



DRAFT Doc 3A
DEFENSE FEDERAL ACQUISITION REGULATION SUPPLEMENT (DFARS) FLOWDOWN PROVISIONS FOR
SUBCONTRACTS/PURCHASE ORDERS FOR NON-COMMERCIAL ITEMS UNDER A U.S. GOVERNMENT
DOD PRIME CONTRACT

This Draft Doc 3A (01-11) was written by ULA to anticipate what will be included in ULA's prime contract with its Government customers. ULA is in the process of negotiating new prime contracts and will finalize these terms and conditions upon award of definitized prime contracts. Any such revision would be subject to the Changes clause.

A. INCORPORATION OF FARs and DFARS CLAUSES

The Federal Acquisition Regulation (FAR) and Defense Federal Acquisition Regulation Supplement (DFARS) clauses referenced below are incorporated herein by reference, with the same force and effect as if they were given in full text, and are applicable, including any notes following the clause citation, to this Contract. The Contracts Disputes Act shall have no application to this Contract. Any reference to a "Disputes" clause shall mean the "Disputes" clause of this Contract.

B. GOVERNMENT SUBCONTRACT

This Contract is entered into by the parties in support of a U.S. Government contract. As used in the clauses referenced below and otherwise in this Contract:

1. "Commercial Item" means a commercial item as defined in FAR 2.101.
2. "Contract" means this Contract.
3. "Contracting Officer" shall mean the U.S. Government Contracting Officer for ULA's government prime contract under which this Contract is entered.
4. "Contractor" or "Offeror" means the CONTRACTOR, as defined in DOC 3, acting as the immediate (first-tier) subcontractor to ULA.
5. "Prime Contract" means the contract between ULA and the U.S. Government or between ULA and its higher-tier contractor who has a contract with the U.S. Government.
6. "Subcontract" means any contract placed by the Contractor or lower-tier subcontractors under this Contract.

C. NOTES

The following substitutions shall not be effective to the extent such substitution would enable a party to this Contract to obtain the other party's proprietary or confidential information unless such proprietary or confidential information is covered by a separate CA executed by the parties:

1. Substitute "ULA" for "Government" or "United States" 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.

D. PRESERVATION OF THE GOVERNMENT'S RIGHTS

If ULA furnishes designs, drawings, special tooling, equipment, engineering data, or other technical or proprietary information (Furnished Items) to which the U.S. Government owns or has the right to authorize the use of, nothing herein shall be construed to mean that ULA, acting on its own behalf, may modify or limit any rights the Government may have to authorize the CONTRACTOR's use of such Furnished Items in support of other U.S. Government prime contracts.

E. PROVISIONS OF THE DEPARTMENT OF DEFENSE FEDERAL ACQUISITION REGULATION SUPPLEMENT (DFARS)

1. The following DFARS clauses apply to this Contract:

- (a) 252.204-7008 EXPORT CONTROLLED ITEMS (APR 2010)

- (b) 252.227-7013 RIGHTS IN TECHNICAL DATA - NON-COMMERCIAL ITEMS (NOV 1995)
- (c) 252.227-7014 RIGHTS IN NON-COMMERCIAL COMPUTER SOFTWARE AND NON-COMMERCIAL COMPUTER SOFTWARE DOCUMENTATION (JUN 1995)
- (d) 252.227-7015 TECHNICAL DATA - COMMERCIAL ITEMS (NOV 1995) (Applicable if technical data is to be delivered under this Contract.)
- (e) 252.227-7016 RIGHTS IN BID OR PROPOSAL INFORMATION (JUN 1995)
- (f) 252.227-7025 LIMITATIONS ON THE USE OR DISCLOSURE OF GOVERNMENT-FURNISHED INFORMATION MARKED WITH RESTRICTIVE LEGENDS (JUN 1995) (For paragraph (c)(1), note 3 applies.)
- (g) 252.227-7037 VALIDATION OF RESTRICTIVE MARKINGS ON TECHNICAL DATA (SEP 1999)
- (h) 252.228-7005 ACCIDENT REPORTING AND INVESTIGATION INVOLVING AIRCRAFT, MISSILES, AND SPACE LAUNCH VEHICLES (DEC 1991) (In paragraph (a) note 5 applies. In paragraph (b) note 3 applies.)
- (i) 252.231-7000 SUPPLEMENTAL COST PRINCIPLES (DEC 1991)
- (j) 252.243-7001 PRICING OF CONTRACT MODIFICATIONS (DEC 1991)
- (k) 252.244-7000 SUBCONTRACTS FOR COMMERCIAL ITEMS AND COMMERCIAL COMPONENTS (DOD CONTRACTS) (NOV 2010)

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

- (a) 252.203-7001 PROHIBITION ON PERSONS CONVICTED OF FRAUD OR OTHER DEFENSE CONTRACT RELATED FELONIES (DEC 2008) (In this clause, the terms "contract," "contractor", and "subcontract" shall not change in meaning in paragraphs (a) through (d). Delete paragraph (g). Note 5 applies.)
- (b) 252.243-7002 REQUESTS FOR EQUITABLE ADJUSTMENT (MAR 1998)
- (c) 252.247-7023 TRANSPORTATION OF SUPPLIES BY SEA (MAY 2002) (Applicable in lieu of FAR 52.247-64 in all Contracts for ocean transportation of supplies. In the first sentence of paragraph (g), insert a period after "Contractor" and delete the balance of the sentence. Paragraph (f) and (g) shall not apply if this Contract is at or below \$100,000. Notes 1 and 2 apply to paragraph (g).)

3. The following DFARS clauses apply to this Contract if the value of this Contract equals or exceeds \$500,000:

- (a) 252-226-7001 UTILIZATION OF INDIAN ORGANIZATIONS, AND INDIAN-OWNED ECONOMIC ENTERPRISES AND NATIVE HAWAIIAN SMALL BUSINESS CONCERNS (SEPT 2004) (Applies if Work under the Contract will be performed in the United States or CONTRACTOR is recruiting employees in the United States to Work on the Contract. In f(1), "Contractor" shall mean "ULA." Note 2 applies to (c) the first time "Contracting Officer" appears.)

4. The following DFARS clauses apply to this Contract if the value of this Contract equals or exceeds \$650,000:

- (a) 252.249-7002 NOTIFICATION OF ANTICIPATED CONTRACT TERMINATION OR REDUCTION (OCT 2010) (Note 2 applies. Delete paragraph (d) (1) and the first five words of paragraph (d) (2).)650

5. The following DFARS clauses apply to this Contract if the value of this Contract equals or exceeds \$1,500,000:

- (a) 252.211-7000 ACQUISITION STREAMLINING (OCT 2010) (Note 1 applies.)

6. The following DFARS clauses apply to this Contract as indicated:

- (a) 252.211-7003 ITEM IDENTIFICATION AND VALUATION (AUG 2008) (Applicable if this Contract requires the Work to contain unique item identification. In (c)(3)(i), (c)(4)(i), (d), (e), and (f) "Contractor" shall mean "Subcontractor"; all reports required to be submitted under this clause shall be submitted to ULA; delete paragraph (g) and insert the following in lieu thereof: (g) Lower-Tier Subcontracts. CONTRACTOR shall include this clause, including this paragraph (g), in all lower tier subcontracts issued under this Contract for the acquisition of components identified herein as requiring UID.)
- (b) 252.215-7000 PRICING ADJUSTMENTS (DEC 1991) (Applicable if FAR 52.215-12 or 52.215-13 applies to this Contract.)

(c) 252.219-7003 SMALL BUSINESS SUBCONTRACTING PLAN (DoD CONTRACTS) (OCT 2010) (Applicable if FAR 52.219-9 applies to this Contract. Delete paragraph (g).)

(d) 252.223-7002 SAFETY PRECAUTIONS FOR AMMUNITION AND EXPLOSIVES (MAY 1994) (Applies if this Contract involves ammunition or explosives. Note 2 applies except in paragraph (c)(4) where it means "Contracting Officer" as it relates to government personnel. Note 3 applies.)

(e) 252.223-7003 CHANGE IN PLACE OF PERFORMANCE - AMMUNITION AND EXPLOSIVES (DEC 1991) (Applies if this Contract involves ammunition or explosives. Notes 2 and 3 apply.)

(f) 252.227-7019 VALIDATION OF ASSERTED RESTRICTIONS- COMPUTER SOFTWARE (JUN 1995) (Applies if computer software will be delivered under this Contract. Notes 4 and 7 apply.)

(g) 252.227-7030 TECHNICAL DATA—WITHHOLDING OF PAYMENT (MAR 2000) (Applies if there is technical data deliverables under this Contract. Notes 2 and 4 apply.)

(h) 252.235-7003 FREQUENCY AUTHORIZATION (DEC 1991) Alt I (AUG 2008) (Applicable if this Contract requires developing, producing, constructing, testing, or operating a device requiring a frequency authorization. Note 2 applies. Submit DD Form 1494 within thirty (30) days after contract award if frequency authorization is required.)

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