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JUL 18 2008

Federal Communications Commission
Office of the Secretary

July 18, 2008

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

Re: ViaSat, Inc., FCC File No. SAT-LOA-20070314-00051, Call Sign S2737

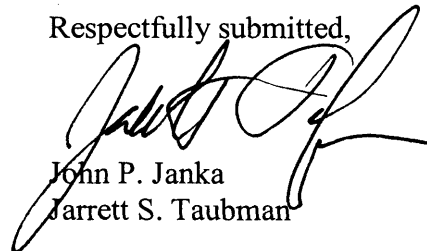
Dear Ms. Dortch:

Enclosed on behalf of ViaSat, Inc. ("ViaSat") is a copy of a contract between ViaSat and Space Systems/Loral, Inc. for the construction of a Ka-band satellite, Call Sign S2737, which ViaSat is licensed to operate at the 77.3° W.L. orbital location to provide fixed satellite service (the "Contract"). ViaSat's entry into the Contract satisfies the first milestone specified in ViaSat's authorization for this satellite and Section 25.164(a) of the Commission's rules, 47 C.F.R. § 25.164(a): execution of a binding, non-contingent construction contract. ViaSat respectfully requests that the Commission review the Contract, determine that ViaSat has satisfied that milestone, and accordingly allow ViaSat to reduce its performance bond for the satellite by \$750,000.

The enclosed version of the Contract has been redacted to remove confidential and proprietary information. In accordance with Sections 0.457 and 0.459 of the Commission's rules, 47 C.F.R. §§ 0.457 & 0.459, ViaSat is submitting the unredacted Contract, along with a request for confidential treatment, under separate cover.

Please contact the undersigned should you have any questions.

Respectfully submitted,



John P. Janka
Jarrett S. Taubman

Counsel for ViaSat, Inc.

cc: Robert Nelson
Andrea Kelly

Enclosure

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CONTRACT

Between

ViaSat, Inc.

And

Space Systems/Loral, Inc.

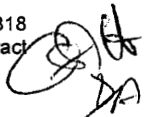
for the

ViaSat "77" Satellite Program

The attached Contract and information contained therein are confidential and proprietary to ViaSat, Inc. and Space Systems/Loral, Inc. and shall not be published or disclosed to any third party except as permitted by the terms and conditions of this Contract.

SPACE SYSTEMS
LORAL

SS/L-TP20818
ViaSat-77Contract

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Use or disclosure of the data and information contained on this sheet is subject to the restriction on the title page

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PREAMBLE

This Contract is entered into effective as of the 14th day of July, 2008 (the "Effective Date of Contract" or "EDC"), by and between ViaSat, Inc. ("ViaSat"), a corporation organized and existing under the laws of the state of Delaware having an office and place of business at 6155 El Camino Real, Carlsbad, CA 92009-1699 (hereinafter referred to as "Purchaser"), and Space Systems/Loral, Inc., a corporation organized and existing under the laws of the state of Delaware, having an office and place of business at 3825 Fabian Way, Palo Alto, CA 94303-4604 (hereafter referred to as "Contractor", and Purchaser and Contractor are hereafter referred to collectively as the "Parties" or individually as a "Party"), regarding the ViaSat 77 Satellite program.



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RECITALS

WHEREAS, Purchaser desires to procure a communications Satellite, a Dynamic Satellite Simulator, Launch Support Services, Mission Operations Support Services, Training services and other items and services to the extent and subject to the terms and conditions set forth herein, and

WHEREAS, Contractor is willing to furnish such Satellite, a Dynamic Satellite Simulator, Launch Support Services, Mission Operations Support Services, Training services and other items and services to the extent of and subject to the terms and conditions set forth herein, in consideration of the price and other valid consideration.

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

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ARTICLE 1 - DEFINITIONS

Capitalized terms used and not otherwise defined herein shall have the following meanings:

- 1.1 "Acceptance" (i) with respect to the Satellite shall be as provided in Article 10, and (ii) with respect to any Deliverable Item other than the Satellite shall be as provided in Article 11.
- 1.2 "Actual Costs" shall mean Contractor's direct and actual costs as determined in accordance with Contractor's standard accounting practices uniformly applied, including any indirect costs, but excluding any profit, margin, mark-up, or other fees.
- 1.3 "Affiliate" means, with respect to an entity, any other entity, directly or indirectly, Controlling or Controlled by or under common Control with such first named entity.
- 1.4 "Anomaly" means, with respect to a Satellite in-orbit, a known condition or occurrence that has or reasonably can be predicted to have an adverse impact on the Stated Life or performance of the Satellite, and includes those items listed in paragraph 2.5.8.2(f) of the SOW.
- 1.5 "Article" means an article of this Contract.
- 1.6 "Attachment(s)" means any and all attachment(s) that are attached hereto or to any Exhibit and incorporated herein or therein, as may be amended from time to time in accordance with the terms hereof.
- 1.7 "Business Day" means any day other than a Saturday, Sunday or any other day on which national banks are authorized to be closed in New York City, New York.
- 1.8 "Candidate Launch Vehicles" has the meaning set forth in Article 3.3.
- 1.9 "Certification" has the meaning set forth in Article 9.1.6.
- 1.10
- 1.11 "Competitor" means the following entities or any successors or assigns thereof that are in direct competition with Contractor for the manufacture and sale of commercial satellites: Orbital Sciences Corporation; Lockheed Martin Commercial Space Systems; Boeing Satellite Systems; Thales Alenia Space; EADS Astrium; General Dynamics Spectrum Astro Space Systems; Mitsubishi Electric Corp. (MELCO); and Northrop Grumman Space Technology.



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- 1.12 "**Component**" means any unit, system, subsystem, or piece of equipment or hardware or software to be employed on a Satellite.
- 1.13 "**Contract**" means the terms and conditions (Preamble, Recitals and Articles) of this executed contract, its Exhibits and its Attachment(s) as set forth in Articles 2.1 and 33, as may be amended from time to time in accordance with the terms hereof.
- 1.14 "**Contractor**" has the meaning set forth in the Preamble and any successor or assignee permitted hereunder.
- 1.15 "**Contractor Intellectual Property**" shall mean such Intellectual Property owned by Contractor and provided to Purchaser related to this Contract (before or after EDC) and all Intellectual Property Rights related thereto. Contractor Intellectual Property shall also include any derivatives, improvements, or modifications made by Purchaser or Contractor thereto, except for derivatives, improvements, or modifications that can be used by Purchaser without infringing or violating the pre-existing Intellectual Property Rights of Contractor.
- 1.16 "**Contract Technology**" means all: (a) Software (in object code and source code format unless otherwise specified); and (b) data and documentation required for the performance, maintenance, or operation of any Deliverable Item.
- 1.17 "**Control**" and its derivatives mean, with respect to an entity, (i) the legal, beneficial, or equitable ownership, directly or indirectly, of fifty percent (50%) or more of the capital stock (or other ownership interest if not a corporation) of such entity ordinarily having voting rights, or (ii) the power to direct, directly or indirectly, the management policies of such entity, whether through the ownership of voting stock, by contract, or otherwise.
- 1.18 "**Cure Letter**" has the meaning set forth in Article 9.1.6.
- 1.19 "**Daily Rate**" has the meaning set forth in Article 13.
- 1.20 "**Defect**" means (a) with respect to the Satellite, the DSS, the Satellite Control Facility Equipment (if the options therefor are exercised), and the Spares, any failure to meet the applicable specifications of this Contract, including failures due to non-compliant materials or workmanship, or (b) with respect to any Deliverable Data, Software, or Deliverable Services, any failure to meet the applicable requirements of this Contract.

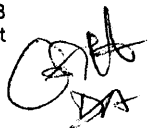
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- 1.21 **"Deliverable Data"** means the data and documentation required to be delivered to Purchaser as specified in Article 3.1.
- 1.22 **"Deliverable Item"** means any of the items or services listed in Article 3.1, as may be amended from time to time in accordance with the terms hereof and, collectively, the **"Deliverable Items."**
- 1.23 **"Deliverable Services"** means those services listed in Article 3.1, as may be amended from time to time in accordance with the terms hereof.
- 1.24 **"Delivery"** has the meaning set forth in Article 3.2.
- 1.25 **"Dispute"** has the meaning set forth in Article 25.
- 1.26 **"Dynamic Satellite Simulator" or "DSS"** means the dynamic satellite simulator that is to be delivered to Purchaser pursuant to this Contract.
- 1.27 **"Effective Date of Contract" or "EDC"** has the meaning set forth in the Preamble.
- 1.28 **"Escrow Agreement"** has the meaning set forth in Article 29.1.
- 1.29 **"Exhibit(s)"** means the exhibit(s) identified in Article 2.1 and attached hereto and incorporated herein, as may be amended from time to time in accordance with the terms hereof.
- 1.30 **"Exploit"** means with regard to Contractor Intellectual Property to use such Intellectual Property (1) to launch, use, operate and maintain the Satellite, and to sell, offer for sale, lease, market and rent capacity on, market and provide services with respect to, and otherwise obtain the benefits of, the Satellite, and, (2) to use, operate, reproduce, and maintain, as applicable, Deliverable Items in carrying out Purchaser's business related to the Satellite.
- 1.31 **"FCC"** means the Federal Communications Commission or any successor agency or governmental authority.
- 1.32 **"Final Statement"** has the meaning set forth in Article 21.1.3.
- 1.33 **"Financing Entity"** means any entity (other than Contractor or parties related to Contractor or a Competitor of Contractor), which has been specifically identified in a written notification to Contractor providing money to Purchaser to fund any portion of the Satellite or the Work.
- 1.34 **"Firm Fixed Price"** has the meaning set forth in Article 4.1.



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- 1.35 **"Force Majeure"** has the meaning set forth in Article 17.
- 1.36
- 1.37 **"Ground Insurance"** has the meaning set forth in Article 32.5.
- 1.38 **"Ground Storage"** means that period where the Satellite is held on the ground for an extended period prior to Launch.
- 1.39 **"In-Orbit Testing"** or **"IOT"** means the testing of the Satellite in-orbit in accordance with Exhibit D, Satellite Program Test Plan.
- 1.40 **"IOT Complete Date"** has the meaning set forth in Article 10.3.
- 1.41 **"Integration Activities"** has the meaning set forth in Article 3.3.
- 1.42 **"Intellectual Property"** means all designs, techniques, analyses, methods, concepts, formulae, layouts, software, inventions (whether or not patented or patentable), discoveries, improvements, processes, ideas, technical data and documentation, technical information, engineering, manufacturing and other drawings, specifications and similar matter in which an Intellectual Property Right subsists, regardless of whether any of the foregoing has been reduced to writing or practice.
- 1.43 **"Intellectual Property Claim"** has the meaning set forth in Article 19.
- 1.44 **"Intellectual Property Right(s)"** means all common law and statutory proprietary rights with respect to Intellectual Property, including patent, patent application, copyright, trademark, service mark, trade secret, mask work rights, data rights, moral 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, regardless of whether such rights exist as of the date hereof or arise or are required at any time in the future.
- 1.45 **"Intentional Ignition"** means, with respect to the Satellite, the start of the ignition process of the Launch Vehicle 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 Services Agreement applicable to Launch of the Satellite.



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- 1.46 “**Intermittent Failure**” means a Transponder Failure for a period in excess of ten (10) continuous minutes or thirty (30) cumulative minutes in any day during the Orbital Performance Incentive Period.
- 1.47
- 1.48 “**ITAR**” means 22 C.F.R. Sections 120 through 130, International Traffic in Arms Regulations, as amended.
- 1.49 “**Key Milestone Date(s)**” has the meaning set forth in Article 22.1.
- 1.50 “**Key Personnel**” has the meaning set forth in Article 37.2.
- 1.51 “**Launch**” means, with respect to the Satellite, Intentional Ignition followed by lift-off. This definition shall be modified to incorporate the definition of "launch" from the Launch Services Agreement applicable to the Launch of the Satellite.
- 1.52 “**Launch and In-Orbit Insurance Policy**” has the meaning set forth in Article 32.2.
- 1.53 “**Launch Agency**” means the provider of Launch Services responsible for the Launch of the Satellite.
- 1.54 “**Launch Services**” means those services provided by the Launch Agency for the Launch of the Satellite pursuant to the Launch Services Agreement.
- 1.55 “**Launch Services Agreement**” means the contract between the Purchaser and the Launch Agency that provides Launch Services for the Satellite.
- 1.56 “**Launch Site**” means the location that will be used by the Launch Agency for purposes of launching the Satellite, except in the case of Sea Launch it shall mean the home port located in Long Beach, CA.
- 1.57 “**Launch Support**” or “**Launch Support Services**” means those services specified in Exhibit A, Statement of Work to be provided by Contractor in support of Launch Services.
- 1.58 “**Launch Vehicle**” means the launch vehicle used to provide Launch Services for the Satellite.
- 1.59 “**Losses**” has the meaning set forth in Article 20.1.
- 1.60 “**Major Subcontract**” has the meaning set forth in Article 38.1.



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- 1.61 **"Major Subcontractor"** means a Subcontractor who is a party to a Major Subcontract.
- 1.62 **"Milestone"** means a portion of the Work upon completion of which a payment is to be made in accordance with Exhibit E, Payment Plan and Termination Liability Schedule. Milestone completion criteria and processes are as set forth in Exhibit A, Statement of Work and/or Exhibit E, Payment Plan and Termination Liability Schedule, as applicable. Orbital Performance Incentives shall not constitute a Milestone.
- 1.63 **"Mission Assurance Plan"** means the mission assurance plan attached as Exhibit C, as may be amended from time to time in accordance with the terms hereof.
- 1.64 **"Mission Operations Support Services"** means the orbit-raising, IOT and related services specified in Exhibit A, Statement of Work, to be performed by Contractor for the Satellite.
- 1.65 **"Notice of Non-Conformance"** has the meaning set forth in Article 9.1.6.
- 1.66 **"NSP"** means "not separately priced" and included in the Firm Fixed Price.
- 1.67 **"Orbital Performance Incentive Period"** means, with respect to the Satellite, the period commencing
- 1.68 **"Orbital Performance Incentives"** means the amount set forth in Article 13.2, which may be earned by Contractor based on in-orbit performance of such Satellite as set forth in Article 13.
- 1.69 **"Orbital Storage"** means, with respect to the Satellite, any period of time of intentional non-use by Purchaser of such Satellite after the provided that such Satellite has been placed into orbit and is capable of performing in accordance with Exhibit B, Satellite Performance Specification.
- 1.70 **"Paragraph"** means a paragraph under any Article hereof or section in an Exhibit or Attachment.
- 1.71 **"Partial Loss"** means, with respect to the Satellite on or after Intentional Ignition, that Transponder Failures have occurred, but the Satellite is not a Total Loss.
- 1.72 **"Party"** or **"Parties"** means Purchaser, Contractor or both, as the context requires.



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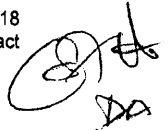
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- 1.73 **"Payment Plan and Termination Liability Schedule"** means the payment plan for the applicable Deliverable Item, and termination liability schedule for this Contract, as set forth in Exhibit E, Payment Plan and Termination Liability Schedule, as may be amended from time to time in accordance with the terms hereof.
- 1.74 **"Performance Specification"** means the applicable performance specification for the Satellite or other Deliverable Item, as appropriate, in the context of the applicable clause, as such specification may be amended from time to time in accordance with the terms hereof.
- 1.75
- 1.76 **"Preamble"** means the preamble section of this Contract.
- 1.77
- 1.78 **"Proposal"** has the meaning set forth in Article 16.
- 1.79 **"Proprietary Information"** has the meaning set forth in Article 28.
- 1.80 **"Purchaser"** has the meaning set forth in the Preamble and any successor or assignee permitted hereunder.
- 1.81 **"Purchaser Delay"** has the meaning set forth in Article 18.
- 1.82 **"Purchaser Intellectual Property"** shall mean such Intellectual Property owned by Purchaser and provided to Contractor related to this Contract (before or after EDC) and all Intellectual Property Rights related thereto. Purchaser Intellectual Property shall also include any derivatives, improvements, or modifications made by Purchaser or Contractor thereto, except for derivatives, improvements, or modifications that can be used by Contractor without infringing or violating the pre-existing Intellectual Property Rights of Purchaser.
- 1.83 **"Reasonable Efforts"** means standards, practices, methods, and procedures conforming to applicable law and that degree of effort, skill, diligence, prudence, and foresight that would reasonably and ordinarily be expected from a skilled and experienced commercial satellite contractor or commercial satellite owner, as the case may be.
- 1.84 **"Recitals"** means the recitals section of this Contract.

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DA

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- 1.85 “**Remaining OML**” has the meaning set forth in Article 36.
- 1.86 “**Replacement Satellite**” has the meaning set forth in Article 2.3.
- 1.87 “**Replacement Satellite Exercise Period**” has the meaning set forth in Article 2.3.
- 1.88 “**Satellite**” means the communications satellite that is to be manufactured by Contractor and to be delivered to Purchaser pursuant to this Contract. The Satellite is also referred to as the “Primary Satellite.”
- 1.89 “**SCF**” means the Satellite Control Facility, which includes the Spares, as defined in Exhibit F.
- 1.90 “**Satellite Control Facility Equipment**” or “**SCF Equipment**” means those items listed in section 3.1 of Exhibit F, Satellite Control Facility Requirement Specification.
- 1.91 “**Satellite Payload Specifications**” means the payload portion of the Satellite Performance Specifications set forth in Section 3 of Exhibit B hereto.
- 1.92 “**Satellite Performance Specification**” means the Satellite performance specification attached as Exhibit B, as may be amended from time to time in accordance with the terms hereof.
- 1.93 “**Satellite Pre-Shipment Review**” or “**SPSR**” has the meaning set forth in Article 9.
- 1.94 “**Satellite Program Test Plan**” means the Satellite program test plan attached as Exhibit D, as may be amended from time to time in accordance with the terms hereof.
- 1.95 “**Secured Obligations**” means, collectively, all present and future obligations of the Contractor to or for the benefit of Purchaser under this Contract, as well as all damages to which Purchaser may be entitled as a result of any breach of this Contract. All such obligations are “Secured Obligations”.
- 1.96
- 1.97 “**Software**” means the machine readable computer programs (including firmware, files, databases, interfaces, documentation and other materials related thereto, and any third party Software sublicensed by Contractor hereunder), as such Software is revised, upgraded, updated, corrected, modified, and enhanced from time-to-time and provided to Purchaser pursuant to this Contract.



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- 1.98 **"Spare"** means any spare part to be delivered with the Satellite Control Facility Equipment.
- 1.99 **"Stated Life"** means, with respect to the Satellite, the contracted for life of for such Satellite, commencing upon the IOT Complete Date for such Satellite.
- 1.100 **"Statement of Work"** or **"SOW"** means the statement of work attached as Exhibit A, as may be amended from time to time in accordance with the terms hereof.
- 1.101 **"Storage Costs"** has the meaning set forth in Article 35.2.
- 1.102 **"Subcontract"** means a contract or purchase order awarded by Contractor to a Subcontractor or a contract or purchase order awarded by a Subcontractor at any tier for performance of any of the Work.
- 1.103 **"Subcontractor"** means any person or business entity that has been awarded a Subcontract.
- 1.104 **"Technical Assistance Agreement"** has the meaning set forth in section §120.22 of the U.S. International Traffic in Arms Regulations, 22 CFR §120 - 130.
- 1.105 **"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 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" (or other similar term) from the Launch Service Agreement applicable to the Launch of the Satellite.
- 1.106 **"Total Loss"** means with respect to the Satellite on or after Intentional Ignition (i) the complete loss, destruction or failure of such Satellite, or (ii) as defined in Purchaser's Launch and In-Orbit Insurance Policy if defined differently therein.
- 1.107 **"Training"** means the training to be provided by Contractor in accordance with Exhibit A, Statement of Work.
- 1.108 **"Transponder"** means any one of the primary designated Ka-Band transponders specified in Exhibit B, Satellite Performance Specification, including both forward and return transponders. A forward transponder receives signals from a single gateway location and radiates those signals to a single user beam. A return



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transponder receives signals from a single user beam and radiates those signals to a single gateway location.

1.109 **"Transponder Failure"** means

1.110 **"UCC"** means the Uniform Commercial Code as in effect in the State of New York, as it may be amended from time to time.

1.111 **"Work"** means all design, development, construction, manufacturing, labor, and services, including tests to be performed, and any and all Deliverable Items, including the Satellite, the DSS, Deliverable Data, Mission Operations Support Services, Launch Support Services, Training, and equipment, materials, articles, matters, services, and things to be furnished to Purchaser under this Contract.

1.112 **"Work-in-Process"** means the following goods, services, and rights to be provided to Purchaser by Contractor under this Contract but in the case of goods only such goods as have been designated for use under this Contract under Contractor's internal material resource planning system and have been installed: (a) the Satellite, (b) the DSS, (c) the Satellite Components, (d) all other Deliverable Items, including items purchased pursuant to exercised options set forth herein, (e) all parts, materials, inventories, and associated warranties, and (f) the rights in Intellectual Property as set forth in Article 39, and Proprietary Information as set forth in Article 28. The foregoing shall constitute Work-in-Process as the same shall be in the process of performance, manufacture, testing, integration, delivery or completion at any given point in time.

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ARTICLE 2 - SCOPE OF WORK

2.1 Provision of Services and Materials

A. General

Contractor shall provide Purchaser with the Deliverable Items completed in all respects in accordance with the provisions of this Contract. Without limiting the generality of the foregoing, the Contractor shall provide the necessary personnel, material, services, and facilities to design, manufacture, test and ship the Satellite, together with all other Deliverable Items referred to in Article 3.1. Contractor shall furnish and perform the Work in accordance with the provisions of this Contract, including the following Exhibits, which are attached hereto and made a part hereof:

- 2.1.1 Exhibit A, Statement of Work, dated 14 July 2008
- 2.1.2 Exhibit B, Satellite Performance Specification, dated 14 July 2008, including all Annexes thereto
- 2.1.3 Exhibit C, Mission Assurance Plan, dated September 22, 2006
- 2.1.4 Exhibit D, Satellite Program Test Plan, dated 14 July 2008
- 2.1.5 Exhibit E, Payment Plan and Termination Liability Schedule, dated 14 July 2008
- 2.1.6 Exhibit F, Satellite Control Facility Requirements Document, dated 14 July 2008
- 2.1.7 Exhibit G, Escrow Agreement
- 2.1.8 Exhibit H, Dynamic Satellite Simulator Statement of Work and Functional Requirements Document dated 14 July 2008

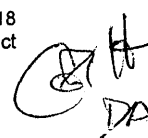
2.2 Replacement Satellite

Contractor hereby grants to Purchaser an option to purchase one (1) replacement satellite identical to the Primary Satellite provided hereunder (including a DSS, updates to Deliverable Data, as required, Launch Support Services and Mission Operations Support Services) (the "Replacement Satellite"). The price for such Replacement Satellite shall be

of which constitutes the maximum Orbital Performance Incentives Contractor may earn with respect to the Replacement Satellite)

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The option shall remain valid until _____ (the "Replacement Satellite Exercise Period"), provided that Purchaser may require Contractor to extend the validity of the option and/or change the design and/or specifications of the Replacement Satellite under a change order pursuant to Article 16. If Purchaser wishes to exercise such option, it may do so by providing notice to Contractor at any time prior to the expiration of the Replacement Satellite Exercise Period. In such event, the Parties shall document Purchaser's agreement to purchase the Replacement Satellite and Contractor's agreement to build and deliver such satellite by entering into either, at Purchaser's option, an amendment to this Contract or a second contract that has terms and conditions identical in all relevant material respects to this Contract except for such differences as are reasonably necessary or appropriate to indicate that the second contract applies to the Replacement Satellite. Only upon execution of such second contract or Contract amendment shall Purchaser be financially obligated to Contractor with respect to the Replacement Satellite and shall Contractor be obligated to perform with respect thereto.

2.3 Reserved

2.4 SCF Equipment

Contractor hereby grants to Purchaser an option to purchase the SCF Equipment (including the Spares) listed in Exhibit F, Satellite Control Facility Requirement Specification. The price for such SCF Equipment shall be

This option shall remain valid
(the "SCF Equipment Exercise Period"), provided that Purchaser may require Contractor to extend the validity of the option and/or change the design and/or specifications of the SCF Equipment under a change order pursuant to Article 16. If Purchaser wishes to exercise such option, it may do so by providing notice to Contractor at any time prior to the expiration of the SCF Equipment Exercise Period. Delivery for the SCF Equipment shall be no later than _____. Payment for the SCF Equipment shall be due upon Acceptance of the SCF Equipment.

2.5. Cooperation with Launch Agency

Contractor shall provide all reasonably necessary assistance to, and shall fully communicate and cooperate with, the Launch Agency so as to ensure successful, on-time completion of the Work and integration of the Satellite with the Launch Vehicle in



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accordance with the terms of this Contract and the Launch Services Agreement. Purchaser shall provide all reasonably necessary assistance to Contractor so as to ensure Contractor and any affected Subcontractors have the necessary access and information from the Launch Agency to perform as specified. All communications of Contractor and its Subcontractors with the Launch Agency are subject to any required export authorizations.



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ARTICLE 3 - DELIVERABLE ITEMS AND DELIVERY SCHEDULE

3.1 Deliverable Items

Subject to the other terms and conditions of this Contract, the items to be delivered under this Contract are specified below (each a "Deliverable Item"). Contractor shall deliver such Items on or before the corresponding Delivery dates and at locations specified as follows:

<u>Item</u>	<u>Description</u>	<u>Delivery Date</u>	<u>Delivery Location</u>
1.	Satellite	Delivery to the Launch Site no later than	Per Article 3.2
2.	Deliverable Data	Per SOW, Exhibit A	Per SOW, Exhibit A
3.	Training	Per SOW, Exhibit A	Per SOW, Exhibit A
4.	Launch Support Services	Per SOW, Exhibit A	Per SOW, Exhibit A
5.	Mission Operations Support Services	Per SOW, Exhibit A	Per SOW, Exhibit A
6.	DSS	Per Exhibit H	Purchaser's SCF

3.2 Delivery

Delivery of each Deliverable Item shall occur upon arrival of such Deliverable Item at the location required by this Article 3, after having successfully completed any required reviews and testing. In the case of the Satellite, Delivery shall occur upon delivery of the Satellite to the Launch Site or upon placement in Ground Storage.

3.3 Selection of Launch Vehicle

Purchaser shall be responsible for providing the Launch Services for Launch of the Satellite(s). Contractor shall provide, at no additional cost to Purchaser, engineering, Launch Vehicle integration activities, and other customary services to maintain compatibility of the Satellite for Launch (including but not limited to environmental analysis, mission planning, and Launch Vehicle electrical and mechanical interfaces) (collectively, "Integration Activities") with the list of candidate Launch Vehicles set forth in Paragraph 2.4 of Exhibit B, Satellite Performance Specification (the "Candidate Launch



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Vehicles") up to

. On or before

I, Purchaser shall provide a written notification to Contractor of Launch Vehicles that may be used for such Satellite. Provided that Purchaser has entered into the necessary agreements with the potential Launch Agencies to reasonably support Contractor's Integration Activities, Contractor shall perform dual Integration Activities up through , at which time Purchaser shall designate its final Launch Vehicle selection. Failure to notify Contractor of its Launch Vehicle selection(s) by the date(s) set forth in this Paragraph shall be a Purchaser delay of Work subject to Article 18, and any change to the Launch Vehicle selection thereafter shall be subject to Article 16.

3.4 Avoidance and Mitigation of Delays

Contractor shall notify Purchaser promptly by telephone and confirm in writing any event, circumstance or development that will likely result in a material non-conformance of the Work or any part thereof with the requirements of this Contract or the Delivery dates established therefor. Contractor shall use Reasonable Efforts to avoid and/or mitigate the effect of such event, circumstance, or development. Within ten (10) Business Days of any notification hereunder, Contractor shall provide written notice to Purchaser of any affected Work, as well as a proposed work-around. The work-around plan shall: (a) set forth Contractor's Reasonable Efforts to mitigate the effect of any such event, circumstance, or development and include a schedule for such mitigation; and (b) contain sufficient detail for Purchaser to be able to evaluate such plan. If appropriate, such work-around plan shall use work-around schedules, payment of expedited fees, twenty four (24) hour operations, and the use of alternate Subcontractors (to be approved by Purchaser if required under this Contract).

3.5. Packing and Shipping

Packing and shipping shall be in accordance with all applicable laws, rules, and regulations, and standard commercial practices in the aerospace industry.



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ARTICLE 4 - PRICE

4.1 Firm Fixed Price

The total price to be paid by Purchaser to Contractor for the Work, including but not limited to Deliverable Items 1 through 6 set forth in Article 3.1 hereof, as detailed in Exhibit A, Statement of Work, shall be a total firm fixed price of

(the "Firm Fixed Price").

Except as otherwise expressly provided in Article 2.2 (only if Purchaser elects to effectuate its purchase of the Replacement Satellite by means of an amendment to this Contract rather than by means of another contract), and Articles 2.4, 4.3, 6.2, 6.3, 6.5, 12.1(B), 15.4, 16, 18, 35, and any options set forth in this Contract, the Firm Fixed Price is not subject to any escalation or to any adjustment or revision. The price for those items subject to an option under this Contract, if any, are described in the particular Articles that set forth such options.

The itemization of the Firm Fixed Price is as follows:

<u>Item</u>	<u>Description</u>	<u>Amount</u>
1.	Satellite (excludes Orbital Performance Incentives)	
1(a).	Maximum Orbital Performance Incentives	
2.	Deliverable Data	
3.	Training	
4.	Launch Support Services	
5.	Mission Operations Support Services	
7.	DSS	
	Total Firm Fixed Price	



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4.2 Reserved.

4.3 Launch Support Services

Upon Purchaser's selection of the Launch Vehicle for the Launch of the Satellite as provided in Article 3.3 above, the Firm Fixed Price of the Contract shall be increased or decreased in the following applicable amount to reflect the Launch Support Services associated with the selected Launch Vehicle. Such increase or decrease shall be applied on a pro-rata basis to those Milestone payments specified in Exhibit E, Payment Plan and Termination Liability Schedule remaining to be paid as of the date of Purchaser's selection.

Selected Launch Vehicle	Adjustment to Firm Fixed Price

4.4 Fees and Other Expenses

The Firm Fixed Price stated above includes all fees, charges, expenses, costs, and other amounts payable by Purchaser for any portion of the Work, including but not limited to the design, manufacturing, tests, the Satellite, the DSS, Deliverable Data, Training, Orbital Performance Incentives, Mission Operations Support Services, Launch Support Services, risk management services as required by Article 32, packing and transport of the Satellite to the Launch Site, transit insurance and such other insurance as is required by Article 32, but does not include such amounts payable for Launch Services, or the Launch and In-Orbit Insurance Policy (the responsibility for which shall reside exclusively with Purchaser). Under no circumstances will Purchaser be obligated to pay any fees, charges, expenses, costs or other amounts in connection with any portion of the Work other than the amounts set forth in this Paragraph, as adjusted in accordance with those Articles set forth in Article 4.1.

4.5 Taxes

The Firm Fixed Price includes, and Contractor shall remit when due, all applicable federal, state, local and foreign taxes duties, assessments, and similar liabilities (including interest, fines, penalties, or additions attributable to, or imposed on, or with



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respect to, any such taxes, duties and similar liabilities) imposed by any federal, state, local, or foreign government in connection with the Work, including those related to the export or import of any Satellite from or into any jurisdiction for Launch, all imposts, and all sales, use, excise, value added, import and export taxes levied in connection with Contractor's performance of the Work, wherever the Work is being carried out under this Contract.



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ARTICLE 5 - PAYMENTS

5.1 Payment Plan

Payments by Purchaser to Contractor of the Firm Fixed Price set forth in Article 4 and of the amounts for options, if any, exercised by Purchaser pursuant to this Contract shall be in accordance with Exhibit E, Payment Plan and Termination Liability Schedule, as applicable thereto.

5.2 Payment Conditions

5.2.1 Time Payments. The "Effective Date of Contract" time payment due from Purchaser shall be paid no later than the due date specified in Exhibit E, Payment Plan and Termination Liability Schedule. Contractor shall submit to Purchaser an invoice in accordance with the requirements of this Contract with respect to such payment prior to such payment being due.

5.2.2 Milestone Payments. Each Milestone payment specified in Exhibit E, Payment Plan and Termination Liability Schedule shall in each case become payable upon Contractor's completion of each Milestone in accordance with the Contract and satisfaction of the Conditions for Milestone Completion and Payment set forth in Exhibit E, after which Contractor shall submit an invoice for payment, provided however, that Contractor shall not invoice any amount which when cumulated with other Milestone payments previously made hereunder, exceeds the cumulative Milestone payment amounts due as of such date as reflected in such Exhibit E. A Milestone shall not be deemed completed until all Work relevant to the Milestone has been completed and documented in accordance with Exhibit A, Statement of Work and/or Exhibit E, Payment Plan and Termination Liability Schedule, as applicable.

All payments due from Purchaser upon the completion of a Milestone described in Exhibit E, Payment Plan and Termination Liability Schedule, shall be paid no later than thirty (30) days after the receipt by Purchaser of an invoice and certification in the form attached hereto as Attachment A that the Milestone has been completed in accordance with the requirements of this Contract, together with the necessary or appropriate supporting data and documentation as required hereunder, if any, or as Purchaser may reasonably request within ten (10) Business Days of receipt of invoice. Notwithstanding the foregoing, and



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without prejudice to Purchaser's rights under Article 5.6, Purchaser, in its sole discretion, may agree to make a partial payment to Contractor for partial completion of a Milestone or for completion of a Milestone prior to the applicable Milestone Date.

Purchaser shall pay in full all undisputed amounts payable hereunder within thirty (30) days after receipt of an invoice therefor completed in accordance with this Article 5.2.

5.2.3 Orbital Performance Incentives. The Orbital Performance Incentives payments due from Purchaser pursuant to Article 13 shall be due and payable no later than thirty (30) days after receipt of an invoice completed in accordance with Article 5.4.

5.2.4 Non-Warranty and Other Payments. Subject to Article 5.6, and without prejudice to Purchaser's audit rights set forth in Article 5.8, below, all amounts payable to Contractor with respect to non-warranty work performed pursuant to Article 15.4 or for any other payments to be made pursuant to this Contract and not otherwise subject to Article 5.2.1 through 5.2.3 above shall be paid no later than thirty (30) days after receipt of Contractor's invoice completed in accordance with Article 5 therefor.

5.3 Late Payment

5.3.1 Interest. Except in the case of a payment disputed pursuant to Article 5.6, below, in the event that any payment due under this Contract is not made when due hereunder, without prejudice to the other rights and remedies of the Party entitled to such payment, such Party shall also be entitled to interest at the rate of _____, on the unpaid balance thereof from ten (10) days after the date that the non-paying Party receives written notice to cure a delinquent payment until such payment is made.

5.4 Invoices

Invoices required to be delivered by Contractor hereunder shall be submitted by facsimile and air mail to Purchaser (original plus one (1) copy) at the following address:

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ViaSat, Inc.
Attn.: David Abrahamian
6155 El Camino Real
Carlsbad, California 92009
Fax: 760-476-4225

or to such other address as Purchaser may specify in writing to Contractor.

5.5 Payment Bank

All payments made to Contractor hereunder shall be in U.S. currency and shall be made by electronic funds transfer to the following account:

SPACE SYSTEMS/LORAL, INC.
ACCOUNT NO.

or such other account or accounts as Contractor may specify in writing to Purchaser.

5.6 Disputed Amounts

If the event covered by a Milestone payment has not been completed in accordance with the requirements of this Contract, Purchaser shall so notify Contractor in writing within fifteen (15) days of receipt of the applicable invoice and may withhold some or all of the applicable payment in good faith. Such notification shall state in reasonable detail the Contract requirements associated with the applicable Milestone event that have not been met. Upon correction of the noted discrepancy(ies) and completion of the Milestone in accordance with Contract requirements, the Milestone invoice shall be reinstated for payment. Failure to pay any amount subject to a reasonable good faith dispute shall not constitute a material breach under this Contract until resolved by the Parties.

5.7 Reserved.

5.8 Audit Rights and Procedures

Contractor shall keep complete, true and accurate books of account and records pursuant to its standard accounting system for the purpose of showing the derivation of all Actual Costs where any payments to be made by Purchaser are based on Actual Costs. Contractor will keep such books and records at Contractor's principal place of business for at least five (5) years following the end of the calendar quarter to which they



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pertain and make them available at all reasonable times for audit by an independent auditor reasonably acceptable to Purchaser and Contractor. Purchaser may direct an audit of any Actual Costs claimed by Contractor pursuant to this Contract to be performed by an industry recognized independent certified public accounting firm reasonably acceptable to Contractor. Any such audits will be at the expense of Purchaser unless the audit shows that Contractor has overcharged amounts due hereunder during the audited period by more than . In such case, the expense of the audit will be paid by Contractor. Contractor will promptly pay Purchaser the full amount of any overpayment, together with interest at the annual rate of , from the date such payment was to have been made. The independent auditor will be directed to report reasons for its findings, and the independent auditor's findings will be binding upon Purchaser and Contractor, provided that Contractor shall have the right to redact any detailed rate information from any report or finding provided by the independent auditor to Purchaser.

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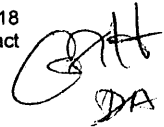
ARTICLE 6 - PURCHASER-FURNISHED ITEMS

6.1 Purchaser-Furnished Support

To enable Contractor to perform Launch Support and Mission Operations Support Services, Purchaser shall be responsible for timely making available to Contractor the Purchaser-furnished equipment, facilities and services described in Paragraph 2.6 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 the Satellite hereunder, shall be made available free of charge for Contractor's use during the period commencing on the date established therefore at the technical interchange meetings described in Paragraph 2.6.1 of Exhibit A, Statement of Work and continuing through the IOT Complete Date for the Satellite. Purchaser and Contractor will conduct an interface meeting on the date established therefor at the technical interchange meeting described in Paragraph 2.6.1 of Exhibit A, Statement of Work to confirm the availability and adequacy of such Purchaser-furnished equipment, facilities and services.

6.2 Communications Authorizations

Purchaser 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 Purchaser, for the construction, Launch and operation of the Satellite. Contractor shall, at no additional cost to Purchaser, provide all cooperation reasonably necessary in support of Purchaser's preparation, coordination and filing of such applications, registrations, reports, licenses, permits and authorizations, and upon Purchaser's request, Contractor shall actively provide reasonable support to Purchaser's efforts to obtain any licenses, permits, and authorizations required by any cognizant regulatory agency.



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6.3 Radio Frequency Coordination

Purchaser 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 Purchaser. Contractor shall, at no additional cost to Purchaser provide all cooperation reasonably necessary in support of Purchaser's efforts in the preparation and submission of such filings, and upon Purchaser's request, Contractor shall actively provide reasonable support to Purchaser's efforts to obtain any licenses, permits, and authorizations required by any cognizant regulatory agency.

6.4 Satellite Performance Data

Commencing with the first full calendar month following the IOT Complete Date, Purchaser shall provide a report to Contractor describing the general health and operating status of the Satellite. Such report shall be provided to Contractor on a monthly basis thereafter, delivered to Contractor promptly after the end of each month during the Satellite Stated Life. In the event of a Satellite Anomaly that occurs during the Satellite Stated Life, Purchaser shall timely provide Contractor with or give Contractor access to any of Purchaser's data Contractor may reasonably require to investigate and correct (per Article 15.3 hereof) such Satellite Anomaly and/or support Purchaser in making and perfecting claims for insurance recovery relating to such Satellite Anomaly as set forth in Article 32.

6.5 Late Delivery of Purchaser-Furnished Items or Services

Exhibit A, Statement of Work, paragraph 2.6 sets forth a complete listing of all Purchaser-furnished items or services and the delivery date for such items and services. The late delivery of Purchaser-furnished items or services, individually or combined, shall be considered an event beyond the reasonable control of Contractor, and Contractor shall be entitled to adjustments in the Firm Fixed Price and schedule and other materially affected terms of the Contract, in accordance with Article 18, provided that: (a) such late delivery of Purchaser-furnished items or services was substantially

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due to no fault of Contractor; (b) Contractor promptly notifies Purchaser in writing of any applicable late delivery of Purchaser-furnished items or services and the expected impacts therefor; and (c) Contractor uses Reasonable Efforts to avoid and/or mitigate the effect of the late delivery of Purchaser-furnished items or services.

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ARTICLE 7 - COMPLIANCE WITH LAWS AND DIRECTIVES

7.1 General

Each Party shall, at its expense, perform its obligations hereunder in accordance with all applicable laws, regulations, and policies of the any federal, state, local, or foreign government and the conditions of all applicable federal, state, local, or foreign government approvals, permits, or licenses.

7.2 Compliance with U.S. Export Control Laws

Any obligation of a Party hereunder to provide hardware, software, Deliverable Data, other technical information, technical services, Training, or any access to facilities of the other Party and its personnel and/or its representatives shall be subject to applicable U.S. Government export control and security laws, regulations, policies and license conditions. The Parties shall work cooperatively and in good faith to implement this Contract in compliance with such laws, regulations, policies and license conditions. If and to the extent required by U.S. law, the Parties and their personnel and/or representatives shall enter into U.S. Government-approved agreement(s), including a Technical Assistance Agreement(s), separate from this Contract, governing the provision of hardware, software, Deliverable Data, other technical information, technical services, Training, or access to facilities in connection with this Contract.

7.3 Licenses and Other Approvals

Contractor shall use Reasonable Efforts to obtain and shall maintain all applicable approvals, permits, and licenses as may be required by any government, foreign or domestic, for the performance of the Work, including but not limited to all authorizations required for the import or export of any Deliverable Item, or any part thereof, as well as any agreements and other approvals of the U.S. Government that are required for Purchaser and "foreign person" personnel and/or representatives of Purchaser (including, but not limited to, Eutelsat, foreign subsidiaries and related entities of Purchaser involved with the procurement) as well as Purchaser's insurance providers, to have access to Contractor facilities, hardware, software, Deliverable Data, Training, other technical information or technical services in connection with the performance of this Contract. In addition, Contractor shall provide reasonable support to Purchaser in obtaining any necessary approvals, permits, and licenses for the performance of Purchaser's obligations hereunder. A "foreign person" shall be as defined in the U.S.

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International Traffic in Arms Regulations, 22 C.F.R. §120.16. As early as practicable, and in no event later than ninety (90) days after EDC, Purchaser shall provide Contractor with a list of countries (if other than the U.S.) of which "foreign person" personnel and/or representatives of Purchaser (including, but not limited to foreign subsidiaries and related entities of Purchaser involved with the procurement) as well as Purchaser's insurance providers, if such personnel, representatives, insurance providers will or may have access to U.S. export-controlled items or services under this Contract. Purchaser shall provide such reasonable cooperation and support as 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. Contractor shall review with Purchaser any application Contractor makes to any government department, agency or entity for any permit, license, agreement or approval that will be signed by Purchaser as may be required for performance of the Work, prior to submission of such application. Contractor shall provide Purchaser a minimum of five (5) 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 Purchaser for incorporation into such application. At Purchaser's request, Contractor shall include Purchaser (and related entities involved with the procurement) as a named party in any application for approval of such U.S. export licenses, agreements and other approvals so as to permit Purchaser to be present during any discussion with or meetings where Purchaser's foreign subsidiaries/related entities, or insurance providers, may receive from, or discuss, with Contractor any U.S. export-controlled items and/or services. Contractor shall provide the parties to such U.S. 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 EITHER PARTY BE OBLIGATED UNDER THIS CONTRACT TO PROVIDE ACCESS TO THE OTHER PARTY'S FACILITIES OR SUBCONTRACTOR FACILITIES, PROVIDE ACCESS TO OR FURNISH HARDWARE, SOFTWARE, DELIVERABLE DATA OR OTHER TECHNICAL INFORMATION, OR PROVIDE TECHNICAL/DEFENSE SERVICES OR TRAINING, TO ANY PERSON EXCEPT IN COMPLIANCE WITH

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APPLICABLE U.S. EXPORT CONTROL LAWS, REGULATIONS, POLICIES AND LICENSE CONDITIONS.

7.4 No Unauthorized Exports or Retransfers

NEITHER PARTY SHALL RE-EXPORT OR RE-TRANSFER TO ANY THIRD PARTY ANY HARDWARE, SOFTWARE, DELIVERABLE DATA, OTHER TECHNICAL INFORMATION, TECHNICAL SERVICES, OR OTHER ITEMS FURNISHED HEREUNDER, EXCEPT AS EXPRESSLY AUTHORIZED BY THE U.S. GOVERNMENT IN ACCORDANCE WITH THE EXPORT LICENSES, AGREEMENTS AND OTHER APPROVALS REFERENCED IN THIS ARTICLE 7 OR AS OTHERWISE EXPRESSLY AUTHORIZED UNDER U.S. EXPORT CONTROL LAWS.

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ARTICLE 8 - ACCESS TO WORK-IN-PROGRESS

8.1 Work in Progress at Contractor's or Major Subcontractor's Facility

Subject to Article 7, compliance with Contractor's normal and customary safety and security regulations and practices (or, if applicable, those of a Major Subcontractor), which shall be provided in writing to Purchaser upon Purchaser's request prior to any facility visit, and the protection of third party proprietary information, Purchaser personnel (such term to include Eutelsat and Purchaser's duly appointed consultants and agents) shall be allowed access to all Work being performed at Contractor's or any Major Subcontractor's facility for the Satellite and other Deliverable Items, for the purpose of observing the progress of such Work; provided, however, access by Purchaser personnel to any Major Subcontractor facility shall require such Major Subcontractor's prior written consent, which Contractor shall employ Reasonable Efforts to obtain, and Contractor shall be entitled to accompany any Purchaser personnel to the facility. Such access shall be upon reasonable prior written notice to Contractor and shall occur during normal working hours or at such other hours as Contractor may agree. Subject to Article 7, compliance with Contractor's normal and customary safety and security regulations and practices (or, if applicable, those of a Major Subcontractor), which shall be provided in writing to Purchaser upon Purchaser's request prior to any facility visit, and the protection of third party proprietary information, Purchaser personnel will have reasonable access for evaluation, inspection, and use in connection with the planned operation of the Satellite to (i) Deliverable Data; (ii) work-in-progress and technical and schedule data and documentation relevant to the Work; (iii) drawings, circuit diagrams/schematics, specifications, standards or process descriptions applicable to the Work; and (iv) data and documentation provided to Contractor by its Subcontractors applicable to the Work. Contractor shall provide Purchaser access to a program web site (from which Purchaser will be permitted to download, print, and save documents) to serve as a repository for such information and Contractor shall provide a typical site map or index to the contents of that web site. All Purchaser personnel (and Purchaser's duly appointed consultants and agents) who are "U.S. persons" under the ITAR and otherwise meet the requirements for access set forth in this Article shall be provided non-escort badges to agreed work areas while the Work is being performed, though such access may be restricted to relevant buildings and areas where the subject Work in Progress resides. Contractor will use Reasonable Efforts to obtain similar access to

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Work that is being performed at the facilities of Contractor's Major Subcontractors subject to the conditions set forth in the first sentence of this Paragraph. For the avoidance of doubt, any communications between Purchaser personnel and any foreign Subcontractor shall be conducted through Contractor.

8.2 Electronically-Generated Information

With regard to electronically generated information, Contractor will provide Purchaser with an electronic copy thereof and/or electronic access (via the internet or Purchaser e-mail) to information regarding program performance and documentation that will advise Purchaser, on a current basis, of program specific issues, decisions and problems. Contractor shall establish data links between its and Purchaser's facilities such that Purchaser has remote electronic access to those project-related documents identified in Exhibit A, Satellite Statement of Work. Contractor will also provide Purchaser personnel with "real time" access to all measured data, when feasible, for the Work on a non-interference, no-cost basis.

8.3 On-Site Facilities for Purchaser's Personnel

For the purpose of monitoring the progress of the Work being performed by Contractor hereunder, Contractor shall provide office facilities at Contractor's plant for resident Purchaser personnel (and/or Purchaser's duly appointed consultants and agents) through the IOT Complete Date. The office facilities to be provided shall include a reasonable amount of office space, office furniture, local telephone service, reasonable long-distance telephone usage, access to copy machines, facsimile machines, internet account and access, reasonable clerical support, and meeting rooms to the extent necessary to enable Purchaser personnel to monitor the progress of Work under this Contract. Contractor will use Reasonable Efforts to obtain similar office facilities at the plants of Contractor's Major Subcontractors for visits and meetings of Purchaser and Contractor to such plants.

8.4 Purchaser Personnel as Competitors/Foreign Persons

Purchaser shall use Reasonable Efforts to verify that Purchaser's consultants and agents used in connection with this Contract are not currently employed by companies or entities that are Competitors of Contractor. Purchaser shall notify Contractor in writing of the name, title or function, business relationship, employer, citizenship status

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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 (except for attorneys and other professionals who are already bound by obligations of confidentiality) 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 28; and, (ii) pursuant to Article 7, 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. Without prejudice to Contractor's rights and obligations under Article 7, Contractor may in its reasonable discretion deny any consultant or agent of Purchaser access to Contractor or a Subcontractor's facilities, products or information if such consultant or agent is currently employed by a Competitor, or if such consultant or agent fails to execute any of the agreements identified in (i) and (ii) above, where necessary. Notwithstanding the foregoing, Purchaser consultants or agents who are also employed or engaged by Contractor Competitors shall not be denied access to Contractor or a Subcontractor's facilities, products or information if Purchaser notifies Contractor of the identity of such consultants or agents, identifies the Competitor(s) that such consultant(s) or agent(s) are employed by, and Purchaser implements appropriate protective measures (firewalls) to safeguard the confidentiality of Contractor's data, documentation and information as required by this Contract.

8.5 Meetings and Presentations

Purchaser shall be entitled to reasonable notice of and to attend: (a) all formal program-specific meetings; and (b) reviews required in Exhibit A, Statement of Work. Purchaser shall have the right to participate in and to make recommendations in all such meetings and reviews at the system, subsystem and unit level. In addition, Contractor and Purchaser shall mutually agree on which informal program-specific meetings to which Purchaser will be invited to attend.

Copies of presentations or other documents utilized during these meetings shall be furnished or made available to Purchaser and Purchaser's consultants. Purchaser's management personnel, as may be deemed appropriate by Purchaser, shall be invited to the Quarterly Summary Executive Reviews. Contractor shall be represented by its

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Program Manager and such other personnel as are required to support the particular presentation.

8.6 Interference with Operations

Purchaser shall exercise its rights under this Article 8 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.

8.7 Purchaser Inspection Not Acceptance

The inspection, examination, or observation by Purchaser with regard to any portion of Work produced under this Contract shall not constitute any Acceptance thereof, nor shall it relieve Contractor from fulfilling its contractual obligations hereunder.

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ARTICLE 9 - SATELLITE PRE-SHIPMENT REVIEW (SPSR) AND DELIVERY

9.1 Satellite Pre-Shipment Review (SPSR)

9.1.1 Contractor to Conduct a Review of the Satellite Prior to Shipment.

Contractor shall conduct a detailed and comprehensive review of the Satellite prior to Contractor's shipment of the Satellite to the Launch Site or its entering into storage. This review shall be conducted in accordance with the terms of this Article 9 and Paragraph 2.4.5 of Exhibit A, Statement of Work (a "Satellite Pre-Shipment Review" or "SPSR").

9.1.2 Time, Place and Notice of SPSR. The SPSR shall take place at Contractor's facility. Contractor shall notify Purchaser in writing on or before thirty (30) days prior to the date that the Satellite will be available for the SPSR, which shall be the scheduled date for commencement of such SPSR. If Purchaser cannot attend the SPSR on such initially scheduled date, Contractor shall make Reasonable Efforts to accommodate Purchaser's scheduling requirements.

9.1.3 Conduct and Purpose of SPSR. The SPSR shall be conducted in accordance with the terms of this Article 9 and Paragraph 2.4.5 of Exhibit A, Statement of Work. The purpose of the SPSR shall be to: (i) review test data and analyses for the Satellite; (ii) demonstrate testing has been completed in accordance with the applicable portions of Exhibit D, Satellite Program Test Plan; and, (iii) determine whether the Satellite meets applicable Exhibit B, Satellite Performance Specification requirements (except those that have been waived pursuant to Article 9.1.4 below) and is therefore ready for shipment to the Launch Site.

9.1.4 Waivers and Deviations. Contractor shall submit to Purchaser any request for a waiver of, or deviation from, provisions(s) of the Performance Specification applicable to the Satellite or other Deliverable Item. Purchaser shall consider each such request in good faith in accordance with industry standard practices. A request for waiver or deviation shall be deemed granted only if it has been approved in writing by a duly authorized representative of Purchaser (as defined in Article 31.3). Each such waiver or deviation approved by Purchaser shall be deemed an amendment to the Performance Specification



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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.

9.1.5 Purchaser's Inspection Agents. Purchaser may, subject to prior written notice to Contractor, cause any Purchaser personnel, consultant or agent designated by Purchaser to observe the SPSR pursuant to this Article 9; provided, however, that the provisions of Article 7 and Article 8.4 shall apply to any such agent.

9.1.6 SPSR Results. In the event that the SPSR demonstrates that: (i) testing has been performed in accordance with Section 5.2 of Exhibit D, Satellite Program Test Plan, and (ii) such Satellite conforms to the applicable requirements of Exhibit B, Satellite Performance Specification (including any waivers or deviations approved by Purchaser pursuant to Article 9.1.4), Purchaser shall provide written certification (a "Certification") to Contractor (within 72 hours after Purchaser receives written notice of completion of the SPSR from Contractor) of its concurrence with the results of the SPSR (including any waiver of its right to compel correction of those non-conformances to the requirements of Exhibit B, Satellite Performance Specification, specified by Purchaser in such notice), and the Satellite shall be deemed ready for shipment to the Launch Site.

In the event that such SPSR discloses (i) any failure to conduct testing in accordance with Section 5.2 of Exhibit D, Satellite Program Test Plan, or (ii) any non-conformance of such Satellite to the requirements of Exhibit B, Satellite Performance Specification, either of which is not the subject of any waivers or deviations approved by Purchaser pursuant to Article 9.1.4, Purchaser shall provide written notification thereof (a "Notice of Non-Conformance") to Contractor within 72 hours after Purchaser receives written notice of completion of the SPSR from Contractor, which written notification shall state each such non-conformance Purchaser requires to be corrected or repaired (with reference to the specific provision of Exhibit D, Satellite Program Test Plan, or Exhibit B, Satellite Performance Specification, deemed not met). Contractor shall correct or

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repair each non-conformance with all deliberate speed and thereafter conduct additional testing and/or a "delta" SPSR, in accordance with the provisions of this Article 9, to the extent necessary to demonstrate that the Satellite conforms to the requirements of Exhibit B, Satellite Performance Specification, after which Purchaser shall provide a Certification or Notice of Non-Conformance within the applicable time frame specified above. Contractor shall be required to repeat the process described in this Paragraph until Purchaser provides Contractor with a Certification pursuant to the requirements of this Article 9.

If Purchaser fails to provide a written Certification or Notice of Non-Conformance as required by either of the preceding Paragraphs of this Article 9.1.6 within the time specified, and Contractor has provided written notice advising Purchaser of such (a "Cure Letter"), the SPSR shall be deemed to have been successfully completed if Purchaser has still not submitted a written Certification or Notice of Non-Conformance within one (1) Business Day of Purchaser's receipt of the Cure Letter and the Satellite shall be deemed ready for shipment to the Launch Site.

Upon receipt of Purchaser's Certification in accordance with this Article 9, Contractor shall thereafter transport such Satellite in accordance with Contractor's standard commercial practices to the Launch Site (and shall be deemed Delivered when received at the Launch Site), and proceed to prepare the Satellite for Launch. Contractor shall not ship the Satellite to the Launch Site until all non-conformances are corrected, repaired or have a Purchaser-approved waiver or deviation.

9.1.7 Inspection Costs Borne by Purchaser. All costs and expenses incurred by Purchaser and its agents in the exercise of its inspection rights under this Article 9, including travel and living expenses, shall be borne solely by Purchaser.

9.1.8 Correction of Deficiencies after SPSR. If at any time following completion of SPSR of the Satellite and prior to Intentional Ignition (or in the event of a Terminated Ignition, prior to any subsequent Intentional Ignition), it is discovered that such Satellite has a Defect or fails to meet the requirements of Exhibit B, Satellite Performance Specification, as they may be modified as of such time pursuant to Article 9.1.4, Contractor shall promptly correct such

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deficiencies prior to Intentional Ignition (or in the case of a Terminated Ignition, prior to any subsequent Intentional Ignition) in accordance with the applicable terms of this Contract, including price and/or schedule adjustments for which Contractor may be entitled pursuant to Article 12.1(B). Contractor shall use Reasonable Efforts to avoid and minimize delays associated with any such Defects as further described in Article 3.4. In the event of a Terminated Ignition, Contractor and Purchaser shall proceed in accordance with Article 12.1(B) for those actions necessary to prepare the Satellite for relaunch.

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ARTICLE 10 - ACCEPTANCE OF SATELLITE, LAUNCH SUPPORT AND MISSION OPERATIONS SUPPORT SERVICES AND IN-ORBIT TEST

10.1 Satellite Acceptance

Acceptance of the Satellite by Purchaser shall occur finally and irrevocably for all purposes hereunder upon the earlier to occur of: (i) the IOT Complete Date (as defined in Article 10.3. below); or (ii) the instant immediately prior to an event on or after Intentional Ignition resulting in the Total Loss of the Satellite (or the Satellite being reasonably determined to be a Total Loss).

10.2 Launch Support and Mission Operations Support Services

Upon arrival of the Satellite at the Launch Site, Contractor shall proceed with the provision of Launch Support Services in accordance with Exhibit A, Statement of Work. After Launch of the Satellite by the Launch Agency, Contractor shall proceed with the provision of Mission Operations Support Services in accordance with Exhibit A, Statement of Work.

10.3 In-Orbit Testing (IOT)

Thirty (30) days prior to the scheduled Launch of the Satellite, Contractor shall notify Purchaser in writing of the IOT schedule with respect to such Satellite. Purchaser personnel, including but not limited to its contractors and agents may, at Purchaser's election and subject to Article 7 and Article 8.4, observe such IOT at either Purchaser's or Contractor's facilities.

After the Satellite has been placed in its orbital slot, Contractor shall perform IOT in accordance with Exhibit D, Satellite Program Test Plan, and conduct an IOT review with Purchaser within three (3) days of completing IOT (with a summary IOT report being submitted at least 24 hours prior to conducting the IOT review), all in accordance with the applicable provisions of Exhibit A, Statement of Work, and Exhibit D, Satellite Program Test Plan. Upon the completion of the IOT review, Purchaser shall be deemed to have accepted the IOT results (the "IOT Complete Date").

10.4 Orbital Performance Incentives

, Contractor shall have the right to earn Orbital Performance Incentives in accordance with Article 13.



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ARTICLE 11 - ACCEPTANCE OF DELIVERABLE ITEMS OTHER THAN THE SATELLITE

11.1 DSS

11.1.1 With respect to the DSS (including Software integrated into the DSS), Contractor shall conduct an inspection and test the DSS in accordance with Exhibit H, Dynamic Satellite Simulator Statement of Work and Functional Requirements Document, in coordination with Purchaser or Purchaser's representative. If the tests establish that the DSS meets the requirements of Exhibit H, Contractor shall deliver the test results and provide a certification to Purchaser that the DSS meets the requirements of this Contract. Based upon this Contractor's certification and the inspection and test results, and the results of any additional inspection or testing that Purchaser may reasonably conduct in coordination with Contractor, Purchaser shall either Accept the same in writing ("Acceptance" with respect to the DSS) or notify Contractor in writing of those particulars in which the DSS is unacceptable. Should Purchaser fail to notify Contractor in writing of those particulars in which the DSS is unacceptable within ten (10) Business Days of certification, the DSS shall be deemed Accepted by Purchaser. Upon receipt of a notice that the DSS is unacceptable to Purchaser, which notice shall state the particulars relating to such unacceptability, Contractor shall remedy the non-conformances, conduct additional testing as appropriate, and schedule another test of the DSS as appropriate in the presence of Purchaser or Purchaser's representative. When such particulars have been remedied to conform to all applicable requirements of Exhibit H, the DSS shall be promptly Accepted by Purchaser in writing. Contractor shall be required to repeat the process described in this Paragraph until the DSS shall have been Accepted by the Purchaser in writing pursuant to the criteria of this Paragraph. Contractor shall take all appropriate measures to ensure that Acceptance of the DSS is achieved prior to Acceptance of the Satellite. In the event that Acceptance of the Satellite occurs prior to Acceptance of the DSS, Contractor shall, at Contractor's sole cost and expense, and at Purchaser's option, (i) continue to operate such Satellite for Purchaser until the time of Acceptance of such DSS and (ii) expeditiously complete the tasks necessary to facilitate Acceptance of the DSS.



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11.2 Deliverable Data

For any Deliverable Data (including Deliverable Items of Software but excluding Software integrated into the DSS and Satellite, which are subject to Article 11.1 and Article 10.1, respectively) that requires Purchaser approval pursuant to Exhibit A, Statement of Work, Purchaser shall, within ten (10) Business Days of Delivery, notify Contractor in writing that such Deliverable Data has either been: (i) Accepted, or (ii) that such Deliverable Data does not comply with the requirements of Exhibit A, Statement of Work, identifying each such non-conformance. If Purchaser notifies Contractor of any non-conformance pursuant to the foregoing, Contractor shall promptly correct any non-compliant aspect of such Deliverable Data identified in such notice from Purchaser, and re-submit the Deliverable Data to Purchaser for a subsequent inspection to verify that Contractor has corrected the previously-identified non-compliance and that the Deliverable Data complies with the requirements of Exhibit A, Statement of Work. If Purchaser fails to provide notice within the time specified above, Acceptance shall be deemed to have occurred with respect to such Deliverable Data. Contractor shall be required to repeat the process described in this Paragraph until such time as the relevant Deliverable Data has either been Accepted by Purchaser in writing, or has been deemed Accepted, in accordance with this Paragraph. For Deliverable Data that does not require Purchaser approval pursuant to Exhibit A, Statement of Work, Acceptance of such Deliverable Data shall be deemed to have occurred upon Delivery, provided that such Deliverable Data complies with the requirements of Exhibit A, Statement of Work and further provided that in the event of any non-compliance, Purchaser shall have the remedies set forth in Article 15.2.4.

11.3 Training

Acceptance of Training, or any part thereof, required by Exhibit A, Statement of Work shall occur in accordance with this Article 11.3. Training, or any part thereof, furnished to Purchaser shall be accompanied by written notice from Contractor specifying that portion of the Training being furnished. Acceptance of Training, or any part thereof, shall be deemed to occur ten (10) Business Days after completion of such Training or part thereof unless within such time Purchaser provides a written notice to Contractor that the Training, or part thereof, does not meet Purchaser's reasonable satisfaction with reference to the requirements of Exhibit A, Statement of Work, identifying each non-conformance. In the event that Purchaser does not Accept Training, or any part thereof,

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as set forth in this Paragraph, Contractor shall repeat the Training, or relevant part thereof.

11.4 Deliverable Services

Acceptance of Deliverable Services, or any part thereof, shall occur in accordance with this Article 11.4. To the extent feasible, Deliverable Services furnished to Purchaser shall be accompanied by written notice from Contractor specifying that portion of the Deliverable Services being furnished. Acceptance of Deliverable Services, or any part thereof, shall be deemed to occur: (a) in a case where re-performance of the Deliverable Services is not practical (for example, Launch Support Services are performed real-time), upon completion of such Deliverable Services or part thereof; or (b) in a case where re-performance of the Deliverable Services is practicable, ten (10) Business Days after completion of such Deliverable Services or part thereof, unless within such time Purchaser provides a written notice to Contractor that the Deliverable Services, or part thereof, do not meet the requirements of Exhibit A, Statement of Work, identifying each non-conformance.

11.5 Reserved

11.6 Satellite Control Facility Equipment

If Purchaser exercises its option set forth in Article 2.4, upon completion of the installation of the Satellite Control Facility equipment (not including the DSS, which is subject to Article 11.1), Contractor shall conduct an inspection and test the Satellite Control Facility equipment in accordance with Exhibit F, Satellite Control Facility Requirements Document, in coordination with Purchaser or Purchaser's representative. If such inspection and tests, and data resulting from such inspection and tests, establish that the Satellite Control Facility equipment meets the requirements of Exhibit F, Satellite Control Facility Requirements Document, Contractor shall deliver the inspection and test results and associated data and provide a certification to Purchaser that the Satellite Control Facility equipment meets the requirements of this Contract, together with a notification of the period in which Purchaser may provide Acceptance or notice of non-conformance for the equipment. Based upon such Contractor certification and the inspection and test results, and any inspection or testing that Purchaser may reasonably conduct in coordination with Contractor, Purchaser shall either Accept the same in writing or notify Contractor in writing of those particulars in which the Satellite Control

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Facility equipment is unacceptable. Should Purchaser fail to notify Contractor in writing of those particulars in which the Satellite Control Facility Equipment is unacceptable within ten (10) Business Days of certification, and Contractor has provided written notice advising Purchaser of such, the Satellite Control Facility equipment shall be deemed Accepted by Purchaser. Upon receipt of a notice that the Satellite Control Facility equipment is unacceptable to Purchaser, which notice shall state the particulars relating to such unacceptability, Contractor shall remedy the non-conformances, conduct additional testing as appropriate, and schedule another test of the Satellite Control Facility equipment as appropriate in the presence of Purchaser or Purchaser's representative. Upon remedy of such particulars to conform to all applicable requirements of Exhibit F, Satellite Control Facility Requirements Document, the Satellite Control Facility Equipment shall be Accepted by Purchaser in writing. Contractor shall be required to repeat the process described in this Paragraph until the Satellite Control Facility equipment shall have been Accepted by the Purchaser in writing as set forth in this Paragraph. Contractor shall take all appropriate measures to ensure that Acceptance of the Satellite Control Facility Equipment is achieved prior to Acceptance of the Satellite. In the event that Acceptance of the Satellite occurs prior to Acceptance of the Satellite Control Facility Equipment, Contractor shall, at Contractor's sole cost and expense, and at Purchaser's option, (i) continue to operate such Satellite for Purchaser until the time of Acceptance of such Satellite Control Facility Equipment and (ii) expeditiously complete the tasks necessary to facilitate Acceptance of the Satellite Control Facility Equipment.

11.7 Purchaser's Inspection Agents

Purchaser may, upon giving prior written notice to Contractor, cause any Purchaser consultant or agent designated by Purchaser to observe or conduct the acceptance inspection pursuant to this Article 11 in whole or in part; provided, however, that the provisions of Article 7 and Article 8.4 shall apply to any such consultant or agent and such consultant or agent shall comply with Contractor's normal and customary safety and security regulations provided to Purchaser in writing in advance of such inspection.

11.8 Waivers and Deviations

Waivers of or deviations from the Performance Specification applicable to any Deliverable Item subject to acceptance inspection pursuant to this Article 11 shall be addressed as set forth in Article 9.1.4.

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11.9 Inspection Costs Borne by Purchaser

All costs and expenses incurred by Purchaser or its consultants or agents in the performance of its inspection rights under this Article 11, including travel and living expenses, shall be borne solely by Purchaser.

11.10 Warranty Obligations

In no event shall Contractor be released from any of its warranty obligations applicable to any Deliverable Item as a result of such Deliverable Item having been Accepted as set forth in this Article 11.

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ARTICLE 12 - TRANSFER OF TITLE AND RISK OF LOSS

12.1 Satellite

(A) Title to and risk of loss or damage for the Satellite, shall pass from Contractor to Purchaser at the time of Intentional Ignition. In the event of a Terminated Ignition not resulting in Total Loss, title to and risk of loss or damage for the Satellite shall revert to Contractor upon such Terminated Ignition. If Contractor re-acquires title and risk of loss or damage as set forth in the immediately preceding sentence, title to and risk of loss or damage for the Satellite, shall again pass to Purchaser upon the subsequent Intentional Ignition. Prior to Intentional Ignition, the Parties shall agree to appropriate revisions to certain definitions (i.e., Intentional Ignition, Launch, Terminated Ignition, and other related provisions) as required to ensure that risk of loss transfers from Contractor to Purchaser in a manner that does not result in a lack (or gap in time) of insurance coverage for the Satellite at any time between the time period covered by the Ground Insurance to be provided by Contractor pursuant to Article 32.5 and the applicable coverage start date for any Launch and In-Orbit Insurance Policy.

(B) In the event of a Terminated Ignition, once the launch pad has been declared safe and the Launch Agency authorizes the start of the demating operations, Contractor shall, at Purchaser's request, immediately take all necessary actions to prepare the Satellite for a relaunch, including: (a) supporting the Launch Agency in demating the Satellite from the Launch Vehicle and conducting defueling operations; (b) directly performing inspection and testing, refurbishment, storage, repair and replacement of damaged Component(s), and transportation of the Satellite to and from the Launch Site; and (c) providing additional Launch support services for the subsequent Launch of the Satellite. Such actions shall be handled as a change pursuant to Article 16.1, and for the avoidance of doubt is not considered to be performance of Work pursuant to the terms of the warranty set forth in Article 15.2.1. Promptly after a Terminated Ignition, the Parties shall establish a new due date for the repaired/refurbished Satellite. In the event of a Terminated Ignition that results in the Total Loss of the Satellite, title to and risk of loss or damage for the Satellite shall remain with Purchaser.

(C) EXCEPT WITH RESPECT TO WILLFUL MISCONDUCT OR GROSS NEGLIGENCE, UPON AND AFTER INTENTIONAL IGNITION, UNLESS AND TO THE EXTENT OF A TERMINATED IGNITION WHERE CONTRACTOR RE-ACQUIRES TITLE TO AND RISK OF LOSS OR DAMAGE FOR THE SATELLITE AS PROVIDED IN

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ARTICLE 12.1, CONTRACTOR'S SOLE OBLIGATION, LIABILITY OR FINANCIAL RISK, AND THE SOLE AND EXCLUSIVE REMEDIES OF PURCHASER OR ANY PARTY ASSOCIATED WITH PURCHASER, WITH RESPECT TO THE SATELLITE'S DESIGN, WORKMANSHIP, CONFORMITY TO SPECIFICATION, USE OR PERFORMANCE OF SUCH SATELLITE, INCLUDING ANY ASSISTANCE OR ADVICE (ACTUAL OR ATTEMPTED) PROVIDED OR OMITTED AS CONTEMPLATED BY ARTICLES 15.3 AND 32 HEREOF (INCLUDING WITH RESPECT TO ANY ACTUAL OR CLAIMED DEFECT CAUSED OR ALLEGED TO BE CAUSED AT ANY TIME, WHETHER BEFORE OR AFTER INTENTIONAL IGNITION, BY CONTRACTOR'S OR ANY OF ITS SUBCONTRACTORS' NEGLIGENCE) SHALL BE AS SET FORTH IN ARTICLES 5.2.2 (WITH RESPECT TO POST-LAUNCH MILESTONE PAYMENTS), 13, 15.3, 19, AND 32, IN ALL CASES SUBJECT TO THE LIMITATION OF LIABILITY SET FORTH IN ARTICLE 27. THE FOREGOING SHALL NOT PREJUDICE OR LIMIT EITHER PARTY'S RIGHTS AND REMEDIES WITH RESPECT TO ARTICLE 28, DISCLOSURE AND HANDLING OF PROPRIETARY INFORMATION AND ARTICLE 39, INTELLECTUAL PROPERTY.

12.2 Deliverable Items Other Than the Satellite

Title to and risk of loss or damage for the DSS and the Satellite Control Facility Equipment (including the Spares), shall pass from Contractor to Purchaser upon Acceptance thereof pursuant to Article 11.1 and Article 11.6, respectively. Purchaser's rights in and to Deliverable Data (including, without exception, Deliverable Items of Software and Software integrated into hardware) are as set forth in Article 39, Intellectual Property.

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ARTICLE 13 - ORBITAL PERFORMANCE INCENTIVES

13.1 General

Contractor may earn, and Purchaser shall pay, if earned, Orbital Performance Incentives with respect to the Satellite in the amounts set forth in Article 13.2. Contractor may earn and accrue the Orbital Performance Incentives over the Orbital Performance Incentive Period with respect thereto. All measurements, computations and analyses made pursuant to this Article 13 shall be made in accordance with good engineering practice applying standards generally applicable in the aerospace industry.

13.2 _____ of Orbital Performance Incentives

Contractor shall be entitled to earn Orbital Performance Incentives in the cumulative amount of

over the Orbital Performance Incentive Period



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13.3 On-Board Redundancy; Spares

On-board redundancy and/or spare Components shall be taken into consideration to maintain service on a Satellite, and such use shall be deemed normal operating procedure for purposes of this Article 13 so long as the applicable criteria of Exhibit B are met by such Satellite, as the case may be.

13.4 Orbital Storage

If Purchaser places the Satellite in Orbital Storage (other than due to the inability to operate the Satellite for unexcused causes attributable to Contractor), Contractor shall continue to earn Orbital Performance Incentives at the same _____ as Contractor would be earning such incentives if the Satellite were in service.

13.5 Total Loss of the Satellite During Orbital Performance Incentive Period

In the event that the Satellite becomes a Total Loss during the Orbital Performance Incentive Period, and such Total Loss is not attributable to Purchaser or Purchaser's representatives, consultants or subcontractors as set forth in Article 13.10, Contractor shall not be entitled to earn any further Orbital Performance Incentives with respect to such Satellite and shall have no further claim against Purchaser regarding such Orbital Performance Incentives. Contractor shall not lose any Orbital Performance Incentives earned prior to time that the Satellite becomes a Total Loss as provided above.

13.6 Total Loss or Partial Loss Not Attributable to Contractor

If, after Intentional Ignition, the Satellite is determined to be a Total Loss, or if a Partial Loss has occurred (unless and to the extent of a Terminated Ignition as provided in Article 12.1) and, in either case, such loss is due to causes not attributable to Contractor (for avoidance of doubt, causes attributable to the Launch Agency shall not be considered causes attributable to Contractor), Contractor shall be deemed to have earned immediately the corresponding amount of Orbital Performance Incentives that would otherwise be lost pursuant to this Article 13, provided that Contractor shall only be entitled to the interest payments set forth in Article 13.9 through the date of payment for the corresponding amounts of Total Loss or Partial Loss.

13.7 Purchaser Operation of the Satellite

If, the Satellite operates in a manner that is not in accordance with any requirements of Exhibit B, Satellite Performance Specification, and to the extent such operation is due to

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any act or omission on the part of Purchaser or Purchaser's representatives, consultants or subcontractors in the operation of, testing of, or communication with, the Satellite (unless such act or omission was performed in accordance with directions or instructions provided by Contractor), Contractor shall continue to earn Orbital Performance Incentives with respect to such Satellite at the rate that applied prior to the act or omission resulting in degraded performance (subject to later adjustments pursuant to this Article with respect to failures to meet the requirements of Exhibit B, Satellite Performance Specification, not resulting from any such act or omission on the part of Purchaser or Purchaser's representatives, consultants or subcontractors).

13.8 Contractor Access

During the Orbital Performance Incentive Period, Contractor shall have reasonable access to applicable performance data of the Satellite for purposes of evaluating any degradation in the performance of the Satellite.

13.9 Payment

Payment of amounts earned under this Article 13 plus interest thereon calculated from the first day of the Orbital Performance Incentive Period until the date of payment, at an _____, shall be paid as follows: (a) _____ the first payment shall be due no later than the end of the first full month following the month in which occurred successful completion of In-Orbit Testing, and shall cover the first partial month of earned Orbital Performance Incentives, if any; and (b) thereafter, all subsequent payments shall be due no later than thirty (30) days following the end of each calendar month for the prior month's earned Orbital Performance Incentives.

13.10 Complete Loss of Unearned Incentives

Contractor shall no longer be entitled to earn any remaining unearned Orbital Performance Incentives if: (a) Purchaser permanently withdraws the Satellite from operational service or is unable to operate the Satellite for the purpose of operating a broadband internet subscriber service, prior to the end of the Stated Life, due to performance problems attributable to the Contractor; (b) _____ exceed the values set forth in Exhibit B, Satellite Performance Specification by more than _____ and Contractor is unable to fix such errors using Reasonable Efforts; or (c) Contractor has lost or is reasonably predicted to lose more than _____

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13.11 Ground Storage

If after Satellite Pre-Shipment Review of a Satellite, Purchaser places such Satellite in Ground Storage for a period of _____ for reasons not primarily due to the fault of Contractor, Purchaser shall pay Contractor interest on the _____ of the Orbital Performance Incentives at _____, commencing on the _____ and ending upon _____.

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ARTICLE 14 - CORRECTIVE MEASURES IN THE SATELLITE AND OTHER DELIVERABLE ITEMS

If the data available from any satellite manufactured by Contractor (whether in-orbit or on the ground) or other information known to Contractor shows that the unlaunched Satellite to be delivered under this Contract contains or is predicted to contain a Defect, Contractor shall: (i) provide Purchaser prompt written notice thereof, provided Contractor shall not be required to disclose to Purchaser information that is confidential to any third party, and (ii) at Contractor's sole cost, correct such Defect or potential Defect notwithstanding that a payment may have been made in respect thereof, and regardless of prior reviews, inspections, or approvals. Contractor shall use its Reasonable Efforts to avoid and minimize delays as provided in Article 3.4. If the data available from any satellite manufactured by Contractor (whether in-orbit or on the ground) or other information known to Contractor shows that the launched Satellite delivered under this Contract contains or is predicted to contain a Defect or Anomaly, Contractor shall proceed in accordance with Article 15.3.

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ARTICLE 15 - REPRESENTATIONS AND WARRANTIES

15.1 Representations

Each Party represents that, as of the EDC:

1. It is a corporation duly organized in the State of Delaware.
2. It has all requisite corporate power and authority to own and operate its material properties and assets and to carry on its business as now conducted in all material respects.
3. 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 on the other Party.
4. It has all requisite corporate power and authority to enter into this Contract and to carry out the transactions contemplated by this Contract.
5. 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 and do not conflict with any material agreement or obligation to which it is a party or which binds its assets.
6. This Contract is a valid and binding obligation, enforceable against each Party making this representation in accordance with its terms.
7. No suit, claim, action, arbitration, legal, administrative, or other proceeding is pending, or to the best of each Party's knowledge, threatened against it that would likely affect the validity or enforceability of this Contract, or the ability of each Party making this representation to fulfill its commitments hereunder in any material respect.

15.2 Terms and Period of Warranty

- 15.2.1 Satellite. Contractor warrants that, from completion of SPSR up to Intentional Ignition of the Launch Vehicle (unless and to the extent of a Terminated Ignition where Contractor reacquires title and risk of loss for the Satellite as provided in Article 12.1 (A), in which case the warranty obligation will reattach but, as to any damaged Component, only after repair and replacement of such damaged Component pursuant to Article 12.1 (B) and the warranty period shall continue through the subsequent Intentional Ignition), the Satellite shall be free of any Defects and shall be manufactured and will perform in conformity with applicable requirements of Exhibit B, Satellite Performance



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Specification (as modified by any waiver and/or deviation pursuant to Article 9.1.4). If the Satellite or any part thereof (including Software integrated into the Satellite) does not conform to the above warranty, Contractor shall at any time during the applicable warranty period and irrespective of prior inspections proceed in accordance with Article 9.1.8 hereof and Contractor's only liability under the preceding sentence shall be as and to the extent set forth in such Article 9.1.8.

15.2.2 DSS And SCF Equipment

(A) DSS. Contractor warrants that the DSS (including the Software integrated into the DSS) delivered under this Contract shall be manufactured and/or developed in conformity with the applicable requirements of Exhibit H (as modified by any waiver and/or deviation pursuant to Article 11.8) and will be free from Defects during the period commencing on the date of Acceptance of such DSS pursuant to Article 11 and ending on the later of

During the period specified above, as Purchaser's sole and exclusive remedy for any non-conformance or defect in the DSS of which Purchaser notifies Contractor in writing, such non-conformance or Defect shall be remedied by Contractor at Contractor's expense by repair or replacement of the defective Component (at Contractor's election). For any such non-conformance or Defect, Contractor shall determine if repair or replacement is required to be performed at Contractor's plant. If required, Purchaser shall ship the DSS to Contractor's designated facility. Contractor shall be responsible for the cost of shipment (including transportation, transit insurance, taxes and/or duties), and the cost of return shipment (including transportation, transit insurance, taxes and duties) to Purchaser at the location designated in Article 3.1. Risk of loss for the DSS shall transfer to Contractor upon delivery of the DSS to the shipping carrier by Purchaser, and risk of loss to the DSS shall transfer again to Purchaser once such DSS is repaired or replaced pursuant to this Article 15.2.2, upon receipt thereof by Purchaser at the location designated therefor in Article 3.1. After

, a failure of the software integrated into the DSS to meet the applicable requirements of Exhibit H, Dynamic Satellite Simulator Statement of Work and Functional Requirements Document will, if such failure results in

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a Satellite Anomaly, be resolved in the response to the Satellite Anomaly pursuant to Article 15.3, below.

(B) SCF Equipment. If Purchaser exercises its option set forth in Article 2.4, Contractor warrants that the SCF Equipment (for purposes of this Article 15.2.2, "SCF Equipment" shall include the Software integrated into the SCF and the Spares) delivered under this Contract shall be manufactured in conformity with the applicable requirements of Exhibit F (as modified by any waiver and/or deviation pursuant to Article 11.8) and will be free from Defects during the period

During the period specified above, as Purchaser's sole and exclusive remedy for any non-conformance or defect in such SCF Equipment of which Purchaser notifies Contractor in writing, such non-conformance or Defect shall be remedied by Contractor at Contractor's expense by repair or replacement of the defective Component (at Contractor's election). For any such non-conformance or Defect, Contractor shall determine if repair or replacement is required to be performed at Contractor's plant. If required, Purchaser shall ship the SCF Equipment to Contractor's designated facility. Contractor shall be responsible for the cost of shipment (including transportation, transit insurance, taxes and/or duties), and the cost of return shipment (including transportation, transit insurance, taxes and duties) to Purchaser at the location designated in Article 3.1. Risk of loss for the SCF Equipment shall transfer to Contractor upon delivery of the SCF Equipment to the shipping carrier by Purchaser, and risk of loss to the SCF Equipment shall transfer again to Purchaser once such SCF Equipment is repaired or replaced pursuant to this Article 15.2.2, upon receipt thereof by Purchaser at the location designated therefor in Article 3.1.

, a failure of the software integrated into the SCF and the Spares to meet the applicable requirements of Exhibit F, Satellite Control Facility Requirement Specification will, if such failure results in a Satellite Anomaly, be resolved in the response to the Satellite Anomaly pursuant to Article 15.3, below.

15.2.3 Training, Mission Operations Support Services and Launch Support Services. Contractor warrants that the Training, Mission Operations Support Services and Launch Support Services Purchaser accepts pursuant to this Contract will, upon Acceptance, conform to the highest professional standards for



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the commercial satellite communications industry for work similar in type, scope, and complexity to the Work at the time such Work is provided. In the event Contractor breaches this warranty and is so notified by Purchaser within twenty (20) Business Days of Acceptance or as soon as possible where time is of the essence, as Purchaser's sole and exclusive remedy, Contractor shall correct the deficiencies in the provision of such Training, Launch Support Services and Mission Operations Support Services where it is possible to do so (e.g., Contractor cannot correct deficiencies in, or re-perform, Launch Support Services from and after Launch).

15.2.4 Deliverable Data. Upon Acceptance, each item of Deliverable Data shall be complete, up-to-date, and shall otherwise conform with the requirements of this Contract. In the event the Contractor breaches this warranty and is so notified by Purchaser, as Purchaser's sole and exclusive remedy, Contractor shall correct the deficiencies in the Deliverable Data and resubmit such Deliverable Data to Purchaser.

15.2.5 Software. In addition to the warranties set forth in Articles 15.2.2 (A) and (B), Contractor further represents and warrants that, through the Stated Life of the Satellite, Contractor shall: (i) demonstrate that all PC based-Software delivered hereunder is free of viruses or similar items by testing such Software using commercially reasonable anti-viral software; (ii) not introduce into any delivered Software, without Purchaser's prior written approval, any code that would have the effect of disabling or otherwise shutting down all or any portion of the delivered Software (an exception to the foregoing is licensed software that will be included in some delivered Software; such license software will prevent any unlicensed copies of delivered Software from running); and (iii) not seek to gain access to the Work through any special programming devices or methods, including trapdoors or backdoors, to bypass, without Purchaser's prior written approval, any Purchaser security measures protecting the Work. Although the Parties contemplate that all necessary software support will be provided pursuant to Article 15.3, below, Purchaser shall have the option to purchase additional maintenance and support of the Software at commercially reasonable terms and prices.

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15.2.6. Title. Contractor represents and warrants that it shall provide good and marketable title to all Deliverable Items for which title shall pass in accordance with Article 12 free and clear of any liens and encumbrances of any kind (except those, if any, of Purchaser), at the time title passes to Purchaser.

15.2.7. Reserved

15.2.8 Disclaimer. EXCEPT AND TO THE EXTENT EXPRESSLY PROVIDED IN THIS ARTICLE 15, CONTRACTOR HAS NOT MADE NOR DOES IT HEREBY MAKE ANY REPRESENTATION OR WARRANTY, WHETHER WRITTEN OR ORAL, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF DESIGN, OPERATION, CONDITION, QUALITY, SUITABILITY OR MERCHANTABILITY OR FITNESS FOR USE OR FOR A PARTICULAR PURPOSE, ABSENCE OF LATENT OR OTHER DEFECTS, WHETHER OR NOT DISCOVERABLE, WITH REGARD TO THE SATELLITE, ANY OTHER DELIVERABLE ITEM OR ANY OTHER WORK. CONTRACTOR MAKES NO WARRANTY WITH RESPECT TO LAUNCH SERVICES OR THE CONDITION, USE OR PERFORMANCE OF ANY LAUNCH VEHICLE.

15.3 Satellite Anomalies

In addition to Purchaser's warranty remedy set forth in Article 15.2.1 hereof, Contractor shall investigate any Satellite Anomaly or Defect occurring on the Satellite after Launch and during the Stated Life of such Satellite and known to it or as notified in writing by Purchaser, and shall use Reasonable Efforts to correct such Anomaly or Defect as promptly as possible in accordance with the Satellite Anomaly resolution support services set forth in Paragraph 2.5.8.2 of Exhibit A, Statement of Work. Such Reasonable Efforts shall be conducted at Contractor's expense to resolve Defects or Anomalies by on-ground means, including software patches or updates, or transmission by Contractor of commands to the Satellite to eliminate or mitigate any adverse impact resulting from any such Anomalies, to establish work-around solutions, or to otherwise resolve such Defects or Anomalies. Contractor shall coordinate and consult with Purchaser concerning such on-ground resolution of Defects or Anomalies in the launched Satellite. If for any reason any such Satellite Defect or Anomaly cannot be or is not corrected as set forth above,

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15.4 Use Conditions Not Covered by Warranty

With respect to the DSS and SCF Equipment (including the Software integrated into the SCF Equipment and the DSS, and Spares), the warranty under this Article 15 shall not apply to the extent that any adjustment, repair or parts replacement is required as a result, directly or indirectly, of accident not attributable to Contractor, unusual physical or electrical stress beyond the item's design tolerances, Purchaser or third party negligence or misuse, failure of environmental control prescribed in operations and maintenance manuals, or repair or alterations by any party other than Contractor without Contractor's advance written consent, or by causes other than normal and ordinary use. The warranty provided pursuant to this Article 15 is conditioned upon Contractor being given reasonable access, if required, to Deliverable Items delivered at Purchaser's facility or as otherwise directed by Purchaser 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 this Article 15,

15.5 Subcontractor Warranties

Contractor shall pass on or assign to Purchaser all applicable warranties on goods or services given by Subcontractors to the extent to which Contractor is permitted by the terms of its purchase contracts with such suppliers or manufacturers, and further to the



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extent that is such assignment does not interfere with Contractor's performance if its obligations hereunder.

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ARTICLE 16 - CHANGES

16.1 Change Orders

Purchaser may, at any time between the EDC and the completion of this Contract, direct a change within the general scope of this Contract in drawings, designs, specifications, method of shipment or packing, quantities of items to be furnished, place of Delivery, postpone Delivery under a stop-work order

, require additional Work, or direct the omission of Work. In the event Purchaser directs a change, Contractor shall: (a) immediately proceed with the Work as changed; and (b) within thirty (30) days of Purchaser's direction, submit to Purchaser a written proposal of the effect of such a change on the Firm Fixed Price, specification, payment plan, time required for performance and/or other affected terms and conditions, including any effect (the "Proposal").

Prior to directing such change, Purchaser may issue a request to Contractor for a Proposal. Within thirty (30) days of receipt of such request for the Proposal, Contractor shall provide Purchaser with the Proposal.

If any change directed by Purchaser causes an increase or decrease in costs of, or the time required for, the performance of this Contract, and/or other terms and conditions, an equitable adjustment shall be made in the Firm Fixed Price, Delivery schedule, and/or other terms and conditions, this Contract shall be modified in writing accordingly.



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If the cost of supplies or materials made obsolete or excess as a result of a change is included in Contractor's claim for adjustment, Purchaser shall have the right to prescribe the manner of disposition of such supplies or materials. If Purchaser directs the omission of Work and, as a result, it causes an increase in the cost of the remaining Work to be performed hereunder, such increase in cost shall constitute an allowable element of Contractor's claim for equitable adjustment.

Upon receipt of Contractor's Proposal, the Parties shall commence good faith negotiations concerning the appropriate equitable adjustment to the Contract. In the event that the Parties have not reached agreement on the amount and manner of Contractor's compensation within sixty (60) days of Purchaser's direction for change, Purchaser shall pay to Contractor the agreed-upon portions of the proposed changes to the Firm Fixed Price and the Payment Plan and Termination Liability Schedule, and, pending agreement or other resolution, deposit the balance of the amount set forth in the Proposal with a recognized escrow agent selected by Purchaser on standard terms. The Parties shall exert all good faith efforts to reach resolution of the appropriate equitable adjustment within (30) days after Purchaser makes such deposit into escrow.



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ARTICLE 17 - FORCE MAJEURE

17.1 Force Majeure Defined

Contractor shall not be responsible for late Delivery or delay of the final completion date or nonperformance of its contractual obligations due to Force Majeure. Force Majeure shall be any event beyond the reasonable control of Contractor or its suppliers and subcontractors and shall include but not be limited to: (1) acts of God; (2) acts of a public enemy; (3) acts of a government in its sovereign capacity or subject to the DPAS regulations (including any action or inaction affecting the import or export of items); (4) war and warlike events; (5) catastrophic weather conditions such as hurricanes, tornadoes and typhoons; (6) fire, earthquakes, floods, epidemics, quarantine restrictions; (7) actions taken in response to GIDEP direction concerning technical problems generally affecting the telecommunications industry; and (8) sabotage, riot and embargoes. ("Force Majeure"). For an event to qualify for Force Majeure relief hereunder: (1) the event must be beyond the control and without fault or negligence of a Party or its subcontractors hereunder; (2) the resulting delay cannot be circumvented by Reasonable Efforts to establish work-around plans, payment of expedited fees, alternate sources, or other means; and (3) Contractor must provide Purchaser with written notice thereof as soon as possible but in no event later than within ten (10) Business Days after Contractor's performance hereunder is impacted by such an event. Notwithstanding anything to the foregoing, any failure by a Subcontractor to meet its obligations to Contractor, or any delay due to labor shortages, defective tooling, transportation difficulties, equipment failure or breakdowns, lockouts, or inability to obtain materials shall not constitute a Force Majeure event (except where such circumstance is itself caused by a Force Majeure event), and shall not relieve Contractor from meeting any of its obligations under this Contract. Contractor shall use Reasonable Efforts to minimize the effect of any Force Majeure event. In the event Contractor claims a Force Majeure event, Contractor's written notice called for above shall include a detailed description of the portion of the Work known to be affected by such delay, as well as a proposed work-around plan reasonably satisfactory to Purchaser. The work-around plan shall: (1) set forth Contractor's Reasonable Efforts to mitigate the effect of any such Force Majeure event and include a schedule for such mitigation; and (2) contain sufficient detail for Purchaser to be able to evaluate such plan. If appropriate, such work-around plan shall use work-around schedules, payment of expedited fees, twenty four (24) hour

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operations, and the use of alternate Subcontractors (to be approved by Purchaser if required under this Contract). In the event of a Force Majeure event, the Delivery requirement shall be extended for such period as is supported by the evidence provided; provided, however, the occurrence of a Force Majeure event shall in no event entitle Contractor to an increase in the price for the Work. Any adjustment of time appropriate under this Article shall be formalized promptly by the execution of a mutually acceptable amendment to this Contract.

17.2 Termination for Force Majeure

Purchaser may, upon written notice to Contractor, terminate this Contract immediately in whole or in part if and when the cumulative aggregate of Force Majeure events exceeds

. In the event of such a termination, Contractor shall submit a final invoice to Purchaser within sixty (60) days after the termination date, which shall specify the amount due to Contractor from Purchaser pursuant to this Article 17.2. Purchaser shall pay such invoice, to the extent undisputed by Purchaser, within sixty (60) days after receipt. Notwithstanding the foregoing, Purchaser may dispute the amount of such invoice by giving Contractor notice of such dispute within sixty (60) days after receipt of the invoice. Contractor's invoice shall be in an amount equal to the sum of:

Concurrently with such payment, Contractor shall promptly deliver in the manner and to the extent directed by Purchaser all completed Work and work-in-progress to Purchaser or Purchaser's designee (including all applicable licenses and warranties). Alternatively, Purchaser may request Contractor to purchase any such Work or work-in-progress that Contractor believes can be re-used or use Reasonable Efforts to sell any such items, in which case Contractor shall remit

. Payment of the amount payable by Purchaser under this Article shall constitute a total discharge of Purchaser's liabilities to Contractor under this Contract. If this Contract is terminated as provided in this Article, Contractor shall protect and preserve property in the possession



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of Contractor in which Purchaser has an interest. Nothing in this paragraph shall limit Purchaser's rights to terminate this contract for convenience pursuant to Article 21.

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ARTICLE 18 - PURCHASER DELAY OF WORK

If the performance of all or any part of the Work required of Contractor under this Contract is materially delayed or interrupted by Purchaser's failure to perform its contractual obligations set forth in paragraph 2.6 of the SOW 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 Purchaser or its agents, consultants or subcontractors (including, without limitation, the Launch Agency) that unreasonably interferes with and/or materially delays Contractor's performance of its obligations under this Contract (each a "Purchaser Delay"), Purchaser shall be responsible for

. In addition, Contractor shall be entitled to an equitable adjustment in performance requirements, Delivery schedules, and any other terms of this Contract affected by such Purchaser Delay. The Parties will formalize all such adjustments by executing an appropriate amendment to this Contract. To qualify as a Purchaser Delay hereunder, (a) Contractor must notify Purchaser in writing of any applicable Purchaser Delay no later than five (5) Business Days after Contractor becomes aware of a possible impact due to the Purchaser Delay; and (b) Contractor must use Reasonable Efforts to avoid and/or mitigate the effect of such Purchaser Delay.



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ARTICLE 19 - INTELLECTUAL PROPERTY INDEMNITY

19.1 Indemnification

Contractor, at its own expense, hereby agrees to defend or, at Contractor's sole option, to settle, and to indemnify and hold harmless Purchaser, and its respective shareholders, officers, directors and employees from and against any claim or suit based on an allegation that Contractor's performance of the Work hereunder or the manufacture of any Deliverable Item or any part thereof or the normal intended use, lease or sale of any Deliverable Item or any part thereof infringes any third party's Intellectual Property Right ("Intellectual Property Claim"), and shall pay any royalties and other liabilities adjudicated (or provided in settlement of the matter) to be owing to the third party claimant as well as costs and expenses incurred in defending or settling such Intellectual Property Claim. Contractor's obligations under this Article 19.1 shall be subject to the conditions to indemnification set forth in Article 20.3.

19.2 Infringing Equipment

If Contractor's performance of the Work or the manufacture of any Deliverable Item or any part thereof or the normal intended use, manufacture, lease sale, or other disposition of any Deliverable Item or any part thereof under this Contract is enjoined or otherwise prohibited as a result of an Intellectual Property Claim, Contractor shall, at its option and expense (i) resolve the matter so that the injunction or prohibition no longer pertains, (ii) procure for Purchaser the right to use the infringing item, and/or (iii) modify the infringing item so that it becomes non-infringing while remaining in compliance with the Performance Specification (as such may be modified or waived pursuant to Article 9.1.4 or Article 11.8, as applicable). Purchaser shall reasonably cooperate with Contractor to mitigate or remove any infringement. If Contractor is unable to accomplish (i), (ii) or (iii) as stated above, Purchaser shall have the right to terminate this Contract, in whole or in part, and receive a refund of



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19.3 Combinations and Modifications

Contractor shall have no liability under this Article 19 for any Intellectual Property Claim to the extent arising from (i) use of any Deliverable Item in combination with other items not provided, recommended, or approved by Contractor, or (ii) modifications of any Deliverable Item after Delivery by a person or entity other than Contractor unless authorized by written directive or instructions furnished by Contractor to Purchaser under this Contract or (iii) the manufacture, delivery or use of any Deliverable Item in compliance with the design, specification or instructions of Purchaser.

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ARTICLE 20 - INDEMNIFICATION

20.1 Contractor's Indemnities

- a. Contractor, at its own expense, shall defend, indemnify and hold harmless Purchaser and its respective shareholders, directors, officers and employees, from and against any losses, damages, and other liabilities adjudicated (or provided for in settlement of the matter) to be owing to a third party claimant as well as costs and expenses, including court costs and reasonable attorneys' fees (collectively, "Losses") incurred in connection with any third party claim or suit alleging personal injury, death, or damage to the property of a third party, but only if such Losses were caused by, or resulted from, a negligent act or omission or willful misconduct of Contractor or its employees or representatives. For the avoidance of doubt, the Satellite in any stage of manufacture or operation shall not be considered as property subject to coverage under this Article 20.1.
- b. Contractor, at its own expense, shall defend, indemnify and hold harmless Purchaser and its respective shareholders, directors, officers and employees, from and against all range support and de-stacking charges to the extent not otherwise covered under a Purchaser policy of insurance, if any (including without limitation charges assessed to de-erect, place and maintain in storage, re-erect and re-process the Launch Vehicle and Satellite and to re-integrate the Satellite), levied against Purchaser by the Launch Agency for the Satellite due to Launch delays caused by Contractor and/or its Subcontractors, agents or representatives at any tier, or any of them, up to
- . Purchaser shall use Reasonable Efforts to cause the Launch Agency not to incur range support costs or de-stack a Launch Vehicle after Purchaser has been notified by Contractor that such a delay may occur.
- c. Contractor, at its own expense, shall defend, indemnify and hold harmless Purchaser and its respective shareholders, directors, officers and employees, from and against all Losses in connection with claims arising out of, or relating to, Contractor's breaches of its obligations in Article 4.5.

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20.2 Purchaser's Indemnity

Purchaser, at its own expense, shall defend, indemnify and hold harmless Contractor, and its respective directors, officers and employees from and against any Losses incurred in connection with any third party claim or suit alleging personal injury, death, or damage to the property of a third party claimant, but only if such Losses were caused by, or resulted from, negligent acts or omissions or willful misconduct of Purchaser or its employees or representatives.

20.3 Conditions to Indemnification

The right to any indemnity specified in Article 19, Article 20.1 and Article 20.2 shall be subject to the following conditions:

A. The Party seeking indemnification shall promptly advise the other Party in writing of the filing of any suit or of any written claim upon receipt thereof and shall provide the other Party, at its request and at the indemnifying Party's expense, with copies of all documentation and reasonable assistance relevant to such suit or claim. Notwithstanding anything to the foregoing, a delay in providing written notice of a suit or written claim shall not relieve a Party from its indemnity obligations unless such delay materially prejudices a Party's ability to defend the suit or claim.

B. The Party seeking indemnification shall not reach a compromise or settlement without the prior written approval of the other Party, which approval shall not be unreasonably withheld or delayed, provided that the indemnifying Party has agreed in writing and without limitation to defend the applicable claim.

C. The indemnifying Party shall assume the defense of any claim or suit thereof and shall satisfy any judgments rendered by a court of competent jurisdiction in such suits and shall make all settlement payments. The Party seeking indemnification may participate in any defense at its own expense, using counsel reasonably acceptable to the indemnifying Party.

20.4 Waiver of Subrogation

Each Party shall use Reasonable Efforts to obtain a waiver of subrogation and release of any right of recovery against the other Party and its Affiliates, contractors and subcontractors at any tier (including suppliers of any kind) and their respective directors,

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officers, employees, shareholders and agents, that are involved in the performance of this Contract and from any insurer providing coverage for the risks subject to indemnification by the insured Party under this Article 20.

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ARTICLE 21 - TERMINATION FOR CONVENIENCE

21.1 Reimbursement of Contractor

21.1.1 Right to Terminate. Purchaser may terminate this Contract without cause, in whole or in part, upon giving Contractor written notice; provided, however, Purchaser may not terminate this Contract after Delivery of the Satellite in accordance with Article 3.2. Upon receipt of Purchaser's notice of termination for convenience, Contractor shall: (i) stop the terminated Work under this Contract; (ii) place no further orders or subcontracts for materials, services or facilities to the extent that they relate to the performance of the terminated Work; (iii) terminate orders and subcontracts to the extent that they relate to the performance of the terminated Work; and (iv) settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts.

21.1.2 Termination Liability.

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21.1.3. Determination of Termination Liability.

21.2 Disposition of Work

At the time of payment by Purchaser to Contractor of the termination liability amounts due under this Article, subject to applicable U.S. Government export laws and license conditions, Purchaser may direct Contractor to transfer to Purchaser, in the manner and to the extent directed by Purchaser, title to and risk of loss and possession of any items comprising the Work terminated (including all Work-in-progress, parts and materials, all inventories, licenses, and associated warranties but not including any portion of the Work to which Contractor would not have otherwise been obligated to transfer title hereunder had the Contract been completed). Contractor shall, upon direction of Purchaser, protect and preserve property at Purchaser's expense in the possession of Contractor or its Subcontractors in which Purchaser has an interest and shall facilitate access to and possession by Purchaser of items comprising all or part of the Work terminated. Alternatively, Purchaser may request Contractor to make Reasonable Efforts to re-use or sell such items and, in the case of Work Contractor can re-use, Contractor shall remit the mutually agreed cost of all such items to Purchaser, and, in

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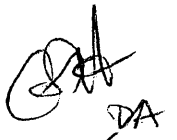
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the case of sold items, remit any sales proceeds to Purchaser less a deduction for Actual Costs of disposition reasonably incurred.

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ARTICLE 22 - LIQUIDATED DAMAGES

22.1 Liquidated Damages – Schedule/Delivery

The Parties acknowledge and agree that failure to complete the Milestones listed below in this Article by the corresponding indicated dates may cause substantial financial loss to Purchaser (the "Key Milestone Dates"). The Parties further acknowledge and agree that the following liquidated damages represent a genuine and reasonable estimate of all losses that would be suffered by Purchaser by reason of any such delay (which losses would be difficult or impossible to calculate with certainty) in meeting the Key Milestone Dates.

In the event Contractor fails to meet the Key Milestones Dates set forth below, as such Dates may be adjusted in accordance with this Contract, Contractor shall pay Purchaser, as liquidated damages and not as a penalty,

the following incremental amounts with the damages period beginning on the day after the applicable Key Milestone Date (as such Date(s) may be adjusted in accordance with this Contract):

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1. Key Milestone 1: Satellite Delivery – as of the date set forth in Article 3.1 (as such date may be adjusted in accordance with this Contract)

Days Late	Daily Amount of Liquidated Damages	Period Total	Cumulative Total
1-60	[REDACTED]	[REDACTED]	[REDACTED]
61-180	[REDACTED]	[REDACTED]	[REDACTED]

Any amounts due in accordance with this Article 22 shall be, at Purchaser's election, either (i) credited to Purchaser against any outstanding or future invoices hereunder or (ii) paid by Contractor to Purchaser within thirty (30) days of issuance of an invoice from Purchaser. Purchaser's failure to invoice or offset shall not constitute a waiver by Purchaser with respect to any amount of liquidated damages due and owing hereunder.

22.2 Remedy



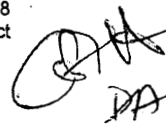
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ARTICLE 23 - TERMINATION FOR DEFAULT

23.1 Purchaser Rights of Termination

23.1.1 Right to Terminate.

23.1.2 Termination Liability.



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23.1.3 Contractor's Reimbursement for Terminated Work.

23.1.4 Special Provision Limiting Purchaser's Remedies.

23.1.5 Disposition of the Work. Except for items obtained by Purchaser as set forth in Article 23.1.3, Contractor shall retain title to any and all Work, Work-in-progress,

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parts or other material, inventories, and any associated warranties, and any subcontracted items Contractor has specifically produced, acquired, or subcontracted for in accordance with this Contract.

23.1.6 Invalid Default Termination. If, after termination pursuant to this Article 23.1, it is finally determined pursuant to Article 25 or written agreement of Purchaser that Contractor was not in default under Article 23.1.1, or that the default was excusable under the Contract, the rights and obligations of the Parties shall be the same as if the termination had occurred under Article 21.

23.2 Contractor Rights of Termination

23.2.1 Right to Terminate.

23.2.2 Termination Liability.

23.2.3 Disposition of the Work. Upon completion of all payments to Contractor in accordance with this Article 23.2, Purchaser may, subject to Article 7 hereof, require Contractor to transfer to Purchaser in the manner and to the extent directed by Purchaser, title to and possession of any items comprising all or any part of the Work terminated (including all Work-in-progress, but not including any Deliverable Data or any other portion of the Work to which Contractor would not have otherwise been obligated to transfer title hereunder had the Contract been completed) not used or disposed of by Contractor pursuant to the foregoing

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sentence. Contractor shall, upon direction of Purchaser, protect and preserve such items at Purchaser's expense in the possession of Contractor or its Subcontractors and shall facilitate access to and possession by Purchaser of items comprising all or part of the Work terminated. Alternatively, Purchaser may request Contractor to undertake Reasonable Efforts to re-use or sell such items and, in the case of Work Contractor can re-use, remit the agreed-upon cost of such items to Purchaser, and, in the case of sold items, remit any sales proceeds to Purchaser less a deduction for Actual Costs of disposition reasonably incurred by Contractor for such efforts. Contractor shall, if requested by Purchaser in writing, assign to Purchaser or its designee such Subcontracts as requested by Purchaser (subject to any approvals required by the associated Subcontractors and receipt by Contractor of associated reasonable releases and indemnifications in favor of Contractor).

23.2.4 Invalid Default Termination. If, after termination pursuant to this Article 23.2, it is finally determined pursuant to Article 25 or written agreement of Contractor that Purchaser was not in default under Article 23.2.1, Contractor shall be liable to Purchaser for direct damages resulting from such termination of this Contract (in no event exceeding amounts payable to Purchaser pursuant to Article 23.1, and subject to the limitation of liability set forth in Article 27).



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ARTICLE 25 - DISPUTE RESOLUTION

Any dispute, claim, or controversy between the Parties arising out of or relating to this Contract ("Dispute"), including any Dispute with respect to the interpretation, performance, termination, or breach of this Contract or any provision thereof shall be resolved as provided in this Article 25.

25.1 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's program manager shall promptly consult with Purchaser's contract manager in an effort to reach an agreement to resolve the Dispute.
- B. In the event that agreement cannot be reached within ten (10) days of receipt of written notice, either Party may request that 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) days of receipt of written notice, either Party may request that the Dispute be escalated, and the respective positions of the Parties shall be forwarded to the Chief Executive Officer (CEO) or equivalent of each Party for resolution of the Dispute.
- D. In the event agreement cannot be reached as provided in Paragraphs A, B, or C above within a total of sixty (60) days after receipt of the written notice described in Paragraph A above either Party may proceed in accordance with Article 25.2.

Each phase of the dispute resolution process shall require the Parties to meet in person at least one time.



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25.2 Litigation

If any Dispute arising between the Parties cannot be settled pursuant to Article 25.1 (or, 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 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.

Any suit brought shall be brought in any court of competent jurisdiction in the state of California, and the Parties hereby waive any objection to that venue and that court's exercise of personal jurisdiction over the case. The Parties hereby irrevocably consent to the exercise of personal jurisdiction by the state and federal courts in the State of California concerning any Dispute between the Parties. If, for any reason, neither the state nor federal courts in California 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.

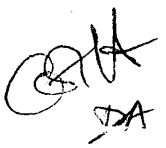
If a dispute arises as to whether or not a Party has committed or acted with gross negligence or willful misconduct, that issue alone shall be resolved by the court without a jury, and the court shall resolve such issue by applying the laws of the State of New York without regard to its conflict of law rules. THE PARTIES EXPRESSLY WAIVE THEIR RIGHT TO A JURY IN CONNECTION WITH SUCH DISPUTE.

Nothing in this Contract precludes a Party that prevails on any claim from initiating litigation in any appropriate forum to enter or enforce a judgment based on the court's award on that claim.

Pending final resolution of any dispute (including the informal dispute resolution process and litigation), Contractor shall, unless otherwise directed by Purchaser in writing, perform all its obligations under this Contract, provided that Purchaser continues to make undisputed payments as they come due. For purposes of clarification, Contractor shall not be entitled to stop work under this Contract for Purchaser's failure to make payment hereunder to the extent Purchaser has disputed such payments in good faith pursuant to Article 5.6.

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ARTICLE 26 - INTER-PARTY WAIVER OF LIABILITY FOR A LAUNCH

26.1 Launch Services Agreement Inter-Party Waiver of Liability

26.1.1 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 Services Agreement with respect to the 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 the Satellite or any Transponder thereon (including customers of Purchaser) 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.

26.1.2 Waiver of Subrogation. The Parties also shall use 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 the Satellite or any Transponder thereon (including non-consumer customers of Purchaser), to use 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 26.

26.2 Indemnity Related to the Inter-Party Waiver of Liability

Each Party shall indemnify against and hold harmless the other Party and/or 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 and/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 the Satellite or Transponder thereon (including customers of Purchaser), or by insurer(s) identified in Article 26.1, resulting from the failure of the indemnifying Party to waive any liability against, or to cause any other person the

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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.

26.3 Survival of Obligations

The waiver, indemnification and hold harmless obligations provided in this Article 26 shall survive and remain in full force and effect, notwithstanding the expiration or termination of this Contract.

26.4 Third Party Claims Coverage

With respect to third party liability for death or bodily injury of for the loss or damage to property that may be sustained, and any consequences thereof, resulting from, or arising in connection with the performance of the Launch Services for the Satellite, Purchaser shall use Reasonable Efforts to require the Launch Agency to include Contractor (and any other party or entity as Contractor may request) as an additional named insured under all policies of third party claims coverage (or any other program of third party claims coverage, including coverage provided by agencies of any government) that are provided or required to be provided by or through the Launch Agency.



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ARTICLE 27 - LIMITATION OF LIABILITY

27.1 Limitation

27.2 Liability

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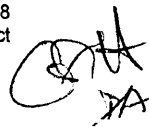
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27.3 Gross Negligence and Willful Misconduct

27.4 Indemnities

27.5 Survival

THIS ARTICLE 27 SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS CONTRACT FOR WHATEVER CAUSE.



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ARTICLE 28 - DISCLOSURE AND HANDLING OF PROPRIETARY INFORMATION

28.1 Definition of Proprietary Information

For the purpose of this Contract, "Proprietary Information" means all confidential and proprietary information (other than Deliverable Data, which is subject to the provisions of Article 39) in whatever form transmitted, that is disclosed or made available directly or indirectly by such Party (hereinafter referred to as the "disclosing party") to the other Party hereto (hereinafter referred to as the "receiving party") and: (i) is identified as proprietary by means of a written legend thereon or (ii) if disclosed orally, is identified as proprietary at the time of initial disclosure and then summarized in a written document, with the Proprietary Information specifically identified, that is supplied to the receiving party within ten (10) days of initial disclosure. Notes and memoranda prepared by the receiving party (but not the receiving party's attorneys) that include the disclosing party's Proprietary Information shall be considered the disclosing party's Proprietary Information for all purposes of this Article. Proprietary Information shall not include any information disclosed by a Party that (i) is already known to the receiving party at the time of its disclosure, as evidenced by written records of the receiving party, without an obligation of confidentiality at the time of disclosure; (ii) is or becomes publicly known through no wrongful act of the receiving party; (iii) is independently developed by the receiving party as evidenced by written records of the receiving party; or (iv) is rightfully obtained by the receiving party from any third party without restriction and without breach of any confidentiality obligation by such third party.

28.2 Terms for Handling and Use of Proprietary Information

Subject to Article 28.1, for a period of _____ after receipt of any Proprietary Information, the receiving party shall not disclose Proprietary Information that it obtains from the disclosing party to any person or entity except its employees, Affiliates (who are not direct competitors of the disclosing party), attorneys, agents, Financing Entities, potential and actual joint venture partners, and consultants (who, in all cases, are not direct competitors of the disclosing party) who have a need to know, who have been informed of and have agreed in writing (or are otherwise subject to confidentiality obligations consistent with the obligations set forth herein) to abide by the receiving party's obligations under this Article 28, and who are authorized pursuant to applicable U.S. export control laws and licenses or other approvals to receive such information. The receiving party shall use not less than the same degree of care to avoid disclosure

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of such Proprietary Information as it uses for its own Proprietary Information of like importance; but in no event less than a reasonable degree of care. Proprietary Information shall be used only for the purpose of performing the obligations under this Contract, or as the disclosing party otherwise authorizes in writing.

28.3 Legally Required Disclosures

Notwithstanding the foregoing, in the event that the receiving party becomes legally compelled to disclose Proprietary Information of the disclosing party (including disclosures necessary or in good faith determined to be reasonably necessary under the Securities Act of 1933, as amended, and the Securities Exchange Act of 1934, as amended), the receiving party shall, to the extent practicable under the circumstances, provide the disclosing party with written notice thereof so that the disclosing party may seek a protective order or other appropriate remedy, or to allow the disclosing party to redact such portions of the Proprietary Information as the disclosing party deems appropriate. In any such event, the receiving party will disclose only such information as is legally required, and will cooperate with the disclosing party (at the disclosing party's expense) to obtain proprietary treatment for any Proprietary Information being disclosed.

28.4 Return of Confidential Information

Upon the request of the Party having proprietary rights to Proprietary Information, the other Party in possession of such Proprietary Information shall promptly return such Proprietary 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), except for one (1) copy which may be retained for legal archive purposes, and shall further provide the requesting Party with written confirmation of same; provided, however, where both Parties have proprietary rights in the same Proprietary Information, a Party shall not be required to return such information to the other Party. Nothing in this Article 28.4 shall require a Party to return or destroy computer files or records containing Proprietary Information but only if and to the extent such files or records were created in the ordinary course of business pursuant to such Party's automatic archiving and back-up procedures for computerized or word-processed records. The rights and obligations of the Parties under this Article shall survive any return or destruction of Proprietary Information.

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28.5 No License

Except as expressly 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 Proprietary Information received from the disclosing party, or use any patent, trademark, or copyright now or hereafter owned or controlled by the disclosing party.

28.6 Injunctive Relief

The Parties agree that, in addition to any other rights and remedies that exist under this Contract, in the event of a breach or threatened breach of this Article, the disclosing party shall be entitled to seek an injunction prohibiting any such breach. The Parties acknowledge that Proprietary Information is valuable and unique and that disclosure in breach of this Article may result in irreparable injury to the disclosing party.



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ARTICLE 29 - CONTRACT TECHNOLOGY ESCROW

29.1 Segregation of Contract Technology/Escrow.

29.1.1. No later than 30 days after completion of PDR, the Parties shall enter into an escrow agreement (the "Escrow Agreement") in the form attached hereto as Exhibit G. Pursuant to the terms of the Escrow Agreement, Contractor shall deliver to the escrow agent copies of all Contract Technology, and shall diligently keep such escrow updated, no less frequently than on a quarterly basis. Purchaser shall pay all costs associated with establishing and maintaining the Escrow Agreement, and Contractor, at no charge to Purchaser, shall be responsible for gathering and depositing the Contract Technology into the escrow. Purchaser shall be responsible for all escrow agent fees incurred in connection with the withdrawal of Contract Technology under the Escrow Agreement, once established.

29.1.2 The Escrow Agreement will not permit Purchaser's access to the Contract Technology except if:

- (i) Contractor becomes insolvent;
- (ii) Contractor makes a general assignment for the benefit of creditors;
- (iii) Contractor files a voluntary petition in bankruptcy or an involuntary petition in bankruptcy is filed against Contractor, which petition is not dismissed within 30 days;
- (iv) Contractor suffers or permits the appointment of a receiver for its business;
- (v) Contractor becomes subject to any proceeding under any bankruptcy or insolvency law;
- (vi) Contractor has liquidated its business;
- (vii) Contractor ceases doing business without providing for a successor; or
- (viii) Contractor is unwilling or unable to continue to perform its obligations under this Contract.

In the cases of items (i) through (v), Purchaser shall only be able to access the Contract Technology if Contractor is unwilling or unable to continue to perform its obligations under this Contract.



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29.1.3 Contractor represents and warrants that the Contract Technology kept at Contractor's facilities and delivered into escrow under the Escrow Agreement:

- (i) will comprise all of the Contract Technology (including the source code language statement for any and all applicable Software) to the extent its retention is consistent with Contractor's normal retention policies;
- (i) will be kept current, including all updates needed to maintain compliance with the terms of this Contract; and
- (ii) will be in a form suitable for reproduction by Purchaser.



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ARTICLE 30 - PUBLIC RELEASE OF INFORMATION

30.1 Generally

Either Party intending to disclose publicly, whether through the issuance of news releases, articles, brochures, advertisements, prepared speeches or other information releases, information concerning the financial details of this Contract or Proprietary Information of the other Party regarding the Work must obtain the prior written approval of the other Party with respect to the content and timing of such issuance, which approval shall not be unreasonably denied, delayed or withheld.

30.2 Exceptions

The obligations set forth in Article 30.1 shall not apply to the following:

30.2.1 information that is publicly available from any governmental agency or that is or otherwise becomes publicly available without breach of this Contract;

30.2.2 internal publications or releases which are clearly marked or otherwise identifiable as not intended for the public at large; and

30.2.3 disclosure required by applicable law or regulation, including without limitation, disclosure required by the Securities and Exchange Commission or the Nasdaq Stock Market or any other securities exchange on which the securities of a Party or its Affiliate is then trading.



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ARTICLE 31 - NOTICES

31.1 Written Notification

Each contractual or legal notice or correspondence required or permitted to be given or made hereunder shall be in writing (except where oral notice is specifically authorized) to the respective addresses, facsimile and telephone numbers and to the attention of the individuals set forth below, and any such notice or correspondence shall be deemed given on the earlier to occur of (i) actual receipt, irrespective of whether sent by post, facsimile transmission, overnight courier or other method, and (ii) seven (7) days after mailing by registered or certified mail, return receipt requested, postage prepaid.

In the case of Purchaser:

ViaSat, Inc.

6155 El Camino Real

Carlsbad, California 92009

Attn: David Abrahamian

Telephone No.: 760-476-3053

Facsimile No.: 760-476-4225

With a separately delivered copy to:

ViaSat, Inc.

6155 El Camino Real

Carlsbad, California 92009

Attn: Jared Flinn

Telephone No.: 760-476-2672

Facsimile No.: 760-476-4830

In the case of Contractor:

Space Systems/Loral, Inc.

3825 Fabian Way M/S G-44

Palo Alto, CA 94303-4697

Attn.: Contract Manager, Alan Sheveland

Telephone No.: 650-852-5198

Facsimile No.: 650-852-7957

With a separately delivered copy to:

Space Systems/Loral, Inc.

3825 Fabian Way M/S G-56

Palo Alto, CA 94303-4697

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Attn.: Program Manager, Greg Harms

Telephone No.: 650-852-5575

Facsimile No.: 650-852-6392

31.2 Change of Address

Either Party may from time to time change its notice address or the persons to be notified by giving the other Party written notice (as provided above) of such new information and the date upon which such change shall become effective.

31.3 Authorized Representatives

The only representatives of Purchaser and Contractor authorized to sign contractual documents and to direct Work under this Contract are:

PURCHASER

Name: David Abrahamian

Title: Director, Space Systems Contracts

Name: Jared Flinn

Title: Associate General Counsel

Or others as may be authorized in writing by an executive officer of Purchaser from time to time.

CONTRACTOR:

Name: Ronald Haley

Title: Senior Vice President, Finance and Contracts

Or others authorized by written delegation by Contractor.



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ARTICLE 32 - RISK MANAGEMENT SERVICES

32.1 Purchaser Responsibility

32.2 Contractor Support

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32.3 Insurance Amounts



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32.4 Claims Support

Subject to Article 7 and Article 28, Contractor shall cooperate with and provide reasonable and customary support to Purchaser in making and perfecting claims for insurance recovery and as to any legal proceeding as may be brought by Purchaser associated with any claim for insurance recovery. Contractor shall furnish Purchaser with any information that may be reasonably required to prepare and present any insurance claim.

32.5 Contractor Insurance Requirements

During the period from EDC until Intentional Ignition (and in the event of a Terminated Ignition, until the subsequent Intentional Ignition where Contractor re-acquires title and risk of loss to the Satellite as provided in Article 12.1) Contractor shall obtain and maintain, at its own expense, Ground Insurance coverage against all risks of loss, including earthquake and other natural disasters, and damage to the Satellite and its Components in an amount sufficient to cover the greater of: (i) the Contractor's full replacement value of the Satellite; and (ii) the amounts paid by Purchaser with respect to the Satellite. Such insurance shall provide: (w) coverage for removal of debris, and insuring the structures, machines, equipment, facilities, fixtures and other properties constituting part of the project, (x) transit coverage, including ocean marine coverage (unless insured by the supplier), (y) off-site coverage for any key equipment, and (z) off-site coverage covering any property or equipment not stored on the construction site. The deductible for such insurance shall not exceed

Contractor shall have Purchaser and/or its designees named as an additional named insured on such insurance policy(ies) to the extent of their interest. Prior to commencing the Work, and whenever requested by Purchaser, Contractor agrees to furnish to Purchaser certificates of insurance evidencing that insurance required under this Article is in full force and effect. Contractor agrees to notify Purchaser in advance of any change to any material terms and conditions of said

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policies of insurance which are relevant to this Contract, and, if any such change is made without Purchaser's consent (not to be unreasonably withheld), Contractor shall be obligated to procure supplemental insurance coverage, subject to availability, to comply with the insurance obligations set forth above. Contractor shall provide certificates of insurance which shall contain an endorsement setting forth that the insurer cannot terminate or materially amend the provisions of the insurance without prior written notification to Purchaser at least thirty (30) days before such termination or amendment. If, after being requested in writing by Purchaser to do so, Contractor fails to produce evidence of compliance with Contractor's insurance obligations hereunder within fourteen (14) days, Purchaser may effect and maintain the insurance and pay the premiums, and Contractor, at no charge, shall provide reasonable cooperation as requested by Purchaser. The amount paid shall be a debt due and payable from Contractor to Purchaser, or Purchaser, at its option, may elect to offset payments due Contractor.

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ARTICLE 33 - ORDER OF PRECEDENCE

In the event of conflict among the terms of this Contract (Preamble, Recitals, and Articles 1 to 41) and the Exhibits, the following order of decreasing precedence shall apply:

- o Contract terms and conditions (Preamble, Recitals and Articles 1 through 41)
- o Exhibit A Statement of Work
- o Exhibit E Payment Plan and Termination Liability Schedule
- o Exhibit B Satellite Performance Specification
- o Exhibit C Mission Assurance Plan
- o Exhibit D Satellite Program Test Plan
- o Exhibit F Satellite Control Facility Requirements Document
- o Exhibit H Dynamic Satellite Simulator Statement of Work and Functional Requirements Document
- o Exhibit G Escrow Agreement



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ARTICLE 34 - GENERAL

34.1 Assignment

34.1.1 General. This Contract may not be assigned, either in whole or in part, by either Party without the express written approval of the other Party, not to be unreasonably withheld or delayed.

34.1.2 By Purchaser. Notwithstanding the foregoing, Purchaser may assign or transfer this Contract or all its rights, duties, or obligations hereunder without Contractor's approval (i) to an Affiliate, provided that such Affiliate has sufficient financial resources or funding to fulfill Purchaser's obligations under this Contract; (ii) in connection with obtaining financing for the Satellite under any financing agreement; (iii) to any entity which, by way of merger, consolidation, or any similar transaction involving the acquisition of substantially all the stock or the entire business assets of Purchaser relating to the subject matter of this Contract succeeds to the interests of Purchaser, provided in each case the assignee, transferee, or successor to Purchaser has expressly assumed all the obligations of Purchaser and all terms and conditions applicable to Purchaser under this Contract; or (iv) to any subsidiary or joint venture associate of Purchaser not meeting the requirements of item (i) above.

34.1.3 By Contractor. Notwithstanding the foregoing, Contractor may assign or transfer this Contract or all of its rights, duties, or obligations hereunder to: (i) any Affiliate of Contractor that has equivalent or greater financial resources as Contractor; or (ii) any person in connection with the sale, transfer, merger, assignment or other reorganization affecting Contractor or all (or substantially all) of Contractor's assets or capital stock, whether by way of merger, consolidation, or otherwise, provided in each case the assignee, transferee, or successor to Contractor has expressly assumed all the obligations of Contractor and all terms and conditions applicable to Contractor under this Contract.

34.1.4 Security Interests. Either Party, upon prior written notice to the other Party, may grant security interests in its rights hereunder to lenders that provide financing for the performance by such Party of its obligations under this Contract or for the subject matter hereof. In the event that either Party is sold to or merged into another entity, its responsibilities under this Contract shall not be altered and the



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successor organization shall be liable for performance of such Party's obligations under this Contract.

34.2 Binding Effect

This Contract shall be binding upon and inure to the benefit of the Parties and their respective 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.

34.3 Severability

If any provision of this Contract is declared or found to be illegal, unenforceable or void, the Parties shall negotiate in good faith to agree upon a substitute provision that is legal and enforceable and is as nearly as possible consistent with the intentions underlying the original provision. If the remainder of this Contract is not materially affected by such declaration or finding and is capable of substantial performance, then the remainder shall be enforced to the extent permitted by law.

34.4 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 34.4.

34.5 Amendments

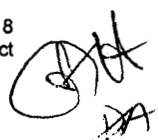
This Contract, including any and all its Exhibits, may not be modified except by written instrument of subsequent date signed by an officer of Contractor, or another person designated in writing by any such officer to sign such an instrument, and an authorized officer of Purchaser, or another person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

34.6 Captions

The captions contained herein are for purposes of convenience only and shall not affect the construction of this Contract.

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34.7 Relationships of the Parties

It is expressly understood that Contractor and Purchaser intend by this Contract to establish the relationship of independent contractors only, and do not intend to undertake the relationship of principal and agent or to create a joint venture or partnership or any other relationship, other than that of independent contractors, between them or their respective successors in interests. Neither Contractor nor Purchaser shall have any authority to create or assume, in the name or on behalf of the other Party, any obligation, expressed or implied, or to act or purport to act as the agent or the legally empowered representative of the other Party, for any purpose whatsoever.

34.8 Entire Agreement

This Contract, including all its Exhibits, represents the entire understanding and agreement between the Parties hereto with respect to the subject matter hereof, and supersedes all prior negotiations and agreements with respect to the subject matter hereof, which cease to have any further force or effect.

34.9 Standard of Conduct

Both Parties agree that all their actions in carrying out the provisions of this Contract shall be in compliance with applicable laws and regulations and neither Party will pay or accept bribes, kickbacks or other illegal payments, or engage in unlawful conduct.

34.10 Construction

This Contract, including all its Exhibits, has 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.

34.11 Counterparts

This Contract may be signed in any number of counterparts with the same effect as if the signature(s) on each counterpart were upon the same instrument.

34.12 Applicable Law

This Contract shall be interpreted, construed and governed, and the rights of the Parties shall be determined, in all respects, according to the laws of the State of New York without reference to its conflicts of laws rules.

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34.13 Survival

Termination or expiration of this Contract for any reason shall not release either Party from any liabilities or obligations set forth in this Contract remain to be performed or by their nature would be intended to be applicable following any such termination or expiration, including the following: Article 2.2 (Option Satellite) (only if the option is still valid as of the termination or expiration of this Contract); Article 4.4 (Fees and Other Expenses); Article 4.5 (Taxes); Article 7.4 (Compliance with U.S. Laws and Directives); Article 12.1(C) (Satellite), Article 15.2.8 (Disclaimer); Article 19 (Intellectual Property Indemnity); Article 20 (Indemnification); Article 21 (Termination for Convenience); Article 22 (Liquidated Damages); Article 23 (Termination for Default); Article 25 (Dispute Resolution); Article 26 (Inter-Party Waiver of Liability for a Launch); Article 27 (Limitation of Liability); Article 28 (Disclosure and Handling of Proprietary Information); Article 29 (Contract Technology Escrow); Article 30 (Public Release of Information); Article 31 (Notices); Article 33 (Order of Precedence); Article 34 (General) and Article 39 (Intellectual Property).

34.14 U.N. Convention on the International Sales 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.

34.15 No Third-Party Beneficiaries

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

34.16 Business Ethics

In the event that Contractor has cause to believe that Purchaser has acted improperly or unethically during the term of this Contract, Contractor is requested to report such conduct to Purchaser's ethics hotline at **1-888-475-8376**. Copies of Purchaser's Guide to Business Conduct are available at www.viasat.com under "Investors-Corporate Governance." Any failure by Contractor to act under this clause will not constitute a breach of this Contract.

34.17 Remedies

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Where a specific remedy is set forth in this Contract, such remedy shall be the sole and exclusive remedy available to the Party entitled to claim it and shall be in substitution for all other remedies arising at law or in equity in relation to the specific matter that the remedy responds to. Purchaser's right to terminate this Contract for default pursuant to Article 23.1.1(iii) shall not constitute a "specific remedy" hereunder, provided that, where Purchaser elects to proceed pursuant to Article 23.1.1(iii), such election shall be the sole remedy to which Purchaser is entitled. For the avoidance of doubt, in the event of a material breach by either Party where multiple specific remedies are set forth herein and are available, the non-breaching Party shall have right to elect the specific remedy to enforce, provided that, in no event shall the non-breaching Party be entitled to multiple recoveries or remedies unless expressly provided otherwise in this Contract.

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ARTICLE 35 - GROUND STORAGE

35.1 Ground Storage

Purchaser may direct Contractor, in writing, to store the Satellite after completion of SPSR. If so directed, Contractor shall store the Satellite and related equipment at Contractor's own facilities for up to _____ ("Ground Storage"). Such storage shall be conducted in accordance with Contractor's standard Shipping, Handling and Storage Plan (the "Satellite Storage Plan").

35.2 Costs of Ground Storage

a. Ground Storage for _____ or Less

In the event the Satellite is placed into Ground Storage for a period of _____ all costs of storage, including transportation (including transportation to the storage site), periodic Satellite storage testing, maintenance of batteries, reverification testing, delta SPSR testing, re-furbishing, and re-work, and all other costs associated with the testing and maintenance set forth in the Satellite Storage Plan (collectively, "Storage Costs") shall be borne by Contractor. For the avoidance of doubt, Contractor remains obligated for the costs associated with transporting the Satellite from the storage location to the Launch Site upon removal of the Satellite from Ground Storage. If Purchaser notifies Contractor of the need to store the Satellite fewer than ninety (90) days prior to the then-scheduled start of SPSR, Purchaser shall reimburse Contractor for the Actual Costs Contractor reasonably incurs in connection with such Storage that Contractor would not have incurred had Purchaser provided such notice at least ninety (90) days in advance of the then-scheduled start of SPSR. Contractor agrees to make Reasonable Efforts to minimize and/or avoid all such Actual Costs.

b. Ground Storage for More Than _____

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35.3

Storage Costs

35.4 Payments of Storage Costs

Payments of Storage Costs required to be made under this Article 35 shall be made on the thirtieth (30th) day of each month for the prior month's storage, provided an invoice is received at least thirty (30) days prior to the payment date.

35.5 Title and Risk of Loss

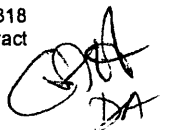
Title and risk of loss to the Satellite delivered for Ground Storage shall remain with Contractor at the storage site.

35.6 Notification of Intention to Launch a Previously Stored Satellite

In the event a Satellite is placed in Ground Storage, Purchaser shall notify Contractor in writing when the Satellite should be removed from Ground Storage and delivered to the Launch Site. This notification must be received by Contractor not less than prior to the scheduled date for Launch of the Satellite.

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ARTICLE 36 - RESERVED

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ARTICLE 37 - CONTRACTOR PERSONNEL

37.1 Contractor Personnel

The Contractor will assign only properly qualified and experienced personnel to the Work contemplated under the Contract, and Contractor shall use Reasonable Efforts to retain such personnel on the Work for its duration. At the reasonable request of Purchaser, Contractor shall not use, and shall not permit any Subcontractor to use, in the performance of the Work any personnel deemed by Purchaser to be abusive, disorderly, incompetent, careless, unqualified to perform the Work assigned, or otherwise unsatisfactory to Purchaser. Without limiting the generality of the foregoing, Contractor shall, within ten (10) Business Days after receiving notice from Purchaser, remove from the performance of the Work, and, as soon as is reasonably practicable, replace, any personnel of Contractor or any Subcontractor who is performing any portion of the Work, if Purchaser reasonably believes that such personnel is creating a risk to the timely or safe completion of the Work in accordance with this Contract.

37.2 Key Personnel as of EDC

Personnel assigned to the following positions shall be considered "Key Personnel," and, as of the date of EDC, shall be filled by the following Contractor employees:

- a) the Contractor's Program Manager: Greg Harms
- b) the Contractor's Contracts Manager: Alan Sheveland
- c) the Contractor's Systems Engineering Manager: Michel Bayloq
- d) the Contractor's Payload Manager: Jim Sowers

Purchaser may from time to time change the positions designated as Key Personnel under this Contract on sixty (60) days notice to Contractor and with mutual agreement of the Contractor, not to be unreasonably withheld or delayed.

37.3 Assignment of Key Personnel

Contractor shall assign individuals only from within Contractor's organization to fill the Key Personnel positions. All Key Personnel shall have significant relevant experience and expertise. Before assigning an individual to any Key Personnel position, whether as an initial assignment or a subsequent assignment, Contractor shall notify Purchaser of

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the proposed assignment, shall introduce the individual to Purchaser (and, upon request of Purchaser, provide Purchaser with the opportunity to interview the individual) and shall provide Purchaser with a resume and other information reasonably requested by Purchaser. If Purchaser in good faith objects to the proposed assignment within fifteen (15) Business Days after being notified thereof, Contractor shall not assign the individual to that position and shall propose to Purchaser the assignment of another individual of suitable qualifications and experience, the criteria of which are to be mutually agreed by Purchaser and Contractor acting reasonably. Should the individuals filling the positions of Key Personnel leave such positions for whatever reason, Contractor shall follow the procedure set forth in this Article to assign replacement personnel. Key Personnel shall not be assigned to other duties without the Purchaser giving prior written consent.



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ARTICLE 38 - SUBCONTRACTS

38.1 Major Subcontracts

Contractor shall select Major Subcontractors subject to Purchaser's prior written approval, and Purchaser shall be provided with complete copies of all Major Subcontracts promptly upon execution thereof. For purposes of this Contract, a "Major Subcontract" shall be any Subcontract that has a contract value of at least

, or, in the event Contractor issues Subcontracts therefor, for those items set forth below. In the event Contractor or any Subcontractor desires to terminate any Major Subcontractor or to substitute Subcontractors on any Major Subcontract, Contractor shall first notify Purchaser in writing.

To the extent that the Contractor elects to procure the following items from subcontractors, those subcontractors shall be Major Subcontractors:

38.2 No Privity of Contract

Subject to the provisions of this Article, Contractor shall have the right to use such Subcontractors as may be necessary to perform the Work under this Contract. Nothing in this Contract shall be construed as creating any contractual relationship between Purchaser and any Subcontractor. Contractor is fully responsible to Purchaser for the acts or omissions of Subcontractors and of any other parties used by Contractor or a Subcontractor in connection with the performance of the Work. Any failure by a Subcontractor to meet its obligations to Contractor shall not constitute a basis for Force Majeure (except where such failure is itself a Force Majeure event), and shall not relieve Contractor from meeting any of its obligations under this Contract. Notwithstanding anything to the contrary herein, Purchaser's acknowledgment or approval of any Major Subcontractor or Subcontractor shall not relieve Contractor from any of its obligations or responsibilities under this Contract.



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ARTICLE 39 - INTELLECTUAL PROPERTY

39.1 Ownership

- A. Reserved.
- B. Subject to the licenses granted to Purchaser in this Article 39 of this Contract, Contractor shall own all Intellectual Property Rights, title and interest in and to all Contractor Intellectual Property. For avoidance of doubt, Contractor shall retain title to all Deliverable Data (including Software in Deliverable Items of hardware and Deliverable Items of Software) developed by or on behalf of Contractor and the Intellectual Property Rights contained therein, excluding Purchaser Intellectual Property.
- C. Contractor agrees that the obligations set forth in Article 28.2, subject to the terms and exceptions to confidentiality obligations set forth in Article 28, shall apply to Contractor with respect to the handling and use of Purchaser-unique information contained in the Satellite Payload Specifications; provided that to the extent such Purchaser-unique information constitutes a trade secret under applicable law, such Purchaser-unique information shall be held in confidence by Contractor in accordance with Article 28 for as long as such information remains a trade secret under applicable law

39.2 Licenses and Restrictions

- A. Contractor grants to Purchaser a nonexclusive, perpetual, irrevocable, royalty-free, license, with the right to sublicense, except to Competitors, subject to the same limitations applicable to Purchaser (including but not limited to the provisions of Articles 7.2, 7.4, 15.1, 15.2.8, 17.1, 26.2, 27, 28, 30 and 39.1), to Exploit Contractor Intellectual Property. Any sublicense granted under this Article 39.2(A) shall be in writing and Contractor shall be provided with complete copies of any such sublicense promptly upon grant thereof. Purchaser shall be liable for the acts of its sublicensees to the same extent as if such acts of sublicensees had been committed by Purchaser.
- B. Subject to the terms of this Contract, Purchaser grants to Contractor a nonexclusive, nontransferable, royalty-free license during the term of this

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Contract, with no right to sublicense (except to Subcontractors), under Purchaser Intellectual Property only to the extent necessary to provide the Work under this Contract. Any sublicense granted under this Article 39.2(C) shall be in writing. Contractor shall be liable for the acts of its sublicensees to the same extent as if such acts of sublicensees had been committed by Contractor.

- C. Neither Party shall have a license to use the trademarks or service marks of the other Party without such other Party's express written consent.
- D. There are no implied licenses under this Contract, and any rights not expressly granted by a Party to the other Party hereunder shall be reserved by such Party. Each Party agrees not to reverse engineer the Intellectual Property of the other Party provided to such Party in connection herewith (whether provided prior to or after EDC). Each Party agrees not to file for patents covering the Intellectual Property Rights owned by the other Party hereto.
- E. Contractor shall make Reasonable Efforts to secure for Purchaser from each Major Subcontractor entering into a Subcontract on or after EDC at least the same rights with respect to such Subcontractor's Intellectual Property as are provided to Purchaser in this Article 39 with respect to Contractor Intellectual Property (such Reasonable Efforts not to include payment of additional amounts for such rights).

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ARTICLE 40 - LENDER REQUIREMENTS

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IN WITNESS WHEREOF, the Parties have executed this Contract by their duly authorized officers as of the date set forth in the Preamble.

Space Systems/Loral, Inc.

ViaSat, Inc.

By: RON HALEY

By: DAVID ABRAHAMIAN

Name: RON HALEY

Name: DAVID ABRAHAMIAN

Title: CFO

Title: DIRECTOR, SPACE SYSTEMS
CONTRACTS