



**PRIME CONTRACT REQUIREMENTS**

*This Draft Doc 656 (03-18) was written by ULA to anticipate what will be included in ULA's contract with its Customer. ULA is in the process of negotiating certain terms with our Customer and will finalize these terms and conditions upon conclusion of negotiations. Any such revision would be subject to the Changes clause.*

- A. The following clauses of the Federal Acquisition Regulation (FAR) and the NRO Acquisition Manual (NAM) are incorporated herein by reference, with the same force and effect as if they were given in full text, and are applicable during the performance of this Contract. The full text of a FAR clause may be accessed electronically at the following address: <http://acquisition.gov/far>. The full text of a NAM clause may be accessed at <https://arc.westfields.net/> with a subscription. If CONTRACTOR is unable to locate the clauses found below, contact the Procurement Representative.

**FAR FLOWDOWN CLAUSES**

<u>Clause Number</u>	<u>Title/Applicability</u>
52.203-06	RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (SEPT 2006) ALT I (OCT 1995)
52.203-13	CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT (OCT 2015) (Applies in lieu of 52.203-13 (April 2010). Applies if the value of this Contract equals or exceeds \$5.5 million and if the period of performance is 120 days or over. Paragraph (c) does not apply if this Contract is for a commercial item or if the CONTRACTOR is a small business. Disclosures made under this clause shall be made directly to the Government entities identified in the clause and notification to ULA is not required.)
52.203-19	PROHIBITION ON REQUIRING CERTAIN INTERNAL CONFIDENTIALITY AGREEMENTS OR STATEMENTS (JAN 2017)
52.204-21	BASIC SAFEGAURDING OF COVERED CONTRACTOR INFORMATION SYSTEMS (JUNE 2016)
52.209-06	PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (OCT 2015) (Applies in lieu of 52.209-06 (Dec 2010). Applies if the value of this Contract equals or exceeds \$30,000. Note 2 applies.)
52.219-08	UTILIZATION OF SMALL BUSINESS CONCERNS (NOV 2016) (Applies in lieu of (JAN 2011))
52.222-21	PROHIBITION OF SEGREGATED FACILITIES (APR 2015) (Applies in lieu of (FEB 1999). Applies to Contracts that are subject to the Equal Opportunity clause in this Contract.)
52.222-26	EQUAL OPPORTUNITY (SEP 2016) (Applies in lieu of (MAR 2007). Applies to Contracts not exempt by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended.)
52.222-35	EQUAL OPPORTUNITY FOR VETERANS (OCT 2015) (Applies in lieu of 52.222-35 (SEP 2010) and if Contract equals or exceeds \$150,000, unless exempted by rules, regulations, or orders of the Secretary of Labor.)
52.222-36	EQUAL OPPORTUNITY FOR WORKERS WITH DISABILITIES (JUL 2014) (Applies in lieu of 52.222-36 (OCT 2010) and if Contract exceeds \$15,000, unless exempted by rules, regulations, or orders of the Secretary of Labor.)
52.222-37	EMPLOYMENT REPORTS ON VETERANS (FEB 2016) (Applies if Contract equals or exceeds \$150,000, unless exempted by rules, regulations, or orders of the Secretary of Labor.)
52.222-50	COMBATING TRAFFICKING IN PERSONS (MAR 2015) (Applies in lieu of 52.222-50 (FEB 2009). 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 \$500,000. Note 2 applies. In paragraph (e) Note 3 applies.)
52.222-54	EMPLOYMENT ELIGIBILITY VERIFICATION (OCT 2015) (Applies in lieu of 52.222-54 (JUL 2012) and if the Contract exceeds \$3,500, is performed in the United States, and is for 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 Construction.)
52.222-60	PAYCHECK TRANSPARENCY (EXECUTIVE ORDER 13673) (OCT 2016) (Applies if the value of this Contract exceeds \$500,000, except for COTS items.)
52.225-13	RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (JUN 2008)
52.232-17	INTEREST (MAY 2014) (Note 1 applies.)
52.232-40	PROVIDING ACCELERATED PAYMENTS TO SMALL BUSINESS SUBCONTRACTORS (DEC 2013) (Applies if CONTRACTOR is a small business concern. Note 1 applies. This clause does not apply if ULA does not receive accelerated payments under the prime contract. Not all agencies provide accelerated payments.)

52.247-64 PREFERENCES FOR PRIVATELY OWNED U.S. FLAG COMMERCIAL VESSELS (FEB 2006) (Applicable if Work under this Contract requires transportation on ocean vessels. Note 2 applies.)

#### **NAM FLOWDOWN CLAUSES**

<b><u>Clause Number</u></b>	<b><u>Title/Applicability</u></b>
N52.203-001	NRO INSPECTOR GENERAL AND THE NRO HOTLINE (AUG 2004) (Applies if this Contract exceeds \$150,000 and items being furnished under this Contract are not commercial items. In paragraph (b) insert "or ULA" after "Director, Office of Contracts".)
N52.203-003	PERSONAL CONDUCT (OCT 2014) (In paragraph (d) insert "or ULA" after "the Government".)
N52.204-001	SECURITY REQUIREMENTS (JAN 2013) (Applies if access to sensitive compartmented information is required. The reference in paragraph (c) to the Changes clause should be deemed to refer to the Changes clause of this Contract.)
N52.204-005	PROTECTION AGAINST COMPROMISING EMANATIONS (APR 2014) (Applies only if national security information is exchanged in the performance of this Contract.)
N52.204-008	NOTICE OF LITIGATION (AUG 2010) (Note 6 applies.)
N52.204-009	RELEASE OF CONTRACT INFORMATION (JAN 2010) (Note 6 applies.)
N52.204-010	INFORMATION SYSTEMS ACCESS (JAN 2013) (Applies if Work required in this Contract requires the CONTRACTOR to access, operate, maintain, design, build, and/or acquire an information system processing national security information.)
N52.204-011	INFORMATION TECHNOLOGY-INFORMATION ASSURANCE-INFORMATION MANAGEMENT REQUIREMENTS (JAN 2013) (Applies if Work required in this Contract requires the CONTRACTOR to access, operate, maintain, design, build, and/or acquire an information system processing national security information.)
N52.204-012	INDUSTRY PARTNER ACCESS (DEC 2016) (Applies if Work required in this Contract requires access to government controlled information including national security information.)
N52.204-013	PRIME CONTRACTS AND SUBCONTRACTS WITH EDUCATIONAL INSTITUTIONS (FEB 2016) (The written acknowledgement required by this clause shall be provided to ULA.)
N52.209-002	DISCLOSURE OF OWNERSHIP OR CONTROL BY A FOREIGN GOVERNMENT (NOV 2017) (Applies if "proscribed information" as defined in the clause will be a part of this Contract.)
N52.209-003	ORGANIZATIONAL CONFLICT OF INTEREST (JUL 2016) (Note 6 applies.)
N52.209-005	PROTECTION OF INFORMATION (DEC 2011)
N52.215-003	INTENTION TO USE CONSULTANTS (JAN 2005)
N52.219-001	UTILIZATION OF SMALL BUSINESS CONCERNS (DEC 2011)
N52.223-005	PROHIBITION ON STORAGE AND DISPOSAL OF TOXIC AND HAZARDOUS MATERIALS (JAN 2004) (Note 3 applies.)
N52.223-006	CONTRACTOR COMPLIANCE WITH ENVIRONMENTAL, OCCUPATIONAL SAFETY AND HEALTH, AND SYSTEM SAFETY REQUIREMENTS (OCT 1997) (Notes 5 and 7 apply.)
N52.227-001	RIGHTS IN TECHNICAL DATA AND COMPUTER SOFTWARE: COMMERCIAL ITEMS (SEP 2013) (Applies to Commercial Items. Note 3 applies.)
N52.227-002	RIGHTS IN TECHNICAL DATA AND COMPUTER SOFTWARE: NONCOMMERCIAL ITEMS (FEB 2011) (Note 3 applies)
N52.227-003	VALIDATION OF RESTRICTIVE MARKINGS ON TECHNICAL DATA AND COMPUTER SOFTWARE (FEB 2011)
N52.227-005	LIMITATIONS ON THE USE OR DISCLOSURE OF GOVERNMENT-FURNISHED INFORMATION MARKED WITH RESTRICTIVE LEGENDS (FEB 2011)
N52.227-008	COMMERCIAL TECHNICAL DATA AND COMPUTER SOFTWARE LICENSING – ORDER OF PRECEDENCE (OCT 2014)
N52.227-009	DEFERRED DELIVERY OF TECHNICAL DATA OR COMPUTER SOFTWARE (MAY 2005)
N52.227-010	DEFERRED ORDERING OF TECHNICAL DATA OR COMPUTER SOFTWARE (SEP 2013)
N52.227-018	NRO ACCESS TO INTERIM DATA LICENSE (FEB 2011)
N52.231-003	CONTRACTOR TRAINING AND EDUCATION (SEP 2013)
N52.244-001	SUBCONTRACTS (EDUCATIONAL INSTITUTIONS) (MAR 2015) (The written acknowledgement required by this clause shall be provided to ULA. Note 2 applies.)

**NOTES**

1. Substitute "ULA" for "Government" throughout this clause.
2. Substitute "Procurement Representative" for "Contracting Officer", "Administrative Contracting Officer", and "ACO" throughout this clause.
3. Insert "and ULA" after "Government" throughout this clause.
4. Insert "or ULA" after "Government" throughout this clause.
5. Communication/notification required under this clause from/to the Contractor to/from the Contracting Officer shall be through ULA.
6. Insert "and the Procurement Representative" after "Contracting Officer" throughout the clause.
7. Insert "or the Procurement Representative" after "Contracting Officer" throughout the clause.

**B. The following additional provisions apply to this Contract:****1) ENABLING CLAUSE FOR PRIME AND SUPPORT CONTRACTOR RELATIONSHIPS (N52.209-006 (OCT 2011))**

(a) The Government currently has, or may enter into, contracts with one or more of the following companies, the primary purpose of which is to furnish independent and impartial advice or technical assistance directly to the Government in support of the Government's management and oversight of a program or effort. These companies (hereafter referred to as support contractors), are obligated by the terms of clause N52.209-008, *Support Contractor Corporate Non-Disclosure Agreement*, incorporated into their respective contracts, and/or by separate non-disclosure, confidentiality, proprietary information, or similar agreements to safeguard the sensitive and proprietary information of other contractors, subcontractors, suppliers, and vendors to which they have access.

1. The Aerospace Corporation
2. General Dynamics Information Technology, Inc.
3. Science Application International Corporation (SAIC) (including subcontractors: General Dynamics Information Technology, Inc.; ManTech SRS Technologies, Inc.; Space Coast Launch Services, LLC; TASC, Inc.; Baker Consulting; Edward D Holtvluwer; and Victor Whitehead.)
4. Booz Allen Hamilton, Inc. (including subcontractors: TriSept Corporation; Tecolote Research Corporation; The Continuum Corporation; BRPH Architects-Engineering Inc.; Structured Professional Management Solutions, Inc.; a.i. solutions, Inc.; System High Corporation; TASC, Inc.; Millennium Engineering and Integration Company; and Stellar Solutions, Inc.)
5. Northrop Grumman Corp. (NGC)

(b) In the performance of this Contract, the CONTRACTOR agrees to cooperate with the companies listed above. Cooperation includes, but is not limited to, allowing the listed support contractors to attend meetings, observe technical activities; discuss with the CONTRACTOR technical matters related to this program at meetings or otherwise; and access CONTRACTOR integrated data environments and facilities used in the performance of the Contract.

(c) The CONTRACTOR must provide the support contractors access to data such as, but not limited to, design and development analyses; test data, procedures, and results; research, development, and planning data; parts, equipment, and process specifications; testing and test equipment specifications; quality control procedures; manufacturing and assembly procedures; schedule and milestone data; and other contract data. To fulfill contractual requirements to the Government, support contractors engaged in general systems engineering and integration efforts and technical support are normally authorized access to information pertaining to this contract. Exceptions, such as when the CONTRACTOR seeks to limit distribution of data to Government personnel only, the CONTRACTOR must submit this request in writing to ULA.

(d) The CONTRACTOR further agrees to include in all subcontracts, exception for those to provide on commercial and/or non-developmental items, a clause requiring the subcontractor and succeeding levels of subcontractors to comply with the response and access provisions of paragraph (b) above, subject to coordination with the CONTRACTOR. This clause does not relieve the CONTRACTOR of the responsibility to manage the subcontracts effectively and efficiently, nor is it intended to establish privity of contract between the Government or support contractors and such subcontractors.

(e) The CONTRACTOR and its subcontractors are not required to take contractual direction from support contractors.

(f) Clauses N52.227-005, *Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends*, and N52.209-008, which will be incorporated into all NRO support contracts, required the support contractors to protect data and software related to this Contract, and prohibit them from using such data for any purpose other than performance of the support contract.

(g) Support contractors shall protect the proprietary information of disclosing contractors, subcontractors, suppliers, and vendors in accordance with clause N52.209-008. Because this clause provides that such disclosing contractors, subcontractors, suppliers, and vendors are intended to be third-party beneficiaries, all such disclosing parties agree that these terms satisfy the non-disclosure agreement requirements set forth in 10 U.S.C. 2320(f)(2)(B). Accordingly, the CONTRACTOR may only enter into a separate non-disclosure, confidentiality, proprietary information, or similar agreement with a disclosing party on an exception basis, and only after notifying the Contracting Officer. The Government and the disclosing contractors, subcontractors, supplier, and vendors agree to cooperate to ensure that the execution of any non-disclosure agreement does not delay or inhibit performance of this contract, and the Government shall require support contractors to do the same. Such agreements shall not otherwise restrict any rights due the Government under this Contract. Separate non-disclosure agreements may be executed only in the following exceptional circumstances:

- (1) The support contractor is a direct competitor of the disclosing party in furnishing end items or services of the type developed or produced for the program or effort;
- (2) The support contractor will require access to extremely sensitive business data; or
- (3) Other unique business situations exist in which the disclosing party can clearly demonstrate that clause N52.209-008 does not adequately protect their competitive interests.

(h) Any proprietary information furnished to support contractors shall be:

- (1) Disclosed in writing and clearly marked "proprietary" or with other words of similar meaning; or
- (2) Disclosed orally or visually (for instance, during a plant tour, briefing, or demonstration) and identified as proprietary information at the time of the oral or visual disclosure by the Government or a disclosing party. The support contractors shall treat all such information as proprietary unless within

fifteen (15) days the support contractor coordinates with the Government or disclosing party to obtain a written version of the proprietary information and determine the extent of the proprietary claims; or

- (3) Disclosed by electronic transmission (e.g., facsimile, electronic mails, etc.) in either human readable form or machine readable form, and the CONTRACTOR marks it electronically as proprietary within the electronic transmissions, such markings to be displayed in human readable form along with any display of the proprietary information; or
- (4) Disclosed by delivery of an electronic storage medium or memory device, and the CONTRACTOR marks the storage medium or memory device itself as containing proprietary information and electronically marks the stored information as proprietary, such marking to be displayed in human readable form along with any display of the proprietary information.

(i) The CONTRACTOR agrees not to hold the support contractor liable for unauthorized disclosure of proprietary information if it can be demonstrated in written documentation or other competent evidence that the information was:

- (1) Already known to the support contractor without restriction on its use or disclosure at the time of its disclosure by the disclosing party;
- (2) In the public domain or becomes publicly known through no wrongful act of the support contractor;
- (3) Proprietary information disclosed by the support contractor with the contractor's prior written permission;
- (4) Independently developed by the support contractor, subsequent to its receipt, without the use of any proprietary information;;
- (5) Disclosed to the support contractor by a third party who was legally entitled to disclose the same and who did not acquire the proprietary information from the disclosing party;
- (6) Specifically provided in writing by the U.S. Government to the support contractor with an unlimited rights license; or
- (7) Disclosed by the support contractor as required by law, regulatory or legislative authority, including subpoenas, criminal or civil investigative demands, or similar processes, provided the support contractor provides the disclosing party that originated the proprietary information with prompt written notice so that the disclosing party may seek a protective order or other appropriate remedy, and provided that, in the absence of a timely protective order, the support contractor furnishes only that minimum portion of the proprietary information that is legally required.

(j) Any notice to the support contractor(s) required or contemplated under the provisions of this clause or clause N52.209-008 shall be in writing and shall be deemed to have been given on:

- (1) The date received if delivered personally or by overnight courier;
- (2) The third day after being deposited in the U.S. mail, postage prepaid; or
- (3) The date sent if sent by facsimile transmission or e-mail with a digital copy

(k) The Government and CONTRACTOR agree to cooperate in resolving any unauthorized disclosure or misuse of proprietary information by a support contractor. This shall not be construed as requiring the CONTRACTOR to conduct an inquiry into an unauthorized disclosure or misuse, or as authorizing the allocation of costs for such an inquiry directly to this Contract. CONTRACTOR agrees to notify ULA of any costs incurred in said fact finding efforts. Any costs incurred by the CONTRACTOR in said fact-finding efforts may be allowable and allocable upon determination of the Contracting Officer after adjudicating the circumstances related to any unauthorized disclosures or misuse.