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January 31, 2005

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Federal Communications Commission
Office of Secretary

By Courier

Ms. Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

**Re: Submission of Executed Satellite Construction Contract and
Request for Confidential Treatment
SAT-LOA-20031119-00336
Call Sign S2603**

Dear Ms. Dortch:

Pursuant to Section 25.164(c) of the Commission's Rules, Pegasus Development Corporation and its wholly owned subsidiary (collectively "Pegasus") hereby transmit a copy of the binding non-contingent satellite construction contract and accompanying exhibits executed between Pegasus and Space Systems/Loral, Inc., as amended (the "Contractual Documents").¹ Consistent with Commission policy,² Pegasus is requesting confidential treatment of its Contractual Documents, and is submitting a redacted version of the Contractual Documents with this filing for the public record and a non-redacted, confidential version of the Contractual Documents under separate cover to Mr. Thomas Tycz, Chief of the Satellite Division of the International Bureau. This precaution has been taken in order to avoid any disclosure to the public of the confidential materials contained in the Contractual Documents.

Pursuant to the Freedom of Information Act ("FOIA") and the Commission's implementing regulations,³ Pegasus requests confidential treatment of the non-redacted

¹ Concurrently with this filing, Pegasus is separately submitting a letter surrendering its 107°W authorization.

² *Amendment of the Commission's Space Station Licensing Rules and Policies*, 18 FCC Rcd 10760, at ¶187 (2003).

³ See 5 U.S.C. § 552 *et seq.*; 47 C.F.R. §§ 0.457, 0.459.

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Contractual Documents. They should be withheld from public inspection and should not be placed in the public files. The redacted materials attached herein contain non-confidential portions of the Contractual Documents and may be made available for public inspection.

Pegasus' request is consistent with Commission decisions permitting only limited review of satellite construction contracts pursuant to a protective order.⁴ The Commission's rules provide that public disclosure of materials submitted to the Commission is not required, if it is shown that "the materials contain trade secrets or commercial, financial or technical data which would customarily be guarded from competitors."⁵ The Contractual Documents contain precisely the type of information that, if publicly disclosed, could be detrimental to Pegasus (and also SS/L) and is of value to its competitors.

Pegasus faces competition from a substantial number of companies proposing to develop Ka-band systems and companies currently providing comparable services using other satellite frequencies. The information for which non-disclosure is sought pertains to the construction of satellites. It contains specific information regarding costs, schedules regarding delivery and construction, technical specifications, price and payment terms, as well as implicit assumptions about Pegasus' business plans. The documents also include information regarding the distribution of risk and liability, indemnification, intellectual property rights, and other commercial arrangements, which are customarily guarded from competitors and other satellite vendors.

Competitors could use this information to market services to target Pegasus' intended customers or to obtain more favorable terms in their negotiations with satellite vendors.⁶ Public disclosure would also allow competitors to obtain, at no charge, detailed

⁴ See, e.g., *In the Matter of PanAmSat*, DA 02-609 (March 15, 2002); *In the Matter of Motorola, Inc. and Teledesic, LLC*, DA 01-2231 (September 25, 2001).

⁵ 47 C.F.R. §0.457; see also 5 U.S.C. § 552; *Critical Mass Energy Project v. NRC*, 975 F.2d 871, 879 (D.C. Cir. 1992) (disclosure inappropriate where information submitted voluntarily and would impede government's continuing ability to obtain similar data); *National Parks and Conservation Association v. Morton*, 498 F.2d 765, 770 (D.C. Cir. 1974) (disclosure inappropriate if it would cause substantial harm to the competitive position of the person from whom the information was obtained).

⁶ See, e.g., *In re Application of Mobile Communications Holding, Inc.*, 10 FCC Rcd 1547 (1994) ("[B]uyers receive a clear competitive advantage if they know the prices that other buyers have

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proprietary technical information regarding system characteristics and performance requirements developed and paid for by Pegasus.⁷ Further, public disclosure of the unique terms of the agreement would give satellite vendors an advantage in any future negotiations with Pegasus.

Pegasus has taken protective measures to ensure that the information contained in the Contractual Documents is not disclosed to the public. The documents have been provided only to Pegasus employees or agents involved in the contractual negotiations, and are not generally available internally. The Contractual Documents are also not available to the public, and there has been no intended disclosure of this information to third parties.

Pursuant to the agreement, both Pegasus and SS/L have confidentiality obligations with respect to disclosure of the contract terms relevant here.⁸ Consistent with this contractual obligation, Pegasus requests that the Contractual Documents be withheld from disclosure for an indefinite period. In the alternative, Pegasus requests that these material be withheld from disclosure for ten years. The harmful effects of any public disclosure, discussed above, will likely be reduced after this initial period.⁹

been charged as a result of individual negotiations.”).

⁷ See *In re American Satellite Company*, 1985 FCC LEXIS 3117 (1985) (public disclosure of technical information would result in competitive injury).

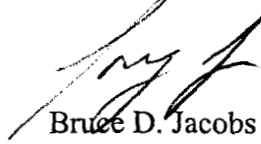
⁸ See Contractual Documents, Article 22.5.

⁹ A ten year period is also consistent with the parties’ general contractual obligation not to disclose “Confidential Information” for a period of ten years following the date of first disclosure. See Contractual Documents, Article 22.7.

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Please contact the undersigned if you should have any questions regarding this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Bruce D. Jacobs".

Bruce D. Jacobs
Tony Lin

Enclosures (redacted, non-confidential version)

cc: Mr. Thomas Tycz w/enclosures (confidential version)



225 City Line Avenue, Suite 200
Bala Cynwyd, PA 19004

TELEPHONE: (610) 934-7000
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January 28, 2005

VIA FACSIMILE AND FEDERAL EXPRESS

(650) 852-7392

Space Systems/Loral, Inc.

3825 Fabian Way

Palo Alto, CA 94303-4697

Attn: Nick Pound

Re: Fourth Amendment of Satellite Purchase Contract For On-Ground Delivery

Dear Mr. Pound:

Pegasus Development 107 Corporation ("Pegasus") and Space Systems/Loral, Inc. ("Loral") entered into a Satellite Purchase Contract For On-Ground Delivery, effective August 9, 2002, as amended (the "Contract"). The Parties desire to add an option to the Contract that would permit Pegasus to modify the Contract to deploy a satellite at the 87°W orbital location, rather than the 107°W orbital location. Upon execution of this Amendment, Pegasus hereby exercises that option.

All capitalized terms used herein but not defined, shall have the meaning designated in the Contract. Section 30.6 is hereby added to the Contract as follows:

30.6 87° Orbital Location Option

Customer may, at its option, convert this Contract and the Satellite for use at the 87°W orbital location. Upon exercise of this Option, all references in the Contract to 107°W orbital location shall be changed to 87°W orbital location. The Parties shall proceed in accordance with Article 14 (Change Request) to modify the Satellite, as described in Exhibit B (Technical Specifications) for

purposes of the 87°W orbital location. With respect to the Payment Plan (Exhibit F) on a going forward basis, the Effective Date of Contract shall be changed to the date of execution of this Option.

The Parties desire to further amend the first sentence of Section 30.2 (c) in its entirety as follows:

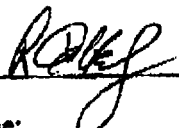
"On or before January 30, 2006 (unless extended by mutual agreement of the Parties), Customer shall either:"

Please indicate your acceptance to this Amendment by countersigning this letter in the space provided and returning a copy to the undersigned.

Sincerely,


Scott A. Blank
Senior Vice President

AGREED AND ACCEPTED
Space Systems/Loral, Inc.

By: 
Name: _____
Date: 1/28/05

**FINAL
REDACTED**

**SATELLITE PURCHASE CONTRACT
(redacted) FOR ON-GROUND DELIVERY**

By and Between

PEGASUS DEVELOPMENT 107 CORPORATION

and

SPACE SYSTEMS/LORAL, INC.

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EXHIBIT F - PAYMENT PLAN AND TERMINATION LIABILITY AMOUNTS

**FINAL
REDACTED**

SATELLITE PURCHASE CONTRACT FOR ON-GROUND DELIVERY

By and Between

PEGASUS DEVELOPMENT 107 CORPORATION

and

SPACE SYSTEMS/LORAL, INC.

TERMS AND CONDITIONS

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SATELLITE PURCHASE CONTRACT FOR ON-GROUND DELIVERY

TERMS AND CONDITIONS

THIS SATELLITE PURCHASE CONTRACT (this "Contract") is made and entered into this 9th day of August 2002, by and between **PEGASUS DEVELOPMENT 107 CORPORATION**, a Delaware corporation with its principal offices located c/o Pegasus Communications Management Company, 225 City Line Avenue, Bala Cynwyd, Pennsylvania 19004 (hereinafter "Customer"), and Space Systems/Loral, Inc., a Delaware corporation with its principal offices located at 3825 Fabian Way, Palo Alto, California 94303 (hereinafter "Contractor"). As used in this Contract, "Party" means either Customer or Contractor, as appropriate, and "Parties" means Customer and Contractor.

WHEREAS, Customer is implementing a Ka band satellite system designed to provide advanced digital media services initially to the continental United States; and

WHEREAS, Customer anticipates providing the business referred to above through two (2) geostationary satellites, a satellite operations center, and other related equipment and facilities; and

WHEREAS, Contractor is a space technology company that designs, manufactures, and integrates a range of space products, including satellites and facilities for managing and controlling satellites; and

WHEREAS, the Parties have reached agreement on the terms and conditions of procurement by Customer from Contractor of one Ka band satellite, to be delivered on-ground, and related items, services and activities, including satellite operations equipment, and various options, including for purchase of a second satellite, and other additional equipment and services, as set forth and further defined in this Contract.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein and intending to be legally bound hereby, the Parties agree as follows:

1. DEFINITIONS AND CONSTRUCTION

1.1 Certain Definitions.

In this Contract, the following terms shall have the meaning stated hereunder:

- (a) **“Acceptance,”** with respect to a Satellite, has the meaning set forth in Article 8.7 (In-Orbit Testing and Final Acceptance of Satellite) and with respect to other Deliverable Items, as set forth in Article 8.9 (Satellite Operations Equipment), Article 8.10 (Data and Documentation), Article 8.11 (Training), and Article 8.12 (Other Services).
- (b) **“Affiliate”** means, with respect to an entity, any other entity Controlling or Controlled by or under common Control with such entity.
- (c) **“Amendment to this Contract”** or **“Amendment”** means a written agreement modifying the terms of this Contract executed in accordance with Article 36.3 (Amendments).
- (d) **“Approval”** means written approval except as otherwise specifically provided. This term is as defined, whether or not capitalized in this Contract.
- (e) **“Associates”** means, with respect to an entity, its directors, officers, employees, agents, consultants, and assigns.
- (f) **“Available for Shipment”** means that a Spacecraft has successfully passed all in-plant acceptance tests, has successfully undergone a Satellite Shipment Readiness Review, and has been declared ready to be shipped to the Designated Launch Site.
- (g) **“Background Intellectual Property”** means Intellectual Property first made, developed, or created prior to the negotiation or performance of this Contract or otherwise first made, developed or created other than in performance of or pursuant to this Contract and necessary to the use, operation, maintenance or testing of any Deliverable Item.
- (h) **“Business Day”** means any day other than the following: a Saturday, Sunday, and any other day on which national banks are authorized to be closed in New York City, New York.
- (i) **“Calendar Day”** means any day.
- (j) **“Calendar Payment”** means any of those payments listed as specific calendar payments in Exhibit F (Payment Plan and Termination Liability Amounts).
- (k) **“Confidential Information”** means all confidential and proprietary information (other than Data and Documentation, which are subject to the provisions of Article 20 (Intellectual Property Rights)) furnished or made available directly or indirectly by one party to the other that is marked confidential, restricted, or with a similar designation; provided, however, that if disclosed orally, such information must be confirmed and designated in writing in summary form as confidential within thirty (30) Calendar Days of the time at which oral

disclosure took place. In the case of Customer, Confidential Information also shall include, whether or not designated “Confidential Information,” (i) the correspondence under this Contract, and (ii) all information concerning Customer (and/or its Affiliates) regarding its operations, affairs and businesses, its financial affairs, and its relations with its customers, employees and service providers (including business plans, customer lists, customer information, account information and consumer markets).

(l) “**Consultant**” means a person or organization retained by Customer to provide Customer with technical advice and related services.

(m) “**Contract**” means the written instrument herein dated the day and year first written above, including any Amendments made pursuant to Article 36.3 (Amendments), embodying the agreement between Contractor and Customer and including the Terms and Conditions, Exhibits, Appendices, Attachments, Annexes, and Schedules annexed hereto and made a part of this Contract.

(n) “**Contractor Collateral**” has the meaning set forth in Article 5.9 (Contractor Security for Deferred Financing).

(o) “**Contract Price**” means the firm fixed price set forth in Article 4.1 (Contract Price).

(p) “**Control**” and its derivatives mean, with respect to an entity, the legal, beneficial, or equitable ownership, directly or indirectly of fifty percent (50%) or more of the capital stock or voting power (or other ownership interest if not a corporation) of such entity ordinarily having voting rights or the power to direct the management policies of such entity, whether through the ownership of voting stock, by contract, or otherwise.

(q) “**Customer Collateral**” has the meaning set forth in Article 5.10 (Customer Security Interest).

(r) “**Customer Delay**” has the meaning set forth in Article 11.1 (Excusable Delay Defined).

(s) “**Customer Personnel**” means Customer employees, Consultants or representatives, or Customer’s Consultants’ employees.

(t) “**CONUS Forward Transponder**” has the meaning set forth in Exhibit B (Technical Specifications).

(u) “**CONUS Return Transponder**” has the meaning set forth in Exhibit B (Technical Specifications).

(v) “**Daily Orbital Incentive Amount**” means the total aggregate maximum amount of in-orbit performance incentives Contractor may earn for in-orbit performance of the Satellite on a daily basis, which daily incentive amount equals

(w) **“Data and Documentation”** means that data and documentation to be supplied by Contractor pursuant to the requirements of this Contract, including Exhibit A (Statement of Work).

(x) **“Deferred Financing Amounts”** has the meaning set forth in Article 5.9 (Contractor Security for Deferred Financing).

(y) **“Deferred Payment Loan”** has the meaning set forth in Article 5.8 (Deferred Financing).

(z) **“Deliverable Item”** means the items listed in Table 7.1 of Article 7 (Delivery), and other items so identified in Exhibit A (Statement of Work).

(aa) **“Deliver”** or **“Delivery”** or **“Delivered”** has the meaning set forth in Article 7.2 (Delivery Defined).

(bb) **“Delivery Date(s)”** means, with respect to a Deliverable Item, the delivery date set forth in Table 7.1 of Article 7 (Delivery), as such date may be extended, as appropriate, to reflect all periods during which an Excusable Delay exists or any similar extension of time as may be agreed to by the Parties in accordance with Article 36.3 (Amendments).

(cc) **“Delivery Schedule”** means the schedule for Delivery of Deliverable Items as set forth in Table 7.1 of Article 7 (Delivery).

(dd) **“Designated Launch Site”** means, with respect to a Satellite, the launch facility designated by Customer.

(ee) **“Dispute”** has the meaning set forth in Article 27 (Dispute Resolution).

(ff) **“Dollars”** means United States Dollars.

(gg) **“Effective Date of Contract”** or **“EDC”** means the date set forth in Article 3.1 (Effective Date of Contract (EDC)).

(hh) **“Excusable Delay”** has the meaning set forth in Article 11 (Excusable Delay).

(ii) **“Exhibit”** or **“Exhibits”** means any and all exhibits, and any attachments, schedules, or appendices attached thereto and incorporated therein.

(jj) **“Failed Transponder”** has the meaning set forth in Article 12.2 (Earning and Payment of Daily Orbital Incentive Amount).

(kk) **“Final Acceptance”** of a Deliverable Item has the meaning set forth in Article 8 (Inspection and Final Acceptance).

(ll) **“Financing Agreements”** means any and all documents and agreements evidencing and/or securing monies provided on a full or partial debt basis by any Financing

Entity to Customer to fund the design, development, construction, procurement, maintenance, or operation of all or any material part of Customer's Ka-band program.

(mm) **"Financing Entity"** means any entity (other than Contractor, or parties related to Contractor, or competitors of Contractor), e.g., commercial bank, merchant bank, investment bank, commercial finance organization, corporation, or partnership, providing money on a full or partial debt basis to Customer to fund the design, development, construction, procurement, maintenance, or operation of all or any material part of Customer's Ka band program.

(nn) **"First Satellite"** means the first Satellite to be Delivered by Contractor hereunder.

(oo) **"Flight Readiness Review"** shall have the meaning ascribed to it in Article 8.5 (Flight Readiness Review).

(pp) **"Foreground Intellectual Property"** means Intellectual Property first made, developed, or created in performance of this Contract that is incorporated into or employed in or required for the use, operation, maintenance, or testing of any Deliverable Item.

(qq) **"Furnishing Party"** means the Party who furnishes Confidential Information to the other Party.

(rr) **"Ground Support Equipment"** means the mechanical and electrical ground support equipment (hardware and software) required to interface with the Satellite and its subsystems to support and enable on-the-ground handling, testing, and transportation, as more fully described in Exhibit A (Statement of Work).

(ss) **"Including"** and its derivatives (such as "include" and "includes") shall mean including without limitation. This term is as defined, whether or not capitalized in this Contract.

(tt) **"In-Orbit Summary Test Report"** shall have the meaning ascribed to it in Exhibit A (Statement of Work).

(uu) **"In-Orbit Testing"** means the in-orbit tests and analyses Contractor shall perform in accordance with Exhibit C (Program Test Plan).

(vv) **"Intellectual Property"** means all designs, methods, concepts, layouts, software, inventions (whether or not patented or patentable), processes, technical data and documentation, technical information and drawings, and similar matter in which an Intellectual Property Right may subsist.

(ww) **"Intellectual Property Rights"** means all common law and statutory proprietary rights, including patent, patent application, patent registration, copyright, trademark, service mark, trade secret, mask work rights, data rights and similar rights existing from time to time under the intellectual property Laws of the United States, any state or foreign jurisdiction, or international treaty regime.

(xx) “**Intentional Ignition**” means, with respect to any Satellite, the start of the ignition process for the purpose of Launch, which is the time at which the command signal is sent to the Launch Vehicle. This definition shall be modified to reflect the definition of “intentional ignition” in the Launch Agreement applicable to Launch of the Satellite.

(yy) “**IOT Detailed Report**” means, with respect to a Satellite, that so-named document that is a Deliverable Item under Exhibit A (SOW), the requirements of which are set forth in Exhibit C (Program Test Plan).

(zz) “**Launch**” means, with respect to a Satellite, Intentional Ignition followed by lift-off. This definition shall be modified to incorporate the definition of "Launch" from the Launch Agreement applicable to the Launch of the Satellite.

(aaa) “**Launch Agency**” means the entity selected by Customer to Launch the Satellite.

(bbb) “**Launch Agreement**” means any contract between Customer and a Launch Agency to perform the Launch Services for any Satellite purchased hereunder.

(ccc) “**Launch Campaign**” means, with respect to a Satellite, those services provided by Contractor in support of each launch mission prior to Launch, including packing and shipping the Satellite in an environmentally controlled container to the Designated Launch Site, procuring and maintaining all-risk ground insurance up to, but not including, Intentional Ignition (as required by Article 25 (Insurance)), providing high-pressure injection of propellant into the Satellite’s fuel tanks, configuring the Satellite so as to render it Ready for Launch, Launch Vehicle Interface Activities, and assisting the Launch Agency in assuring the Satellite is properly integrated with the Launch Vehicle, all as further defined in Exhibit A (SOW).

(ddd) “**Launch and On-Orbit Insurance**” or “**Launch Insurance**” means, with respect to a Satellite, insurance that covers the Satellite from the period beginning at Intentional Ignition and ending no sooner than the earlier of determination of constructive total loss, total loss (as those terms may be defined in the insurance policy) or one (1) year after the date of Intentional Ignition. Such insurance shall cover, with respect to such Satellite, all unpaid Milestone Payments and the Orbital Incentive Amounts and all interest required to be paid on the foregoing.

(eee) “**Launch and Early Operations**” or “**LEOP**” means, with respect to a Satellite, those services provided by Contractor in support of each launch mission after Intentional Ignition and through insertion into the Specified Orbital Location, such as providing telemetry, tracking and control to direct the Satellite into its Specified Orbital Location and positioning and stabilizing the Satellite to hold its pointing position to the Earth.

(fff) “**Launch Readiness Review**” shall have the meaning ascribed to in Exhibit A (Statement of Work).

(ggg) “**Launch Services**” means the launch of a Launch Vehicle and related services provided by a Launch Agency, including furnishing the Launch Vehicle, launch support, and equipment and facilities, for the purpose of launching a Satellite into orbit.

(hhh) “**Launch Vehicle**” means a launch vehicle provided by the Launch Agency to Launch any Satellite.

(iii) “**Launch Vehicle Interface Activities**” means, with respect to a Satellite, those services to be provided by Contractor, prior to Launch, in support of each Launch, including analysis support, ICD development support, and technical meeting support, required by the Launch Vehicle Agency, and launch pad activity support, pursuant to the requirements of Exhibit A (SOW).

(jjj) “**Law**” or “**Laws**” means any laws, including rules, regulations, codes, injunctions, judgments, orders, ordinances, decrees, rulings, and charges thereunder, of any federal, state, local, or municipal government of any country (and all agencies thereof) having jurisdiction over any portion of the Work.

(kkk) “**Losses**” means all losses, liabilities, damages, fines, penalties, royalty payments and claims, and all related costs and expenses (including reasonable legal fees (including fees for counseling and preparation of legal opinions) and disbursements and costs of investigation, expert fees, litigation, settlement, judgment, and interest).

(lll) “**Major Subcontract**” means a Subcontract related to the performance of this Contract and valued at Dollars (\$) or more or any Subcontract for procurement of the beam-forming network, antennas, and TWTAs.

(mmm) “**Major Subcontractor**” means a Subcontractor who is a party to a Major Subcontract.

(nnn) “**Material Adverse Effect**” means any material adverse change in (i) the legality, validity, or enforceability of this Contract or (ii) the ability of Customer or Contractor to perform this Contract.

(ooo) “**Milestone**” means a portion of the Work upon completion of which a payment is to be made in accordance with Exhibit F (Payment Plan and Termination Liability Amounts).

(ppp) “**Milestone Payment**” means any of those payments listed as specific milestone payments in Exhibit F (Payment Plan and Termination Liability Amounts).

(qqq) “**Orbital Incentive Amount**” means Dollars which is included in the Contract Price for the First Satellite (with interest thereon to be paid by Customer as incorporated in the Daily Orbital Incentive Amount if the Orbital Incentive Amount is not paid upon Final Acceptance of the First Satellite and instead is paid over the Specified Operational Life of the First Satellite).

(rrr) “**Performance Specification**” means the applicable performance specification for a Satellite or other Deliverable Item, as appropriate, in the context of the applicable clause, as

set forth in Exhibit B (Technical Specifications) or as developed hereunder and approved in writing by Customer or as such specification may be amended from time to time in accordance with the terms hereof.

(sss) **“Post-Eclipse Test Report”** means, with respect to a Satellite, that so-named document that is a Deliverable Item under Exhibit A (SOW), the requirements of which are set forth in Exhibit C (Program Test Plan).

(ttt) **“Properly Operated Satellite”** means the Satellite is being monitored and commanded by Customer in accordance with the applicable Data and Documentation for operations furnished by Contractor to Customer under this Contract (as such Data and Documentation may be amended by the Parties).

(uuu) **“Ready for Launch”** means, with respect to a Satellite, the time of successful completion by Contractor of the on-ground testing and delivery of the on-ground preliminary checklist report, including successful completion of launch site satellite testing and physical integration with the Launch Vehicle, including Flight Readiness Review and Launch Readiness Review, in accordance with Exhibit A (SOW) and Exhibit C (Program Test Plan), such that the only activity remaining prior to Launch is the Launch countdown.

(vvv) **“Receiving Party”** means the Party who receives Confidential Information from the Furnishing Party.

(www) **“Regional Service Transponder”** has the meaning set forth in Exhibit B (Technical Specifications).

(xxx) **“Request for Payment”** means a request from Contractor for payment in the form of Attachment A hereto.

(yyy) **“Satellite”** means the FS 1300 (as distinguished from the FS 1300E) satellite to be Delivered by Contractor to Customer pursuant to this Contract, which shall be in conformance with the requirements of this Contract, including any optional satellite ordered hereunder by Customer and to be Delivered by Contractor to Customer pursuant to this Contract and which shall be in conformance with the requirements of this Contract.

(zzz) **“Satellite Anomaly”** means, with respect to any Satellite on-orbit or the Satellite Operations Equipment, a condition or occurrence (including any software anomaly in the Satellite or Satellite Operations Equipment) that has a material adverse impact on the Specified Operational Life or performance of such Satellite.

(aaaa) **“Satellite Operations Equipment”** means, collectively, the satellite simulator and satellite operations hardware and software required to operate the Satellite and maintain its Specified Orbital Location, as more fully described in Exhibit B (Technical Specifications) and Exhibit A (Statement of Work).

(bbbb) **“Satisfactorily Operating Satellite”** means, with respect to a Satellite, that such Satellite meets or exceeds the performance specifications set forth in Exhibit B (Technical Specifications).

(cccc) **“Satellite Shipment Readiness Review”** shall have the meaning ascribed to it in Article 8.2 (Shipment Readiness Review).

(dddd) **“Second Satellite”** shall refer to the second satellite that Customer may elect to purchase hereunder pursuant to Article 30 (Options) as described in Exhibit A (Statement of Work) and Exhibit B (Technical Specifications).

(eeee) **“Spacecraft”** means Satellite.

(ffff) **“Specified Operational Life”** means, with respect to a Satellite, the contracted for life of years for such Satellite, commencing upon Final Acceptance of the Satellite.

(gggg) **“Specified Orbital Location”** means, with respect to each Satellite, the geostationary synchronous orbital location into which such satellite shall be Launched as set forth in this Contract, including Exhibit B (Technical Specifications).

(hhhh) **“Statement of Work”** or **“SOW”** means the Work described in Exhibit A to this Contract, which shall be provided by Contractor.

(iiii) **“Subcontract”** means, with respect to performance of a portion of the Work, a contract awarded by Contractor to a subcontractor or by a subcontractor to another subcontractor.

(jjjj) **“Subcontractor”** means a person, firm, corporation, or business entity that has been awarded a Subcontract.

(kkkk) **“Terminated Ignition”** means that, following the time when the electronic signal is sent to command the opening of any first stage propellant valves, the first stage engines of the launch vehicle are shut down for any reason before the hold down mechanism is released and the launch pad is declared safe by the Launch Agency. This definition shall be modified to incorporate the definition of "Terminated Ignition" from the Launch Agreement applicable to the Launch of the Satellite.

(llll) **“Termination Liability Amounts”** means the amounts listed as termination liability amounts in Exhibit F (Payment Plan and Termination Liability Amounts).

(mmmm) **“Test Plan”** means the test plans set forth in Exhibit C (Program Test Plan).

(nnnn) **“Total Loss,”** with respect to the Satellite, shall be deemed to have occurred if either (i) EIRP is reduced by dB or more on the CONUS Forward Transponder or (ii) EIRP is reduced by or more on such number of Regional Service Transponders (the "Affected Regional Service Transponders") such that the aggregate number of US households covered by such Affected Regional Service Transponders is more than fifty percent (50%) of the aggregate number of US households covered by all 27 Regional Service Transponders.

(oooo) **“Training”** means the training to be provided under this Contract, including training for operation of the Satellites in geostationary orbit, as more fully described in Exhibit A (SOW).

(pppp) **“Transponder”** means individually those sets of equipment within the communications subsystem of a Satellite that provide a discrete path to receive communications signals from earth, translate and amplify such signals and transmit them to earth as further described in Exhibit B (Technical Specifications).

(qqqq) **“Work”** means all design, development, construction, manufacturing, labor, services, and acts, including tests to be performed, and any and all Deliverable Items, including any Satellites, Satellite Operations Equipment, Data and Documentation, Launch Campaign, LEOP services, IOT, Training, and equipment, materials, articles, matters, services, and all things to be furnished and rights to be transferred to Customer under this Contract, as may be amended, or any Subcontract entered into by Contractor, all as further described in Exhibit A (SOW).

1.2 Other Terms.

Other terms in this Contract are defined in the context in which they are used and shall have the meanings there indicated.

1.3 Integration and Construction.

The documents listed below in this Article 1.3 (Integration and Construction), including any Exhibits, Attachments, Schedules, and Annexes, as may be amended from time to time in accordance with Article 36.3 (Amendments), constitute this Contract and shall be deemed to constitute one fully integrated agreement between the Parties. In the event of any conflict or inconsistency among the provisions of the various documents of this Contract, such conflict or inconsistency shall be resolved by giving a descending level of precedence to the documents in the order set forth below:

- (a) Terms and Conditions
- (b) Exhibit F - Payment Plan and Termination Liability Amounts
- (c) Exhibit A - Statement of Work (SOW)
- (d) Exhibit B - Technical Specifications
- (e) Exhibit C – Program Test Plan
- (f) Exhibit D – Program Quality Assurance Plan
- (g) Exhibit E – Program Management Plan

1.4 Headings; Number and Gender.

The Article headings are for convenience of reference only and shall not be considered in interpreting the text of this Contract. Words in the singular include the plural and vice versa, and words imputing the masculine gender include the feminine and neuter genders where the context so requires.

2. SCOPE OF WORK

2.1 General.

(a) Contractor shall furnish the personnel, equipment, material, goods, services, and facilities (except as hereinafter specified to be provided by Customer) to perform the Work in accordance with the provisions of this Contract, including the design, development, construction, testing, and Delivery of the Deliverable Items (including the Satellite(s)) and Launch Campaign, LEOP and IOT of the First Satellite in accordance with the Delivery Schedule set forth in Article 7 (Delivery).

(b) Contractor shall furnish and perform the Work in accordance with the provisions of this Contract and in the manner specified in the following documents:

- (1) Terms and Conditions
- (2) Exhibit A - Statement of Work
- (3) Exhibit B - Technical Specifications
- (4) Exhibit C - Program Test Plan
- (5) Exhibit D - Program Quality Assurance Plan
- (6) Exhibit E - Program Management Plan
- (7) Exhibit F - Payment Plan and Termination Liability Amounts

(c) Exhibits A, B, C, D, E, and F are attached to and incorporated into these Terms and Conditions.

3. EFFECTIVE DATE OF CONTRACT (EDC)

3.1 Effective Date of Contract (EDC).

This Contract shall be effective as of, and the effective date of this Contract (the “Effective Date of Contract” or “EDC”) shall be August 9, 2002.

4. CONTRACT PRICE

4.1 Contract Price.

The total Contract Price for the Work is set forth in Table 4.1 below. The total Contract Price shall be paid in accordance with Article 5 (Payment). The prices for those items subject to an option under this Contract, if any, are set forth in Article 30 (Options). The itemization of the Contract Price is as follows:

Table 4.1			
Contract Price			
Item			(USD)
1.	First Satellite, including Ground Support Equipment, packing and shipping (including air transportation) to the Designated Launch Site and related charges	\$	1
2.	Launch Campaign, LEOP, and IOT		NSP*
3.	Satellite Operations Equipment	\$	
4.	Training		NSP
5.	Data and Documentation		NSP
	Total Contract Price	\$	

* NSP means not separately priced

(a) In addition to the Deliverable Items identified in Table 4.1 above, the Contract Price for the First Satellite includes:

- (1) On-going design, manufacturing, tests, insurance support services as described in Article 25.3 (Contractor Insurance Support); and
- (2) packing and transport to the Designated Launch Site; and
- (3) transit insurance and such other insurance required by Article 25.1 (Contractor Insurance Coverages); and
- (4) The Orbital Incentive Amount.

(b) The Contract Price for the Satellite Operations Equipment includes delivery to the location designated in Article 7 (Delivery) CIF.

(c) The Total Contract Price does not include:

- (1) Launch Services;
- (2) Launch and On-Orbit Insurance;

- (3) any interest on the Orbital Incentive Amounts (as incorporated in the Daily Orbital Incentive Amount); and
- (4) any interest on deferred financing under Article 5.8 (Deferred Financing).

4.2 Firm Fixed Price.

This is a firm fixed price Contract. Except as otherwise expressly provided in this Contract, the Contract Price is not subject to any escalation or to any adjustment or revision.

4.3 Taxes and Duties.

The Contract Price includes all applicable taxes, imposts, duties, withholdings, charges, fees, levies, tariffs, or other assessments (including interest, fines, penalties, or additions attributable to or imposed on or with respect to, any such taxes, imposts, duties, withholdings, charges, fees, levies, tariffs, or other assessments and any property tax that may be assessed and become due on any Deliverable Item or Work-in-progress as a result of transfer of title pursuant to Article 5.10(e)) imposed by any United States (including federal, state and local) governmental or taxing authority in connection with Contractor's performance under this Contract ("Taxes"); provided, however, the Contract Price does not include any Taxes on the sale of the Satellite Operations Equipment, the payment of which Taxes shall be the responsibility of Customer. Contractor has made or will make all necessary filings in order to deliver the Work free and clear of any liens or encumbrances for Taxes in favor of any governmental or taxing authority. Subject to the indemnification procedures set forth in Article 20.3, in the event any governmental or taxing authority imposes or assesses Taxes against Customer, Contractor shall indemnify Customer for any Taxes paid by Customer and shall reimburse Customer for related costs of defense (whether or not Customer actually pays such Taxes).

5. REQUEST FOR PAYMENT AND PAYMENT

5.1 Requests for Payment.

(a) For each Milestone Payment, Calendar Payment, and payment due under Article 5.8 (Deferred Financing), Contractor shall submit to Customer a Request for Payment in the form of Attachment A hereto. Each Request for Payment shall be accompanied by such supporting necessary or appropriate data as required hereunder or as Customer reasonably requests within fifteen (15) Calendar Days of receipt of the applicable Request for Payment.

(b) With respect to each Milestone Payment, the Request for Payment shall include Contractor's certification in the form of Annex I to Attachment A hereto that the Milestone to which the Request for Payment relates was completed in accordance with the requirements of this Contract. A Milestone shall not be regarded as completed until all the Work relevant to that Milestone has been completed and documented in accordance with the requirements of this Contract and all relevant documentation and Training required under this Contract for such Milestone has been provided to Customer.

(c) With respect to each Calendar Payment, Contractor shall provide Customer with a Request for Payment on or before ten (10) Calendar Days (but no more than fifteen (15) Calendar Days in advance of) the applicable due date set forth in Exhibit F (Payment Plan and Termination Liability Amounts).

(d) With respect to payments due under Article 5.8 (Deferred Payment), Contractor shall provide Customer with a Request for Payment in accordance with Article 5.8.

(e) Contractor shall telefax and airmail signed copies of each Request for Payment and accompanying certificate and any supporting data to:

Pegasus Development 107 Corporation
c/o Pegasus Communications Management Company
225 City Line Avenue
Bala Cynwyd, Pennsylvania 19004
Attention: Macy Summers
Phone: 610-934-7355
Fax Number: 610-934-7351

5.2 Payment.

(a) Subject to paragraph (f) below, Customer shall pay Contractor in full, to the extent not disputed in good faith, (i) each Milestone Payment as set forth in Exhibit F (Payment Plan and Termination Liability Amounts) within thirty (30) Calendar Days after receipt of a Request for Payment conforming to the requirements set forth in Article 5.1 (Requests for Payment) (ii) each Calendar Payment on or before the due date set forth in Exhibit F (Payment Plan and Termination Liability Amounts) provided a Request for Payment has been provided therefor in accordance with Article 5.1(c), (iii) each interest payment due under Article 5.8 (Deferred Financing) within thirty (30) Calendar Days after receipt of a Request for Payment

conforming to the requirements of Article 5.8, (iv) the outstanding principal balance of Deferred Payment Loans under Article 5.8 on or before the Due Date specified in Article 5.8, provided a Request for Payment has been provided therefor in accordance with Article 5.8, and (v) except as otherwise specifically provided, all other payments due hereunder, within thirty (30) Calendar Days after receipt of invoice. All such payments shall be made in U. S. currency by electronic funds transfer to the following bank account:

**SPACE SYSTEMS/LORAL, INC.
ACCOUNT NO. 81888-02626
BANK OF AMERICA NT&SA
CHICAGO, ILLINOIS
ABA #071-000-039**

or such other account as Contractor may specify in writing to Customer. Subject to paragraph (f) below, the failure of Contractor to deliver any Request for Payment required hereunder shall not affect Customer's obligation hereunder to make any Calendar Payments to Contractor.

(b) In no event shall Contractor submit a Request for Payment whose amount (not including payments due under Article 5.8 (Deferred Financing), when required to be paid, would exceed the cumulative sum of Milestone Payments and Calendar Payments required to be paid to Contractor for the Work up to such point of time of payment under this Article 5.2 (Payment) and Exhibit F (Payment Plan and Termination Liability Amounts).

(c) In the event of early completion by Contractor of a Milestone in advance of such Milestone completion date as set forth in Exhibit F (Payment Plan and Termination Liability Amounts), Customer shall not be obligated to make the corresponding Milestone Payment to Contractor in advance of the payment due date therefore as set forth in Exhibit F.

(d) Notwithstanding the foregoing and without prejudice to Contractor's rights under Article 5.3 (Disputed Amounts), Customer, in its sole discretion, may agree to make a partial payment to Contractor for the partial completion of a Milestone.

(e) All amounts payable to Contractor with respect to non-warranty work performed pursuant to Article 18.3 (Warranties for Deliverable Items) shall be paid no later than thirty (30) Calendar Days after receipt of an invoice and certification in the form attached hereto as Attachment A that such non-warranty work has been completed and documented in accordance with the requirements of this Contract together with the necessary or appropriate supporting data and documentation as requested under this Contract, if any.

(f) If Contractor fails to deliver any Request for Payment required hereunder within the time specified therefor, the relevant payment due from Customer shall be due and payable, with respect to (i) Milestone Payments, on or before thirty (30) Calendar Days after receipt of such Request for Payment, and (ii) Calendar Payments, on or before fifteen (15) Calendar Days after receipt of Request for Payment for Payment No. 2 and on or before thirty (30) Calendar Days after receipt of Request for Payment for Payment No. 3, and (iii) payments due under Article 5.8 (Deferred Financing), on or before thirty (30) Calendar Days after receipt of Request for Payment.

5.3 Disputed Amounts.

(a) If Customer believes in good faith that the event associated with a Request for Payment has not been completed in accordance with the requirements of this Contract or that a Request for Payment fails to conform to the requirements of Article 5.1 (Request for Payment) or Article 5.8 (Deferred Financing), as applicable, Customer shall give written notice to Contractor within thirty (30) Calendar Days after receipt by Customer of a Request for Payment. Such notification shall state in reasonable detail the area(s) Customer considers not to be in accordance with the requirements of this Contract. Upon receipt of such notice, the Parties' respective Program Managers shall meet and use good faith efforts to resolve such disagreement. Upon correction of the noted discrepancy(ies), the Request for Payment shall be reinstated for payment. Notwithstanding the foregoing, in the event that the applicable event is substantially completed in accordance with the requirements of this Contract with only minor deficiencies requiring correction, Customer shall still pay such Request for Payment; Customer, however, may withhold percent (%) of the affected payment, which Contractor may immediately invoice upon correction of the noted discrepancy)(ies).

5.4 Set Off.

In the event one Party has not paid the second Party any amount that is due and payable to the second Party under this Contract, such second Party shall have the right to set off such amount against payments due to the first Party under this Contract, provided any amount in dispute pursuant to Article 5.3 (Disputed Amounts) shall not be considered eligible for setoff while the dispute is being resolved.

5.5 Late Payment.

For any payment (except payments disputed in good faith) under this Contract that is overdue, the Party entitled to such payment shall also be entitled to interest on such payment for each day the payment is overdue until the day payment is made, at a rate of such interest rate pro rated for any partial month.

5.6 Audit.

Contractor grants Customer the right to review, examine and/or audit Contractor's and Subcontractors' financial information relating to this Contract as necessary to verify Contractor's charges invoiced on a "cost-plus" basis, and Customer may employ, at Customer's expense, a mutually agreed-upon major accounting firm to conduct any review, examination or audit of any "cost-plus" charges permitted pursuant to Article 11.2 (Contract Adjustments), Article 14.3 (Pricing Adjustment), or Article 28 (Customer's Responsibilities). If a review, examination or audit of financial information reveals overcharges in excess of one percent (1.0%), Contractor shall pay the costs and expenses of the review, examination or audit.

5.7 Stop Work.

If any payment (except payments disputed in good faith) is not made by Customer by the date fifteen (15) Calendar Days after the date due in accordance with Article 5.2 (Payment), without prejudice to Contractor's other rights and remedies under this Contract, Contractor may elect to cease performance of its obligations under this Contract, without prejudice or penalty. If

Contractor subsequently resumes performance, the price, schedule, payment plan and other affected terms of this Contract shall be equitably adjusted to compensate Contractor for all impacts on Contractor associated with such work stoppage, including actual costs reasonably incurred by Contractor associated with such work stoppage, plus a markup of percent (%), such costs and markup to be invoiced and paid pursuant to the provisions of this Article 5 (Request for Payment and Payment).

5.8 Deferred Financing.

(a) Contractor shall make available to Customer Dollars (\$) of deferred financing for the First Satellite beginning with and including Payment No. 4 as set forth in Exhibit F – Table 1 (Payment Plan and Termination Liability Amounts) and continuing up to) Calendar Days prior to the Satellite Shipment Readiness Review for the First Satellite. Customer may draw down such financing (each a “Deferred Payment Loan”) by giving written notice to Contractor prior to any such draw down, provided that the aggregate outstanding principal amount of all Deferred Payment Loans (after giving effect to such requested Deferred Payment Loan) does not exceed %) of the cumulative amount due under Exhibit F - Table 1 (Payment Plan and Termination Liability Amounts) at the time of such draw down. The unpaid principal amount of all Deferred Payment Loans shall be due and payable on or before the date (the “Due Date”) that is) Calendar Days prior to the Satellite Shipment Readiness Review for the First Satellite, unless extended pursuant to Article 5.8 (b) hereof. Contractor shall send Customer a Request for Payment for such principal amount due in accordance with this Article 5.8(a) hereof at least thirty (30) but no more than forty-five (45) Calendar Days in advance of the Due Date. Contractor shall send Customer a Request for Payment for accrued interest on the outstanding principal balance of the Deferred Payment Loans on the first day of each calendar month, commencing on the first such day in the calendar month immediately succeeding the making of the initial Deferred Payment Loan pursuant to this Article 5.8(a), and payment of such interest shall be due and payable in accordance with Article 5.2 (Payment) hereof. The outstanding principal balance of the Deferred Payment Loans, and interest thereon, together with all fees and expenses incurred in connection with the enforcement of Articles 5.8 and 5.9 hereof, shall be secured pursuant to Article 5.9 (Contractor Security for Deferred Financing). Without prejudice to Contractor’s rights under Article 5.5 (Late Payment), Article 5.7 (Stop Work), or Article 32.3 (Termination for Customer’s Default), if (x) Customer shall fail to pay when due, an interest payment, a Milestone Payment, a Calendar Payment or any other payment to be made by it under this Contract or (y) there shall have been a breach of the representations, warranties and covenants made by Customer under Article 5.9 (Contractor Security for Deferred Financing) or Customer default under Article 32.3(a) (3), then Customer shall no longer be eligible to draw down any additional Deferred Payment Loans, and if Customer fails to cure either of the breaches described in (x) within thirty (30) Calendar Days of the date payment is due, or immediately in the case of the breach described in (y) (provided, however, in the event a breach described in (y) is curable within five (5) Business Days of notice thereof without prejudice to Contractor’s rights hereunder, then within five (5) Business Days of notice of such breach) then the outstanding principal amount of all Deferred Payment Loans, and all accrued and unpaid interest thereon, shall be accelerated and become immediately due and payable. Deferred Payment Loans (and all accrued interest thereon) may be prepaid, in whole or in part, at any time without premium or penalty of any kind.

(b) On or before () Calendar Days prior to the Satellite Shipment Readiness Review for the First Satellite, Customer may by written notice to Contractor request an extension of the Due Date to Launch plus years. Such extension shall be granted by Contractor only if Customer and Contractor shall have, prior to the original Due Date, entered into a loan agreement and other related documentation as Contractor may reasonably request, having terms and conditions satisfactory to Contractor, including without limitation, financial covenants, and providing for collateral coverage ratio for the benefit of Contractor that would be comparable to that generally requested by bank-type lenders.

(c) Each drawdown of a Deferred Payment Loan under Article 5.8(a) above shall bear interest at annual percentage rate computed beginning on the date of such drawdown and continuing to but excluding the payment date. Interest shall be calculated on the basis of a 360-day year for the actual number of days elapsed. If the Due Date is extended pursuant to Article 5.8(b) hereof, then the interest rate applicable to such extended loan as set forth in the applicable loan documentation shall equal such interest rate as agreed to between Customer and Contractor determined in good faith and based on interest rates charged by other lenders to similarly situated borrowers for loans of like amount and maturity.

5.9 Contractor Security for Deferred Financing.

(a) To secure the repayment of all unpaid principal of, and accrued interest on, Deferred Payment Loans made pursuant to Article 5.8 (Deferred Financing), together with all fees and expenses incurred in connection with the enforcement of Articles 5.8 and 5.9, Customer hereby grants Contractor a security interest, which Customer represents and warrants is and shall, subject to the provisions of the following sentence, be at all times until termination of the security interest pursuant to Article 5.9(b) hereof, a first priority perfected security interest, in any right, title and interest Customer has or may be deemed to have in the Work, including any Work-in-progress to which Customer shall take title pursuant to Article 5.10(e) hereof, and any proceeds of the foregoing (collectively, the "Contractor Collateral"), which security interest shall at all times until termination of the security interest pursuant to Article 5.9(b) hereof, be senior to any other security interest or claims that any other person may have in the Contractor Collateral, including without limitation, Customer's security interest established pursuant to Article 5.10 (Customer Security Interest). Notwithstanding the foregoing, Contractor agrees that if Contractor shall have extended the Due Date of the deferred financing pursuant to Article 5.8(b) hereof, then on and after the day that is Calendar Days prior to the Satellite Shipment Readiness Review for the First Satellite, Customer may grant a security interest in the Contractor Collateral to its lenders that is pari passu to the security interest granted to Contractor under this Article 5.9(a).

(b) The security interest created herein shall terminate upon Contractor's receipt of payment of the outstanding principal balance of the Deferred Payment Loans under Article 5.8 (Deferred Financing) and any applicable interest thereon and all fees and expenses incurred in connection with the enforcement of Articles 5.8 and 5.9 (collectively, the "Deferred Financing Amounts"). Promptly after termination of such security interest, Contractor shall, at Customer's request, release and terminate such security of record by filing termination statements or similar documents in accordance with applicable law.

(c) Customer hereby acknowledges and agrees that the provisions of this Article 5.9 (Contractor Security Interest for Deferred Financing) constitute a security interest under the provisions of the Uniform Commercial Code in effect in the jurisdiction applicable to this transaction pursuant to which Customer has granted a security interest in the collateral as described in this Article 5.9.

(d) The Parties agree, that upon Contractor's reasonable request, Customer shall sign and permit Contractor to file, for precautionary purposes, appropriate Uniform Commercial Code financing statements or any similar documentation having the same effect in foreign countries, reflecting Contractor's right, title, and interest to the Contractor Collateral prior to receipt of payment of the outstanding Deferred Financing Amounts provided that Contractor, at its sole expense, shall be responsible for preparing and filing such financing statements and terminating such financing statements as required by this Article 5.9 (Contractor Security for Deferred Financing).

5.10 Customer Security Interest.

(a) To secure Customer's interest in the Work arising from Customer's payments hereunder and all amounts due Customer in the event of Contractor's default hereunder, together with all fees and expenses incurred in connection with the enforcement of this Article 5.10, Contractor hereby grants Customer a security interest, which Contractor represents and warrants is and shall be a second-priority perfected security interest, in Contractor's right, title, and interest in and to those items constituting Work-in-progress, under this Contract but only to the extent those items have been paid for by Customer (the "Customer Collateral"). Customer acknowledges and agrees that the security interest granted pursuant to this Article 5.10(a) hereof is a junior security interest to Contractor's security interest in such collateral under Article 5.9(a), and that until the Deferred Financing Amounts have been paid in full, Customer shall not be entitled to exercise any rights or remedies with respect to the Customer Collateral. Customer agrees that prior to its draw down of the initial Deferred Payment Loan, it shall have entered into an intercreditor agreement with Contractor reflecting its junior status, and having terms and conditions reasonably acceptable to Contractor.

(b) The security interest created herein shall terminate upon Launch of the Satellite or as otherwise provided in Article 5.10(e) hereof. Promptly after termination of such security interest, Customer shall, at Contractor's request, release and terminate such security of record by filing termination statements or similar documents in accordance with applicable law.

(c) Contractor hereby acknowledges and agrees that the provisions of this Article 5.10 (Security Interest) constitute a security interest under the provisions of the Uniform Commercial Code in effect in the jurisdiction applicable to this transaction pursuant to which Contractor has granted a security interest in the collateral described in paragraph (a) above.

(d) The Parties agree, that upon Customer's reasonable request, Contractor shall sign and permit Customer to file, for precautionary purposes, appropriate Uniform Commercial Code financing statements or any similar documentation having the same effect in foreign countries, reflecting Customer's right, title, and interest in the Customer Collateral to the extent of payments made hereunder and all amounts due Customer in the event of Contractor's default

hereunder and collection costs related thereto, provided that Customer, at its sole expense, shall be responsible for preparing and filing such financing statements and terminating such financing statements as required by this Article 5.10 (Customer Security Interest).

(e) At any time prior to Launch, Contractor may elect, in substitution of the security interest granted to Customer under Article 5.10(a), to transfer to Customer all of Contractor's right, title (free and clear of all Contractor-incurred liens and encumbrances), and interest in a some or all of the Customer Collateral (other than Data and Documentation), in which event the security interest in the transferred Customer Collateral shall terminate upon such transfer. In the event that Contractor elects to transfer right, title, and interest as provided above, Contractor shall nevertheless retain possession of such transferred Customer Collateral so as to enable it to complete the manufacture, test, launch, LEOP and IOT of the Satellite and transfer all residual title upon Intentional Ignition of the Satellite.

6. ACCESS TO WORK

6.1 General.

Contractor represents and warrants that, subject to Article 6.5 (Customer Representatives as Competitors/Foreign Persons), Article 15 (Permits and Licenses; Compliance with Laws), and Contractor's normal and customary safety and security regulations and practices of which Customer has received prior written notice, the access to the Work and Work-in-progress to be provided Customer Personnel under this Contract is or shall be substantially similar to the access to the Work and Work-in-progress Contractor provides to its other major commercial customers purchasing a single satellite with substantial new development. In the event Contractor becomes aware that the access to the Work and Work-in-progress provided under this Contract is otherwise, Contractor shall promptly remedy that situation.

6.2 Facilities.

(a) Contractor's Facilities. Subject to Article 6.5 (Customer Representatives as Competitors/Foreign Persons), Article 15 (Permits and Licenses; Compliance with Laws), and Contractor's normal and customary safety and security regulations and practices of which Customer has received prior written notice, Contractor shall provide Customer Personnel reasonable access to all Work (including Work-in-progress, documentation, and testing) at the facilities of Contractor and its Subcontractors, during regular business hours, or such other times as Work is being performed under this Contract, provided such access does not unreasonably interfere with such Work and access to Work is coordinated through Contractor's program office.

Subject to Article 6.5 (Customer Representatives as Competitors/Foreign Persons), Article 15 (Permits and Licenses; Compliance with Laws), and Contractor's normal and customary safety and security regulations and practices of which Customer has received prior written notice, the Parties agree that Customer Personnel shall be provided ten (10) non-escort permanent badges subject to Customer identifying such personnel to Contractor and such personnel satisfying Contractor's standard security clearance requirements.

(b) Major Subcontractor Facilities. In the case of Contractor's Major Subcontracts, and such other non-major Subcontracts under which the effort in support hereunder involves significant design or qualification or the Subcontractor is experiencing performance difficulties which may have a material adverse effect on the Delivery Schedule or performance or provision of a Deliverable Item, Contractor shall use commercially reasonable efforts to require that each such Subcontract contain a provision substantially similar to this Article 6 (Access to Work) with respect to access to the applicable Subcontractor's facilities and performance of the Work. Such access shall be subject to (i) Article 15 (Permits and Licenses; Compliance with Laws), (ii) Subcontractor's normal and customary safety and security regulations and practices of which Customer has received prior written notice, and (iii) the right of Contractor to accompany Customer on any such visit to a Subcontractor's facility.

6.3 Office Space.

(a) Contractor's Facilities. Contractor shall provide office space and facilities at Contractor's facilities where the Work is being performed for the accommodation of up to ten (10) Customer Personnel through Acceptance of the last Satellite ordered hereunder.

(b) Major Subcontractor Facilities. Contractor shall make reasonable work space available for Customer Personnel at environmental test facilities (if located off site) and shall use reasonable efforts to ensure that office space and facilities are provided for up to four (4) Customer Personnel at other selected Major Subcontractors' plants on a temporary basis to attend meetings or witness tests.

(c) Minimum. At a minimum, the office space and facilities required hereunder shall include desks, chairs, filing cabinets, office supplies, local telephone service, reasonable long distance telephone usage, car parking facilities, and access to meeting rooms, copying machines and facsimile equipment, LAN-based connection to the Internet and, as available, access to and use of video conferencing facilities at Contractor's facilities.

6.4 Financing Entities and Auditors.

Subject to Article 15 (Permits and Licenses; Compliance with Laws), Article 6.5 (Customer Consultants and Agents as Competitors/Foreign Persons), and Contractor's normal and customary safety and security regulations and practices of which Customer has received prior written notice, each Financing Entity and Customer's auditors shall have access to the Work in the same manner and to the same extent as Customer Personnel under this Article 6 (Access to Work).

6.5 Customer Consultants and Agents as Competitors/Foreign Persons.

Customer's consultants and agents shall not be in direct competition with and shall not currently be employed by companies or entities that are in direct competition with Contractor for the sale of commercial telecommunications satellites. Customer shall notify Contractor in writing of the name, title or function, business relationship, employer, citizenship status under U.S. export laws and such other information as may be reasonably requested by Contractor, with respect to each of its intended consultants and agents, and cause each such consultant and agent to (i) execute a confidentiality agreement directly with Contractor in form and substance reasonably satisfactory to Contractor and containing terms substantially the same as those set forth in Article 20 (Intellectual Property Rights) and Article 22 (Confidential Information) and (ii) pursuant to Article 15 (Permits and Licenses; Compliance with Laws), execute a Technical Assistance Agreement or other agreement to ensure compliance with applicable U.S. export control laws and regulations to the extent required by applicable U.S. export laws or regulations as interpreted by Contractor in good faith. Contractor may in its discretion deny any consultant or agent of Customer access to Contractor facilities, products or information.

6.6 Interference with Operations.

Customer shall exercise its rights under this Article 6 (Access to Work) in a manner that does not unreasonably interfere with Contractor's or its Subcontractors' normal business

operations or Contractor's performance of its obligations under this Contract or any agreement between Contractor and its Subcontractors.

7. DELIVERY

7.1 Delivery Schedule.

(a) Contractor shall Deliver those Deliverable Items listed in Table 7.1 below to the destinations indicated, on or before the dates (“Delivery Dates”) specified in such Table, as such Delivery Dates may be adjusted in accordance with this Contract.

Table 7.1 Delivery Schedule			
	Deliverable Item	Delivery Date or Performance Date	Place of Delivery
1.	First Satellite		Designated Launch Site
2.	Launch Campaign for First Satellite	Per Exhibit A (SOW)	Per Exhibit A (SOW)
3.	LEOP for First Satellite	Per Exhibit A (SOW)	Per Exhibit A (SOW)
4.	IOT Detailed Report with respect to the First Satellite	Per Exhibit A (SOW)	Customer’s facilities at Bala Cynwyd, PA
5.	Post-Eclipse Test Report with respect to the First Satellite	Per Exhibit A (SOW)	Customer’s facilities at Bala Cynwyd, PA
6.	Satellite Operations Equipment	months prior to Satellite Shipment Readiness Review	Customer’s primary and back-up satellite operations centers to be designated by Customer on or before CDR
7.	Training	Per Exhibit A (SOW)	Per Exhibit A (SOW)
8.	Data & Documentation	Per Exhibit A (SOW)	Per Exhibit A (SOW)

(b) Packing and shipping shall be in accordance with standard commercial practices of the aerospace industry and applicable Laws and Exhibit A (Statement of Work) and shall be effected in such a manner so as to ensure that the item reaches its destination undamaged.

7.2 Delivery Defined.

Delivery of each Deliverable Item shall occur upon Final Acceptance of such item in accordance with Article 8 (Inspection and Final Acceptance) as applicable, except in the case of the Satellite, Delivery shall occur (i) in the event the Satellite is Launched, upon arrival of the Satellite at the Designated Launch Site after successful completion of Satellite Shipment

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Readiness Review pursuant to Article 8.2 (Satellite Shipment Readiness Review) or (ii) in the event the Satellite is placed in storage pursuant to Article 30 (Options), upon successful completion of the Satellite Acceptance for Storage Review as set forth in Exhibit A (Statement of Work).

8. INSPECTION AND FINAL ACCEPTANCE

8.1 Preliminary Inspections.

Subject to Article 6.5 (Customer Consultants and Agents as Competitors/Foreign Persons) and Article 15 (Permits and Licenses; Compliance with Laws) and Contractor's or a Subcontractor's normal and customary safety and security regulations and practices of which Customer has received prior written notice, preliminary inspections of all Work may be made by Customer Personnel at Contractor's and Subcontractors' facilities. All such inspections shall be made in the presence of a representative of Contractor. In the event Customer informs Contractor in writing of any defects or non-conformances in the Work, Contractor shall remedy such defects and non-conformances.

8.2 Waivers and Deviations.

Contractor shall submit to Customer any request for a waiver of, or deviation from, provisions(s) of the Performance Specification applicable to the Satellite or any other Deliverable Item. A request for waiver or deviation shall be deemed granted only if it has been approved in writing by a duly authorized representative of Customer. Each such waiver or deviation approved by Customer shall be deemed an amendment to the Performance Specification for such Satellite or Deliverable Item, permitting such waiver thereof, or deviation therefrom, effective on or after the date of such approval for such Satellite or Deliverable Item. Customer shall consider each waiver or deviation request in good faith and shall not unreasonably withhold its consent to any such request.

8.3 Satellite Shipment Readiness Review.

(a) Prior to shipment of each Satellite to the Designated Launch Site, Contractor shall conduct a Satellite Shipment Readiness Review in accordance with the requirements set forth in this Article 8.3 (Satellite Shipment Readiness Review), Exhibit A (SOW) and Exhibit C (Program Test Plan) at Contractor's facilities. The Satellite Shipment Readiness Review shall consist of reviewing the Satellite's ground test results in accordance with Exhibit C (Program Test Plan). Contractor shall provide Customer at least Calendar Days advance written notice of the Satellite Shipment Readiness Review for each Satellite. Customer shall have the right to witness such review and the right to either concur or not concur that the Satellite under review meets the requirements of this Contract and is ready for shipment. If Customer cannot commence the Satellite Shipment Readiness Review on the scheduled date, Contractor shall make reasonable efforts to accommodate Customer's scheduling requirements. If Customer fails to commence or complete the Satellite Shipment Readiness Review with respect to any Satellite, Customer shall be deemed to have notified Contractor that the Satellite Shipment Readiness Review for such Satellite has been successfully completed.

(b) The Satellite Shipment Readiness Review shall verify:

- (1) the Satellite's ground testing has been completed in accordance with Exhibit C (Program Test Plan); and

(2) the Satellite meets the requirements of Exhibit B (Technical Specifications) (except those that have been waived by Customer pursuant to Article 8.2 (Waivers and Deviations)).

(c) Contractor shall have no obligation to ship the Satellite to the Designated Launch Site until all defects and non-conformances have been corrected, repaired, or have an approved waiver or deviation.

(d) Within after completion of the Satellite Shipment Readiness Review, Customer shall notify Contractor in writing of (i) its concurrence with the results of the Satellite Shipment Readiness Review, including any waiver of its right to compel correction of those defects and non-conformances to the requirements of Exhibit B (Technical Specifications) specified by Customer in such notice or (ii) its rejection of the Satellite Shipment Readiness Review. If Customer fails to provide such notice within the time specified, the Satellite Shipment Readiness Review shall be deemed to have been successfully completed with respect to such Satellite.

(e) In the event that such Satellite Shipment Readiness Review demonstrates (i) all testing has been performed in accordance with Exhibit D (Program Test Plan) and (ii) conformity of such Satellite to the applicable requirements of Exhibit B (Technical Specifications) (including any written waivers or deviations approved by Customer pursuant to Article 8.2 (Waivers and Deviations)), such Satellite shall be prepared and shipped to the Designated Launch Site for Launch. In the event that such Satellite Shipment Readiness Review discloses (i) any failure to conduct testing in accordance with Exhibit C (Program Test Plan), or (ii) any non-conformance of such Satellite to the requirements of Exhibit B (Technical Specifications), either of which is not the subject of any written waivers or deviations approved by Customer pursuant to Article 8.2 (Waivers and Deviations), Customer's notice shall state each such defect or non-conformance (with reference to the applicable requirement of Exhibit C (Program Test Plan) or Exhibit B (Technical Specifications) deemed not met) it requires to be corrected or repaired, and Contractor shall correct or repair each such non-conformance and resubmit such Satellite for additional testing, in accordance with the applicable requirements of Exhibit C (Program Test Plan) and a second Satellite Shipment Readiness Review. Such additional testing and second Satellite Shipment Readiness Review shall be conducted to the extent relevant and necessary to demonstrate the Satellite conforms to the requirements of Exhibit B (Technical Specifications).

(f) Upon successful completion of the Satellite Shipment Readiness Review, the Satellite shall be deemed to be Available for Shipment and Contractor shall transport such Satellite, in accordance with Contractor's standard commercial practices, to the Designated Launch Site and shall proceed with Flight Readiness Review.

(g) All costs and expenses incurred by Customer and Customer Personnel in the exercise of its inspection rights under this Article 8.2 (Satellite Shipment Readiness Review), including travel and living expenses, shall be borne solely by Customer.

8.4 Correction of Deficiencies after Satellite Shipment Readiness Review.

If at any time following the Satellite Shipment Readiness Review for a Satellite and prior to Intentional Ignition (or in the event of a Terminated Ignition, prior to any subsequent Intentional Ignition), such Satellite fails to meet Exhibit B (Technical Specifications), as may be modified as of such time pursuant to Article 8.2 (Waivers and Deviations), Contractor shall promptly undertake to correct such deficiencies prior to Intentional Ignition (or in the case of a Terminated Ignition, prior to any subsequent Intentional Ignition) and the Delivery Schedule set forth in Article 7.1 (Delivery Schedule) shall be extended as necessary to accommodate such corrective actions, and Contractor shall be entitled to such other compensation for such corrections, if any, to the extent and as provided in Article 9 (Title and Risk of Loss).

8.5 Flight Readiness Review.

Prior to integration of each Satellite with a Launch Vehicle at the Designated Launch Site, Contractor shall conduct a Flight Readiness Review (FRR) in accordance with Exhibit A (SOW) and Exhibit C (Program Test Plan). Contractor shall give Customer reasonable advance written notice of the FRR. The purpose of the FRR is to verify that all testing required under Exhibit C (Program Test Plan) has been successfully completed and the Satellite meets all the parameters required to be tested thereunder (including waivers or deviations approved by Customer pursuant to Article 8.2 (Waivers and Deviations)). The FRR will be deemed successfully completed when the Parties agree the above-stated purposes of the FRR have been met and the Satellite is ready to be integrated with the Launch Vehicle. Within hours after completion of the FRR, Customer shall notify Contractor of its (i) concurrence with the results of the FRR, including any waiver of its right to compel correction of those non-conformances to the applicable provisions of Exhibit A (Statement of Work) or Exhibit C (Program Test Plan) or (ii) specific non-conformances of such Satellite to the requirements of Exhibit A (Statement of Work) or Exhibit C (Program Test Plan), which are not the subject of any waivers or deviations approved by Customer pursuant to Article 8.2 (Waivers and Deviations). Customer's notice shall state each such non-conformance (with reference to the applicable requirements of Exhibit A (Statement of Work) or Exhibit C (Program Test Plan) deemed not met) it requires to be corrected or repaired, and Contractor shall correct or repair each such non-conformance and resubmit such Satellite for Customer's concurrence. Failure to provide such notice within the time specified shall be deemed concurrence. Upon successful completion of the FRR, the Satellite shall be released by Customer for integration with the Launch Vehicle.

8.6 Launch Readiness Review.

After integration of each Satellite with a Launch Vehicle at the Designated Launch Site and before Launch of such Satellite, Contractor shall participate in and support the Launch Readiness Review (LRR) in accordance with Exhibit A (SOW) and Exhibit C (Program Test Plan). Contractor shall give Customer reasonable advance written notice of the LRR. The purpose of the LRR is to verify the Satellite complies with the requirements of the Launch Agency. The LRR will be deemed successfully completed when the Parties agree the above-stated purposes of the LRR have been met and the Satellite is Ready for Launch. Within twenty-four (24) hours after completion of the LRR, Customer shall notify Contractor of its (i) concurrence with the results of the LRR, including any waiver of its right to compel correction of those non-conformances to the applicable Launch Agency requirements. Customer's notice shall state each such non-conformance (with reference to the applicable requirements deemed not met)

it requires to be corrected or repaired, and Contractor shall correct or repair each such non-conformance and resubmit such Satellite for Customer's concurrence. Failure to provide such notice within the time specified shall be deemed concurrence.

8.7 In-Orbit Testing and Final Acceptance of Satellite.

(a) In-Orbit Testing.

- (1) Calendar Days prior to the then-scheduled Launch of a Satellite, Contractor shall notify Customer in writing of the IOT schedule with respect to such Satellite. Customer may observe such IOT at Customer's or Contractor's location, at Customer's election, subject to Article 6.5 (Customer Consultants and Agents as Competitors/Foreign Persons), Article 15 (Permits and License; Compliance with Laws), and applicable U.S. Government and Contractor security restrictions.
- (2) Upon arrival of a Satellite at its Specified Orbital Location, Contractor shall perform in-orbit tests and analyses on such Satellite in accordance with the requirements of this Contract to determine whether and to what extent such Satellite meets the requirements set forth herein.
- (3) For a Satellite, within three (3) Calendar Days after completion of the pre-eclipse in-orbit testing required by this Contract, Contractor shall conduct an in-orbit acceptance review and provide the In-Orbit Summary Test Report setting forth the pre-eclipse in-orbit test data in a condition conforming to the requirements of this Contract at least twenty-four (24) hours in advance of the in-orbit acceptance review. Contractor shall present the Satellite Acceptance Certificate (as defined in Exhibit A (Statement of Work)) at the in-orbit acceptance review. Contractor shall conduct the Satellite acceptance review within three (3) Calendar Days after completion of the in-orbit acceptance review during which Satellite acceptance review Customer shall notify Contractor in writing of its acceptance (pursuant to Article 8.7 (b) (1) or (2)) or rejection (pursuant to Article 8.7 (b) (3)) of the Satellite. The foregoing shall be conducted in accordance with Exhibit A (Statement of Work) and Exhibit C (Program Test Plan) and this Article 8.7 (In-Orbit Testing and Final Acceptance of the Satellite).
- (4) Promptly upon completion of pre-eclipse in-orbit testing, but no later than sixty (60) Calendar Days after Launch of a Satellite, Contractor shall furnish Customer with the IOT Detailed Report in a condition conforming to the requirements of this Contract.
- (5) In the event no solar eclipse occurs during in-orbit testing, Contractor shall, at Customer's request and subject to Customer making the Satellite and necessary Customer facilities available to Contractor, for the first solar eclipse following completion of in-orbit testing conduct eclipse

testing in accordance with the provisions of Exhibit A (SOW) and Exhibit C (Program Test Plan) and furnish Customer with the Post-Eclipse Test Report in a condition conforming to the requirements of this Contract; provided, however, in the case of a Total Loss, Contractor may so furnish such Post-Eclipse Test Report prior to one full eclipse period.

(b) Final Acceptance of Satellite.

- (1) Full Compliance. In the event the In-Orbit Summary Test Report shows the Satellite has met all requirements of Exhibit B (Technical Specification), Customer shall accept the Satellite (“Final Acceptance”) and Contractor shall be entitled to begin earning the full Orbital Incentive Amount pursuant to Article 12 (In-Orbit Performance Incentives).
- (2) Not Fully Compliant But Not a Total Loss. In the event the In-Orbit Summary Test Report shows the Satellite is not fully compliant with Exhibit B (Technical Specifications) but is not a Total Loss, Customer shall accept the Satellite (“Final Acceptance”), and Contractor shall be entitled to begin earning the Orbital Incentive Amount in accordance with Article 12 (In-Orbit Performance Incentive Payments). In the event of Final Acceptance pursuant to this subparagraph (b)(2), Contractor shall have no further obligation to perform with respect to such Satellite, nor for the refund of payments or loss of future payments, except to the extent that the Orbital Incentive Amount is not earned under Article 12 (In-Orbit Performance Incentive Payments), which are Customer's sole and exclusive remedies for non-performance of the Satellite except as otherwise provided in Article 18.4 (Satellite Anomalies) and Article 25.3 (Contractor Insurance Support).
- (3) Total Loss. In the event that after Launch, but prior to or at completion of in-orbit tests, the Satellite is determined to have experienced a Total Loss, Customer shall have the right to reject the Satellite, and Contractor shall not be entitled to earn the Orbital Incentive Amount. Thereafter, Contractor shall have no further obligations with respect to such Satellite nor for the refund of payments or loss of future payments, except to the extent that the Orbital Incentive Amount is lost due to operation of this subparagraph (b)(3), which is Customer’s sole and exclusive remedy in the event of a Total Loss and rejection, except as otherwise provided in Article 18.4 (Satellite Anomalies) and Article 25.3 (Contractor Insurance Support). Customer’s rejection of a Satellite shall not affect the passage of risk of loss or damage and title to such Satellite pursuant to Article 9 (Title and Risk of Loss) or Delivery thereof pursuant to Article 7.2 (Delivery Defined).
- (4) Non-Compliance and Total Loss Not Attributable to Contractor. In the event and to the extent that the Satellite is determined to be a Total Loss or if Final Acceptance occurs pursuant to paragraph (2) above and in

either case due to causes not attributable to Contractor, Contractor shall be deemed to have earned immediately the corresponding amount of the Orbital Incentive Amount that would otherwise be lost pursuant to this paragraph (b), which shall be paid as follows: (i) in the case of a Total Loss, where Customer has procured Launch and On-Orbit Insurance in an amount sufficient to cover the Orbital Incentive Amount, promptly upon Customer's receipt of the proceeds from such insurance but in no event later than months following the Total Loss; or where Customer has not procured Launch and On-Orbit Insurance sufficient to cover the Orbital Incentive Amount, within) Calendar Days of the occurrence of the Total Loss; or (ii) in the case of Final Acceptance under subparagraph (b)(2) above, pro rata over the remaining life of the Satellite.

8.8 Final Acceptance of Additional Satellites.

If Customer exercises the option to purchase one or more additional Satellites pursuant to Article 30 (Options), Final Acceptance of each such additional Satellite shall occur in accordance with Article 8.7 (In-Orbit Testing and Final Acceptance of Satellite), except in the case where Customer exercises the option under Article 30 (Options) to store the Satellite, in which case Final Acceptance of such Satellite shall occur upon successful completion of the Satellite Acceptance for Storage Review as set forth in Exhibit A (Statement of Work).

8.9 Satellite Operations Equipment.

Final Acceptance of the Satellite Operations Equipment shall occur only upon (i) Contractor furnishing the Satellite Operations Equipment at the places specified in Table 7.1 of Article 7 (Delivery), (ii) completion of acceptance testing in accordance with this Contract demonstrating the Satellite Operations Equipment are furnished in a condition conforming to the requirements of this Contract and (iii) submission within one (1) week after completion of acceptance testing of a Satellite Operations Center Hardware and Software Report (as defined in Exhibit A (Statement of Work)) in a condition conforming to the requirements of this Contract. Customer shall provide Contractor with written notice of its acceptance or rejection of the Satellite Operations Equipment within twenty-four (24) hours after completion of acceptance inspection by Customer of the Satellite Operations Equipment. In the event the Satellite Operations Equipment conforms to the requirements of the applicable Performance Specification, Customer shall accept the Satellite Operations Center Equipment for all purposes hereunder ("Final Acceptance"), and Customer's notice shall so state. If the Satellite Operations Equipment is unacceptable, Customer shall, within the said twenty-four hours, notify Contractor in writing in which respects the Satellite Operations Equipment contains any non-conformances (with reference to the applicable requirement of Exhibit B (Technical Specifications) deemed not met). Contractor shall, at its expense, promptly correct the non-conformances referred to therein and notify Customer that the corrections have been made. The provisions of this Article 8.9 (Satellite Operations Equipment) shall thereafter apply to the corrected Satellite Operations Equipment. If Customer fails to provide notice to Contractor within the time specified, Final Acceptance of the Satellite Operations Equipment shall be deemed to have occurred with respect thereto.

8.10 Data and Documentation.

(a) Final Acceptance of Data and Documentation, or any part thereof, shall occur only when the Data and Documentation, or such part thereof, have been furnished to Customer in a condition conforming to the requirements of this Contract, including Exhibit A (Statement of Work). Any Data and Documentation furnished to Customer shall be accompanied by written notice from Contractor specifying that portion of the Data and Documentation being furnished.

(b) Customer shall provide Contractor with written notice of its acceptance or rejection of the Data and Documentation or any part thereof requiring Customer approval pursuant to the CDRL in Exhibit A (Statement of Work) in writing within () Business Days after receipt of said Data and Documentation or part thereof. If such Data and Documentation, or part thereof, are for Customer's review or information as set forth in Exhibit A (SOW) and Customer finds such Data and Documentation or part thereof unacceptable, Customer shall, within the said fifteen (15) Business Days, notify Contractor in writing in which respects the Data and Documentation, or part thereof, contain any defects. In the event the Data and Documentation or part thereof conforms to the requirements of this Contract, Customer shall accept the Data and Documentation or part thereof for all purposes hereunder ("Final Acceptance"), and Customer's notice shall so state. If the Data and Documentation or part thereof are unacceptable, Customer shall, within the said fifteen (15) Business Days, notify Contractor in writing in which respects the Data and Documentation or part thereof contain any non-conformances (with reference to the applicable contract requirement deemed not met). Contractor shall promptly correct the defects referred to therein and shall notify Customer that the corrections have been made. The provisions of this Article 8.10 (Data and Documentation) shall thereafter apply to the corrected Data and Documentation. If Customer fails to notify Contractor within the Business Days, Final Acceptance of the relevant Data and Documentation or part thereof shall be deemed to have occurred with respect to such Data and Documentation or part thereof.

8.11 Training.

Final Acceptance of Training, or any part thereof, required by Exhibit A (Statement of Work) shall occur upon Contractor furnishing Training to Customer, or such part thereof, in accordance with the Delivery Schedule set forth in Article 7.1 (Delivery Schedule) and the requirements of Exhibit A (Statement of Work). Any Training furnished to Customer shall be accompanied by written notice from Contractor specifying that portion of the Training being furnished. If such Training or part thereof is unacceptable, Customer shall notify Contractor in writing that the Training, or part thereof, does not conform to the requirements of Exhibit A (Statement of Work), identifying each such non-conformance (with reference to the applicable requirement of Exhibit A (Statement of Work) deemed not met). Contractor shall, at its expense, promptly correct such defects and shall notify Customer that the corrections have been made. The provisions of this Article 8.11(Training) shall thereafter apply to the corrected Training.

8.12 Other Services.

Acceptance of other services provided hereunder (e.g., Launch Campaign, LEOP, IOT), or any part thereof, shall occur upon Contractor furnishing such services, or such part thereof, to

Customer in accordance with the Delivery Schedule set forth in Article 7.1 (Delivery Schedule) and in a condition conforming to the requirements of this Contract. To the extent feasible, any such services furnished to Customer shall be accompanied by written notice from Contractor specifying that portion of the services being furnished. If such services or part thereof are unacceptable, Customer shall notify Contractor that the services, or part thereof, do not conform to the requirements of Exhibit B (Statement of Work) identifying each such non-conformance (with reference to the applicable requirement of Exhibit A (Statement of Work) deemed not met). Contractor shall promptly correct such non-conformance to the extent feasible and shall notify Customer that the corrections have been made. The provisions of this Article 8.12 (Other Services) shall thereafter apply to the corrected services.

8.13 Inspection Costs Borne by Customer.

All costs and expenses incurred by Customer or its agents in the performance of its inspection rights under this Article 8 (Inspection and Final Acceptance), including travel and living expenses, shall be borne solely by Customer.

8.14 Warranty Obligations.

In no event shall Contractor be released from any of its warranty obligations applicable to any Deliverable Item other than Satellites as set forth in Article 18 (Contractor's Representations, Covenants and Warranties) as a result of such Deliverable Item having achieved Final Acceptance as set forth in this Article 8 (Inspection and Final Acceptance).

9. TITLE AND RISK OF LOSS

9.1 Transfer of Title.

Transfer of title, free and clear of all Contractor-incurred liens and encumbrances of any kind, to each Deliverable Item (other than Satellites and Data and Documentation) that has not previously been transferred to Customer pursuant to Article 5.10 (Customer Security Interest) shall pass to Customer at Final Acceptance of such Deliverable Item. Transfer of title, free and clear of all Contractor-incurred liens and encumbrances of any kind, to each Satellite shall pass to Customer at the time of Intentional Ignition of the Launch Vehicle used for Launch of such Satellite; provided, however, (i) in the event of a Terminated Ignition for a Satellite, title to such Satellite shall revert to Contractor upon such Terminated Ignition and shall again pass to Customer upon the subsequent Intentional Ignition of the Launch Vehicle used for Launch of such Satellite, and (ii) in the event a Satellite is placed in storage pursuant to Article 30 (Options), title to such Satellite shall pass in accordance with such Article 30 (Options). Customer's rights in Data and Documentation are set forth in Article 20 (Intellectual Property Rights).

9.2 Transfer of Risk of Loss.

Risk of loss or damage to each Deliverable Item (other than Satellites) shall pass to Customer at Final Acceptance of such Deliverable Item; provided, however, risk of loss or damage to each Satellite shall pass at Intentional Ignition of the Launch Vehicle used to Launch the Satellite; provided, however, (i) in the event of a Terminated Ignition for a Satellite, risk of loss or damage to such Satellite shall revert to Contractor upon such Terminated Ignition and shall again pass to Customer upon the subsequent Intentional Ignition of the Launch Vehicle used for Launch of such Satellite, and (ii) in the event a Satellite is placed in storage pursuant to Article 30 (Options), risk of loss or damage to such Satellite shall pass in accordance with such Article 30 (Options).

9.3 Terminated Ignition.

(a) In the event of a Terminated Ignition, Contractor shall inspect the Satellite and provide Customer with a report on the condition of the Satellite along with a recommendation for repair or replacement, if any is required. Thereafter, Customer shall direct Contractor pursuant to Article 14 (Changes in Scope of Work) as to how to proceed with any required or desired repairs or storage.

(b) In the event of a Terminated Ignition, after Contractor re-acquires title and risk of loss to the Satellite pursuant to this Article 9 (Title and Risk of Loss), the provisions of Article 8.4 (Correction of Deficiencies after Satellite Shipment Readiness Review) shall apply except as to any damage to the Satellite that may have occurred as a result of the Intentional Ignition followed by Terminated Ignition, the costs of which shall be the responsibility of Customer.

9.4 Limitation.

UPON AND AFTER INTENTIONAL IGNITION OF THE LAUNCH VEHICLE FOR A SATELLITE, UNLESS AND TO THE EXTENT OF A TERMINATED IGNITION AS PROVIDED HEREIN, CONTRACTOR'S SOLE FINANCIAL RISK, AND THE SOLE AND EXCLUSIVE REMEDIES OF CUSTOMER OR ANY PARTY ASSOCIATED WITH CUSTOMER, WITH RESPECT TO THE USE OR PERFORMANCE OF SUCH SATELLITE (INCLUDING WITH RESPECT TO ANY ACTUAL OR CLAIMED DEFECT CAUSED OR ALLEGED TO BE CAUSED AT ANY TIME BY CONTRACTOR'S OR ANY OF ITS SUBCONTRACTORS' NEGLIGENCE OF ANY DEGREE) SHALL BE AS SET FORTH IN ARTICLES 8.7 (IN-ORBIT TESTING AND FINAL ACCEPTANCE OF SATELLITE), 12 (IN-ORBIT PERFORMANCE INCENTIVE PAYMENTS), 18.4 (SATELLITE ANOMALIES), 21 (INTELLECTUAL PROPERTY INFRINGEMENT INDEMNIFICATION), AND 25.3 (CONTRACTOR INSURANCE SUPPORT), IN ALL CASES SUBJECT TO THE LIMITATIONS OF LIABILITY SET FORTH IN ARTICLE 26 (LIMITATIONS OF LIABILITY).

10. LATE DELIVERY

10.1 Liquidated Damages for Late Delivery of the Satellite.

(a) The Parties acknowledge and agree that failure to meet the Delivery Dates specified in Article 7 (Delivery) will cause substantial financial loss or damage being sustained by Customer. The Parties further acknowledge and agree that the following liquidated damages are believed to represent a genuine estimate of the loss (due to non-productive time and increased cost of money) that would be suffered by Customer by reason of any such delay (which losses would be difficult or impossible to calculate with certainty).

(b) In the event Contractor fails to Deliver the Satellite on or before the Delivery Date for the Satellite, Contractor agrees to pay Customer, as liquidated damages and not as a penalty, the following amounts

Number of Days Late	Daily Rate	Period Amount	Cumulative Amount
1-60			
61-120			
121-180			
181-240			
241-270			

(c) The total amount of liquidated damages for failure to meet the Delivery Date for a Satellite shall not exceed

(d) Any amounts due in accordance with this Article 10.1 (Liquidated Damages) shall be, at Customer's election, either (i) credited to Customer against any outstanding or future invoices hereunder or (ii) paid by Contractor to Customer within Calendar Days of issuance of an invoice from Customer.

(e) The liquidated damages provided in this Article 10.1 (Liquidated Damages for Late Delivery) shall be the sole and exclusive remedy for late Delivery of a Satellite and shall be in lieu of all damages of any kind, provided Customer retains all rights and remedies under Article 32.1 (Termination for Convenience), Article 32.2 (Termination for Contractor's Default), and Article 32.4 (Termination for Excessive Excusable Delay).

10.2 Late Delivery of Satellite Operations Equipment.

In the event Contractor fails to deliver the Satellite Operations Equipment on or before the Delivery Date specified therefor in Article 7 (Delivery), Contractor shall provide alternative equipment (including beacon facilities) reasonably satisfactory to Customer or perform substitute satellite operations services and beacon-tracking services so as to operate the Satellite and maintain performance of the Satellite in accordance with Exhibit B (Technical Specifications).

11. EXCUSABLE DELAY

11.1 Excusable Delay Defined.

(a) With respect to Contractor's performance of its obligations under this Contract, an "Excusable Delay" shall be any delay in the performance of the Work, in whole or in part, caused by an event that is beyond the reasonable control of Contractor, its Subcontractors and their respective Affiliates, and not caused by the fault or negligence of any of Contractor, its Subcontractors, or their respective Affiliates, or their failure to perform their obligations promptly and diligently, including (i) war (whether declared or undeclared), outbreak of national hostilities, invasion or sabotage; (ii) fire, earthquake, flood, epidemic, explosion, or quarantine restriction; (iii) strike, lockouts and other industrial disputes (other than at Contractor's facilities); (iv) sabotage, riot, and freight embargoes; (v) acts of God; (vi) acts of a public enemy; (vii) acts of government in its sovereign or contractual capacity; (viii) catastrophic weather conditions such as hurricanes, tornadoes and typhoons; (ix) non-availability of the Launch Vehicle or the Designated Launch Site; (x) technical problems generally affecting the commercial telecommunications industry; and (xi) other unforeseen and extraordinary events; provided written notice is given to Customer, in writing, within Days after Contractor's performance has been impacted by the occurrence of the Excusable Delay. In addition, Excusable Delay shall also include any delay in Contractor's performance of all or any part of the Work due to Customer's failure to perform its contractual obligations hereunder within the time specified in this Contract or within a reasonable time if no time is specified, or by an act or failure to act of Customer that unreasonably interferes with and delays Contractor's performance of its obligations under this Contract ("Customer Delay"), in which case Contractor shall provide Customer written notice as soon as reasonably practicable after Contractor's performance has been impacted by a Customer Delay. Notwithstanding the foregoing, in no event will financial hardship or insolvency of Contractor or any of its Affiliates constitute Excusable Delay. Such notice to be provided by Contractor, as required by the preceding provisions, shall include a detailed description of the portion of the Work known to be affected by such delay. At Customer's written request, Contractor shall use best reasonable efforts to avoid or minimize and/or work around such delay through the implementation of any work-around plans, alternate sources, or other means Contractor may utilize or expect to utilize to minimize a delay in performance of the Work. Contractor shall also provide Customer prompt written notice when the event constituting an Excusable Delay appears to have ended.

(b) In the event Customer disputes the Excusable Delay, Customer shall inform Contractor in writing within Business Days from the date of receipt of written notice of the event purportedly constituting an Excusable Delay and, if the Parties have not resolved the dispute within ten (10) Business Days of Contractor's receipt of such written notice from Customer, the dispute shall be resolved pursuant to Article 27 (Dispute Resolution).

11.2 Contract Adjustments.

(a) In the event of an Excusable Delay under Article 11.1 (Excusable Delay Defined), there shall be an equitable adjustment to the Delivery Schedule and Delivery Dates set forth in Table 7.1 of Article 7 (Delivery) and other affected provisions of this Contract; provided,

however, Contractor acknowledges and agrees that the occurrence of an Excusable Delay shall not entitle Contractor to an increase in the Contract Price unless the Excusable Delay is caused directly by a Customer Delay, in which event there shall be an adjustment to the Contract Price only for actual costs reasonably incurred by Contractor as a result of such Customer Delay, plus a markup of (%) of such costs, such costs and markup to be invoiced and paid pursuant to Article 5 (Request for Payment and Payment).

(b) Any adjustment made pursuant to this Article 11.2 (Contract Adjustments) shall be formalized by the execution of an Amendment to this Contract wherein such adjustments shall be recorded.

11.3 Maximum Excusable Delay.

The maximum total aggregate amount of Excusable Delay for any reason (but not including Customer Delay) shall be .

12. IN-ORBIT PERFORMANCE INCENTIVE PAYMENTS

12.1 General.

Contractor shall earn on a daily basis and Customer shall pay to the extent earned the Orbital Incentive Amount as further described below. Contractor shall begin to earn the Orbital Incentive Amount starting at 12:01 am Greenwich Mean Time on the first day after Final Acceptance of the Satellite and throughout the Specified Operational Lifetime of such Satellite.

12.2 Earning and Calculation of Daily Orbital Incentive Amount.

(a) Daily Orbital Incentive Amount.

- (1) For each Transponder on the Satellite that is not a Failed Transponder Contractor shall earn and be entitled to be paid a portion of the Daily Orbital Incentive Amount as follows:

Type of Transponder	Portion of Daily Orbital Incentive Amount
CONUS Forward Transponder	of the Daily Orbital Incentive Amount
CONUS Return Transponder	of the Daily Orbital Incentive Amount
Regional Service Transponder	O f the Daily Orbital Incentive Amount multiplied by [the number of CONUS households covered by such Regional Service Transponder divided by the total number of CONUS households covered by all Regional Service Transponders]*

*The number of households covered by the CONUS Forward Transponder and each of the 27 Regional Service Transponders shall be agreed to by the Parties within Calendar Days following completion of Preliminary Design Review (PDR) based on the 2000 Census.

- (2) A Transponder shall be deemed to be a Failed Transponder if the actual measured performance of such Transponder is reduced by the following amounts as measured against the relevant requirements set forth in Exhibit B (Technical Specifications):

Type of Transponder	Performance Reduction*
CONUS Forward Transponder	EIRP reduced by dB or more over any contour in the coverage area in the CONUS Forward Transponder; or G/T reduced by dB or more
CONUS Return Transponder	EIRP reduced by dB or more over edge of coverage of CONUS Return Transponder; or G/T reduced by dB or more
Regional Service Transponder	EIRP reduced by dB or more over edge of coverage of Regional Service Transponder; or G/T reduced by dB or more

*The Parties shall agree upon the analytical basis of the performance reduction using, as applicable, telemetered and/or on-ground measures of spacecraft parameters within Calendar Days following completion of Critical Design Review.

- (3) Any payment required to be made by Customer to Contractor in respect of the Daily Orbital Incentive Amount earned by Contractor shall be invoiced on a monthly-in-arrears basis and paid in accordance with Article 5.2 (Payment).
- (4) On-board redundancy and/or spare components shall be taken into consideration to maintain service on the Satellite or any Transponder thereon and such use shall be deemed normal operating procedure for purposes of this Article 12 so long as the applicable criteria of Exhibit B (Technical Specifications) are met by the Satellite or any Transponder, as the case may be.
- (5) If Customer places any Satellite in Orbital Storage (other than due to the inability to operate for causes attributable to Contractor), Contractor shall earn the Daily Orbital Incentive Amount with respect to such Satellite at the same daily rate as Contractor would be earning such incentives if such Satellite were in service.
- (6) For purposes of this paragraph (a), to the extent during any month the Satellite is not a Satisfactorily Operating Satellite due to Customer's failure to operate the Satellite as a Properly Operated Satellite (excluding all actions or inactions in accordance with directives or instructions in Contractor-furnished satellite operating procedures), Contractor shall continue to earn the Daily Orbital Incentive Amount with respect to such Satellite at the rate that applied prior to Customer's failure to operate the Satellite as a Properly Operated Satellite resulting in degraded performance (subject to later adjustments with respect to failure to be a Satisfactorily Operating Satellite not due to such failure by Customer).

- (7) During the life of the Satellite, Contractor shall have access to the data records of such Satellite. The Parties will agree on or before Critical Design Review (CDR) as to the precise equipment and calibrations to be used for taking and/or making measurements, computations and analyses to determine whether any reduction is warranted in the Daily Orbital Incentive Amount that may be earned by Contractor hereunder. All measurements, computations and analyses made pursuant to this Article 12.2 (Earning and Calculation of Daily Orbital Incentive Amount) shall be made in accordance with good engineering practice applying standards generally applicable in the aerospace industry.
- (8) In the event Customer continues to operate the Satellite for commercial purposes beyond the Specified Operational Life, for each day beyond such Specified Operational Life, Contractor shall be entitled to earn for each Transponder that is not a Failed Transponder, a portion of an amount equal to (i.e., the Orbital Incentive Amount divided by the number of days in the Specified Operational Life of the Satellite which equals \$ days), such portion to be determined pursuant to paragraph (a) above (“Extended Life Incentive”); provided, however, in no event shall Contractor be entitled to earn or be paid any Extended Life Incentive if the cumulative performance incentive amounts (Daily Orbital Incentive and Extended Life Incentive) earned and paid under this Article 12 (In-Orbit Performance Incentive Payments), excluding interest equals the Orbital Incentive Amount of Ten Million Dollars. For example, subject to the proviso in the preceding sentence, (A) if on the first day following expiration of the Specified Operational Life, each Transponder is not a Failed Transponder, then Contractor shall have earned that day \$ (100% times \$) and (B) if on the first day following expiration of the Specified Operational Life, the CONUS Forward Transponder is a Failed Transponder and the CONUS Return Transponder is a Failed Transponder and each Regional Service Transponder is not a Failed Transponder, Contractor shall have earned that day \$ (% times \$) and (C) if on the first day following expiration of the Specified Operational Life, the CONUS Forward Transponder and CONUS Return Transponder are not Failed Transponders and all Regional Service Transponders are Failed Transponders, Contractor shall have earned that day \$ (% times \$).

(b) Total Loss.

In the event the Satellite is a Total Loss after successful injection of the Satellite into its specified orbit by the Launch Vehicle and before Final Acceptance, Contractor shall be entitled to payment of of the Orbital Incentive Amount pursuant to this Article 12 (In-Orbit Performance Incentive Payments) with respect to the Satellite.

12.3 Disputed Performance.

In the event of a dispute as to the performance of the Satellite after Intentional Ignition, Customer shall provide Contractor with such technical data, reports, analyses, and records as are available to support Customer's determination and Contractor shall be given Calendar Days to verify the data. If, following such) Calendar Day period, Contractor continues to disagree with Customer's determination and is able to present evidence to the contrary, then Customer shall consider such evidence and consult with Contractor. In the event the Parties do not reach agreement, the Parties agree to have an independent determination of the Satellite's technical status performed by a mutually-acceptable, technically-qualified third party. The costs incurred in retaining the third party shall be shared equally between Contractor and Customer. The Parties agree that before reference to such mutually-acceptable, technically-qualified third party, an informal forum between the Parties' Chief Executive Officers shall take place to attempt resolution of said dispute. In the event such efforts to resolve the dispute are unsuccessful, the Parties shall be entitled to proceed under Article 27.2 (Arbitration). The foregoing independent determination may be used by either Party in any arbitration under Article 27.2 (Arbitration), but such determination shall not be binding upon the arbitrators.

12.4 Exclusive Remedy.

The rights and remedies under this Article 12 (In-Orbit Performance Incentive Payments) are exclusive for the failure of the Satellite after Intentional Ignition to be a Satisfactorily Operating Satellite and in substitution of any other rights and remedies (except under Article 18.4 (Satellite Anomalies), and Article 25.3 (Contractor Insurance Support)) either Party may have under this Contract or otherwise at law as a result of such failure.

13. CORRECTIVE MEASURES IN UNLAUNCHED SATELLITES

If the data available from any satellite manufactured by Contractor (whether in-orbit or on the ground) shows that the performance of such satellite deviates materially during the life thereof from that specified in the applicable performance specification for such satellite, Contractor shall, (i) provide Customer prompt written notice thereof, provided Contractor shall not be required to disclose to Customer information that is confidential to a customer of Contractor other than Customer and (ii) at Contractor's sole cost, take appropriate corrective measures, if any, in all unlaunched Satellites so as to eliminate therefrom the causes of such material deviation. If required, Contractor shall be entitled to a reasonable extension in the Delivery Schedule for each such unlaunched Satellite to effect the required corrective measures.

14. CHANGES IN SCOPE OF WORK

14.1 Changes Requested by Customer.

(a) Subject to paragraphs (b), (c), and (d) below, Customer shall be entitled to request, during the performance of this Contract, any change within the general scope of this Contract, including any change that will add, delete, or change the Work, affect the design of the Satellites, change the method of shipping or packing, or the place or time of Delivery, affect any other requirement of this Contract, or direct a stop work in whole or in part for up to nine (9) months.

(b) Any change requested by Customer as described in paragraph (a) above shall be submitted in writing to Contractor. Contractor shall respond to such requested change in writing to Customer within thirty (30) Calendar Days after receipt of such requested change and shall include in such response a preliminary estimate of the impact of such change on the Contract Price, Delivery Schedule, performance specifications, or other terms of this Contract; provided, however, that in the case of a Customer-requested stop work, Contractor shall stop work immediately to the extent identified in such notice and no further amounts shall be due Contractor for such stopped Work except as specifically authorized in writing by Customer in its sole discretion.

(c) If Customer desires to proceed with the change after receipt of Contractor's preliminary estimate, subject to Article 14.3 (Pricing Adjustment), Customer and Contractor shall negotiate and agree in a timely manner to adjustments in the Contract Price, Delivery Schedule, performance specifications or other terms of this Contract. If the Parties reach agreement, Contractor shall proceed with the performance of this Contract as changed immediately upon the execution by both Parties of an Amendment reflecting such changes.

(d) If the Parties cannot agree on a reasonable price or revised Delivery Schedule, performance specifications, or other terms, as occasioned by Customer's requested change, and Customer still desires the requested change, Customer may direct Contractor to proceed with the change, Contractor shall proceed with the directed change, and the Parties shall continue to negotiate the adjustments to the Contract, and pending completion of such negotiations and as a condition for Contractor being obligated to proceed with the directed change, the Parties in good faith shall agree upon and establish a reasonable payment schedule adjustment to compensate Contractor for the Work performed pursuant to the directed change, which payment schedule shall be adjusted as part of the negotiated settlement for the directed change.

14.2 Changes Requested by Contractor.

(a) Subject to paragraphs (b) and (c) below, Contractor may request, during the performance of this Contract, any change within the general scope of this Contract, including any change that will add or delete Work, affect the design of the Satellites, change the method of shipping or packing, or the place, or time of Delivery, or affect any other requirement of this Contract.

(b) Any changes as described in paragraph (a) above requested by Contractor shall be submitted in writing to Customer reasonably in advance of the proposed date of the change. If such Contractor requested change causes an increase or decrease or other impact on the Contract Price, Delivery Schedule, performance specifications, or other terms of this Contract, Contractor shall submit, with such request, a written proposal identifying such change and the impact thereof on the Contract Price, Delivery Schedule, performance specifications, or other terms of this Contract.

(c) Customer shall notify Contractor in writing, within Calendar Days after receipt of the requested change proposal, whether or not Customer agrees with and accepts such change and the price/schedule/performance or other impact thereof. If Customer agrees with and accepts Contractor's requested change and such impact thereof, Contractor shall proceed with the performance of this Contract as changed and an Amendment to this Contract reflecting the change proposal shall be executed by the Parties. If Customer does not agree with Contractor's requested change, Contractor shall proceed with the Work unchanged.

14.3 Contract Adjustments.

(a) The Contract Price shall be adjusted (upwards or downwards) for changes in the Work pursuant to this Article 14 (Changes in Scope of Work). Such adjustment shall equal the net of those actual, direct additional or reduced recurring and non-recurring costs to Contractor to implement such change (or which are not required to be implemented), as determined in accordance with Contractor's standard accounting practices, plus a markup of) of such costs, such costs and markup to be invoiced to Customer in accordance with Article 5 (Request for Payment and Payment).

(b) Notwithstanding the foregoing, in the event Customer directs a stop work, within nine (9) months thereafter, Customer shall either: (i) direct Contractor to resume Work hereunder and the Contract Price, Delivery Schedule and other affected terms of this Contract shall be equitably adjusted to compensate Contractor for all impacts on Contractor associated with such work stoppage, including actual costs reasonably incurred by Contractor associated with such work stoppage plus a markup of percent), such costs and markup to be invoiced and paid pursuant to Article 5 (Request for Payment and Payment) or (ii) terminate this Contract for convenience pursuant to Article 32.1 (Termination for Customer's Convenience). In the event, Customer fails to elect either (i) or (ii) above, Customer shall be deemed to have elected to terminate this Contract for convenience under Article 32.1 (Termination for Customer's Convenience). In the event Customer terminates this Contract for convenience during a stop work, the termination liability amount determined pursuant to Article 32.1 (Termination for Customer's Convenience) applicable at the time of the effective date of the stop work will apply throughout the period of the stop work equitably adjusted only to the extent (x) Contractor incurs actual, incremental costs as a result of the stop work (e.g., increased termination liabilities with subcontractors and suppliers from the effective date of the stop work through the effective date of termination) and/or (y) Contractor continues to perform, at Customer's request, some portion of the Work during the stop work.

15. PERMITS AND LICENSES; COMPLIANCE WITH LAWS

15.1 General.

Each Party shall, at its expense, perform their respective obligations hereunder in accordance with all applicable laws, regulations, and policies of the United States and the conditions of all applicable United States Government approvals, permits, or licenses.

15.2 Compliance with United States Export Control Laws.

(a) Contractor shall, at its expense, perform the Work in accordance with all applicable export control laws, regulations, and policies of the United States and the conditions of all applicable United States Government approvals, permits, and licenses.

(b) Any obligation of Contractor hereunder to provide hardware, software, Data and Documentation, other technical information or technical services to Customer or Customer Personnel shall be subject to applicable U.S. Government export control and security laws, regulations, policies and license conditions, as construed by Contractor in good faith. The Parties shall work cooperatively and in good faith to implement this Contract in compliance with such laws, regulations, policies and license conditions.

(c) If and to the extent required by U.S. law, Customer and Customer Personnel shall enter into U.S. Government-approved agreement(s), separate from this Contract, governing Contractor's provision of hardware, software, Data and Documentation, other technical information or technical services in connection with this Contract.

15.3 United States Licenses and Other Approvals.

Contractor shall timely apply for and, once issued, maintain U.S. Government export licenses, agreements and other approvals that are required for "foreign person" Customer Personnel as well as Customer's insurance providers to have access to Contractor facilities, hardware, software, Data and Documentation, other technical information or technical services in connection with the performance of this Contract. A "foreign person" shall be as defined in the International Traffic in Arms Regulations, 22 C.F.R. §120.16. As early as practicable, and in no event later than fifteen (15) Calendar Days after EDC, Customer shall provide Contractor with a list of countries (if other than the U.S.) of which "foreign person" Customer Personnel as well as Customer's insurance providers are citizens if such Customer Personnel or insurance providers will or may have access to U.S. export-controlled items under this Contract. Customer shall provide the reasonable cooperation and support necessary for Contractor to apply for and maintain such required U.S. export licenses, agreements and other approvals, and shall promptly notify Contractor of any occurrence or change in circumstances of which it becomes aware that is relevant to or affects such export licenses, agreements and approvals. At Customer's request, Contractor shall include Customer as a named party in any application to the US government for approval of such export licenses, agreements and other approvals so as to permit Customer to be present during any discussion or meetings where Customer's foreign subsidiaries/related entities, insurance providers and/or Canadian authorities may receive from or discuss with Contractor export-controlled technical data. Contractor shall provide the parties to such export licenses and

agreements copies of the export licenses and agreements, including any U.S. government provisos related to same.

NOTWITHSTANDING ANY PROVISION IN THIS CONTRACT, IN NO EVENT SHALL CONTRACTOR BE OBLIGATED UNDER THIS CONTRACT TO PROVIDE ACCESS TO CONTRACTOR OR SUBCONTRACTOR FACILITIES; PROVIDE ACCESS TO OR FURNISH HARDWARE, SOFTWARE, DATA AND DOCUMENTATION OR OTHER TECHNICAL INFORMATION; OR PROVIDE TECHNICAL SERVICES, TO ANY PERSON EXCEPT IN COMPLIANCE WITH APPLICABLE U.S. EXPORT CONTROL LAWS, REGULATIONS, POLICIES AND LICENSE CONDITIONS, AS CONSTRUED BY CONTRACTOR IN GOOD FAITH.

15.4 No Unauthorized Exports or Retransfers.

CUSTOMER SHALL NOT EXPORT OR TRANSFER TO ANY "FOREIGN PERSON" ANY HARDWARE, SOFTWARE, DATA AND DOCUMENTATION, OTHER TECHNICAL INFORMATION OR TECHNICAL SERVICES FURNISHED HEREUNDER, EXCEPT AS EXPRESSLY AUTHORIZED BY THE U.S. GOVERNMENT IN ACCORDANCE WITH THE EXPORT LICENSES, AGREEMENTS AND OTHER APPROVALS REFERENCED IN ARTICLES 15.2 (COMPLIANCE WITH US EXPORT CONTROL LAWS) AND 15.3 (UNITED STATES LICENSES AND OTHER APPROVALS) OR AS OTHERWISE EXPRESSLY AUTHORIZED UNDER U.S. EXPORT CONTROL LAWS.

15.5 Non-United States Permits, Licenses, and Laws.

(a) Contractor shall, at its expense, obtain in a timely manner and thereafter maintain all non-United States Government approvals, permits, and licenses, as may be required for the performance of the Work, including those that may be required for Contractor to perform the Work in compliance with the Laws of any country from which any Satellite shall be launched. Customer agrees to cooperate with Contractor in Contractor's efforts to obtain any such non-United States Government approvals, permits, or licenses.

(b) Contractor shall, at its expense, perform the Work in accordance with all applicable Laws of any country, state, territory, or jurisdiction, and the conditions of all applicable non-United States Government approvals, permits, or licenses.

15.6 Review of Applications.

Contractor shall review with Customer any application Contractor makes after EDC to any government department, agency, or entity for any approval, permit, license, or agreement, as may be required for performance of the Work, prior to submission of such application. Contractor shall provide Customer a minimum of three (3) Business Days to review such application prior to submission to such governmental entity, and Contractor shall in good faith consider any comments and proposed revisions made by Customer for incorporation into such application. Customer shall reasonably cooperate with Contractor in Contractor's efforts to procure all such approvals, permits, licenses, and agreements.

15.7 Violation of Law.

Neither Party shall be responsible in any way for the consequences, direct or indirect, of any violation by the other Party, its Subcontractors, or their respective Affiliates or Associates of any Law of any country whatsoever.

16. SUBCONTRACTS

16.1 General.

(a) Contractor shall select Subcontractors so that the Work provided by any such Subcontractors meets the requirements of this Contract.

16.2 Selection of Major Subcontractors.

(a) Selection of any Major Subcontractor, whether as an initial selection or as a replacement selection, shall be subject to Customer's prior written approval. Contractor shall provide Customer with a copy of the full text of any Major Subcontract (including technical content but excluding price and payment schedule) promptly upon execution thereof. Customer hereby approves the list of Major Subcontractors provided by Contractor to Customer by letter dated July 31, 2002.

(b) Customer's approval of any Major Subcontractor or Subcontractor shall not relieve Contractor from any obligations or responsibilities under this Contract.

16.3 CONUS Forward Beam-Forming Network.

As of EDC, Contractor intends to subcontract work related to the CONUS forward beam-forming network to . Any change from using to using a different subcontractor to perform such work or to perform such work in-house at Contractor's facilities shall be subject to Customer's prior written approval. In addition, if Customer provides such approval and Contractor proceeds with such change, there shall be an equitable adjustment in the Contract Price to the extent of Contractor's costs saved by such change. Contractor shall provide Customer with the design and implementation for the CONUS forward beam-forming network at the Preliminary Design Review, which shall be subject to Customer's written approval at the conclusion of PDR.

17. PERSONNEL AND KEY PERSONNEL

17.1 Personnel Qualifications.

Contractor shall assign properly qualified and experienced personnel to the program contemplated under this Contract, and Contractor shall use best reasonable efforts to retain such personnel on Customer's program for the duration of such program.

17.2 Key Personnel Positions.

Key personnel ("Key Personnel") shall be the personnel filling the following or equivalent positions:

- (1) Contractor Program Manager;
- (2) Spacecraft Engineering Manager;
- (3) Payload Program Manager; and
- (4) Assembly, Integration, and Testing Manager.

17.3 Assignment of Key Personnel.

(a) Contractor will assign individuals from within Contractor's organization to the Key Personnel positions to carry out the Work.

(b) Key Personnel will be familiar with programs similar to Customer's program.

(c) Before assigning an individual to any Key Personnel positions, whether as an initial assignment or a subsequent assignment, Contractor shall notify Customer of the proposed assignment, shall introduce the individual to appropriate Customer representatives and, upon request, provide such representatives with the opportunity to interview the individual and shall provide Customer with the individual's resume. If Customer in good faith objects to the qualifications of the proposed individual within fifteen (15) Business Days after being notified thereof, then Contractor agrees to discuss such objections with Customer and resolve such concerns on a mutually agreeable basis; provided, Contractor retains the unilateral right to make all decisions regarding the assignment of Contractor personnel to the program; further provided, however, any change in the Contractor Program Manager shall be subject to Customer's prior written approval. The Key Personnel that have been approved as of the Effective Date of Contract are listed in Attachment B (Key Personnel). Should the individuals filling the positions of Key Personnel leave such positions for whatever reason, Contractor shall follow the procedures set forth in this Article 17.3 (Assignment of Key Personnel) to select replacement personnel.

18. CONTRACTOR'S REPRESENTATIONS, COVENANTS, AND WARRANTIES

18.1 Organization, Good Standing, and Qualification.

Contractor represents and warrants that:

(a) it is a corporation duly organized, validly existing, and in good standing under the Laws of Delaware;

(b) it has all requisite power and authority to own and operate its material properties and assets and to carry on its respective business as now conducted in all material respects; and

(c) it is duly qualified to transact business and is in good standing in each jurisdiction in which the failure to so qualify would have a Material Adverse Effect.

18.2 Authorization.

Contractor represents and warrants that:

(a) it has all requisite corporate power and authority to enter into this Contract and to carry out the transactions contemplated by this Contract;

(b) the execution, delivery, and performance of this Contract and the consummation of the transactions contemplated by this Contract have been duly authorized by the requisite corporate action of Contractor and do not conflict with any other agreement or obligation to which it is a party or which binds its assets; and

(c) this Contract is a valid and binding obligation of Contractor, enforceable in accordance with its terms, except Contractor makes no representation or warranty as to the enforceability of remedies due to applicable bankruptcy, insolvency, moratorium, reorganization, or similar laws relating to or affecting the enforcement of creditor's rights or by reason of general principles of equity.

18.3 Warranties for Deliverable Items.

(a) Satellites.

Contractor represents and warrants that each Satellite and each component part thereof furnished under this Contract shall be manufactured and will perform in conformity with the requirements of this Contract (as may be waived pursuant to Article 8.2 (Waivers and Deviations)). After , Contractor's only liability under the preceding sentence shall be as and to the extent set forth in Article 8.4 (Correction of Deficiencies After Satellite Shipment Readiness Review), Article 12 (In-Orbit Performance Incentive Payments), Article 18.4 (Satellite Anomalies), and Article 25.3 (Contractor Insurance Support).

AFTER), NEITHER CONTRACTOR NOR ITS SUPPLIERS OR AGENTS AT ANY TIER SHALL INCUR ANY LIABILITY WHATSOEVER WITH RESPECT TO THE SATELLITE'S DESIGN, WORKMANSHIP, CONFORMITY TO SPECIFICATION OR IN-

ORBIT PERFORMANCE, INCLUDING ANY ASSISTANCE OR ADVICE (ACTUAL OR ATTEMPTED) PROVIDED OR OMITTED AS CONTEMPLATED BY ARTICLES 18.4 (SATELLITE ANOMALIES) AND 25.3 (CONTRACTOR INSURANCE SUPPORT) HEREOF, ARISING FROM ANY CAUSE OR LEGAL THEORY WHATSOEVER, INCLUDING NEGLIGENCE OF ANY DEGREE, WHETHER ARISING BEFORE OR AFTER INTENTIONAL IGNITION, EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED IN ARTICLES 8.4 (CORRECTION OF DEFICIENCIES AFTER SATELLITE SHIPMENT READINESS REVIEW), 12 (IN-ORBIT PERFORMANCE INCENTIVE PAYMENTS), AND 21 (INTELLECTUAL PROPERTY INFRINGEMENT INDEMNIFICATION) HEREIN AND EXCEPT TO PROVIDE THE SERVICES SET FORTH IN ARTICLES 18.4 (SATELLITE ANOMALIES) AND 25.3 (CONTRACTOR INSURANCE SUPPORT).

(b) Deliverable Items of Hardware and Software Other than Satellites.

Contractor represents and warrants that each Deliverable Item of hardware and software other than Satellites Delivered under this Contract shall be manufactured and will perform in conformity with the requirements of this Contract as applicable to such Deliverable Item (as may be waived pursuant to Article 8.2 (Waivers and Deviations) and will be free from defects in materials and workmanship. This warranty shall begin on the date of Final Acceptance of the applicable Deliverable Item and run for a period of .

(c) Data and Documentation.

Contractor represents and warrants that the Data and Documentation to be furnished hereunder shall conform to the requirements of this Contract. This warranty shall begin on the date of Final Acceptance of the last portion of the Data and Documentation to achieve Final Acceptance and run for a period of .

(d) Batteries.

Contractor represents and warrants that the batteries to be furnished hereunder shall be manufactured and will perform in conformity with the requirements of this Contract. This warranty shall extend until the Launch of the Satellite. In the event any Satellite is placed in storage prior to its Launch, Contractor shall, upon removal of such Satellite from storage, (i) test the batteries to ensure the batteries are free from Defects and conform to the applicable specifications and requirements set forth in Exhibit A (Statement of Work) and Exhibit B (Technical Specifications) and (ii) certify to Customer that the batteries are so conforming.

(e) Training and Other Services.

Contractor represents and warrants that the Training and other services it provides to Customer pursuant to this Contract will conform to reasonable industry standards of the commercial aerospace and satellite communications industry practice for work similar in type, scope, and complexity to the Work at the time such Training or other services are provided. In the event Contractor breaches this warranty, as Customer's sole remedy, Contractor shall apply reasonable efforts to correct the deficiencies in the provision of such Training and other services

where it is practicable to do so (e.g., cannot correct deficiencies in or redo Launch and Early Operations after Launch).

(f) Title.

Contractor represents and warrants it has and will transfer to Customer good and salable title to any Satellite and all other Deliverable Items free and clear of any Contractor-incurred claim, lien, pledge, mortgage, security interest, or other encumbrance of any kind, including those arising out of Contractor's performance of the Work, at the time title passes to Customer pursuant to Article 9 (Title and Risk of Loss).

(g) Remedies.

- (1) Notwithstanding anything to the contrary herein except as set forth in paragraphs (a) and (e) above, Customer shall have the right at any time during the period of the warranties set forth in this Article 18.3 (Warranties for Deliverable Items) to require Contractor to promptly repair or replace (at Contractor's option) any Deliverable Item containing a defect or not conforming in any material respect to the requirements of this Contract. For any such Deliverable Item, Contractor shall determine if repair or replacement is required to be performed at Contractor's plant. If required, Customer shall ship to Contractor's designated facility any such Deliverable Item. Contractor shall be responsible for the cost of shipment (including transportation and transit insurance) to such facility in accordance with its standard commercial practice (including any taxes and/or duties) of any such Deliverable Item, and the cost of packing and return shipment (including transportation and transit insurance) in accordance with its standard commercial practice of any such Deliverable Item once repaired or replaced to Customer at the location designated therefor in Article 7.1 (Delivery Schedule). Risk of loss for such Deliverable Item shall transfer to Contractor upon delivery of such Deliverable Item to the shipping carrier by Customer, and risk of loss shall transfer to Customer for any such Deliverable Item once repaired or replaced pursuant to this Article 18.3 upon receipt thereof by Customer at the location designated therefor in Article 7.1 (Delivery Schedule). If Contractor fails or is unable to correct or replace such defective or non-conforming Work within a reasonable period after notification from Customer, Customer may, by contract or otherwise, correct or replace such defective or non-conforming Work and Contractor shall be liable for the cost thereof.

- (2) In addition, Contractor shall assign to Customer, or make available to Customer, the benefit of all warranties Contractor has from any other party with respect to any Deliverable Item.

(h) THE WARRANTIES SET FORTH IN THIS ARTICLE 18.3 (WARRANTIES FOR DELIVERABLE ITEMS) ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, WRITTEN OR ORAL, INCLUDING ANY WARRANTY OF DESIGN, OPERATION, CONDITION, QUALITY, SUITABILITY, MERCHANTABILITY, OR FITNESS FOR USE OR A PARTICULAR PURPOSE, ABSENCE OF LATENT DEFECTS, WHETHER OR NOT DISCOVERABLE, WITH REGARD TO ANY SATELLITE OR ANY OTHER DELIVERABLE ITEM AND THE REMEDIES PROVIDED IN PARAGRAPH (g) ABOVE, ARTICLE 12 (IN-ORBIT PERFORMANCE INCENTIVE PAYMENTS) AND ARTICLE 18.4 (SATELLITE ANOMALIES) ARE THE SOLE REMEDIES FOR FAILURE BY CONTRACTOR TO COMPLY WITH PARAGRAPHS (a) THROUGH (e) ABOVE. CONTRACTOR MAKES NO WARRANTY WITH RESPECT TO THE PERFORMANCE OF ANY LAUNCH VEHICLE.

18.4 Satellite Anomalies.

Contractor shall investigate any Satellite Anomaly in any Satellite delivered on-orbit arising during the life of the Satellite and known to it or as notified in writing by Customer and shall undertake anomaly resolution support services in accordance with Section 8.2.3 of Exhibit A (Statement of Work). If for any reason any such Satellite Anomaly cannot be or is not corrected (after reasonable efforts to effect a correction) as set forth in the immediately preceding sentence and as a result thereof, such Satellite suffers any loss, including loss of Transponders or becomes a Total Loss Satellite, Customer's sole and exclusive remedies with respect to such loss and any consequences therefrom shall be those set forth in Articles 12 (In-Orbit Performance Incentive Payments) and 25.3 (Contractor Insurance Support) as applicable, subject to the conditions and limitations of such Articles and in all cases subject to the limitation of liability stated in Article 18.3(a) above and Article 26. In the event that the occurrence of a Satellite Anomaly is due to causes not attributable solely or substantially to Contractor, including the lack of Contractor trained and certified operators, Customer shall pay Contractor the actual costs reasonably incurred of all services provided by Contractor associated with such anomaly services, plus a markup of) of such costs, which costs and markup shall be invoiced and paid pursuant to the provisions of Article 5 (Request for Payment and Payment).

18.5 Use Conditions Not Covered by Warranty.

With respect to Deliverable Items of hardware other than a Satellite, the warranty under this Article 15 shall not apply if adjustment, repair or parts replacement is required as a result, directly or indirectly, of accident, unusual physical or electrical stress, negligence, misuse, failure of environmental control prescribed in operations and maintenance manuals, repair or alterations by any party other than Contractor, or by causes other than normal and ordinary use. The warranty provided pursuant to Article 18.3 (Warranties for Deliverable Items) is conditioned upon Contractor being given access, if required, to Deliverable Items delivered at Customer's facility in order to effect any repair or replacement thereof. If the defect repaired or remedied by Contractor is not covered by the warranty provided pursuant to Article 18.3, Customer shall pay Contractor the actual costs reasonably incurred of such repair or replacement plus a markup of ten percent (10%) of such costs, which costs and markup shall be invoiced and paid pursuant to the provisions of Article 5 (Request for Payment and Payment).

19. CUSTOMER'S REPRESENTATIONS, WARRANTIES AND COVENANTS

19.1 Organization, Good Standing and Qualification.

Customer represents and warrants that:

- (a) it is duly organized, validly existing, and in good standing under the Laws of the State of Delaware;
- (b) it has all requisite power and authority to own and operate its material properties and assets and to carry on its respective business as now conducted in all material respects; and
- (c) it is duly qualified to transact business and is in good standing in each jurisdiction in which the failure to so qualify would have a Material Adverse Effect.

19.2 Authorization.

Customer represents and warrants that:

- (a) it has all requisite corporate power and authority to enter into this Contract and to carry out the transactions contemplated by this Contract;
- (b) the execution, delivery, and performance of this Contract and the consummation of the transactions contemplated by this Contract have been duly authorized by the requisite corporate action of Customer and do not conflict with any other agreement or obligation to which it is a party or which binds its assets; and
- (c) this Contract is a valid and binding obligation of Customer, enforceable in accordance with its terms, except Customer makes no representation or warranty as to the enforceability of remedies due to applicable bankruptcy, insolvency, moratorium, reorganization, or similar laws relating to or affecting the enforcement of creditor's rights or by reason of general principles of equity.

20. INTELLECTUAL PROPERTY RIGHTS

20.1 Ownership of IP and IP Rights.

(a) Customer's Intellectual Property. Subject to the licenses granted in Article 20.2 (License Rights), all Background and Foreground Intellectual Property made, developed, or created by Customer (or by others, other than Contractor or any Subcontractor, acting on behalf of Customer), and all Intellectual Property Rights therein, shall be the sole and exclusive property of Customer. For the avoidance of doubt, the Parties agree Exhibit A (Statement of Work) and Exhibit B (Technical Specifications) are the Intellectual Property of Customer except for those portions of such Exhibits that contain Contractor-provided information, which portions are the Intellectual Property of Contractor.

(b) Contractor's Intellectual Property. Subject to the licenses granted in Article 20.2 (License Rights), all Background Intellectual Property and Foreground Intellectual Property made, developed, or created by Contractor (or its Subcontractors), and all Intellectual Property Rights therein, shall be the sole and exclusive property of Contractor. For the avoidance of doubt and subject to Article 20.2 (License Rights), the Parties agree Contractor shall retain title to all Data and Documentation and Exhibit C (Program Test Plan), Exhibit D (Program Quality Assurance Plan) and Exhibit E (Program Management Plan), except for those portions of such Exhibits that contain Customer-provided information, which portions are the Intellectual Property of Customer.

20.2 License Rights.

(a) Grant by Contractor.

- (1) Subject to the terms and conditions stated herein, Contractor grants to Customer a fully paid-up, irrevocable, perpetual, worldwide, nonexclusive right and license to use and have used, reproduce, and modify for the sole and exclusive purpose of testing, operating, and/or maintaining any Deliverable Item of hardware (including integrated software), all Contractor Background Intellectual Property and Foreground Intellectual Property incorporated into such Deliverable Items (for the purposes of this paragraph (1), Deliverable Items includes Data and Documentation, Exhibit C (Program Test Plan), Exhibit D (Program Quality Assurance Plan) and Exhibit E (Program Management Plan)), including, to the extent necessary for the limited purpose of this license, those associated Intellectual Property Rights therein, now or hereafter owned by Contractor (and/or its Subcontractors) for which Contractor (and/or its Subcontractors) has or may acquire the right to grant such a license. Customer shall have no rights in Data and Documentation other than as expressly stated in this Contract, except that, subject to compliance with the provisions of Article 15 (Permits and Licenses; Compliance with Laws), Customer may provide portions of the Data and Documentation related to operation or performance of the Satellite's payload as is

commercially necessary and reasonable to market and sell the Satellite capacity to Customer's customers and potential customers. Title to Data and Documentation shall not pass to Customer or any other entity pursuant to the terms hereof.

- (2) The foregoing licenses shall be transferable to the Financing Entities and any successor or permitted assign of Customer and, subject to Contractor's prior written approval, any other entity.
- (3) Contractor shall, unless otherwise authorized or directed in writing by Customer, to the extent necessary to fulfill its obligations under this paragraph (b) use reasonable efforts to include in each Subcontract hereunder entered into after EDC a license rights clause pursuant to which each Subcontractor will grant to Customer (through Contractor) license rights in Intellectual Property incorporated in Deliverable Items and which Intellectual Property is developed by such Subcontractor and all associated Intellectual Property Rights therein to the same extent as the license rights granted by Contractor in this paragraph (a).

(b) Grant by Customer. Subject to the terms and conditions stated herein, Customer grants to Contractor a fully paid-up, irrevocable, perpetual, worldwide, non-exclusive right and license to use and have used for the sole and exclusive purpose of performing under this Contract, all Background Intellectual Property and Foreground Intellectual Property, including, to the extent necessary for the limited purpose of this license, those associated Intellectual Property Rights therein, owned by Customer (or others acting on behalf of Customer) for which Customer has or may acquire the right to grant such a license.

20.3 No Limitation on Deliverable Items.

This Article 20 (Intellectual Property Rights) shall not be construed as limiting any right of Customer otherwise contained herein or at law (or any obligation of Contractor to grant Customer the right) with no payment of additional compensation to use, have used, deliver, lease, sell, or otherwise dispose of, the Satellite or any other Deliverable Item of hardware or software or any part thereof.

20.4 No Additional Deliverable Data Obligation

Nothing contained in this Article shall require Contractor to provide any data other than as set forth in Exhibit A (Statement of Work).

20.5 Survival of Intellectual Property Rights.

The provisions of this Article 20 (Intellectual Property Rights) shall survive the termination or expiration of this Contract.

21. INTELLECTUAL PROPERTY INFRINGEMENT INDEMNIFICATION

(a) Contractor shall indemnify and hold harmless Customer and its Affiliates and their respective Associates from any and all Losses adjudicated or agreed in settlement to be owed to any third parties arising from any allegations, claims or suits made by third parties (including Subcontractors of Contractor) that the manufacture of any Deliverable Item or the normal intended use, lease or sale of any Deliverable Item or any part thereof infringes any third-party Intellectual Property Right.

(b) If the manufacture of any Deliverable Item or the normal intended use, lease or sale of any Deliverable Item or any part thereof is enjoined as a result of an infringement claim or is otherwise prohibited, Contractor shall, at its option and expense, either resolve the matter so that the injunction or prohibition no longer pertains or procure for Customer the right to use the Deliverable Item or infringing part thereof, as the case may be, or substitute an equivalent product reasonably acceptable to Customer, or modify the Deliverable Item or infringing part thereof to render them non-infringing while remaining in compliance with the applicable portion of Exhibit B (Technical Specifications). If Contractor determines that none of these alternatives is reasonably available or feasible, Customer shall have the right to terminate this Contract in whole or in part, with respect to such Deliverable Item (and any other Deliverable Item whose utility has been adversely impacted by Customer's loss of use of the infringing Deliverable Item), return such Deliverable Item(s) to Contractor (in space, with respect to an in-orbit Satellite), and receive a refund of the price paid for such terminated Deliverable Item(s) less amounts unpaid for such item plus a reasonable allowance for use and depreciation.

(c) In addition to the remedies set forth in paragraphs (a) and (b) above, subject to Article 24.4 (Indemnification Procedures), Contractor shall pay the costs and expenses (including reasonable legal fees (including fees for counseling and preparation of legal opinions) and disbursements and costs of investigation, expert fees, litigation, and settlement) incurred by Customer in defending against any allegation, claim or suit made by such third parties as described in paragraph (a) above.

(d) Nothing in this Contract shall be construed as requiring Contractor to indemnify or defend a suit to the extent the infringement claim or judgment is based upon (i) use of any Deliverable Item by Customer in combination with other items not provided, recommended, or approved by Contractor or a Subcontractor and the infringement would not have occurred but for such combined use or (ii) modification of the Deliverable Item after Final Acceptance by a person or entity other than Contractor or a Subcontractor, unless such modification is made by such person or entity due to Contractor's failure to perform a contractual obligation hereunder to make such modification (except where Contractor believes such modification would result in an infringement of a third party's rights and provided Customer written notice thereof), or is authorized by written directive or instructions furnished by Contractor to Customer under this Contract, or (iii) the manufacture, delivery or use of any Deliverable Item in compliance with the written design specification or instructions of Customer.

21.2 Sole Remedies.

The remedies set forth in this Article 21 (Intellectual Property Infringement Indemnification) are Customer's sole and exclusive remedies for or related to any third-party intellectual property infringement claim.

22. CONFIDENTIAL INFORMATION

22.1 Confidentiality Obligations.

(a) Any Confidential Information shall be maintained in strict confidence by the Receiving Party. Except as provided in this Article 22 (Confidential Information), the Receiving Party shall not use, or disclose in any manner to any third party, Confidential Information without the prior express written consent of the Furnishing Party. The Receiving Party shall use at least the same degree of care to avoid disclosure of the Furnishing Party's Confidential Information as it used to protect its own Confidential Information, but not less than a reasonable degree of care. Confidential Information shall be used only for the purpose of performing the obligations under this Contract or as the Furnishing Party otherwise authorizes in writing.

(b) Access to and use of Confidential Information shall be restricted to those employees and persons within the Receiving Party's organization, with a need to use such Confidential Information to fulfill the purposes of this Contract, including developing, constructing, financing, Launching, and operating the Satellite and Customer's satellite system. The Receiving Party's Affiliates, Consultants, Launch Services provider, insurance brokers and underwriters, attorneys, and their employees may be included within the meaning of "persons within the Receiving Party's organization," to the extent such persons are not direct competitors of the Furnishing Party (which, in the case of Contractor, is a person or entity that sells commercial telecommunications satellites) provided that such persons have executed a non-disclosure or confidentiality agreement substantially similar to this Article 22 (Confidential Information) or are otherwise subject to confidentiality obligations no less stringent than the obligations contained herein and who are authorized pursuant to applicable U.S. export control laws and licenses or other approvals to receive such information.

22.2 Exceptions.

The obligations set forth in Article 22.1 (Confidentiality Obligations) shall not apply to information that is:

(a) Already known to or otherwise in the possession of the Receiving Party at the time of receipt from the Furnishing Party as evidenced by written records of the Receiving Party and that was not so known or received in violation of any confidentiality; or

(b) Publicly available or otherwise in the public domain prior to disclosure by the Receiving Party or becomes publicly available or otherwise in the public domain after receipt by the Receiving Party without breach of this Contract; or

(c) Rightfully obtained by the Receiving Party from any third party without restriction and without breach of any confidentiality obligation by such third party; or

(d) Developed by the Receiving Party independent of any disclosure hereunder, as evidenced by written records of the Receiving Party; or

(e) Disclosed pursuant to the order of a court or administrative body of competent jurisdiction or a government agency or required to be released pursuant to Law or regulation, or disclosed as a filing that Customer and Contractor, as applicable, considers in good faith necessary under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934 as amended; provided that the Receiving Party shall notify the Furnishing Party prior to such disclosure or filing and shall cooperate with the Furnishing Party in the event the Furnishing Party elects to legally contest, request confidential treatment of, or otherwise avoid such disclosure.

22.3 No License.

Except as expressly otherwise provided in this Contract, nothing in this Contract shall be construed as granting the Receiving Party whether by implication, estoppel, or otherwise, any license or any right to use any Confidential Information received from the Furnishing Party, or use any patent, trademark, or copyright now or hereafter owned or controlled by the Furnishing Party.

22.4 Return of Confidential Information.

Upon the request of the Party having proprietary rights to Confidential Information, the other Party in possession of such Confidential Information shall promptly return such Confidential Information (and any copies, extracts, and summaries thereof) to the requesting Party, or, with the requesting Party's written consent, shall promptly destroy such materials (and any copies, extracts, and summaries thereof) and shall further provide the requesting Party with written confirmation of same; provided, however, where both Parties have proprietary rights in the same Confidential Information, a Party shall not be required to return such information to the other Party.

22.5 This Contract.

The Terms and Conditions, Exhibit A (Statement of Work), Exhibit B (Technical Specifications), Exhibit C (Program Test Plan), Exhibit D (Program Quality Assurance Plan), Exhibit E (Program Management Plan), and Exhibit F (Payment Plan and Termination Liability Amounts) contain Confidential Information of each Party, and such Confidential Information shall be subject to the confidentiality obligations of Article 22.1 (Confidentiality Obligations) and the exceptions set forth in Article 22.2 (Exceptions) without regard to the time limitations set forth in Article 22.1.

22.6 Disclaimer of Representations and Warranties.

Each Party makes no representation or warranty regarding the accuracy or completeness of, or absence of defects in, the Confidential Information disclosed hereunder, or with respect to infringement of any rights, including Intellectual Property Rights of others, arising from its disclosure of Confidential Information hereunder. Neither Party shall be liable for damages of whatever kind as a result of the other Party's reliance on or use of the Confidential Information provided under this Article 22 (Confidential Information).

22.7 Survival of Confidentiality Obligations.

The obligations of this Article 22 (Confidential Information) shall be effective with regard to particular Confidential Information for a period of ten (10) years following the date of first disclosure of that particular Confidential Information hereunder notwithstanding any prior termination or expiration of this Contract.

23. RESERVED

24. INDEMNIFICATION

24.1 Contractor's Indemnification.

(a) Contractor shall indemnify and hold harmless Customer and its Affiliates and their respective Associates from any and all Losses adjudicated or agreed in settlement to be owed to any third parties or determined by governmental authority to be owed to government or any third party arising from any allegations, claims or suits made by third parties (including Consultants and agents of Customer, Contractor, or any Subcontractor but not any employee, officer, or director of Customer) regarding any of the following:

- (1) injury to persons (including sickness or death) or damage to real or tangible personal property, resulting from any negligent act or omission or willful misconduct of Contractor or its Subcontractors in the performance of the Work; or
- (2) Contractor's breach of its obligations under Article 15 (Permits and Licenses; Compliance with Laws).

For the avoidance of doubt, Contractor shall have no indemnity obligations pursuant to this Article 24.1 (Contractor's Indemnification) for any Losses with respect to a Satellite after Intentional Ignition of the Launch Vehicle for such Satellite, unless and to the extent of a Terminated Ignition as provided in Article 9 (Title and Risk of Loss), even if such Losses are attributable, in whole or in part, to an act or omission of Contractor or its employees, representatives, contractors or subcontractors at any tier (including suppliers of any kind) prior to Intentional Ignition.

(b) In addition to the remedies set forth in paragraph (a) above, subject to Article 24.4 (Indemnification Procedures), Contractor shall pay all costs and expenses (including reasonable legal fees (including fees for counseling and preparation of legal opinions) and disbursements and costs of investigation, expert fees, litigation, and settlement) incurred by Customer in defending against any allegation, claim or suit made by such third parties as described in paragraph (a) above.

(c) Subject to the indemnification procedures set forth in Article 24.4 (Indemnification Procedures), Contractor shall indemnify, defend, and hold harmless Customer as set forth in Article 4.3 (Taxes and Duties), Article 21 (Intellectual Property Indemnification), this Article 24.1 (Contractor's Indemnification), Article 24.3 (Cross Indemnification for Inter-Party Waiver of Liability), and as may be required pursuant to Article 33 (Inter-Party Waiver of Liability).

24.2 Customer's Indemnification.

(a) Customer shall indemnify, defend, and hold harmless Contractor and its Affiliates and their respective Associates from any and all Losses adjudicated or agreed in settlement to be owed to any third parties or determined by governmental authority to be owed to government or any third party arising from any allegations, claims or suits made by third parties (including

Consultants and agents of Contractor, any Subcontractor, or Customer but not any employee, officer, or director of Contractor) regarding any of the following:

- (1) injury to persons (including sickness or death) or damage to real or tangible personal property, resulting from any negligent act or omission or willful misconduct Customer and its Consultants; or
- (2) Customer's breach of its obligations under Article 15 (Permits and Licenses; Compliance with Laws).

(b) In addition to the remedies set forth in paragraph (a) above, subject to Article 24.4 (Indemnification Procedures), Customer shall pay all costs and expenses (including reasonable legal fees (including fees for counseling and preparation of legal opinions) and disbursements and costs of investigation, expert fees, litigation, and settlement) incurred by Contractor in defending against any allegation, claim or suit made by such third parties as described in paragraph (a) above.

(c) Subject to the indemnification procedures set forth in Article 24.4 (Indemnification Procedures), Customer shall indemnify Contractor as set forth in this Article 24.2 (Customer's Indemnification), Article 24.3 (Cross Indemnification for Inter-Party Waiver of Liability), and as may be required by Article 33 (Inter-Party Waiver of Liability).

24.3 Cross-Indemnification For Inter-Party Waiver of Liability.

Each Party shall indemnify the other for, and hold it harmless from, any liability, loss, or damage suffered by the other Party resulting from the failure of such Party to comply with its obligations, if any, under Article 33 (Inter-Party Waiver of Liability) to waive or to cause its contractors and Subcontractors at any tier (including suppliers of any kind) or any other entity required by the Launch Agreement to waive their respective claims to the extent required by the Launch Agreement.

24.4 Indemnification Procedures.

(a) Promptly after receipt by any entity entitled to indemnification under this Article 24 (Indemnification) of notice of the commencement or threatened commencement of any civil, criminal, administrative, or investigative action or proceeding involving a claim in respect of which the indemnified Party will seek indemnification pursuant to this Article 24 (Indemnification), the indemnified party shall notify the indemnifying Party of such claim in writing. Failure to so notify the indemnifying Party shall not relieve the indemnifying Party of its obligations under this Contract except to the extent it can demonstrate that it was prejudiced by such failure. Within fifteen (15) Calendar Days following receipt of written notice from the indemnified Party relating to any claim, but no later than a reasonable time before the date on which any response to a complaint or summons is due, the indemnifying Party shall notify the indemnified Party in writing if the indemnifying Party elects to assume control of the defense or settlement of that claim (a "Notice of Election").

(b) If the indemnifying Party delivers a Notice of Election relating to any claim within the required notice period, so long as it is actively defending such claim, the indemnifying Party shall be entitled to have sole control over the defense and settlement of such claim; provided that (i) the indemnified Party shall be entitled to participate in the defense of such claim and to employ counsel at its own expense to assist in the handling of such claim; (ii) where the indemnified Party is so represented, the indemnifying Party shall keep the indemnified Party's counsel informed of each step in the handling of any such claim; (iii) the indemnified Party shall provide, at the indemnifying Party's request and expense, such assistance and information as is available to the indemnified Party for the defense and settlement of such claim; and (iv) the indemnifying Party shall notify the Party seeking indemnification before entering into any settlement of such claim or ceasing to defend against such claim. After the indemnifying Party has delivered a Notice of Election relating to any claim in accordance with the preceding paragraph, the indemnifying Party shall not be liable to the indemnified Party for any legal expenses incurred by the indemnified Party in connection with the defense of that claim. In addition, the indemnifying Party shall not be required to indemnify the indemnified Party for any amount paid or payable by the indemnified Party in the settlement of any claim for which the indemnifying Party has delivered a timely Notice of Election if such amount was agreed to without the prior written consent of the indemnifying Party.

(c) If the indemnifying Party does not deliver a Notice of Election relating to any claim within the required notice period or fails actively to defend such claim, the indemnified Party shall have the right to defend and/or settle the claim in such manner as it may deem appropriate, at the cost and expense of the indemnifying Party. Provided that the indemnified Party acts in good faith, it may settle such claim on any terms it considers appropriate under the circumstances without in any way affecting its right to be indemnified hereunder. The indemnifying Party shall promptly reimburse the indemnified Party for all such costs and expenses.

24.5 Waiver of Subrogation.

If a Party insures against any loss or damage it may suffer in respect of which it is required to indemnify the other Party, its Affiliates, and their respective Associates pursuant to this Article 24 (Indemnification), such insuring Party shall use best reasonable efforts to require the insurer to waive its right of subrogation against such other Party and such other Party's Affiliates and their respective Associates.

24.6 Survival of Indemnifications.

The provisions of this Article 24 (Indemnification) shall survive the termination or expiration of this Contract.

(a) Contractor represents that it has procured and will maintain the following insurance coverages with standard exclusions:

- (1) ground insurance (“Property Insurance”) against all risks and loss or damage to each Satellite, and to any and all component parts thereof and all materials of whatever nature used or to be used in completing the Work, in an amount not less than the greater of (i) the replacement value of, or (ii) the amounts paid by Customer with respect to, the Satellite and component parts thereof and all materials of whatever nature used or to be used in completing the Work. Such insurance shall provide (i) coverage for removal of debris, and insuring the structures, machines, equipment, facilities, fixtures, and other properties constituting part of the Work, (ii) transit coverage, including ocean marine coverage (unless insured by the supplier), (iii) off-site coverage covering any key equipment, and (iv) off-site coverage covering any property or equipment not stored on the construction site. The deductible for Ground Insurance shall not exceed Two Million Five Hundred Thousand Dollars (\$2,500,000). For each Satellite, such insurance shall cover the period beginning at EDC up to the moment risk of loss passes to Customer pursuant to Article 9 (Transfer of Title and Risk of Loss);
- (2) public liability insurance until Launch of each Satellite covering Contractor and all its Subcontractors with respect to their performance under this Contract and their liabilities to third parties. Such insurance shall be for an amount not less than One Hundred Million Dollars (\$100,000,000) per occurrence and shall contain no deductible in excess of Two Hundred Fifty Thousand Dollars (\$250,000) and no exclusion that denies coverage for third-party injuries to persons or damage to property of others arising out of preparation of maps, plans, designs, specifications, or the performance of inspection services or out of any other services to be performed by Contractor under this Contract. Such insurance will be primary insurance with regard to any insurance maintained by Customer; Contractor shall maintain such insurance until Final Acceptance of all Work, including remedial work, has occurred;
- (3) worker’s compensation insurance, including occupational illness or disease coverage, or other similar social insurance in accordance with the Laws of any country, state, or territory exercising jurisdiction over the employee and employer’s liability insurance in an amount not less than One Million Dollars (U.S. \$1,000,000) per occurrence. Contractor shall maintain such insurance until Final Acceptance of all Work, including remedial work, has occurred;

Contractor shall maintain such insurance until Final Acceptance of all Work, including remedial work, has occurred; and

- (5) such other insurance in types and amounts as is adequate to cover Contractor's potential liabilities under this Contract and applicable Law.

(b) Customer and each Financing Entity shall be named as additional insureds under Contractor's third-party liability coverages, provided that, with respect to each Financing Entity, such Financing Entity has an insurable interest recognized by the applicable insurance underwriters.

(c) The insurers selected by Contractor to provide the insurance required by paragraph (a) above shall have a rating at least as high as those insurers providing coverage on Contractor's programs for its major commercial customers.

(d) Prior to commencing the Work, and whenever requested by Customer, Contractor shall produce evidence that the insurance required by paragraph (a) above has been effected and is being maintained. Contractor shall, at the written request of Customer, provide Customer with a certificate of insurance evidencing the procurement of all required insurance policies and thirty (30) Calendar Days written notice prior to any modification that diminishes the insurance coverage required hereunder, cancellation, or non-renewal of such policies. If, after being requested in writing by Customer to do so, Contractor fails to produce evidence of compliance with Contractor's insurance obligations within fourteen (14) Calendar Days, Customer may effect and maintain the insurance and pay the premiums. The amount paid shall be a debt due from Contractor to Customer and may be offset against any payments due Contractor by Customer. Customer may, at reasonable times upon reasonable notice, inspect any insurance policy required hereunder at Contractor's offices.

(e) Contractor shall, as soon as practicable, inform Customer in writing of any occurrence with respect to the Work that may give rise to a claim under a policy of insurance required by paragraph (a) above. Contractor shall ensure that its Subcontractors similarly inform Customer of any such occurrences through Contractor.

(f) Contractor shall use best reasonable efforts to require its insurers to waive all rights of subrogation against Customer and Customer's Affiliates and their respective Associates. Customer shall be entitled to require proof from time to time that Contractor has complied with its obligations under this paragraph (f).

(g) Contractor warrants and covenants that the insurance coverages, minimum amounts, deductibles and exclusions set forth or referenced in this Article 25 (Insurance) are substantially comparable to those provided to Contractor's major commercial customers.

IN NO EVENT SHALL CUSTOMER DISCLOSE OR TRANSFER CONTRACTOR-PROVIDED TECHNICAL INFORMATION OR PROVIDE TECHNICAL SERVICES BASED ON CONTRACTOR-FURNISHED TECHNICAL INFORMATION TO NON-U.S. INSURANCE BROKERS OR UNDERWRITERS OR OTHER NON-U.S. PERSONS OR ENTITIES (AS DEFINED IN 22 CFR SECTION 120.15 AND SECTION 120.16) WITHOUT CONTRACTOR'S PRIOR WRITTEN APPROVAL AND, WHERE REQUIRED, PRIOR APPROVAL OF THE U.S. GOVERNMENT.

25.3 Contractor Insurance Support.

(a) Insurance Procurement. Contractor shall, at the written request of Customer, and at Contractor's expense, provide customary and normal support to assist Customer in obtaining Launch Insurance. Contractor support shall include (i) providing a comprehensive presentation package on the Satellite suitable for presentation to the space insurance brokers and underwriters, (ii) supporting Customer with all necessary presentations (oral, written or otherwise), including attendance and participation in such presentations where requested by Customer, (iii) providing on a timely basis all reasonable and appropriate technical information, data and documentation, and (iv) providing documentation and answers to insurer and underwriter inquiries.

(b) Claims Support. Contractor shall cooperate with and provide reasonable support to Customer making and perfecting claims for insurance recovery and as to any legal proceeding as may be brought by Customer associated with any claim for insurance recovery. Such support shall consist of (i) the support described in paragraph (a) above, (ii) providing on-site inspections as required by Customer's insurers and underwriters, (iii) participating in review sessions with a competent representative selected by the insurers and underwriters to discuss any continuing issue relating to such occurrence, including information conveyed to either Party, (vii) using its best reasonable efforts to secure access for the insurers and underwriters to all information used in or resulting from any investigation or review of the cause or effects of such occurrence, (viii) making available for inspection and copying all information necessary to establish the basis of a claim, and (ix) supporting Customer in establishing the basis of a total loss, constructive total loss and partial loss as those terms are defined in the Launch Insurance policy and provided Customer furnishes Contractor with the definitions of such terms. Notwithstanding Contractor's specifying such basis, Customer shall make the determination of whether to claim a partial loss, constructive total loss or total loss under Launch Insurance. For all claims that may arise on or before Final Acceptance of the Satellite as provided in Article 8.7 (In-Orbit Testing and Final Acceptance of Satellite) hereof, such Contractor support shall be provided within the overall price of this Contract; thereafter, Contractor shall be entitled to reimbursement of actual costs reasonably incurred in connection with the provision of such support plus a mark-up of ten percent (10%), such costs and markup to be invoiced and paid in accordance with Article 5 (Request for Payment and Payment).

IMPLIED, OR STATUTORY, AND NEGLIGENCE OF ANY TYPE, TORT, STRICT LIABILITY, COMMON LAW OR EQUITABLE THEORY) SHALL A PARTY HAVE ANY LIABILITY TO THE OTHER PARTY OR THE OTHER PARTY'S OFFICERS, DIRECTORS, EMPLOYEES, CONTRACTORS, SUBCONTRACTORS, AT ANY TIER (INCLUDING SUPPLIERS OF ANY KIND), AGENTS, OR CUSTOMERS OR TO ITS PERMITTED ASSIGNEES OR SUCCESSOR OWNER OF ANY SATELLITE PROVIDED HEREUNDER OR TO ANY OTHER PERSON CLAIMING THROUGH SUCH OTHER PARTY FOR ANY SPECIAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, PUNITIVE AND/OR INCIDENTAL DAMAGES, WHETHER OR NOT FORESEEABLE, INCLUDING LOST REVENUES OR PROFITS, COST OF CAPITAL, COST OF COVER, COSTS OF RECOVERING ANY SATELLITE PROVIDED HEREUNDER OR ANY OTHER FORM OF ECONOMIC LOSS RESULTING FROM ANY BREACH OF THIS CONTRACT OR PERFORMANCE OR NON-PERFORMANCE OF THIS CONTRACT OR ANY ACTS OR OMISSIONS ASSOCIATED THEREWITH OR RELATED TO THE USE OF ANY ITEMS DELIVERED OR SERVICES FURNISHED HEREUNDER.

(b) THE TOTAL LIABILITY OF EACH PARTY WITH RESPECT TO ALL CLAIMS OF ANY KIND, INCLUDING LIQUIDATED DAMAGES, WHETHER AS A RESULT OF BREACH OF CONTRACT, WARRANTY, STRICT LIABILITY OR OTHERWISE, AND WHETHER ARISING BEFORE OR AFTER DELIVERY OF ANY DELIVERABLE ITEM, FOR ANY LOSS ARISING FROM OR RELATING TO THIS CONTRACT, OR FROM THE PERFORMANCE OR BREACH THEREOF, SHALL NOT EXCEED, EXCEPT AS OTHERWISE SET FORTH IN THIS CONTRACT, AS FOLLOWS; (i) IN THE CASE OF CONTRACTOR, AMOUNTS PAID TO CONTRACTOR HEREUNDER, AND (ii) IN THE CASE OF CUSTOMER, THE APPLICABLE TERMINATION AMOUNT SET FORTH IN EXHIBIT F (PAYMENT PLAN AND TERMINATION LIABILITY AMOUNTS).

(c) NOTWITHSTANDING THE FOREGOING, THE LIMITATIONS OF LIABILITY SET FORTH IN THE FOREGOING PARAGRAPHS (a) AND (b) SHALL NOT APPLY TO (i) CLAIMS SUBJECT TO INDEMNIFICATION UNDER ARTICLE 4.3 (TAXES AND DUTIES), ARTICLE 21 (INTELLECTUAL PROPERTY INFRINGEMENT INDEMNIFICATION), OR ARTICLE 24 (INDEMNIFICATION) AND (iii) CLAIMS ARISING OUT OF WILLFUL MISCONDUCT BY CONTRACTOR MANAGEMENT (CONTRACTOR PROGRAM MANAGER AND ABOVE).

(d) Each Party shall have a duty to mitigate damages for which the other Party is responsible.

Any dispute, Contract ("Dispute"), including any Dispute with termination, or breach of this Contract or any provision thereof shall be resolved in accordance with this Article 27 (Dispute Resolution).

27.1 Informal Dispute Resolution.

Prior to the initiation of formal dispute resolution procedures, the Parties shall first attempt to resolve their Dispute informally, in a timely and cost-effective manner, as follows:

(a) If, during the course of the Work, a Party believes it has a Dispute with the other Party, the disputing Party shall give written notice thereof, which notice will describe the Dispute and may recommend corrective action to be taken by the other Party. Contractor Program Manager shall promptly consult with Customer Contract Manager in an effort to reach an agreement to resolve the Dispute.

(b) In the event agreement cannot be reached within ten (10) Calendar Days of receipt of written notice described in paragraph (a) above, either Party may request the Dispute be escalated, and the respective positions of the Parties shall be forwarded to an executive level higher than that under paragraph (a) above for resolution of the Dispute.

(c) In the event agreement cannot be reached within twenty (20) Calendar Days of receipt of the written notice described in paragraph (a) above, either Party may request the Dispute be escalated, and the respective positions of the Parties shall be forwarded to the President or Chief Executive Officer (CEO) of each Party for resolution of the Dispute.

(d) In the event (i) agreement cannot be reached under paragraphs (a), (b), or (c) above within a total of thirty (30) Calendar Days after receipt of the written notice described in paragraph (a) above, or (ii) a Party determines in good faith that amicable resolution through continued negotiation of the Dispute does not appear likely, either Party may proceed with arbitration in accordance with Article 27.2 (Arbitration).

27.2 Arbitration.

(a) Subject to the provisions of Article 27.1 (Informal Dispute Resolution) and Article 27.3 (Litigation), any Dispute shall be resolved by mandatory and binding arbitration in accordance with the then-effective Center for Public Resources Rules for Nonadministered Arbitration of Business Disputes, as may be amended from time to time (the "CPR Rules"), which are incorporated herein by reference. Notwithstanding the foregoing, to the extent any provision of this Article 27.2 (Arbitration) modifies, adds to, or is inconsistent with any provision of the CPR Rules, the provisions of this Article shall control.

(b) The arbitration shall be conducted by a three-arbitrator tribunal (the "Tribunal"). Within forty-five (45) Calendar Days after the commencement of the arbitration, each Party shall appoint one arbitrator, and those two arbitrators shall together appoint the third arbitrator as

experienced in the acquisition, management and/or legal/judicial experience.

(c) Discovery shall be permitted as follows:

- (1) The Parties shall be permitted to take discovery, if and as needed, by deposition upon oral examination, requests for production of documents and things, and requests for entry upon land for inspection and other purposes, as those discovery methods are described and defined in the Federal Rules of Civil Procedure, provided that the Tribunal shall expand or limit discovery in accordance with paragraph (2) below.
- (2) The scope of permissible discovery shall generally be as described in Federal Rules of Civil Procedure Rule 26(b)(1), but the Parties shall use their best reasonable efforts to focus and limit their discovery in accordance with the nature of the Dispute and the need for expedited resolution. The Tribunal may expand or limit the scope of permissible discovery, establish the time period within which discovery responses must be served, and expand or limit the type and number of discovery methods and requests as it shall determine is appropriate in the circumstances, taking into account the needs of the Parties and the desirability of making discovery expeditious and cost-effective. The Tribunal may issue orders to protect the confidentiality of proprietary information, trade secrets, and other similar information disclosed in discovery and may order that discovery not be had or that discovery may be had only on specific terms and conditions.

(d) Time is of the essence in the initiation and completion of the arbitration. The arbitral hearing shall be commenced and conducted expeditiously. Unless the Tribunal orders otherwise, the Dispute should be submitted to the Tribunal for decision within six (6) months after the commencement of the arbitration, and the final award shall be rendered within one (1) month thereafter. The Parties and the Tribunal shall use their best efforts to comply with this schedule, and the Tribunal may impose any remedy it deems just for any Party's effort to unnecessarily delay, complicate, or hinder the proceedings.

(e) The arbitration shall be held in Philadelphia, Pennsylvania, USA.

(f) Any arbitration proceeding held pursuant to this Article shall be governed by the United States Arbitration Act, 9 U.S.C. §§ 1 et seq., and judgment upon the award rendered by the Tribunal may be entered in any court having jurisdiction to enforce such an award.

(g) The Tribunal's award may grant any remedy or relief the Tribunal deems within the scope of this Contract and may not make any award in any amount or on any theory of liability except as otherwise allowed or provided in this Contract. Notwithstanding the foregoing, the Tribunal shall have no power or authority to amend or disregard any provision of this Article 27.2 (Arbitration) or any other provision of this Contract; in particular, but without

damages to any Party.
(Limitations of Liability).

(h) Each Party shall bear its own costs and expenses (including the costs and expenses of the arbitrator it selected) and one-half of the costs and expenses of the third arbitrator, unless otherwise determined in the arbitral award.

(i) At any time more than ten (10) Calendar Days before the commencement of the arbitral hearing, any Party defending against any claim may serve upon the adverse Party an offer to allow an award to be entered against the defending Party on any claim for the money or property or to the effect specified in the offer. If within ten (10) Calendar Days after the service of the offer, the adverse Party serves written notice that it accepts the offer, either Party may file the offer and acceptance with the Tribunal, which will thereupon promptly enter an award on the claim as provided in the offer. An offer not accepted shall be deemed withdrawn and shall not be admissible into evidence.

(j) If at the time any Dispute arises, the Center for Public Resources no longer provides rules or services with respect to the arbitration of business disputes, then the Parties hereto agree that the arbitration shall be conducted before the American Arbitration Association ("AAA"). Such arbitration shall be conducted pursuant to the AAA's Commercial Arbitration Rules then effective, provided, however, that in the event of any inconsistency with the AAA rules and this Article, the provisions of this Article shall control.

27.3 Litigation.

(a) Notwithstanding the provisions of Article 27.1 (Informal Dispute Resolution) and Article 27.2 (Arbitration) above, if a Party makes a good faith determination that (i) a breach by the other Party is such that a temporary restraining order or other preliminary injunctive relief to enforce its rights or the other Party's obligations under the provisions of this Contract and which is necessary or (ii) litigation is appropriate to avoid the expiration of an applicable limitations period or to preserve a superior position with respect to creditors, either Party shall have the right to bring suit at any time, but requests for permanent injunctive relief shall be arbitrated pursuant to Article 27.2 (Arbitration).

(b) Any such suit shall be brought in the United States District Court for the Southern District of New York, and the Parties hereby waive any objection to that venue and that court's exercise of personal jurisdiction over the case; provided further that if, for any reason, such court does not have or refuses to exercise subject matter jurisdiction over the Dispute, then litigation as permitted herein may be brought in the Supreme Court for New York County. The Parties hereby irrevocably consent to the exercise of personal jurisdiction by the state and federal courts in the State of New York concerning any Dispute between the Parties. If, for any reason, neither the state nor federal courts in New York will exercise jurisdiction over the Dispute, then litigation as permitted herein may be brought in any court of competent jurisdiction in the United States of America.

27.4 Continued Performance.

Unless the Dispute involves a termination of the Contract under Article 32 (Termination), (i) pending final resolution of any Dispute, each Party shall, unless directed otherwise by the other Party in writing, perform all its obligations under this Contract, including the obligation to take all steps necessary during the pendency of the Dispute to ensure the Work will be performed within the time stipulated or within such extended time as may be allowed under this Contract and (ii) failure to pay disputed amounts shall be deemed no excuse for failure to so perform the Work.

28.1 Customer-Furnished Support.

To enable Contractor to install and complete Final Acceptance inspection of the Satellite Operations Equipment and to perform LEOP and IOT, Customer shall timely make available to Contractor the Customer-furnished equipment, facilities and services described in Section 12 of Exhibit A (Statement of Work). Such equipment, facilities and services shall be in good working condition and adequate for the required purposes and, for the Launch of each Satellite hereunder, shall be made available free of charge for Contractor's use during the period commencing six (6) months prior to Satellite Shipment Readiness Review and continuing through completion of Final Acceptance for such Satellite.

28.2 Communications Authorizations.

Customer shall be responsible, at its cost and expense, for preparing, coordinating and filing all applications, registrations, reports, licenses, permits and authorizations with the FCC if required to do so and with any other national governmental agencies having jurisdiction over Customer, for the construction, launch and operation of each Satellite. Contractor shall provide such reasonable cooperation and support as Customer may reasonably request in support of Customer's preparation, coordination and filing of such applications, registrations, reports, licenses, permits and authorizations. From and after Final Acceptance of the Satellite, for any support provided by Contractor under this Article 28.2 (Communications Authorizations), Contractor shall be entitled to reimbursement of actual costs reasonably incurred in connection with the provision of such support plus a markup of ten percent (10%), such costs and associated markup to be invoiced and paid in accordance with Article 5 (Request for Payment and Payment).

28.3 Radio Frequency Coordination.

Customer shall be responsible for the timely preparation and submission of all filings required by the International Telecommunication Union (or any successor agency thereto) and all relevant domestic communications regulatory authorities regarding radio frequency and orbital position coordination. Such filings shall be made in accordance with the Radio Regulations of the International Telecommunication Union (or any successor agency) and the laws and regulations of all domestic communications regulatory authorities having jurisdiction over Customer. Contractor shall provide such reasonable cooperation and support as Customer may reasonably request in support of Customer's efforts in the preparation and submission of such filings. From and after Final Acceptance of the Satellite, for any support provided by Contractor under this Article 28.3 (Radio Frequency Coordination), Contractor shall be entitled to reimbursement of actual costs reasonably incurred in connection with the provision of such support plus a markup of percent (%), such costs and markup to be invoiced and paid in accordance with Article 5 (Request for Payment and Payment).

28.4 Satellite Performance Data.

Commencing with the first full calendar month following Final Acceptance of each Satellite, Customer shall provide a report to Contractor describing the general health and

Specified Operational ...
Contractor access to any data Contractor may reasonably ...
Contractor is able to do so) such Satellite Anomaly and/or support Customer in making ...
perfecting claims for insurance recovery relating to such Satellite Anomaly as set forth in Article
25.3 (Contractor Insurance Support).

28.5 Contract Adjustments.

Failure of Customer to discharge the responsibilities specified in this Article 28 (Customer's Responsibilities) may result in an equitable adjustment to the Delivery Schedule, Delivery Dates, and/or Contract Price as specified in paragraph (a) of Article 11.2 (Equitable Adjustments); provided, however, any adjustment in the Contract Price shall be limited to actual, direct incremental costs incurred by Contractor as a result of such Customer failure, plus a markup of percent (%) of such costs, such costs and markup to be invoiced to Customer in accordance with Article 5 (Payment).

30.1 Options Granted.

Contractor hereby grants to Customer the options set forth in this Article 30 (Options) to be exercised at Customer's sole discretion.

30.2 Early-Market Entry Satellite.

Contractor agrees to provide Customer, at Customer's written direction, system design definition/refinement services whose purposes include achieving an accelerated delivery schedule for early market entry by using a simplified satellite design (as compared with that described in Exhibit B (Technical Specifications) for the First Satellite), as such services are further defined and described in Exhibit A (Statement of Work) (the "EMES Services"). Upon exercise of this option and until Customer directs or notifies Contractor pursuant to paragraph (c) below, Contractor shall perform that portion of the Work that is not EMES Services only to the extent specifically directed in writing by Customer in its sole discretion.

(a) Option Period.

Customer may direct provision of the EMES Services per the foregoing on or before EDC plus six (6) months.

(b) Price, Payment and Termination Liability.

- (1) The price for the EMES Services, including taxes and documentation, is an initial amount of due and payable upon option exercise plus per month , such monthly amount to be invoiced after the month during which the services are performed with payment due thirty (30) days after receipt of invoice, with a total aggregate maximum amount (initial amount plus monthly amounts) for the EMES Services not to exceed . Upon exercise of this option and until Customer directs or notifies Contractor pursuant to paragraph (c) below, no additional amounts shall be due under the Contract except as to any portion of the Work specifically directed in writing by Customer in its sole discretion to be performed as set forth above.
- (2) In the event Customer terminates the EMES Services (but not the Contract) prior to completion of such EMES Services, Customer's termination liability shall be plus the monthly amount set forth above through the effective date of termination (determined on a daily pro rata basis for the last partial month, if any, of performance of the EMES Services), less all amounts paid to Contractor in respect of the EMES Services.

(c) Completion of EMES Services.

- (1) Direct Contractor (without EMES recommendations), in which case the Delivery Schedule, payment plan and other affected terms of this Contract shall be equitably adjusted by the Parties; or
- (2) If as a result of the EMES Services Customer desires to modify the First Satellite as described in Exhibit B (Technical Specifications), Customer shall submit a change request in writing to Contractor and the Parties shall proceed in accordance with Article 14 (Change Request).

30.3 Second Satellite.

Customer may, at its option, order the Second Satellite, to be delivered on-ground, of a design as described in Exhibit A (Statement of Work) and Exhibit B (Technical Specifications).

(a) Option Period.

Customer may order the Second Satellite at any time from EDC through the last day of the twenty-fourth (24th) month following EDC (“Option Period”). In the event of an Excusable Delay in accordance with Article 11 (Excusable Delay) or a Contractor unexcused delay, such Option Period shall be extended day-for-day for the period of such delay.

(b) Delivery Schedule.

Contractor shall Deliver the Second Satellite to the Designated Launch Site after successful completion of the Satellite Shipment Readiness Review no later than months following the date Customer exercises the option for the Second Satellite if Customer orders the Second Satellite on or before months. If Customer orders the Second Satellite after months, the foregoing delivery schedule shall be equitably adjusted. Notwithstanding the foregoing, Contractor shall not be required to Deliver the Second Satellite to the Designated Launch Site sooner than months following completion of the Satellite Shipment Readiness Review of the First Satellite.

(c) Price.

The price for the Second Satellite, including design, manufacture, testing, documentation, taxes, ground insurance and Ground Support Equipment, Launch Campaign, LEOP and IOT is if ordered on or before months. If Customer orders the Second Satellite after months, the foregoing price shall be equitably adjusted.

(d) Payment.

The price for the Second Satellite will be paid in accordance with a payment plan substantially similar to that set forth in Exhibit F - Table 1 (Payment Plan and Termination Liability Amounts).

(e) Deferred Financing.

(f) Contract Adjustments.

Contractor shall furnish the Second Satellite in accordance with the provisions of the documents constituting this Contract. Except as otherwise required by the terms and conditions of this Article 30 (Options), the contract terms and conditions for the Second Satellite will be identical to the Terms and Conditions of this Contract; provided, however, (i) liquidated damages for late delivery of the Second Satellite shall be Dollars (\$); (ii) the orbital incentive amount shall be Dollars (\$), which amount is included in the price stated in paragraph (c) above and shall be earned and paid over the life of the Second Satellite in accordance with Article 12.2 (Earning and Calculation of Daily Orbital Incentive Amount); and (iii) adjustments in performance parameters with respect to the definition of total loss and the earning of orbital incentive amounts under Article 12.2 (Earning and Calculation of Daily Orbital Incentive Amount) shall be made to reflect the Second Satellite's technical specifications and targeted business markets; and (iv) any other adjustments necessary to implement the foregoing.

30.4 Storage.

(a) Customer may, at its option, order storage for any or all Satellites on or before ninety (90) Calendar Days prior to Satellite Shipment Readiness Review for the Satellite to be stored for up to Calendar Days of storage.

(b) Such storage shall be provided at a daily pro-rated charge (exclusive of any federal, state, or local taxes, which Customer agrees to pay, but inclusive of all other charges) per month.

(c) Contractor, as bailee, shall provide storage facilities (at Contractor's facility) and environmental maintenance suitable for prevention of deterioration as set forth in Exhibit A (Statement of Work).

(d) Contractor shall have risk of loss or damage to any Satellite stored pursuant to paragraph (a) above during the period of such storage and transfer of risk of loss shall occur as follows: (i) if the Satellite is removed from Contractor's storage facilities at Customer's written request for purposes of Launch pursuant to this Contract, in accordance with Article 9 (Title and Risk of Loss) without regard to the reference therein to Article 30 (Options); (ii) if the Satellite is removed from Contractor's storage facilities at Customer's written request other than for Launch pursuant to this Contract, upon arrival of the Satellite at the location designated in writing by Customer.

(e) Title to a Satellite placed in storage pursuant to paragraph (a) above shall pass to Customer as follows: (i) if the Satellite is removed from Contractor's storage facilities for the purpose of Launch pursuant to this Contract, in accordance with Article 9 (Title and Risk of Loss) without regard to the reference therein to Article 30 (Options); or (ii) if the Satellite is removed from Contractor's storage facilities other than for Launch pursuant to this Contract, title, free and clear of all Contractor-incurred liens and encumbrances of any kind, shall pass to Customer upon arrival of the Satellite at the location designated in writing by Customer.

Contractor shall be directed by Customer. Customer shall provide notice prior to Launch of its intention to Launch such Satellite. The costs of maintenance and refurbishment necessitated by normal deterioration during storage shall be borne by Contractor.

30.5 Contract Adjustments.

Should Customer exercise any or all of the options described in this Article 30 (Options), the Parties shall execute an Amendment(s) as soon as is reasonably possible after option exercise to incorporate the schedule adjustments, price adjustments, payment schedule adjustments, and changes to the Exhibits and other Terms and Conditions as made necessary by such exercise. Except as otherwise provided in this Article 30 (Options), the Terms and Conditions of this Contract shall apply to any such options.

32. TERMINATION

32.1 Termination for Customer's Convenience.

(a) Customer may, upon written notice to Contractor, at any time terminate the Work, in whole or in part, in accordance with the terms set forth below, and Contractor shall immediately cease Work in the manner and to the extent specified below. Notwithstanding the foregoing, in no event shall there be a termination for convenience by Customer under this Article 32.1 (Termination for Customer's Convenience) with respect to any Satellite that has been Launched, whether or not such Launch is successful. In the event of partial termination of the Work in accordance with this Article 32.1 (Termination for Customer's Convenience), Customer's notice of termination will specify the portion of the Work terminated, and the remaining provisions of this Article 32.1 (Termination for Customer's Convenience) shall apply to such terminated portion. All other portions of the Work shall continue unaffected.

(b) Upon receipt of a notice of termination, as provided in paragraph (a) above, Contractor shall take the following actions:

- (1) stop Work under this Contract on the date and to the extent specified in the notice of termination, except those services that are specifically intended to be provided in connection with a termination of this Contract;
- (2) withhold delivery of any of the items to be supplied hereunder until Contractor has received full payment under this Article 32.1 (Termination for Customer's Convenience);
- (3) place no further orders or Subcontracts for materials, services, or facilities to the extent they relate to the performance of the Work terminated;
- (4) terminate orders and Subcontracts to the extent they relate to the performance of the Work terminated;
- (5) settle all outstanding liabilities and all claims arising out of such termination of orders and Subcontracts for materials, services, or facilities; and
- (6) take such action as may be reasonably necessary, or as Customer may direct, for the protection and preservation of the property related to this Contract that is in the possession of Contractor or any Subcontractor and in which Customer has or may acquire an interest.

(c) Termination Liability.

- (1) Termination in Whole. In the event of termination of this Contract in whole under this Article 32.1 (Termination for Customer's Convenience)

and provided the termination is not due to Contractor's default under Article 32.2 (Termination for Contractor's Default), Contractor shall be entitled to payment of an amount equal to the Termination Liability Amount specified in Exhibit F (Payment Plan and Termination Liability Amounts), and interest at the rate specified in Article 5.5 (Late Payment) on any other payment not made when required to be made hereunder, less the sum of all amounts received by Contractor under this Contract.

(2) Termination in Part. In the event Customer terminates this Contract in part pursuant to this Article 32.1 (Termination for Convenience), Customer shall pay to Contractor the sum of (i) through (v) below less any amounts previously paid with respect to completed and/or terminated Deliverable Items:

- (i) The price set forth in Article 4 (Contract Price) for Deliverable Items completed prior to such termination therefor whether or not Delivery has occurred with respect to such Deliverable Item; and
- (ii) Actual costs incurred by Contractor in performance of work on Deliverable Items for which this Contract has been terminated pursuant to this Article 32.1 (Termination for Convenience), that have not been completed prior to such termination; and
- (iii) Actual costs incurred by Contractor in completing the termination process; and
- (iv) Actual costs incurred by Contractor in settling claims of subcontractors and other suppliers and vendors in connection with such termination, provided that Contractor shall use reasonable efforts to minimize such costs; and
- (v) A profit on items (i) – (iv) above.

If the termination by Purchaser is partial and as a result thereof Contractor will incur additional costs for the portion of the Work not terminated, then Contractor shall be entitled to submit a change request pursuant to Article 14.2 (Changes Requested by Contractor).

(3) Maximum Liability. In no event shall the amounts payable pursuant to this Article 32.1 (Termination for Customer's Convenience) exceed the termination liability amount applicable on the effective date of termination as set forth in Exhibit F (Payment Plan and Termination Liability Amounts) less the sum of all amounts received by Contractor under this Contract; provided, however, in the event Customer terminates this Contract in whole after exercise of the EMES option described in Article 30.2 (Early Market Entry Satellite) and prior to payment of Payment No. 2 as set forth in Exhibit F (Payment Plan and Termination Liability

Amounts), Customer's termination liability shall be Dollars (\$) less the sum of all amounts received by Contractor under this Contract.

(d) Contractor shall submit an invoice to Customer in accordance with paragraph (c) above within sixty (60) Calendar Days after the termination date, which invoice shall specify the amount due to Contractor from Customer pursuant to this Article 32.1 (Termination for Customer's Convenience). By notice in writing received by Contractor no later than forty-five (45) Calendar Days after receipt of Contractor's invoice pursuant to this Article 32.1 (Termination for Customer's Convenience), Customer may dispute the amount specified in said invoice. In the event Customer does not so notify Contractor that it disputes the invoice within forty-five (45) Calendar Days after receipt thereof, Customer shall be deemed to have accepted such invoice. Contractor shall be entitled to payment by Customer of undisputed amounts in such invoice within sixty (60) Calendar Days after Customer's receipt of the invoice, and with respect to disputed amounts, ten (10) Business Days after the resolution of such dispute. Payment of such amount by any Financing Entity on behalf of Customer shall relieve Customer from its obligation to make such payment.

(e) Payment of the amount payable by Customer to Contractor pursuant to paragraph (d) above shall constitute a total discharge of Customer's liabilities to Contractor for termination pursuant to this Article 32.1 (Termination for Customer's Convenience).

(f) Upon completion of all payments in accordance with this Article 32.1 (Termination for Customer's Convenience), Customer may require Contractor to transfer to Customer in the manner and to the extent directed by Customer, title to and possession of any items comprising all or any part of the Work terminated (including all Work-in-progress, parts and materials, and all inventories and associated warranties), and Contractor shall, upon direction of Customer, protect and preserve property at Customer's expense in the possession of Contractor or its Subcontractors in which Customer has an interest and shall facilitate access to and possession by Customer of items comprising all or part of the Work terminated. Alternatively, Customer may request Contractor to make a reasonable, good faith effort to sell such items and to remit any sales proceeds to Customer less a deduction for costs of disposition reasonably incurred by Contractor for such efforts. To the extent Contractor's compliance with this paragraph (g) requires governmental approvals and Contractor cannot, with the exercise of commercially reasonable efforts, procure such approvals, Contractor shall be excused from performing its obligations under this paragraph (f).

(g) If in Contractor's judgment it is feasible for Contractor to utilize any items of terminated Work, it shall submit to Customer an offer to acquire such items. If such offer is accepted, Contractor's termination invoice shall be credited with the agreed acquisition price less a deduction for actual costs of disposition reasonably incurred plus a markup of ten percent (10%).

32.2 Termination For Contractor's Default.

(a) Customer may terminate this Contract, in whole or in part, upon service of written notice of default to Contractor at any time after the occurrence of any of the following:

- (1) Contractor fails to Deliver the Satellite on or before its Delivery Date plus the maximum number of days for liquidated damages specified in Article 10 (Liquidated Damages) (or such longer time as may be agreed to by Customer); or
- (2) Contractor commits a material breach of this Contract or it becomes reasonably certain that Contractor will fail to Deliver the Satellite on or before its Delivery Date plus the maximum number of days for liquidated damages specified in Article 10 (Liquidated Damages for Late Delivery) (or such longer time as may be agreed to in writing by Customer) and fails, within ninety (90) days (or such longer period as may be agreed to in writing by Customer) after receipt from Customer of written notice thereof, to cure such material breach or provide reasonable assurances that it will Deliver the Satellite within the time specified therefor plus the maximum number of days for liquidated damages specified in Article 10 (Liquidated Damages for Late Delivery) (or such longer time as may be agreed to in writing by Customer), as applicable.
- (3) Contractor commences a voluntary proceeding concerning itself under any applicable bankruptcy, insolvency, reorganization, adjustment of debt, relief of debtors, or similar law (“Insolvency Law”); or any involuntary proceeding commences against Contractor under an Insolvency Law and the petition has not been dismissed within ninety (90) Calendar Days after commencement of the proceeding; or a receiver or custodian is appointed for or takes charge of all or a substantial portion of the property of Contractor and such custodian or receiver has not been dismissed or discharged within sixty (60) Calendar Days; or Contractor has taken action toward the winding-up, dissolution, or liquidation of Contractor or its business; or Contractor has been adjudicated insolvent or bankrupt or an order for relief or any other order approving a case or proceeding under any Insolvency Law has been entered; or Contractor has made a general assignment for the benefit of creditors or becomes unable to pay its debts generally as they become due. Should Contractor become a debtor in any bankruptcy proceeding, Contractor shall move to assume or reject this Contract within forty-five (45) Calendar Days after the entry of any order for relief; or
- (4) Contractor has purported to assign or transfer this Contract in violation of the provisions of Article 36.1 (Assignment) and Contractor fails to cure such unauthorized purported assignment or transfer within thirty (30) Calendar Days after receiving written notice from Customer of the unauthorized purported assignment or transfer.

In the event of partial termination of the Work in accordance with this Article 32.2 (Termination for Contractor’s Default), Customer’s notice of termination will specify the portion of the Work terminated, and the remaining provisions of this Article 32.2 (Termination for Contractor’s

Default) shall apply to such terminated portion. All other portions of the Work shall continue unaffected.

(b) In the event Customer terminates this Contract pursuant to paragraph (a) above, Customer shall be entitled to refund by Contractor of all payments previously made to Contractor under this Contract plus interest thereon at the rate specified in Article 5.5 (Late Payment) from the date payment was received to the date refund is received (provided, however, in the case of termination in part, the Parties shall negotiate an equitable refund amount to be paid by Contractor to Customer for the portion of the Work so terminated). In addition, Customer shall be entitled to payment of any liquidated damages for delay accrued prior to the effective date of termination pursuant to Article 10 (Liquidated Damages for Late Delivery). Contractor shall pay the foregoing undisputed amounts no later than thirty (30) Calendar Days after Contractor's receipt of Customer's written notice requesting such amounts, and with respect to disputed amounts, ten (10) Business Days after the resolution of such dispute. Payment of such amounts shall be Customer's sole remedy in case of a termination pursuant to this Article 32.2 (Termination for Contractor's Default).

(c) Upon Contractor's completion of all payments under paragraph (b) above, Contractor shall be entitled to retain, to the extent of the Work terminated, title to any and all Work, Work-in-progress, parts or other material, inventories and any associated warranties, and any subcontracted items Contractor has specifically produced, acquired, or entered into in accordance with this Contract, or in the event that Contractor has previously transferred title to Customer pursuant to Article 5.10 (e) hereto, of any Work, Work-in-progress, parts or other material, inventories and any associated warranties, and any subcontracted items Contractor has specifically produced, acquired or entered into in accordance with this Contract, Customer shall transfer to Contractor all rights, title, and interest thereto.

(d) Customer shall have no right to terminate this Contract pursuant to this Article 32.2 (Termination for Contractor's Default) with respect to any Satellite: (i) after successful completion of Satellite Shipment Readiness Review of such Satellite; or (ii) during the period up to) months following the Delivery Date for the Satellite, with respect to which Contractor, with reasonable diligence, is undertaking corrective action pursuant to Article 8.4_ (Correction of Deficiencies after Satellite Shipment Readiness Review). Customer's sole remedy with respect to delays in Delivery of such Satellite shall be as specified in Article 10 (Liquidated Damages for Late Delivery) and this Article 32.2 (Termination for Contractor's Default).

(e) In the event of termination pursuant to this Article 32.2 (Termination for Contractor's Default), Contractor shall not be required to refund any amounts, and Customer shall remain liable for payment of all amounts with respect to Deliverable Items for which Final Acceptance has occurred pursuant to the terms of Article 8 (Inspection and Final Acceptance) (unless the utility to Customer of such Deliverable Item has been materially adversely impacted by the terminated Work), or that are retained by Customer, as follows: (i) at the price set forth in this Contract for such items for which an itemized price is set forth herein and (ii) at the actual cost incurred by Contractor, plus a markup of of such cost, for (a) such items for which no itemized price is set forth herein and (b) partially completed items or services and Work-in-progress.

(f) If, after termination of this Contract under the provisions of paragraph (a), it is determined pursuant to Article 27 (Dispute Resolution), or admitted in writing by Customer, that Contractor was not in default under the provisions of paragraph (a), or that any delay giving rise to the default was excusable under the provisions of Article 11 (Excusable Delay), such termination shall be considered a Termination for Convenience by Customer and the provisions of Article 32.1 (Termination for Customer's Convenience) shall apply and Contractor shall also be entitled to recover its additional actual costs reasonably incurred due to such invalid default termination plus a markup of such costs.

32.3 Termination for Customer's Default.

(a) Contractor may stop work or terminate this Contract in whole or in part upon service of written notice of default to Customer at any time after the occurrence of any of the following:

- (1) If Contractor gives written notice to Customer of default in the payment of any amount, including Milestone Payments and Calendar Payments, and payments with respect to the deferred financing provided under Article 5.8 (Deferred Financing) when such amount shall have become due and payable under this Contract and Customer fails to cure such event within thirty (30) Calendar Days after receiving such written notice; or
- (2) Customer shall default in respect of its representations, warranties, and covenants set forth in Article 5.9 (Contractor Security for Deferred Financing) and fails to cure such default within) Calendar Days after receiving written notice thereof; or
- (3) Customer commences a voluntary proceeding concerning itself under any applicable bankruptcy, insolvency, reorganization, adjustment of debt, relief of debtors or similar law ("Insolvency Law"); or any involuntary proceeding commences against Customer under an Insolvency Law and the petition has not been dismissed within) Calendar Days after commencement of the proceeding; or a receiver or custodian is appointed for or takes charge of all or a substantial portion of the property of Customer and such custodian or receiver has not been dismissed or discharged within) Calendar Days; or Customer has taken action toward the winding-up, dissolution, or liquidation of Customer or its business; or Customer has been adjudicated insolvent or bankrupt or an order for relief or any other order approving a case or proceeding under any Insolvency Law has been entered; or Customer has made a general assignment for the benefit of creditors or becomes unable to pay its debts generally as they become due. Should Customer become a debtor in any bankruptcy proceeding, Customer shall move to assume or reject this Contract within) Calendar Days after the entry of any order for relief; or
- (4) Customer has purported to assign or transfer this Contract in violation of the provisions of Article 36.1 (Assignment) and Customer fails to cure

such unauthorized assignment or transfer within thirty (30) Calendar Days after receiving written notice from Contractor of such unauthorized purported assignment or transfer by Customer.

Notwithstanding the foregoing, Customer will not be considered in default with respect to any amount that it is disputing in good faith and will have Business Days after the resolution (by agreement or arbitration) of such dispute to satisfy any payment required by such resolution. In the event of partial termination of the Work in accordance with this Article 32.3 (Termination for Customer's Default), Contractor's notice of termination will specify the portion of the Work terminated, and the remaining provisions of this Article 32.3 shall apply to such terminated portion. All other portions of the Work shall continue unaffected.

(b) Upon the occurrence of an event of default under paragraph (a) above, and following the expiration of any applicable cure period, Contractor shall have the following rights (in addition to termination):

- (1) Contractor may stop Work immediately under this Contract and all obligations of Contractor shall terminate hereunder;
- (2) Contractor shall be entitled to retain possession and title to the Work, and all items thereof, and all payments received prior to such termination, unless and until all payments due under this Contract as a result of any termination by Contractor have been received by Contractor in immediately available funds, or in the event that Contractor has previously transferred title to Customer, pursuant to Article 5.10 (e) hereto, of any such Work, Work-in-progress, parts or other material, inventories and any associated warranties, and any subcontracted items Contractor has specifically produced, acquired or entered into in accordance with this Contract, Customer shall transfer to Contractor all rights, title, and interest thereto;
- (3) Contractor may sell the terminated Work at fair market value, or items thereof, to a person other than Customer, provided the proceeds of such sale of such terminated Work are applied to off-set any termination liability amounts due to Contractor by Customer;
- (4) Contractor may withhold delivery of any Deliverable Items until Contractor has received full payment under this Article 32.3 (Termination for Customer's Default);
- (5) Contractor shall place no further orders or Subcontracts for materials, services, or facilities to the extent they relate to the performance of the Work terminated;
- (6) Contractor shall terminate orders and Subcontracts to the extent they relate to the performance of the Work terminated;

- (7) Contractor shall settle all outstanding liabilities and all claims arising out of such termination of orders and Subcontracts for materials, services, or facilities; and
- (8) Contractor shall take such action as may be reasonably necessary for the protection and preservation of the property related to this Contract that is in the possession of Contractor or any Subcontractor and in which Customer has or may acquire an interest.

(c) In the event Contractor terminates this Contract, in whole or in part, as provided above, Contractor shall be entitled to payment of the amounts specified in Article 32.1 (Termination for Customer's Convenience). Further, if Customer's failure to perform is a failure to pay Contractor invoiced amounts when due, Contractor shall be entitled to late payment interest pursuant to Article 5.5 (Late Payment). Payment of any amount by any Financing Entity on behalf of Customer shall relieve Customer from its obligation to make such payment in the corresponding amount.

(d) Contractor shall submit an invoice to Customer in accordance with paragraph (c) above within Calendar Days after the termination date, which invoice shall specify the amount due to Contractor from Customer pursuant to this Article 32.3 (Termination for Customer's Default). By notice in writing received by Contractor no later than Calendar Days after receipt of Contractor's invoice pursuant to this Article 32.3 (Termination for Customer's Default), Customer may dispute any amount specified in said invoice. In the event Customer does not so notify Contractor that it disputes the amount in Contractor's invoice within Calendar Days after receipt thereof, Customer shall be deemed to have accepted such invoice. Contractor shall be entitled to payment by Customer of undisputed amounts in such invoice within Calendar Days after receipt of the invoice and with respect to disputed amounts, Business Days after resolution of such dispute. Payment of such amount by any Financing Entity on behalf of Customer shall relieve Customer from its obligation to make such payment.

(e) Payment of the amount payable by Customer pursuant to paragraph (c) above (termination for convenience amounts plus interest on outstanding invoices) shall constitute a total discharge of Customer's liabilities to Contractor for termination pursuant to this Article 32.3 (Termination for Customer's Default).

(f) Upon completion of all payments to Contractor in accordance with this Article 32.3 (Termination for Customer's Default), Customer may require Contractor to transfer to Customer in the manner and to the extent directed by Customer, title to and possession of any items comprising all or any part of the Work terminated (including all Work-in-progress, parts and materials, all inventories, and associated warranties), and Contractor shall, upon direction of Customer, protect and preserve property at Customer's expense in the possession of Contractor or its Subcontractors in which Customer has an interest and shall facilitate access to and possession by Customer of items comprising all or part of the Work terminated. Alternatively, Customer may request Contractor to make a reasonable, good faith effort to sell such items and to remit any sales proceeds to Customer less a deduction for actual costs of disposition reasonably incurred by Contractor for such efforts plus a markup

(g) Except as specified in this Contract, Contractor shall have no right to terminate or suspend this Contract.

(h) If, after termination pursuant to this Article 32.3, it is finally determined by arbitration pursuant to Article 27 (Dispute Resolution) or written agreement of Contractor that Contractor was not entitled to terminate Customer under this Article 32.3, Contractor shall be liable to Customer for direct damages resulting from such termination of this Contract (in no event exceeding amounts payable to Customer pursuant to Article 32.2 (Termination for Contractor's Default), and subject to the limitations of liability set forth in Article 26 (Limitations of Liability).

32.4 Termination for Excessive Excusable Delay.

Customer may, upon written notice to Contractor, immediately terminate this Contract, in whole or in part, if and when (i) delay in Contractor's performance of its obligations hereunder exceeds one year due to Excusable Delay (not including Customer Delay) or (ii) it becomes reasonably certain that the aggregate of Excusable Delays (not including Customer Delay) will exceed one year or (iii) Contractor notifies Customer that it is reasonably certain that delay in Contractor's performance of its obligations hereunder due to Excusable Delay (not including Customer Delay) will exceed one year. Upon the occurrence of any of these events, Customer will provide Contractor written notice of its intent to terminate and the rights and obligations of the Parties shall be the same as if such termination had occurred under Article 32.2 (Termination for Contractor's Default). Within a reasonable period of time not to exceed thirty (30) Calendar Days after the occurrence of either (i) or (iii) above, Customer will notify Contractor as to its decision to either terminate this Contract or to waive its rights to terminate for such Force Majeure events. Failure to provide such notice in the thirty-day period specified above shall be deemed to be a waiver of Customer's rights to terminate for such Force Majeure events under this Article 32.4. For purposes of this Article 32.4, any delays due to non-availability of a Launch Vehicle or Launch Site shall not be considered in determining the length of delay in Contractor's performance hereunder due to Force Majeure.

32.5 Limitation on Right to Terminate.

Except as specified in this Contract, each Party shall have no right to terminate or suspend this Contract.

33. INTER-PARTY WAIVER OF LIABILITY

33.1 Launch Agreement Inter-Party Waiver of Liability.

(a) Inter-Party Waiver. Each Party hereby agrees to be bound by the no-fault, no-subrogation inter-party waiver of liability and related indemnity provisions required by the Launch Agreement with respect to each Launch and to cause their respective contractors and subcontractors at any tier (including suppliers of any kind) that are involved in the performance of this Contract and any other person having an interest in any Satellite or any Transponder thereon (including non-consumer customers of Customer) to accede to such waiver and indemnity, which in every case shall include claims against the Launch Agency, either Party and their respective contractors and subcontractors at any tier (including suppliers of any kind) that are involved in the performance of this Contract. The Parties shall execute and deliver any instrument that may be reasonably required by the Launch Agency to evidence their respective agreements to be bound by such waivers.

(b) Waiver of Subrogation. The Parties also shall use best reasonable efforts to obtain from their respective insurers, and shall require their respective contractors and subcontractors at any tier (including suppliers of any kind) that are involved in the performance of this Contract and any other person having an interest in any Satellite or any Transponder thereon (including non-consumer customers of Customer) to use best reasonable efforts to obtain from their respective insurers, an express waiver of such insurers' rights of subrogation with respect to any and all claims that have been waived pursuant to this Article 33.

33.2 Indemnity Related to the Inter-Party Waiver of Liability.

Each Party shall indemnify against and hold harmless the other Party and its contractors and subcontractors at any tier (including suppliers of any kind) that are involved in the performance of this Contract, from and against any claim made by the indemnifying Party or any of its contractors and subcontractors (including suppliers of any kind) that are involved in the performance of the Contract, or by any person having an interest in any Satellite or Transponder thereon (including non-consumer customers of Customer) resulting from the failure of the indemnifying Party to waive any liability against, or to cause any other person the indemnifying Party is obligated to cause to waive any liability against, the Launch Agency, the other Party or either of their contractors and subcontractors at any tier (including suppliers of any kind) involved in the performance of this Contract. The Parties shall execute and deliver any instrument that may be reasonably required by the Launch Agency to evidence their respective agreements to be bound by such indemnifications.

33.3 Survival of Obligations.

The waiver, indemnification and hold harmless obligations provided in this Article 33 shall survive and remain in full force and effect, notwithstanding the expiration or termination of this Contract.

34. RESERVED

35. RESERVED

36. GENERAL

36.1 Assignment.

(a) By Contractor. Contractor shall not, without the prior written approval of Customer and except on such terms and conditions as are determined in writing by Customer, assign, mortgage, charge, or encumber this Contract or any part thereof, any of its rights, duties, or obligations hereunder, or the Work to any person or entity; provided, however, Customer shall provide its approval, if in Customer's reasonable judgment, Customer's rights under this Contract are not and would not be adversely affected thereby. Notwithstanding the foregoing, Contractor may assign or transfer this Contract or all of its rights, duties, or obligations hereunder to: (x) any Affiliate of Contractor provided the net worth of such Affiliate is not less than the net worth of Contractor immediately prior to such transfer and, in the reasonable discretion of Customer, such Affiliate has the experience, resources, and personnel required to perform the Work in accordance with this Contract, or (y) any corporation or other entity in connection with the sale, transfer or assignment of all or substantially all of Contractor's assets or capital stock, whether by way of merger, consolidation, or otherwise provided immediately after giving effect to such transaction or series of related transactions, the net worth of Contractor (or in the event Contractor is not the continuing person, the net worth of the person or entity formed by such consolidation or into which Contractor is merged or to which its properties are transferred substantially as an entirety) shall be no less than the net worth of Contractor immediately before such transaction or series of related transactions, and in the case of the sale of all or substantially all of the assets of Contractor, the assignee or transferee, in the reasonable discretion of Customer, has the experience, resources and personnel required to perform the Work in accordance with this Contract. Contractor hereby agrees that prior to entering into any contract or agreement to assign or transfer this Contract the assignee or transferee shall expressly assume all the obligations of Contractor and all terms and conditions applicable to Contractor under this Contract pursuant to an assumption agreement (between Contractor and assignee or transferee) in form and substance reasonably satisfactory to Customer.

(b) By Customer. Customer shall not, without the prior written approval of Contractor, assign, mortgage, charge, or encumber this Contract or any part thereof, or merge with or into or sell all or substantially all its assets to any other entity; provided, however, Contractor shall provide its approval, if in Contractor's reasonable judgment, Contractor's rights under this Contract are not and would not be adversely affected thereby. Customer may assign or transfer this Contract or all its rights, duties, or obligations hereunder to (i) any or all Financing Entities in connection with obtaining financing for the payment of Contractor's invoices and any and all other fees, charges or expenses payable under this Contract under any Financing Agreement; (ii) as part of any collateral pool in favor of other senior lenders providing financing to Customer or any of its Affiliates in connection with completion of Customer's satellite system; (iii) any Affiliate of Customer, provided that in cases (i) – (iii) such assignee/transferee has sufficient financial resources to fulfill its obligations under this Contract and the net worth of such assignee/transferee is not less than the net worth of Customer immediately prior to such transfer; and (iv) any corporation or other entity in connection with the sale, transfer or assignment of all or substantially all of Customer's assets or capital stock,

whether by way of merger, consolidation, or otherwise provided immediately after giving effect to such transaction or series of related transactions, the net worth of Customer (or in the event Customer is not the continuing person, the net worth of the person or entity formed by such consolidation or into which Customer is merged or to which its properties are transferred substantially as an entirety) shall be no less than the net worth of Customer immediately before such transaction or series of related transactions. Customer hereby agrees that, prior to entering into any contract or agreement to sell or transfer this Contract, the acquirer shall agree to assume this Contract and all of Customer's rights, duties and obligations hereunder pursuant to an assumption agreement (between Customer and assignee or transferee) in form and substance reasonably satisfactory to Contractor.

(c) The assigning Party shall reimburse the other Party for all reasonable expenses incurred by the other Party (and invoiced in reasonable detail) in obtaining advice from its external financial and legal advisors relating to the assigning Party's proposed assignment or transfer.

(d) This Contract shall be binding on the Parties and their successors and permitted assigns. Assignment of this Contract shall not relieve the assigning Party of any of its obligations nor confer upon the assigning Party any rights except as provided in this Contract.

36.2 Entire Agreement.

This Contract contains the entire agreement between the Parties regarding the Work hereunder and supersedes all communications, negotiations, and other agreements either written or oral, relating to the Work and made prior to EDC, unless the same are expressly incorporated by reference into this Contract.

36.3 Amendments.

This Contract, including any and all its Schedules, Attachments, Annexes, Exhibits and Appendices, may not be modified except by written instrument of subsequent date signed by an officer of Contractor, or another person designated in writing by any such officer to sign such an instrument and an officer of Customer, or another person designated in writing by any such Customer officer to sign such an instrument.

36.4 Waiver of Breach of Contract.

A waiver of any provision or any breach of a provision of this Contract shall not be binding upon either Party unless the waiver is in writing, signed by a duly authorized representative of the Party to be bound, as applicable, and such waiver shall not affect the rights of the Party not in breach with respect to any other or future breach. No course of conduct by a Party shall constitute a waiver of any provision or any breach of a provision of this Contract unless a written waiver is executed in accordance with the provisions of this Article 36.4 (Waiver of Breach of Contract).

36.5 Severability.

In the event any one or more of the provisions of this Contract shall for any reason be

held to be invalid or unenforceable, the remaining provisions of this Contract shall be unimpaired and the invalid or unenforceable provision shall be replaced by a mutually acceptable provision, which, being valid and enforceable, comes closest to the intention of the Parties underlying the invalid or unenforceable provision.

36.6 Applicable Law.

Except as provided in Article 27 (Dispute Resolution), this Contract and performance under it shall be governed by, construed and enforced in accordance with the Laws in force in the State of New York, without regard to conflict of laws provisions thereof.

36.7 Notices.

(a) All notices, requests, demands, and determinations under this Contract, including any required under Article 36.1 (Assignment) (other than routine operational communications), shall be in writing and shall be deemed duly given (i) when delivered by hand, (ii) two (2) Business Days after being given to an express courier with a reliable system for tracking delivery, and (iii) when sent by facsimile (confirmed by the specific individual to whom the facsimile is transmitted) with a copy sent by another means specified in this Article 36.7 (Notices), and addressed as follows:

Customer: Pegasus Development 107 Corporation
C/o Pegasus Communications Management Corporation
225 City Line Avenue
Bala Cynwyd, Pennsylvania 19004

Attention: Macy Summers
Tel. No.: 610-934-7355
Fax No.: 610-934-7351

Copy to: General Counsel

Contractor: Space Systems/Loral, Inc.
3825 Fabian Way
Palo Alto, CA 94303-4697
Attention: Contract Manager, Nick Pound
Tel. No.: 650-852-6606
Fax No.: 650-852-4631

Copy to: James Marshburn
Tel. No.: 650-852-6094
Fax No.: 650-852-4039

(b) A Party may from time to time change its address or designee for notification purposes by giving the other Party prior written notice of the new address or designee and the date upon which it will be effective.

36.8 Parties Not Agents.

(a) Contractor, in performing the Work hereunder, is acting as an independent contractor, and Contractor has the sole right and obligation to supervise, manage, contract, direct, procure, perform, or cause to be performed, all Work to be performed by Contractor under this Contract.

(b) None of the provisions of this Contract or of any of its Exhibits, shall be construed to mean that either Party is appointed or is in any way authorized to act as an agent of the other Party.

36.9 Release of Information.

(a) From and after EDC, any publicity, news releases, articles, brochures, advertisements, prepared speeches, and other information releases regarding the specific financial details of this Contract or proprietary information of the other Party regarding the Work performed or to be performed hereunder shall be mutually agreed upon in writing by Contractor and Customer within a reasonable time prior to the release of such information. This obligation shall not apply to Customer's statement or publication regarding Exhibit A (Statement of Work) or Exhibit B (Technical Specifications) or parts thereof, which are the Intellectual Property of Customer pursuant to Article 20.1 (Ownership of IP and IP Rights). This obligation also shall not apply to information that is publicly available from any governmental agency or that is or otherwise becomes publicly available without breach of this Contract. This Article 36.9 (Release of Information) also shall not apply to internal publications or releases not intended for the public at large.

(b) Notwithstanding the foregoing, Customer and Contractor may make any filings that Customer or Contractor considers reasonably necessary under the Securities Act of 1933, as amended, and the Securities Exchange Act of 1934, as amended and the Parties shall comply with the provisions of Article 22.2(e) with respect thereto.

36.10 Survival.

The following Articles, and the provisions contained therein, shall be deemed to survive the termination (for any reason) or expiration of this Contract, and, accordingly, such Articles shall remain applicable and enforceable in accordance with their terms:

- (a) Article 1 (Definitions);
- (b) Article 9 (Title and Risk of Loss);
- (c) Article 10 (Liquidated Damages for Late Delivery);
- (d) Article 11 (Excusable Delay);
- (e) Article 12 (In-Orbit Performance Incentive Payments);
- (f) Article 18.3 (Warranties for Deliverable Items);

- (g) Article 20 (Intellectual Property Rights);
- (h) Article 21 (Intellectual Property Infringement Indemnification);
- (i) Article 22 (Confidential Information);
- (j) Article 24 (Indemnification);
- (k) Article 26 (Limitations of Liability);
- (l) Article 27 (Dispute Resolution);
- (m) Article 32 (Termination);
- (n) Article 33 (Inter-Party Waiver of Liability);
- (o) Article 36.6 (Applicable Law); and
- (p) Article 36.14 (Covenant of Good Faith).

36.11 No Third-Party Beneficiaries.

This Contract is entered into solely between, and may be enforced only by, Customer and Contractor and their permitted assigns, and this Contract shall not be deemed to create any rights in third parties, including suppliers and customers of a Party, or to create any obligations of a Party to any such third parties.

36.12 Consents and Approvals.

Except where expressly provided as being in the sole discretion of a Party, where agreement, approval, acceptance, consent, or similar action by either Party is required under this Contract, such action shall not be unreasonably delayed or withheld. An approval or consent given by a Party under this Contract shall not relieve the other Party from responsibility for complying with the requirements of this Contract, nor shall it be construed as a waiver of any rights under this Contract, except as and to the extent otherwise expressly provided in such approval or consent.

36.13 Lender Requirements.

(a) The Parties recognize this Contract may be financed through external sources. Contractor shall provide to any Financing Entity, who is not a direct manufacturing competitor of Contractor or an affiliate of a direct manufacturing competitor of Contractor, any program information or certification that such Financing Entity reasonably requires (subject to confidentiality agreements governing such program information) and which Contractor is otherwise obligated to provide hereunder.

(b) Contractor agrees to work cooperatively with Customer to negotiate and execute such documents as may be reasonably required to implement such financing to the extent such

financing or document does not impose any obligations not otherwise undertaken hereunder or require Contractor or its Affiliates to violate any contractual obligations or covenants it may have with third parties or adversely affect Contractor's interests under this Contract.

36.14 Alignment of Interests.

Contractor agrees to take no materially adverse position (in trade associations, regulatory bodies, the press, or otherwise) with respect to Customer's FCC licenses or applications therefor related to the Satellite and/or its associated orbital location and frequency spectrum. In addition, prior to Final Acceptance of the Satellite, Contractor shall provide Customer reasonable support in maintaining such licenses and preparing applications therefor. The foregoing shall not preclude Contractor from accurately and in good faith responding to any governmental authority or regulatory body.

36.15 Time of the Essence.

(a) Time is of the essence in the performance of this Contract, including with respect to meeting the Delivery Schedule set forth in Article 7 (Delivery) and resolution of any disputes between the Parties under or relating to Article 32 (Termination).

(b) Nothing in the foregoing sentence shall in any way modify either the specific remedies for default specified elsewhere in this Contract, including Article 10 (Liquidated Damages for Late Delivery), Article 32.2 (Termination for Contractor's Default), or Article 32.4 (Termination for Excessive Excusable Delay), or the specific dispute resolution requirements specified in this Contract.

36.16 Covenant of Good Faith.

Each Party agrees that, in respective dealings with the other Party under or in connection with this Contract, it shall act in good faith.

36.17 UN Convention on the International Sale of Goods.

The U.N. Convention on the International Sales of Goods shall not apply or otherwise have any legal effect with respect to this Contract.

36.18 Construction.

This Contract, including all its Schedules, Attachments, Annexes, Exhibits and the Appendices have been drafted jointly by the Parties and in the event of any ambiguities in the language hereof, there shall be no inference drawn in favor of or against either Party.

36.19 Counterparts.

This Contract may be executed in two (2) or more counterparts, which taken together constitute one single contract between the Parties.

IN WITNESS WHEREOF, this Contract has been executed on behalf of Customer by persons authorized to act on Customer's behalf, and has also been executed on behalf of Contractor by persons authorized to act on Contractor's behalf.

**PEGASUS DEVELOPMENT 107
CORPORATION**

SPACE SYSTEMS/LORAL, INC.

By: _____
(Signature)

By: _____
(Signature)

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Attachment A

FORM OF REQUEST FOR PAYMENT

[Date]

Pegasus Development 107 Corporation
C/o Pegasus Communications Management Company
225 City Line Avenue
Bala Cynwyd, Pennsylvania 19004

Attention: Macy Summers

RE: Terms and Conditions of the Satellite Purchase Contract for In-Orbit Delivery, effective as of August 9, 2002 (as amended, supplemented or modified from time to time, the "Pegasus Satellite Purchase Contract"), between PEGASUS DEVELOPMENT 107 CORPORATION ("CUSTOMER") and SPACE SYSTEMS/LORAL, INC. ("CONTRACTOR")

Ladies and Gentlemen:

This Request for Payment is delivered to Pegasus pursuant to Article 5 (Payment) of the Pegasus Satellite Purchase Contract and constitutes Contractor's request for payment in the amount of \$ _____ for Milestone Payment No. _____ / Calendar Payment No. _____ / Interest Payment _____ (date).

Very truly yours,

SPACE SYSTEMS/LORAL, INC.

By: _____
Title: _____

Annex I to Attachment A

Form of Contractor Certificate

Reference: Milestone Payment No. _____/Calendar Payment No. _____/Interest
Payment ____ (date)

[Date]

Pegasus Development 107 Corporation
c/o Pegasus Communications Management Company
225 City Line Avenue
Bala Cynwyd, Pennsylvania 19004

Attention: Macy Summers

RE: Terms and Conditions of the Satellite Purchase Contract for In-orbit Delivery, effective as of August 9, 2002 between PEGASUS DEVELOPMENT 107 CORPORATION (“CUSTOMER”) and SPACE SYSTEMS/LORAL, INC. (“CONTRACTOR”) (as amended, supplemented or modified from time to time, the “Pegasus Satellite Purchase Contract”)

Ladies and Gentlemen:

This Certificate is delivered to you pursuant to Article 5 (Request for Payment and Payment) of the Terms and Conditions of the Pegasus Satellite Purchase Contract. Each capitalized term used herein and not otherwise defined shall have the meaning assigned thereto in the Terms and Conditions of the Pegasus Satellite Purchase Contract.

We hereby certify, after due inquiry, that, as of the date hereof:

1. The Pegasus Satellite Purchase Contract is in full force and effect and except as set forth in Schedule I hereto, has not been amended, supplemented or otherwise modified, and attached hereto are true, correct, and complete copies of all Amendments to the Pegasus Satellite Purchase Contract or any other modification or amendment to the Pegasus Satellite Purchase Contract not heretofore delivered to the Financing Entity.
2. Except as set forth in Schedule I hereto, we are not aware of any event that has occurred or failed to occur which occurrence or non-occurrence, as the case may be, could reasonably be expected to cause the date of Final Acceptance of any Deliverable Item

under the Pegasus Satellite Purchase Contract to occur later than the Delivery Date therefor.

3. Except as set forth in Schedule I hereto, no event or condition is known to exist that permits or requires us to cancel, suspend, or terminate our performance under the Pegasus Satellite Purchase Contract or that could excuse us from liability for non-performance thereunder.
4. Except with respect to amounts that are the subject of a dispute or are overdue (such as overdue amounts and such disputed amounts being described in reasonable detail in Schedule II hereto), all amounts due and owing to us have been paid in full through the date of the immediately preceding Contractor Certificate and are not overdue.
5.
 - a. The amount contained in the Request for Payment delivered to you concurrently herewith in accordance with the terms of Article 5 (Request for Payment and Payment) of the Terms and Conditions of the Pegasus Satellite Purchase Contract represents monies owed to us in respect of Milestone Payment No. _____/Calendar Payment No. ___/Interest Payment _____ (date).
 - b. The amount referred to in paragraph (a) above was computed in accordance with the terms of the Pegasus Satellite Purchase Contract.
 - c. The Milestone to which Milestone Payment No. _____ relates has been completed in accordance with the Pegasus Satellite Purchase Contract.

Very truly yours,

SPACE SYSTEMS/LORAL, INC.

By: _____

Title: _____

**SCHEDULE I to
Annex I to Attachment A**

List of Exceptions:

Amendments to Pegasus Satellite Purchase Contract:

Exceptions Affecting Final Acceptance Date:

Exceptions Affecting Contractor's Performance:

**SCHEDULE II to
Annex I to Attachment**

List of Disputes:

Attachment B

KEY PERSONNEL AS OF EFFECTIVE DATE OF CONTRACT

Contractor Program Manager	James Marshburn
Spacecraft Engineering Manager	John Gaiser
Payload Program Manager	Rob Singh
Assembly, Production, Integration and Testing Manager	Keith Marco