basic safeguarding of Controlled Information shall include, at a minimum, the following security controls:

- (1) Limit information system access to authorized users, processes acting on behalf of authorized users, or devices (including other information systems).
- (2) Limit information system access to the types of transactions and functions that authorized users are permitted to execute.
- (3) Verify and control/limit connections to and use of external information systems.
- (4) Control information posted or processed on publicly accessible information systems.
- (5) Identify information system users, processes acting on behalf of users, or devices.
- (6) Authenticate (or verify) the identities of those users, processes, or devices, as a prerequisite to allowing access to organizational information systems.
- (7) Securely sanitize or destroy information system media containing Proprietary Information before disposal or release for reuse.
- (8) Limit physical access to organizational information systems, equipment, and the respective operating environments to authorized individuals.
- (9) Escort visitors and monitor visitor activity; maintain audit logs of physical access; and control and manage physical access devices.
- (10) Monitor, control, and protect organizational communications (i.e., information transmitted or received by organizational information systems) at the external boundaries and key internal boundaries of the information systems.
- (11) Implement subnetworks for publicly accessible system components that are physically or logically separated from internal networks.
- (12) Identify, report, and correct information and information system flaws in a timely manner.
- (13) Provide protection from malicious code at appropriate locations within organizational information systems.
- (14) Update malicious code protection mechanisms when new releases are available.
- (15) Perform periodic scans of the information system and real-time scans of files from external sources as files are downloaded, opened, or executed.

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

(c) 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 possess Controlled Information or in which subcontractor employees will have access to ULA networks.

### **33. PRICE WARRANTY**

The CONTRACTOR warrants that the prices and rates stated herein represent currently established prices and rates and are no higher than would be charged to any other customer, whether commercial or an agency of the United States Government for similar Work in like quantities.

### **34. REPORTING REQUIREMENTS**

The CONTRACTOR shall submit a consultant activity report to ULA with each invoice for payment submitted under this Contract describing in reasonable detail specific items of work accomplished during the preceding reporting period as well as the actuals of cost expenditures for the month reported. Such reports shall include but should not be limited to the hours spent on each task, persons visited and subjects discussed, meeting minutes, trip reports and collateral memoranda. Upon completion of this Contract, the CONTRACTOR shall submit a cumulative final report summarizing all Work accomplished during the Contract performance period.

### **35. TRAVEL COSTS**

For any line items under this Contract that authorize the reimbursement of costs, CONTRACTOR travel expenses shall be reimbursed by ULA for expenses that are authorized under this Contract and approved by the ULA designated Project Manager in advance of the requested travel. Travel reimbursement shall be in accordance with the GSA per diem guidelines as established on the GSA website at [www.gsa.gov](http://www.gsa.gov). ULA shall not reimburse any of the following travel expenses: alcohol, entertainment, telephone bills, airfare other than coach airfare, rental cars larger than midsize, laundry, commuting to and from the job site, or per diem expenses that exceed GSA per diem rates unless written approval is provided in advance by the ULA designated Procurement Representative. Any travel expenses that exceed per diem rates must be approved in advance under the 300% per diem rule by the ULA designated Project Manager. To be eligible for reimbursement, copies of travel expense receipts \$75 or greater must be submitted with invoices for payment. Reimbursement shall be for actual and reasonable expenses only without any markup rate.

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

(a) Unless otherwise provided, terms of payment shall be net thirty (30) days from the latest of the following: (i) ULA's receipt of the CONTRACTOR's proper invoice; (ii) scheduled completion of performance date of the Work; or (iii) actual completion of performance of the Work.

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

(c) ULA may at any time deduct or set off CONTRACTOR's claims for money due or to become due from ULA against any claims that ULA has or may have arising out of this Contract or any other contract between the parties, including the value of any prepaid Work rejected or returned for nonconformance.

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

(e) 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 are invoiced under this Contract, taxable versus non-taxable items shall be separately stated. If Work purchased qualifies for tax exemption, then an exemption certificate will be presented from ULA to CONTRACTOR.

(f) CONTRACTOR agrees to submit upon the request of Procurement Representative a release of claims for any line item that is other than Firm Fixed Price, upon final payment under this Contract.

(g) For any line item under this Contract that is incrementally funded, or for anything other than Firm Fixed Price, the CONTRACTOR shall notify ULA in writing when within the next thirty (30) days the Work will reach a point at which the total incurred costs will approximate eighty-five percent (85%) of the total Contract price. The notice shall state the estimated date when such point will be reached and the estimated amount of additional funds required to continue performance to the date funding is anticipated to run out.

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

### **37. PRECEDENCE**

Any inconsistencies in this Contract shall be resolved in accordance with the following descending order of precedence: (i) Face of the Purchase Order , release document, the schedule of this Contract, (including any continuation sheets), and/or any special terms and conditions; (ii) Terms and Conditions, including this Document and(iii); any other exhibits of this Contract.

### **38. 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 and Ethics
  - Compliance with Laws
  - Disputes, Governing Law, and Legal Notifications
  - Export Control
  - Indemnification
  - Independent Contractor Relationship
  - Information of ULA
  - Information Security and Access to ULA Network
  - Insurance
  - Intellectual Property
  - Maintenance of Records
  - No Solicitation
  - Mandatory Disclosure Requirements
  - Personal Information
  - Precedence
  - Public Release of Information
  - Warranty

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

### **39. WARRANTY**

(a) CONTRACTOR warrants that it is and shall remain free of any obligation or restriction which would interfere or be inconsistent with or present a conflict of interest concerning the Work to be furnished by CONTRACTOR under this Contract.

(b) CONTRACTOR warrants that it will perform the Work under this Contract with the degree of high professional skill and sound practices and judgment which is normally exercised by recognized professional firms with respect to Work of a similar nature.

### **40. INDEMNIFICATION**

CONTRACTOR shall defend, indemnify, and hold harmless ULA, its officers, directors, employees, consultants, agents, affiliates, successors, permitted assigns 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 act or omission of CONTRACTOR, its officers, employees, agents, suppliers, or subcontractors at any tier, in the performance of any of its obligations under this Contract.

## **SECTION II: SUPPLEMENT FOR TIME AND MATERIAL COMMERCIAL PURCHASE ORDERS/AGREEMENTS FOR CONSULTANTS**

***The following clauses apply to this Contract, or portions of this Contract, that are invoiced on a Time and Materials basis:***

### **PAYMENT AND INVOICING TERMS FOR TIME AND MATERIALS**

*The following provisions apply in addition to the clause titled "Payment, Taxes, and Duties" above:*

(a) Payment to CONTRACTOR shall be made upon the basis of invoices submitted in such form and detail as ULA may require. ULA shall make payments to CONTRACTOR when requested as Work progresses, but (except for Small Business Concerns) not more often than once every two (2) weeks in amounts determined to be allowable by ULA in accordance with the terms of this Contract. Unless otherwise provided, ULA shall make payment within sixty (60) days after receipt and approval of such invoices. All invoices shall include the following information on either the invoice or in backup information provided at time of submittal: hours per labor rate, travel receipts (as applicable) invoices for material and documentation of any specific handling charges. Costs claimed for outside services must be supported by the service contractor's invoice, which should be submitted with CONTRACTOR's invoice.

(b) ULA will pay CONTRACTOR as follows upon the submission of invoices approved by ULA:

i. Hourly rate.

- (A) Payment for labor shall be computed by multiplying the appropriate hourly rate(s), set forth in this Contract by the number of direct labor hours performed. Rates shall include wages, overhead, general and administrative expense, and profit. Fractional parts of an hour shall be payable on a prorated basis.
- (B) The rates shall be paid for all labor performed on the contract that meets the labor qualifications specified in the contract. Labor hours incurred to perform tasks for which labor qualifications were specified in the contract will not be paid to the extent the work is performed by individuals that do not meet the qualifications specified in the contract, unless specifically authorized by the ULA Procurement Representative.
- (C) In the event additional classifications of labor are required in the performance of Work hereunder, which are not listed in the Contract, the CONTRACTOR shall notify ULA's Procurement Representative prior to start of work. Any changes to classifications and labor rates must be submitted to ULA for approval and will be effective only after issuance of a modification to the Contract documenting the rate changes.
- (D) When requested by ULA, CONTRACTOR shall substantiate invoices (including any subcontractor hours reimbursed at the hourly rate in the schedule) by evidence of actual payment, individual daily job timecards, records that verify the employees meet the qualifications for the labor categories specified in the contract, or other substantiation specified in the contract.
- (E) No overtime will be paid by ULA unless approved in advance by the Procurement Representative. If no overtime rates are provided in this Contract and ULA approves overtime work in advance, overtime rates will be negotiated. If the Contract provides rates for overtime, the premium portion of those rates will be reimbursable only to the extent the overtime is approved by ULA.

ii. Material and Subcontract Costs.

- (A) CONTRACTOR shall obtain Materials at the most advantageous prices available. Cash and trade discounts, rebates, allowances, credits, and other amounts, which have been accrued to the benefit of Contractor, are for the account of ULA. All residual material shall belong to ULA, which shall provide disposition instructions to CONTRACTOR.
- (B) ULA will not pay profit or fee to CONTRACTOR on materials.
- (C) Reimbursable costs in connection with lower-tier subcontracts shall be limited to the amounts actually paid by CONTRACTOR to lower-tier subcontractors. No subcontract under this Contract shall provide for payment on a cost plus a percentage of cost basis.

iii. Other Costs. Unless expressly identified in the Consideration provisions of this Contract, other direct costs and indirect costs will not be reimbursed.

- (c) It is estimated that the total cost to ULA for the performance of this Contract shall not exceed the ceiling price set forth in the Contract and CONTRACTOR agrees to use its best efforts to perform the Work and all obligations under this Contract within such ceiling price. If at any time CONTRACTOR has reason to believe that the hourly rate payments and material costs that will accrue in performing this Contract in the next succeeding 30 days, if added to all other payments and costs previously accrued, will exceed 85 percent of the ceiling price in the Contract, CONTRACTOR shall notify the Procurement Representative giving a revised estimate of the total cost to ULA for performing this Contract with supporting reasons and documentation. If at any time during the performance of this Contract, CONTRACTOR has reason to believe that the total cost to ULA for performing this Contract will be substantially greater or less than the then stated ceiling price, CONTRACTOR shall so notify the Procurement Representative, giving a revised estimate of the total price for performing this Contract, with supporting reasons and documentation. If at any time during performance of this Contract, ULA has reason to believe that the work to be required in performing this Contract will be substantially greater or less than the stated ceiling price, ULA will so advise CONTRACTOR, giving the then revised estimate of the total amount of effort to be required under the Contract.
- (d) ULA will not be obligated to pay CONTRACTOR any amount in excess of the ceiling price in the Contract, and CONTRACTOR shall not be obligated to continue performance if to do so would exceed the ceiling price set forth in the Contract, unless and until ULA notifies CONTRACTOR in writing that the ceiling price has been increased and specifies in the notice a revised ceiling that shall constitute the ceiling price for performance under this Contract. When and to the extent that the ceiling price set forth in the Contract has been increased, any hours expended and material costs incurred by CONTRACTOR in excess of the ceiling price before the increase shall be allowable to the same extent as if the hours expended and material costs had been incurred after the increase in the ceiling price.
- (e) ULA may audit invoices and substantiating books and records as ULA deems necessary.
- (f) CONTRACTOR shall submit a final invoice, and supporting documentation, as promptly as practicable following completion of the Work under this Contract, but in no event later than six (6) months (or such longer period as ULA may approve in writing) from the date of completion.