

May 9, 2005

STAMP & RETURN**REQUEST FOR CONFIDENTIAL TREATMENT****By Hand Delivery**

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W., TW-A325
Washington, D.C. 20554

RECEIVED

MAY - 9 2005

Federal Communications Commission
Office of Secretary

Re: ICO Satellite Services G.P.
Application to Modify Letter of Intent Authorization
File No. SAT-MOD-20050110-00004

Dear Ms. Dortch:

In response to a request from the International Bureau ("Bureau") regarding the above-referenced application to modify its 2 GHz mobile satellite service ("MSS") letter of intent authorization, ICO Satellite Services G.P. ("ICO") is submitting a paper copy of a redacted version, which is suitable for public inspection, of the satellite manufacturing contract between ICO Satellite Management LLC and Space Systems/Loral, Inc., effective as of January 10, 2005 ("Satellite Contract").

Also concurrently filed with the Bureau is a soft copy (provided on CD ROM) of an unredacted version of the Satellite Contract, which contains highly sensitive commercial and financial information, including specific information regarding amounts due, payment terms, financial and performance incentives, technical specifications, and unique commercial terms and conditions. The disclosure of this information likely would cause substantial competitive and financial harm to ICO, and is therefore exempted from mandatory disclosure under Exemption 4 of the Freedom of Information Act ("FOIA Exemption 4")¹ and Section 0.457(d) of the Commission's rules.²

¹ 5 U.S.C. § 552(b)(4). See *Public Citizen Health Research Group v. FDA*, 704 F.2d 1280, 1290-91 (D.C. Cir. 1983).

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Accordingly, pursuant to Sections 0.457 and 0.459 of the Commission's rules,³ ICO requests the Commission to withhold from public inspection and accord confidential treatment to the unredacted copy of Satellite Contract.

In support of its request for confidential treatment and pursuant to the requirements under Section 0.459(b) of the Commission's rules, ICO states the following:

1. ICO seeks confidential treatment of the unredacted copy of the Satellite Contract. The unredacted copy of the Satellite Contract, including the above-referenced exhibits, contain specific information regarding amounts due, payment terms, financial and performance incentives, technical specifications, and unique commercial terms and conditions. This information has been redacted from the public inspection copy of the Satellite Contract. In addition, Exhibits A through F have been omitted in their entirety from the public inspection copy.
2. As noted above, the Satellite Contract is being submitted in response to a specific request from the Bureau in connection with ICO's application to modify its 2 GHz MSS authorization.
3. The Satellite Contract contains information regarding amounts due, payment terms, financial and performance incentives, technical specifications, and unique commercial terms and conditions, which constitutes trade secrets or sensitive commercial and financial information that "would customarily be guarded from competitors,"⁴ and is therefore exempted from mandatory disclosure under FOIA Exemption 4 and Section 0.457(d) of the Commission's rules.⁵ Specifically, the Satellite Contract sets forth unique commercial terms and conditions that have been extensively negotiated by the parties. It also includes detailed documentation of the progress of construction of the ICO system. In addition, Exhibits A through F contain detailed technical specifications for the construction, testing, and deployment of a unique, next-generation 2 GHz MSS system. As such, this information qualifies as a "trade secret," which is defined for FOIA purposes, as "a secret, commercially valuable plan, formula, process, or device that is used for the making, preparing, compounding, or processing of trade commodities and that can be said to be the end product of either innovation or substantial effort."⁶ None of the

² 47 C.F.R. § 0.457(d).

³ *Id.* §§ 0.457, 0.459.

⁴ *Id.* § 0.457(d)(2).

⁵ 5 U.S.C. § 552(b)(4); 47 C.F.R. § 0.457(d).

⁶ See *Public Citizen Health Research Group v. FDA*, 704 F.2d 1280, 1288 (D.C. Cir. 1983) (citation omitted).

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information redacted or omitted from the public inspection copy of the Satellite Contract is customarily disclosed to competitors or the public, and thus all of it is exempt from mandatory disclosure.

4. The Satellite Contract concerns the implementation of a 2 GHz MSS system, which will be subject to competition from a number of other MSS systems. The Commission has acknowledged that there are a number of other companies offering MSS in North America, including Inmarsat, Iridium, Globalstar, and Orbcomm.⁷

5. Disclosure of information regarding amounts due, payment terms, financial and performance incentives, technical specifications, and unique commercial terms and conditions likely would result in substantial competitive harm to ICO. For example, disclosure of this information would allow competing 2 GHz MSS licensees to use this information to their competitive advantage. Specifically, knowledge of financial terms and other individually negotiated terms and conditions could allow competitors to obtain equally or more favorable terms from other manufacturers. Knowledge of the unique technical specifications of the ICO system also could allow competitors to benefit from ICO's efforts and develop similar systems or improve upon those systems, while avoiding research and development expenses. Furthermore, disclosure would harm ICO in future negotiations regarding satellite construction by allowing manufacturers to extract more favorable terms.

6. Article 31 of the Satellite Contract contains specific provisions requiring both parties to maintain confidentiality of information furnished in connection with the agreement or the transactions contemplated under the agreement.

7. Information regarding amounts due, payment terms, financial and performance incentives, technical specifications, and unique commercial terms and conditions is not available to the public. Consistent with and except as provided under the confidentiality provisions of the Satellite Contract, there has been no disclosure of such information to any third parties.

8. ICO requests confidential treatment of the unredacted copy of the Satellite Contract for an indefinite period. During the operational life of the ICO system, satellite manufacturers and 2 GHz MSS competitors could use the otherwise confidential information to their competitive advantage and to ICO's detriment.

⁷ See *Motient Services Inc. and TMI Communications and Co., LP and Mobile Satellite Ventures Subsidiary LLC*, 16 FCC Rcd 20469, 20477-78 ¶ 24 (2001).

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9. The Commission has acknowledged that satellite construction contracts contain competitively sensitive information requiring protection from public disclosure.⁸ Specifically, the Commission has found that financial and technical data contained in a satellite construction contract constitutes confidential information because its disclosure would cause substantial harm to the licensee's competitive position.⁹ Moreover, in requiring Big LEO and 2 GHz MSS licensees to submit annual reports and any requested additional contract and construction information to demonstrate compliance with the milestones, the Commission expressly contemplated that licensees could seek confidential treatment of "any portion of their report, pursuant to Section 0.459 of the Commission's rules."¹⁰

To provide adequate protection from public disclosure, the Commission should strictly limit distribution of the unredacted copy of the Satellite Contract within the Commission on a "need to know" basis. In the event that any person or entity outside the Commission requests disclosure of the unredacted copy, ICO requests that it be so notified immediately so that it can oppose such request or take other action to safeguard its interests as it deems necessary.

Please direct any questions regarding this submission to the undersigned.

Very truly yours,



Cheryl A. Tritt
Counsel to ICO Satellite Services G.P.

Enclosures

cc: Karl Kensinger (w/ encls.)

⁸ See, e.g., *GE American Communications, Inc.*, 16 FCC Rcd 6731, 6731 (IB 2001).

⁹ See *American Satellite Co.*, 1985 FCC Lexis 3117, at *19 (1985).

¹⁰ See *Amendment of the Commission's Rules to Establish Rules and Policies Pertaining to a Mobile Satellite Service in the 1610-1626.5/2483.5-2500 MHz Frequency Bands*, 9 FCC Rcd 5936, 6010 (1994) (emphasis added); see also *The Establishment of Policies and Service Rules for the Mobile Satellite Service in the 2 GHz Band*, 15 FCC Rcd 16127, 16181 (2000).

SATELLITE CONTRACT

Between

ICO Satellite Management LLC

And

Space Systems/Loral, Inc.

The attached Contract and the information contained therein are confidential and proprietary to ICO Satellite Management LLC 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.

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Attachment A Form of Invoice

Attachment B Key Personnel

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PREAMBLE

This Satellite Contract (the "Contract") is entered into as of January 10, 2005 (the "Effective Date of Contract" or "EDC") between ICO Satellite Management LLC, a limited liability company organized and existing under the laws of the State of Delaware, having an office and place of business at 2300 Carillon Point, Kirkland, Washington, 98033 (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, California 94303 (hereinafter referred to as "Contractor").

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RECITALS

WHEREAS, Purchaser desires to procure one (1) communication Satellite, and an option for an additional one (1) communication satellite, to be accepted on-orbit, launch support services, risk management insurance procurement support, 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 and such option satellite, launch support services, risk management insurance procurement support, 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 Fixed Firm Price and other valid consideration,

NOW, THEREFORE, in consideration of 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"** or **"Accepted"** (i) with respect to the Satellite shall be as provided for in Article 10, and (ii) with respect to any Deliverable Item other than the Satellite shall be as provided for in Article 11.
- 1.2 **"Actual Costs"** shall mean Contractor's direct labor (and allocated fringe, overhead and general and administrative costs), materials (including subcontracts), and other direct costs (and allocated general and administrative costs), all in accordance with Contractor's generally accepted accounting practices.
- 1.3 **"Affiliate"** means, with respect to an entity, any other entity Controlling or Controlled by or under common Control with such entity.
- 1.4 **"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.
- 1.5 **"Background Intellectual Property"** means Intellectual Property first made, developed, or created prior to the negotiation or performance of this Contract or otherwise first made, developed or created other than in performance of or pursuant to this Contract and necessary to the use of any Deliverable Item.
- 1.6 **"Business Day"** means any day other than the following: a Saturday, Sunday, and any other day on which national banks are authorized to be closed in New York City, New York.
- 1.7 **"Change Request"** has the meaning set forth in Article 16.1.1.
- 1.8 **"Competitor of Contractor"** or words to that effect means any Person or any Affiliate thereof engaged in the manufacture of commercial telecommunication satellites.
- 1.9 **"RESERVED"**
- 1.10 **"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 36, as may be amended from time to time in accordance with the terms hereof.

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- 1.11 **“Contractor”** has the meaning set forth in the preamble and any successor or assignee permitted hereunder.
- 1.12 **“Contractor Notice of Default”** has the meaning set forth in Article 23.2.1.
- 1.13 **“Control”** and its derivatives mean, with respect to a Person, the legal, beneficial, or equitable ownership, directly or indirectly of more than fifty percent (50%) of the capital stock (or other ownership interest if not a corporation) of such Person ordinarily having voting rights or the power to direct the management policies of such Person, whether through the ownership of voting stock, by contract, or otherwise.
- 1.14 **“CS”** or **“Command Security”** has the meaning set forth in Article 24.4.
- 1.15 **“Deliverable Data”** means the data and documentation required to be delivered to Purchaser as specified in the Exhibit A, Statement of Work.
- 1.16 **“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.”**
- 1.17 **“Delivery”** has the meaning set forth it in Article 3.2.
- 1.18 **“Dispute”** has the meaning set forth in Article 25.
- 1.19 **“DSS”** has the meaning set forth in Article 24.2.
- 1.20 **“Effective Date of Contract”** or **“EDC”** means the effective date of this Contract as specified in the Preamble.
- 1.21 **“Equitably Adjusted”** or **“Equitable Adjustment”** XXXXX
- 1.22 **“Exhibit(s)”** means the exhibit(s) identified in Article 2.1 and attached hereto and incorporated herein, as may be added, modified and amended from time to time in accordance with the terms hereof. Without limitation, Exhibits may be added to this Contract in accordance with Article 24.
- 1.23 **“FCC”** means the Federal Communications Commission or any successor agency or governmental authority.

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- 1.24 **“Financing Agreements”** means any and all documents and agreements evidencing and/or securing monies provided on a full or partial debt basis by any Financing Entity to Purchaser to fund the design, development, construction, procurement, maintenance, or operation of all or any material part of Purchaser’s Satellite program.
- 1.25 **“Financing Entity”** means any Person (other than Contractor, or Affiliates of Contractor, or Competitors of Contractor), e.g., commercial bank, merchant bank, investment bank, commercial finance organization, corporation, or partnership, which has been specifically identified in a written notification to Contractor providing money on a full or partial debt basis to Purchaser to fund the design, development, construction, procurement, maintenance, or operation of all or any material part of Purchaser’s Satellite program.
- 1.26 **“Firm Fixed Price”** has the meaning set forth in Article 4.1.
- 1.27 **“Force Majeure”** has the meaning set forth in Article 17.
- 1.28 **“Foreground Intellectual Property”** means Intellectual Property first made, developed, or created in performance of this Contract that is incorporated into or employed in, or required for the use of, any Deliverable Item.
- 1.29 **“In-Orbit Testing”** or **“IOT”** means the testing of the Satellite on-orbit in accordance with Article 10 and Exhibit D, Satellite Test Plan.
- 1.30 **“IOT Complete Date”** has the meaning set forth in Article 10.1.
- 1.31 **“Intellectual Property”** means all designs, methods, concepts, layouts, software, inventions (whether or not patented or patentable), processes, technical data and documentation, technical information and drawings, and similar matter in which an Intellectual Property Right may subsist.
- 1.32 **“Intellectual Property Claim”** has the meaning set forth in Article 19.
- 1.33 **“Intellectual Property Rights”** means all common law and statutory proprietary rights, including patent, patent application, patent registration, copyright, trademark, service mark, trade secret, mask work rights, data rights and similar rights existing from time to time under the intellectual property laws of the United States, any state or foreign jurisdiction, or international treaty regime.

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- 1.34 **“Intentional Ignition”** means, with respect to the Satellite, the start of the ignition process for the purpose of Launch, which is the time at which the command signal is sent to the Launch Vehicle. This definition shall be modified to reflect the definition of “intentional ignition” in the Launch Services Agreement applicable to Launch of the Satellite.
- 1.35 **“Key Personnel”** has the meaning set forth in Article 29.2.
- 1.36 **“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.
- 1.37 **“Launch and In-Orbit Insurance Policy”** has the meaning ascribed to it in Article 35.1.
- 1.38 **“Launch Agency”** means the Person responsible for conducting the Launch Services for the Satellite.
- 1.39 **“Launch Services”** means those services provided by the Launch Agency for the Launch of the Satellite pursuant to the Launch Services Agreement.
- 1.40 **“Launch Services Agreement”** or **“LSA”** means the contract between Purchaser and the Launch Agency that provides for Launch Services for the Satellite, as such contract may be amended from time to time in accordance with its terms.
- 1.41 **“Launch Site”** means the location that will be used by the Launch Agency for purposes of launching the Satellite, but in the case of Sea Launch it shall mean the home port located in Long Beach CA.
- 1.42 **“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.
- 1.43 **“Launch Vehicle”** means the launch vehicle used for Launch Services for the Satellite.
- 1.44 **“Less than Satisfactorily Operating Satellite”** has the meaning set forth in Article 13.2.1.

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- 1.45 **“London Inter-Bank Offer Rate”** or **“LIBOR”** means the rate per annum shown, on the third (3rd) London business day preceding the day of commencement of an interest calculation period, on page 3750 of the Dow Jones & Company Telerate screen or any successor page as the composite offered rate for London interbank deposits in an amount approximately equal to the amount on which the interest is to be applied for a three-month period (the “Rate Base”), as shown under the heading “USD” as of 11:00 a.m. (London Time); provided that in the event no such rate is shown, LIBOR shall be the rate per annum (rounded to the nearest 1/100th of one percent) based on the rates at which U.S. dollar deposits approximately equal in principal amount to the Rate Base and for a three-month period are displayed on page “LIBO” of the Reuters Monitor Money Rates Service or such other page as may replace the LIBO page on that service for the purpose of displaying London interbank offered rates of major banks as of 11:00 a.m. (London time) (it being understood that if at least two such rates appear on such page, the rate will be the arithmetic mean of such displayed rates); provided that in the event fewer than two such rates are displayed, or if no such rate is relevant, LIBOR shall be the rate per annum equal to the rate offered by Credit Suisse, New York Branch, at approximately 11:00 a.m. (London Time) to prime banks in the London interbank market on deposits in U.S. dollars in an amount approximately equal in principal amount to the aggregate principal balance of the Rate Base for a three-month period.
- 1.46 **“Losses”** has the meaning set forth in Article 20.1.
- 1.47 **“Major Subcontract”** means a subcontract related to the performance of this Contract and valued at **XXXXX** or more and such other subcontracts that have been agreed by Purchaser and Contractor as material.
- 1.48 **“Milestone”** means a specific numbered event as described in Exhibit F, Payment Plan and Termination Liability Amounts.
- 1.49 **“Milestone Date”** means, with respect to a particular Milestone, the date which such Milestone is scheduled for completion as set forth in Exhibit F, Payment Plan and Termination Liability Amounts.

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- 1.50 **“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.
- 1.51 **“Net Whole Termination Claim”** has the meaning set forth in Article 21.2.1.
- 1.52 **“Notice of Election”** has the meaning set forth in Article 20.3.1.
- 1.53 **“Notice of Termination for Default”** has the meaning set forth in Article 23.
- 1.54 **“Notice of Termination for Convenience”** has the meaning set forth in Article 21.1.
- 1.55 **“Notice of Termination for Excessive Force Majeure”** has the meaning set forth in Article 23.3.
- 1.56 **“Notice to Stop Work”** has the meaning set forth in Article 16.2.
- 1.57 **“NSP”** means not separately priced and included in the Firm Fixed Price.
- 1.58 **“Orbital Performance Incentive Period”** has the meaning set forth in Article 13.1.
- 1.59 **“Orbital Performance Incentives”** has the meaning set forth in Article 13.1.
- 1.60 **“Orbital Storage”** means, with respect to an otherwise operational Satellite, any period of time of intentional non-use by Purchaser of such Satellite after Acceptance.
- 1.61 **“Party”** or **“Parties”** means Purchaser, Contractor or both, as the context requires.
- 1.62 **“Payment Plan”** means the payment plan for the Satellite, as set forth in Exhibit F, Payment Plan and Termination Liability Amounts. The Payment Plan shall be adjusted to include other Deliverable Items in accordance Article 24 (Options), if the applicable options are exercised, as provided in Exhibit F. The Payment Plan shall also be adjusted in accordance with Article 16 (Change Order), if Change Requests are implemented.
- 1.63 **“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.

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- 1.64 **"Person"** means any individual, corporation (including any non-profit corporation), general or limited partnership, limited liability company, joint venture, estate, trust, association, organization, labor union or other entity.
- 1.65 **"PMO"** means the Purchaser program management office to be designated by Purchaser.
- 1.66 **"Product Assurance Program Plan"** means the product assurance program plan attached as Exhibit C, as may be amended from time to time in accordance with the terms hereof.
- 1.67 **"Proprietary Information"** has the meaning set forth in Article 31.
- 1.68 **"Purchaser"** has the meaning set forth in the preamble and any successor or assignee permitted hereunder.
- 1.69 **"Purchaser Delay"** has the meaning set forth in Article 18.
- 1.70 **"Satellite"** or **"Spacecraft"** means the communications satellite that is to be manufactured by Contractor and to be Delivered to Purchaser pursuant to this Contract.
- 1.71 **"Satellite Acceptance"** has the meaning set forth in Article 10.
- 1.72 **"Satellite Anomaly"** means, with respect to the Satellite on-orbit, a condition or occurrence that has, in Purchaser's reasonable opinion, a material adverse impact on the Satellite Stated Life or performance of such Satellite.
- 1.73 **"Satellite Option"** has the meaning set forth in Article 24.
- 1.74 **"Satellite Option Exercise"** has the meaning set forth in Article 24.5.
- 1.75 **"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.
- 1.76 **"Satellite Pre-Shipment Review"** or **"SPSR"** has the meaning set forth in Article 9.
- 1.77 **"Satellite 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.

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- 1.78 **"Satellite Stated Life"** or **"Satellite Mission Life"** means, with respect to a Satellite, the contracted for life of **XXXXX** for such Satellite as set forth in Section 2.7 of Exhibit B, Satellite Performance Specification, commencing upon Acceptance of such Satellite.
- 1.79 **"Satellite Storage Plan"** has the meaning set forth in Article 24.5 (a).
- 1.80 **"Satisfactorily Operating Satellite"** has the meaning set forth in Article 13.2.1.
- 1.81 **"SCF"** means satellite control facility.
- 1.82 **"SCCS/E"** has the meaning set forth in Article 24.3.
- 1.83 **"Spacecraft Launch Readiness Review"** or **"SLRR"** or **"LRR"** means the testing and review in accordance with Article 9.2 of this Contract and Section 2.2.7.2 of Exhibit A, Statement of Work.
- 1.84 **"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.
- 1.85 **"Storage"** has the meaning set forth in Article 24.5.
- 1.86 **"Summary In-Orbit Test Report"** shall have the meaning set forth in Exhibit A, Statement of Work.
- 1.87 **"Taxes"** has the meaning set forth in Article 4.2.
- 1.88 **"Terminated Ignition"** means that, following the time when the electronic signal is sent to command the opening of any first stage propellant valves, the first stage engines of the Launch Vehicle are shut down for any reason before the hold down mechanism is released and the launch pad is declared safe by the Launch Agency. This definition shall be modified to incorporate the definition of "Terminated Ignition" from the Launch Service Agreement applicable to the Launch of the Satellite.
- 1.89 **"Total Loss"** means the destruction or total operational failure of the Satellite or any other condition of the Satellite that precludes the occurrence of the IOT Complete Date.
- 1.90 **"Whole Termination Claim"** has the meaning set forth in Article 21.2.1.
- 1.91 **"Work-in-process"** or **"WIP"** has the meaning set forth in Article 23.1.3.

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1.92 **“Work”** means all design, development, construction, manufacturing, labor, and services, including tests to be performed, and any and all Deliverable Items, including Satellite, and software, Deliverable Data, Mission Operations Support Services, Launch Support Services, training, and equipment, materials, articles, matters, services, and things to be furnished and rights to be transferred to Purchaser under this Contract, or any subcontract entered into by Contractor.

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ARTICLE 2- SCOPE OF WORK

2.1 Provision of Services and Materials

Contractor hereby agrees to provide the necessary personnel, material, services, and facilities to: design, manufacture, test, provide Launch Support Services and Mission Operations Support Services, and deliver for Purchaser's Acceptance on-orbit one (1) Satellite, together with all other Deliverable Items referred to in Article 3.1, in accordance with this Contract, including the following Exhibits, which are attached hereto and made a part hereof:

- 2.1.1 Exhibit A, Statement of Work, dated as of January 4, 2005
- 2.1.2 Exhibit B, Satellite Performance Specification, dated as of January 4, 2005
- 2.1.3 Exhibit C, Product Assurance Program Plan, dated as of April 5, 2004.
- 2.1.4 Exhibit D, Satellite Test Plan, dated as of January 4, 2005.
- 2.1.5 Exhibit E, Space Segment Specification, dated as of January 4, 2005.
- 2.1.6 Exhibit F, Payment Plan and Termination Liability Amounts, dated as of January 10, 2005.

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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 in the table below and Contractor shall deliver such items on or before the corresponding delivery dates in the table below and to the specified locations in the table below:

<u>Item</u>	<u>Description</u>	<u>Delivery Date</u>	<u>Delivery Location</u>
1.	Satellite	XXXXX (Successful completion of SPSR)	Contractor's Facility in Palo Alto, CA
2.	Deliverable Data	Per SOW, Exhibit A	PMO
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

Included in Item 1 above, Satellite, is the conduct of the Critical Design Review in accordance with Section 2.2.3 (Satellite Critical Design Review) of Exhibit A, Statement of Work, which shall occur on or before **XXXXX**.

3.2 Delivery

Delivery of each Deliverable Item other than the Satellite, shall occur upon Acceptance of such Deliverable Item in accordance with Article 11. Delivery of the Satellite shall occur upon successful completion of the Satellite Pre-Shipment Review pursuant to Article 9.

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ARTICLE 4 - PRICE

4.1 Firm Fixed Price

Subject to Article 4.2 hereof, the price to be paid by Purchaser to Contractor for the Deliverable Items set forth in Article 3.1 shall be a firm fixed price of **XXXXXX** (the "Firm Fixed Price"). Except as otherwise expressly provided 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 is set forth in Article 24.

Except as expressly provided by this Contract, the item price for the Satellite includes all parts and services to be provided pursuant to this Contract including, without limitation, on-going design, manufacturing, tests, Deliverable Data, training, Orbital Performance Incentives, and insurance support services as required by Article 35, packing and transport of the Satellite to the Launch Site, transit insurance and such other insurance as is required by Article 28, all in accordance with the terms and conditions of this Contract, as specified herein.

4.2 Taxes

The Firm Fixed Price includes all applicable taxes, duties and similar liabilities (including interest, fines, penalties, or additions attributable or imposed on or with respect to, any such taxes, duties and similar liabilities) imposed by any United States federal, state, or local government in connection with this Contract and the taxing authorities having jurisdiction over Launch Services and the Launch Site ("Taxes") with respect to the Work; provided, however, the Firm Fixed Price does not include any Taxes on the sale of the DSS or the SCCS/E (if the applicable options are exercised), the payment of which Taxes shall be the responsibility of Purchaser. Subject to Article 12.3, Contractor has made or will make all the necessary filings in order to deliver the Work (except the DSS and SCCS/E) free and clear of any liens or encumbrances for Taxes. Subject to the indemnification procedures set forth in Article 20.3, in the event any governmental or taxing authority imposes or assesses Taxes against Purchaser in connection with any Deliverable Item (except as otherwise provided), Contractor shall indemnify Purchaser for any Taxes, interest and penalties on such Taxes paid by or assessed against Purchaser and shall reimburse Purchaser for reasonable actual costs incurred by

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Purchaser for defense of any action for payment of such Taxes (whether or not Purchaser actually pays such Taxes).

- 4.3 The Firm Fixed Price includes Launch Support Services for Launch of the Satellite on a U.S. domestic Launch Vehicle, including the Sea Launch Launch Vehicle. **XXXXX**



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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 exercised by Purchaser pursuant to this Contract shall be in accordance with Exhibit F, Payment Plan and Termination Liability Amounts, as applicable thereto. Contractor shall deliver the applicable invoice for payment and any required certification within **XXXXX** after the later of the completion of the relevant Milestone or the applicable Milestone Date.

5.2 Payment Conditions

5.2.1 Orbital Performance Incentive Payments. All Orbital Performance Incentive payments shall be made in accordance with Article 13.

5.2.2 Milestone Payments. Subject to Article 5.6, all payments due from Purchaser upon the completion of a Milestone described in the Payment Plan shall be paid no later than **XXXXX** after the receipt by Purchaser of an invoice and certification (delivered in accordance with Article 5.1 above) 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 **XXXXX** of receipt of invoice. Notwithstanding the foregoing, and without prejudice to Contractor'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.

5.2.3 Reserved.

5.2.4 Other Payments. Unless as otherwise specified herein, all amounts payable to Contractor with respect to other payments not covered in Articles 5.2.1 and 5.2.2 above, shall be made no later than **XXXXX** after receipt of an invoice and certification in the form attached hereto as Attachment A that such other work has been completed and documented in accordance with the requirements of this Contract together with the necessary or appropriate supporting data and

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documentation as required under this Contract, if any, or as Purchaser may reasonably request within **XXXXX** of receipt of invoice.

5.2.5 Obligation to Pay. If Contractor shall not have delivered any invoice required hereunder within the time specified therefor, the relevant payment due from Purchaser shall be suspended (without interest) and shall become payable on or before **XXXXX** after receipt of such invoice.

5.3 Late Payment

5.3.1 Interest. In the event that any payment due under this Contract is not made when due hereunder, without prejudice to the other rights and remedies under this Contract or at law or in equity under this Contract of the Party entitled to such payment, such Party shall also be entitled to interest at the annualized rate of **XXXXX**, on the unpaid balance thereof from the date such payment is due hereunder until such time as payment is made.

5.3.2 Stop Work. If any payment is not made by Purchaser by the date **XXXXX** after the due date, Contractor may issue to Purchaser a written notice of reminder for payment. If Purchaser does not make the payment within **XXXXX** of the receipt of the written reminder notice, without prejudice to Contractor's other rights and remedies under this Contract, Contractor may, upon written notice to Purchaser, elect to suspend performance of the Work. If Contractor subsequently resumes performance of the Work, this Contract shall be Equitably Adjusted.

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, including supporting documentation and data) at the following address:

ICO Satellite Management LLC
XXXXX

With a copy to:
ICO Satellite Management LLC
XXXXX

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

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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.
XXXXX

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

5.6 Disputed Amounts

In the event Purchaser determines in good faith that the Milestone covered by Contractor's invoice has not been completed in accordance with the requirements of this Contract, Purchaser shall so notify Contractor in writing within XXXXX of receipt of the invoice and applicable certification. Such notification shall state in reasonable detail the area(s) Purchaser considers not to be completed in accordance with the requirements of this Contract. Upon completion of the Milestone in accordance with the requirements of the Contract, the Contractor shall issue a replacement invoice. Until the Milestone is completed in accordance with the Contract and issuance of the replacement invoice, Purchaser shall have no obligation for payment and no interest shall accrue. Notwithstanding the foregoing, in the event that the noted discrepancy(ies) in Milestone completion does not in Purchaser's good faith judgment substantially impair the completion of the Milestone, Purchaser shall still pay such invoice; Purchaser, however, may withhold XXXXX of the affected payment which Contractor may immediately invoice upon correction of the discrepancy. Upon receipt of notification from Purchaser contending a Milestone had not been completed, the Parties' respective program managers shall meet and use good faith efforts to resolve such disagreement.

5.7 Set Off

In the event one Party has not paid any amount that is due and payable under this Contract, the other Party shall have the right to set off such amount against any payments due to the other Party under this Contract, provided any amount in dispute pursuant to Article 5.6 shall not be considered eligible for setoff while the dispute is being resolved.

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ARTICLE 6 - PURCHASER-FURNISHED ITEMS

6.1 Purchaser-Furnished Support

To enable Contractor to perform Launch Support Services and Mission Operations Support Services, Purchaser shall timely make available to Contractor the Purchaser-furnished equipment, facilities and services described in Section 2.4 (Purchaser Furnished Items) 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 (solely for the purposes of this Contract) during the period commencing on the date established therefor at the technical interchange meeting described in Section 2.3 (Deliverable Hardware, Software, and Services) of Exhibit A, Statement of Work and continuing through completion of Acceptance for such Satellite. Purchaser and Contractor will conduct an interface meeting on the date established therefor at the technical interchange meeting described in Section 2.3 (Deliverable Hardware, Software, and Services) of Exhibit A, Statement of Work to confirm the availability and adequacy of such Purchaser-furnished equipment, facilities and services.

6.2 Communications Authorizations

Contractor shall be responsible, at its cost and expense, for preparing, coordinating and filing all applications, registrations, reports, licenses, permits and authorizations required of Contractor to perform its obligations under this Contract.

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 provide such reasonable cooperation and support as Purchaser may reasonably request in support of Purchaser's preparation, coordination and filing of such applications, registrations, reports, licenses, permits and authorizations. From and after Acceptance of the Satellite, for any support provided by Contractor under this Article 6.2, Contractor shall be entitled to reimbursement of Actual Costs reasonably incurred in

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connection with the provision of such support plus a markup of **XXXXXX**, with such Actual Costs and associated markup to be invoiced and paid in accordance with Article 5.

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 its own cost and expense, provide such reasonable cooperation and support as Purchaser may reasonably request in support of Purchaser's efforts in the preparation and submission of such filings. From and after Acceptance of the Satellite, for any support provided by Contractor under this Article 6.3, Contractor shall be entitled to reimbursement of Actual Costs reasonably incurred in connection with the provision of such support plus a markup of **XXXXXX**, with such Actual Costs and markup to be invoiced and paid in accordance with Article 5.

6.4 Satellite Performance Data

Commencing with the first full calendar month following Acceptance of the Satellite, Purchaser shall provide a report to Contractor describing the general health and operating status of such 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 data Contractor may reasonably require to investigate or correct (if Contractor is able to do so) 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 35.2. In no event shall Purchaser have liability for failing to deliver any report under this Article 6.4 or for the contents thereof except to the extent, if any, such failure to report is a material reason Contractor shall fail to earn Orbital Performance

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Incentives in accordance Article 13 hereof (and then only with respect to such unearned Orbital Performance Incentives).

6.5 Late Delivery of Purchaser-Furnished Items or Services

The late delivery of Purchaser-furnished items or services, individually or combined, shall be subject to Article 18.

6.6 Launch Services

Purchaser shall be responsible for furnishing Launch Services for the Satellite and Purchaser shall no later than **XXXXX** prior to Delivery of the Satellite, shall notify Contractor of its selection of the Launch Vehicle for the Launch of the Satellite. The Launch Vehicle shall be one of the candidate Launch Vehicles identified in Paragraph 2.1 (Launch Requirements) of Exhibit B Satellite Performance Specification, and the Launch Date shall be compatible with the Satellite Delivery schedule set forth in Article 3.1 hereof.

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ARTICLE 7 - COMPLIANCE WITH U.S. LAWS AND DIRECTIVES

7.1 General

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

7.2 Compliance with U.S. Export Control Laws

7.2.1 Contractor shall, at its expense, perform the Work in accordance with all applicable export control laws, regulations, and policies of the United States and the conditions of all applicable United States Government approvals, permits, and licenses and shall provide Purchaser such assistance as Purchaser may reasonably request.

7.2.2 Any obligation of Contractor hereunder to provide hardware, software, Deliverable Data, other technical information or technical services to Purchaser 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, as construed by Contractor in good faith. The Parties shall work cooperatively and in good faith to implement this Contract in compliance with such laws, regulations, policies and license conditions. If and to the extent required by U.S. law, Purchaser and its personnel and/or representatives shall enter into U.S. Government-approved agreement(s), separate from this Contract, governing Contractor's provision of hardware, software, Deliverable Data, other technical information or technical services in connection with this Contract.

7.3 Licenses and Other Approvals

Contractor shall at its expense timely apply for and, once issued, maintain all U.S. Government export licenses, agreements and other approvals that are required for "foreign person" personnel and/or representatives of Purchaser (including, but not limited to, all foreign Affiliates 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, other technical information or technical services in

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connection with the performance of this Contract. A "foreign person" shall be as defined in the International Traffic in Arms Regulations, 22 C.F.R. §120.16, as amended. As early as practicable, 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 under this Contract. Purchaser shall provide the reasonable cooperation and support necessary for Contractor to apply for and maintain such required U.S. export licenses, agreements and other approvals, and shall promptly notify Contractor of any occurrence or change in circumstances of which it becomes aware that is relevant to or affects such export licenses, agreements and approvals. At Purchaser's request, Contractor shall include Purchaser (and related entities involved with the procurement) as a named party in any application to the U.S. government for approval of such export licenses, agreements and other approvals so as to permit Purchaser to be present during any discussion or meetings where Purchaser's foreign subsidiaries/related entities, insurance providers may receive from or discuss with Contractor export-controlled technical data. Contractor shall provide the parties to such export licenses and agreements copies of the export licenses and agreements, including any U.S. government provisos related to same.

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

7.4 No Unauthorized Exports or Retransfers

PURCHASER SHALL NOT EXPORT OR TRANSFER TO ANY "FOREIGN PERSON" ANY HARDWARE, SOFTWARE, DELIVERABLE DATA, OTHER TECHNICAL

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INFORMATION OR TECHNICAL SERVICES FURNISHED HEREUNDER, EXCEPT AS EXPRESSLY AUTHORIZED BY THE U.S. GOVERNMENT IN ACCORDANCE WITH THE EXPORT LICENSES, AGREEMENTS AND OTHER APPROVALS REFERENCED IN ARTICLES 7.1 AND 7.2 OR AS OTHERWISE EXPRESSLY AUTHORIZED UNDER U.S. EXPORT CONTROL LAWS.

IF PURCHASER IS A "FOREIGN PERSON", PURCHASER UNDERSTANDS AND WARRANTS THAT IT SHALL NOT RE-EXPORT, RE-TRANSFER OR DIVERT TO ANY THIRD PARTY ANY ITEM EXPORTED TO PURCHASER UNDER OR IN CONNECTION WITH THIS CONTRACT, EXCEPT AS EXPRESSLY AUTHORIZED BY THE U.S. GOVERNMENT IN ACCORDANCE WITH THE EXPORT LICENSES, AGREEMENTS OR OTHER APPROVALS REFERENCED IN ARTICLES 7.1 AND 7.2 OR AS OTHERWISE EXPRESSLY AUTHORIZED UNDER U.S. EXPORT CONTROL LAWS.

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ARTICLE 8 - ACCESS TO WORK-IN-PROCESS

8.1 General

Contractor represents and warrants that, subject to Article 7, the access to the Work (which shall include access to the Work-in-process) to be provided Purchaser personnel (and Purchaser's consultants and agents) under this Contract is, or shall be, substantially similar to the access Contractor provides to its other major commercial customers. In the event Contractor becomes aware that the access to the Work provided to Purchaser under this Contract is not as extensive as required by this Contract, Contractor shall promptly remedy that situation.

8.2 Work-in- Process at Contractor's Facility

Subject to Article 7 and compliance with Contractor's normal and customary safety and security regulations and practices, Purchaser personnel (and Purchaser's consultants and agents) shall be allowed access to all Work being performed at Contractor's facility for the Satellite and other Deliverable Items, for the purpose of observing the progress of such Work. Subject to Article 7, Purchaser shall be provided **XXXXX** badges to agreed work areas where the Work is being performed. For Purchaser's personnel, consultants and agents without such badges, access to the Work shall be, upon reasonable prior notice to Contractor, and shall occur during normal working hours or at such other hours as Contractor may agree.

8.3 Work-in-Process at Subcontractors' Facilities

In the case of Contractor's Major Subcontracts, and such other non-major subcontracts under which the effort in support hereunder involves significant design or qualification or the subcontractor is experiencing performance difficulties which may have a material adverse effect on the Delivery schedule or performance or provision of a Deliverable Item, Contractor shall use commercially reasonable efforts to require that each such subcontract contain a provision substantially similar to this Article 8 with respect to access to the applicable subcontractor's facilities and performance of the Work. Such access shall be subject to Article 7 and (i) each such subcontractor's safety and security regulations of which Purchaser is advised in writing prior to any visit, and (ii) right of Contractor to accompany Purchaser on any such visit to a subcontractor's facility.

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8.4 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 or proximate to Contractor's plant for **XXXXX** resident Purchaser personnel (and/or Purchaser's duly appointed consultants and agents) through Acceptance of the last Satellite ordered hereunder. The office facilities to be provided shall include such services as Purchaser shall reasonably require including a reasonable amount of office space, office furniture, local telephone service, reasonable long-distance telephone usage, access to copy machines, facsimile machines, meeting and conference rooms, internet access and to the extent available, videoconference rooms, and car parking facilities, to the extent necessary to enable Purchaser personnel to monitor the progress of Work under this Contract. In the case of Contractor's Major Subcontracts related to the payload, Contractor shall use commercially reasonable efforts to ensure that reasonable office facilities at the sites of such major subcontractors for **XXXXX** Purchaser personnel (and/or Purchaser's duly appointed consultants and agents) are provided on a temporary basis to attend meetings or witness tests.

8.5 Purchaser Representatives as Competitors/Foreign Persons

Purchaser's consultants and agents that are provided access to the Work shall not be in direct competition with and shall not currently be 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 under U.S. export laws and such other information as may be reasonably requested by Contractor, with respect to each of its intended consultants and agents, and cause each such consultant and agent to (i) execute a confidentiality agreement directly with Contractor in form and substance reasonably satisfactory to Contractor and containing terms substantially the same as those set forth in Article 31 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 as interpreted by Contractor in good faith. Contractor may in good faith deny any consultant or agent of Purchaser access to Contractor facilities, products or information.

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8.6 Interference with Operations

Purchaser shall in good faith 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 Financing Entities

Subject to the provisions of Article 7, and compliance with Contractor's normal and customary safety and security regulations and practices of which Purchaser has received prior written notice, each Financing Entity shall have access to the Work in the same manner and to the same extent as Purchaser's consultants and agents under this Article 8.

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**ARTICLE 9 - SATELLITE PRE-SHIPMENT REVIEW (SPSR) AND SPACECRAFT LAUNCH
READINESS REVIEW (SLRR)**

9.1 Satellite Pre-shipment Review (SPSR)

9.1.1 Contractor to Review Each Satellite Prior to Shipment. Contractor shall conduct a review of the Satellite prior to Contractor's shipment of such Satellite to the Launch Site or placement in Storage, as applicable. Upon Contractor determining in good faith that the Satellite is ready for Delivery, Contractor shall conduct a Satellite Pre-shipment Review. This review shall be in accordance with the terms of this Article 9 and Section 2.2.4 (Satellite Pre-shipment Review) of Exhibit A, Statement of Work (a "Satellite Pre-shipment Review" or "SPSR").

9.1.2 Time, Place and Notice of SPSR; Failure to Conduct. The SPSR shall take place at Contractor's facility. Contractor shall notify Purchaser in writing on or before **XXXXX** prior to the scheduled date for the commencement of such SPSR for the Satellite. If such time is not convenient for Purchaser, Contractor shall make reasonable efforts to accommodate Purchaser's scheduling requirements. If Purchaser should fail to participate in the SPSR with respect to the Satellite or fails to provide written notice of objections in accordance with Article 9.1.5 within **XXXXX** of completion of the SPSR. Purchaser shall be deemed to have notified Contractor pursuant to Article 9.1.5 hereof that SPSR for such Satellite has been successfully completed.

9.1.3 Conduct and Purpose of SPSR. Each SPSR shall be conducted in accordance with the terms of this Article 9 and Section 2.2.4 (Satellite Pre-shipment Review) of Exhibit A, Statement of Work. The purpose of each SPSR shall be to (i) review test data and analyses for the Satellite, (ii) demonstrate all testing has been completed in accordance with Exhibit D, Satellite Test Plan, and (iii) determine whether such Satellite meets applicable Satellite Performance Specification requirements (except those that have been waived pursuant to Article 9.3 below) and is ready for shipment to the Launch Site.

9.1.4 Purchaser's Inspection Agents. Purchaser may, subject to prior written notice to Contractor, cause any Purchaser personnel, consultant or agent designated by

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Purchaser to observe the SPSR pursuant to this Article 9; provided, however, that the provisions of Article 7 and Article 8.5 shall apply to any such agent.

9.1.5 SPSR Results. In the event that such SPSR demonstrates (i) that all testing has been performed in accordance with Exhibit D, Satellite Test Plan and (ii) conformity of such Satellite to the applicable requirements of Exhibit B, Satellite Performance Specification, (including any waivers or deviations approved by Purchaser pursuant to Article 9.3), Purchaser shall within **XXXXX** direct Contractor in writing either to ship the Satellite to the Launch Site for Launch or place the Satellite in storage in accordance with Article 24.5. In the event that such SPSR discloses: (i) a failure to conduct testing in accordance with Exhibit D, Satellite Test Plan, or (ii) a 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 9.3, Purchaser shall, within **XXXXX** after completion of the relevant SPSR, deliver a written notice to Contractor setting forth the testing and/or contractual requirements that Purchaser believes have not been met, and Contractor shall correct or repair each such non-conformance and resubmit such Satellite for additional testing, in accordance with applicable requirements of Exhibit D, Satellite Test Plan and a second SPSR shall be held in accordance with the procedures of this Article 9. Any additional testing and a subsequent SPSR shall be conducted to the extent relevant and necessary to demonstrate the Satellite conforms to the requirements of Exhibit B, Satellite Performance Specification. Upon direction from Purchaser to Contractor to ship the Satellite to the Launch Site, Contractor shall transport such Satellite, in accordance with Contractor's standard commercial practices, to the Launch Site and proceed with the Spacecraft Launch Readiness Review for such Satellite. In no event shall Contractor be required to ship the Satellite to the Launch Site until all non-conformances are corrected, repaired or have an approved waiver (or deviation).

9.1.6 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.

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9.1.7 Correction of Deficiencies after SPSR. If at any time following the SPSR for the Satellite and prior to Intentional Ignition (or, in the event of a Terminated Ignition, prior to any subsequent Intentional Ignition, such Satellite fails to meet Exhibit B, Satellite Performance Specification, as may be modified as of such time pursuant to Article 9.3, Contractor shall, at Contractor's expense (except as provided in Article 12.1 relating to Purchaser's responsibility for the costs occurred as a result of Terminated Ignition) promptly undertake to correct such deficiencies prior to Intentional Ignition (or, in the case of a Terminated Ignition, prior to any subsequent Intentional Ignition).

9.2 Spacecraft Launch Readiness Review (SLRR)

After shipment of the Satellite to the Launch Site and prior to Launch, Contractor shall conduct a Spacecraft Launch Readiness Review in accordance with the requirements of Section 2.2.7.2 (Spacecraft Launch Readiness Review) of Exhibit A, Statement of Work. Contractor shall give Purchaser personnel reasonable advance notice of such SLRR. The purpose of the SLRR is to verify that all testing required under Exhibit D, Satellite Test Plan, has been successfully completed and the Satellite meets all the parameters required to be tested thereunder (including any waivers or deviations approved by Purchaser). The SLRR will be deemed successfully completed when Contractor has verified and the Parties agree that the above-stated purposes of the SLRR have been met and the Satellite is ready to be integrated with the Launch Vehicle. **XXXXX** after completion of the SLRR, Purchaser shall notify Contractor of its (i) concurrence with the results of the SLRR, including any waiver of its right to compel correction of those non-conformances to the applicable provisions of this Contract or (ii) specific non-conformances of such Satellite to the requirements of this Contract which are not the subject of any waivers or deviations approved by Purchaser. Purchaser's notice shall state each such non-conformance (with reference to the applicable requirements of this Contract deemed not met) it requires to be corrected or repaired, and Contractor shall correct or repair each such non-conformance and resubmit such Satellite for Purchaser's concurrence. Purchaser's failure to provide notice of specific non-conformance within **XXXXX** after receipt of Contractor's verification shall be deemed concurrence.

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9.3 Waivers and Deviations

Contractor shall timely notify Purchaser in writing from time to time of any failure of the Work to meet the requirements of the Contract. With respect to any deviation or waiver from the Contract that Contractor shall in reasonable good faith believe that Purchaser should waive or approve, Contractor shall submit to Purchaser a request for a waiver of, or deviation from, provisions(s) of the Performance Specification applicable to the Satellite or Deliverable Item. A request for waiver or deviation shall be deemed granted only if it has been approved in writing by a duly authorized representative of Purchaser. Each such waiver or deviation approved by Purchaser shall be deemed an amendment to the Performance Specification for such Satellite or Deliverable Item, permitting such waiver thereof, or deviation therefrom, effective on or after the date of such approval for such Satellite or Deliverable Item. Purchaser shall consider each waiver or deviation request in good faith.

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ARTICLE 10 - SATELLITE ACCEPTANCE

10.1 In-Orbit Testing (IOT)

Acceptance of the Satellite shall be deemed to occur upon the earlier of: (i) the IOT Complete Date (which shall occur as set forth below unless there is a Total Loss of the Satellite); 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) ("Acceptance" for a Satellite). Upon arrival of the Satellite at its specified orbital location, Contractor shall, in accordance with the Exhibit A SOW, perform the IOT. When IOT has been completed for the Satellite, Contractor shall conduct an IOT Data Review Meeting (in accordance with Exhibit A, Statement of Work), during which Contractor shall submit the IOT results to Purchaser. Within **XXXXX** after the completion of such IOT Data Review Meeting, Purchaser shall notify Contractor of its acceptance of the IOT results ("IOT Complete Date"). Notwithstanding any of the foregoing, Purchaser may direct Contractor to perform additional testing at any time during IOT or after receipt of the IOT results and Contractor agrees to undertake such additional tests subject to: (i) agreement on who will pay the costs of such additional tests, and (ii) commencement of the Orbital Performance Incentive Period for purposes of earning the Orbital Performance Incentives to be paid pursuant to Article 13 hereof.

10.2 Consequences of Acceptance

10.2.1 Orbital Performance Incentives. After Acceptance, Contractor's shall have the right to earn Orbital Performance Incentives in accordance with Article 13 hereof.

10.2.2 No Further Liability. After Acceptance, Contractor shall have no further obligation with respect to such Satellite, **XXXXX** Contractor's loss of Orbital Performance Incentives pursuant to Article 13 shall be Purchaser's sole and exclusive remedy with respect to the Satellite's performance after Intentional Ignition.

10.3 Post-Eclipse Report

In the event no solar eclipse occurs during IOT, Contractor shall, at Purchaser's request, and subject to making the Satellite and necessary Purchaser facilities available to Contractor, for the first solar eclipse following completion of IOT, conduct eclipse testing in accordance with Exhibit D, Satellite Test Plan, and prepare and provide Purchaser an

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eclipse test report detailing the Satellite's performance against the applicable Satellite performance requirements during an eclipse in accordance with Exhibit B, Satellite Performance Specifications. If the Satellite does not meet all the Exhibit B, Satellite Performance Specifications during such first solar eclipse season, the Orbital Performance Incentives shall be subject to adjustment in accordance with Article 13.2.10.

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ARTICLE 11 - ACCEPTANCE INSPECTION FOR DELIVERABLE ITEMS OTHER THAN SATELLITE

11.1 Deliverable Items of Hardware Other Than Satellite

11.1.1 Inspection. With respect to each Deliverable Item of hardware (including software integrated in hardware) other than Satellite, Contractor shall perform such review and testing, if any, required by Exhibit A, Statement of Work. Upon Contractor's certification that the Deliverable Item meets the requirements of this Contract and is available for Delivery, Contractor shall ship or transfer the Deliverable Item to the location designated in Article 3.1. Purchaser shall perform an acceptance inspection within **XXXXX** after such Deliverable Item arrives and is otherwise ready for inspection. The purpose of the acceptance inspection shall be to determine whether each such Deliverable Item meets applicable Performance Specification requirements as of the date of such delivery, as such requirements may have been modified pursuant to Article 11.6. To the extent feasible, any such services furnished to Purchaser shall be accompanied by written notice from Contractor specifying that portion of the services being furnished.

11.1.2 Acceptance Inspection Results. Within **XXXXX** after completion of acceptance inspection pursuant to this Article 11 for any Deliverable Item, Purchaser shall notify Contractor in writing of the results of such acceptance inspection. In the event that such acceptance inspection demonstrates conformity of such Deliverable Item to the requirements of the applicable Performance Specification, such Deliverable Item shall be accepted by Purchaser for all purposes hereunder ("Acceptance" with respect to each such Deliverable Item other than the Satellite), and Purchaser's notice shall so state. In the event that Contractor's report or Purchaser's acceptance inspection discloses any non-conformance of such Deliverable Item to the applicable Performance Specification, Purchaser's notice shall identify each such non-conformance (with reference to the applicable requirement of the Performance Specification deemed not met), and Contractor shall correct or repair such non-conformance and resubmit such Deliverable Item for a second acceptance inspection in accordance with this Article 11. Such

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second acceptance inspection shall be conducted by Purchaser in accordance with this Article 11 to the extent the Purchaser deems relevant and necessary to verify the hardware (including integrated software) conforms to the requirements of the applicable Performance Specification. If Purchaser fails to provide notice within the **XXXXX** period, Acceptance shall be deemed to have occurred with respect to such Deliverable Item.

11.2 Deliverable Data

Purchaser shall, within **XXXXX** of delivery by Contractor to the location designated in Article 3.1 of Deliverable Data requiring Purchaser approval pursuant to the Exhibit A, Statement of Work, notify Contractor in writing that such Deliverable Data has been accepted in accordance with the Exhibit A, Statement of Work ("Acceptance" with respect to each such item of Deliverable Data), or that such Deliverable Data does not comply with the applicable requirements of the Exhibit A, Statement of Work, identifying each such non-conformance (with reference to the applicable requirement of the Exhibit A, Statement of Work deemed not met). Contractor shall promptly correct any non-compliant aspect of such Deliverable Data identified in such notice from Purchaser, and re-submit it to Purchaser for a second acceptance inspection pursuant to this Article 11.2. The provisions of this Article 11.2 shall thereafter apply to the corrected Deliverable Data. If Purchaser fails to provide notice within such **XXXXX** period, Acceptance shall be deemed to have occurred with respect to such Deliverable Data.

11.3 Training

Acceptance of training, or any part thereof, required by the Exhibit A, Statement of Work shall occur upon Contractor furnishing training, or such part thereof, to Purchaser in accordance with the Delivery schedule and in a condition conforming to Exhibit A, Statement of Work. Any training furnished to Purchaser shall be accompanied by written notice from Contractor specifying that portion of the training being furnished. If such training or part thereof is unacceptable, Purchaser shall notify Contractor in writing that the training, or part thereof, does not conform to the requirements of the Exhibit A, Statement of Work, identifying each such non-conformance (with reference to the applicable requirement of the Exhibit A, Statement of Work deemed not met).

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Contractor shall, at its expense, promptly correct such non-conformance and shall notify Purchaser that the corrections have been made. The provisions of this Article 11.3 shall thereafter apply to the corrected training.

11.4 Other Services

Acceptance of other services provided hereunder (e.g., Launch Support Services and Mission Operations Support Services), or any part thereof, shall occur upon Contractor furnishing such services, or such part thereof, to Purchaser in accordance with the Delivery schedule set forth in Article 3.1 and in a condition conforming to the requirements of this Contract. To the extent feasible, any such services furnished to Purchaser shall be accompanied by written notice from Contractor specifying that portion of the services being furnished. If such services or part thereof are unacceptable, Purchaser shall notify Contractor that the services, or part thereof, do not conform to the requirements of the Exhibit A, Statement of Work identifying each such non-conformance (with reference to the applicable requirement of the Exhibit A, Statement of Work deemed not met). Contractor shall promptly correct such non-conformance to the extent feasible and shall notify Purchaser that the corrections have been made. The provisions of this Article 11.4 shall thereafter apply to the corrected services.

11.5 Purchaser's Inspection Agents

Purchaser may, upon giving prior written notice to Contractor, cause any Purchaser personnel, 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 8.5 shall apply to any such agent and such agent shall comply with Contractor's normal and customary safety and security regulations provided to Purchaser in writing in advance of such inspection.

11.6 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 9.3.

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11.7 Inspection Costs Borne by Purchaser

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

11.8 Warranty Obligations

In no event shall Contractor be released from any of its warranty obligations applicable to any Deliverable Item (other than a Satellite as set forth in Article 15) as a result of its Acceptance as set forth in this Article 11.

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ARTICLE 12 - TRANSFER OF TITLE AND RISK OF LOSS

12.1 Satellite

Except as provided in Article 21 or Article 23 or Article 24.5 (if the Storage option is exercised), title (free and clear of all liens and encumbrances of any kind) and risk of loss or damage to the Satellite to be delivered under this Contract shall pass from Contractor to Purchaser at the time of Intentional Ignition of the Launch Vehicle used for the Launch of such Satellite; provided, however, in the event of a Terminated Ignition for the Satellite, title to and risk of loss or damage to such Satellite shall revert to Contractor upon such Terminated Ignition and shall again pass to Purchaser upon the subsequent Intentional Ignition of the Launch Vehicle used for Launch of such Satellite.

UPON AND AFTER INTENTIONAL IGNITION OF THE LAUNCH VEHICLE FOR THE SATELLITE, UNLESS AND TO THE EXTENT OF A TERMINATED IGNITION AS PROVIDED HEREIN, CONTRACTOR'S SOLE FINANCIAL RISK, AND THE SOLE AND EXCLUSIVE REMEDIES OF PURCHASER OR ANY PARTY ASSOCIATED WITH PURCHASER, WITH RESPECT TO THE USE OR PERFORMANCE OF SUCH SATELLITE (INCLUDING WITH RESPECT TO ANY ACTUAL OR CLAIMED DEFECT CAUSED OR ALLEGED TO BE CAUSED AT ANY TIME BY CONTRACTOR'S OR ANY OF ITS SUBCONTRACTORS' NEGLIGENCE OF ANY DEGREE) SHALL BE AS SET FORTH IN ARTICLES XXXXX IN ALL CASES SUBJECT TO THE LIMITATION OF LIABILITY SET FORTH IN ARTICLE 30.

In the event of a Terminated Ignition, Contractor shall inspect the Satellite and provide Purchaser with a report on the condition of such Satellite along with a recommendation for repair or replacement, if any is required. Thereafter, Purchaser shall direct Contractor pursuant to Article 16.1 as to how to proceed with any required or desired repairs.

In the event of a Terminated Ignition, after Contractor re-acquires title and risk of loss to the Satellite pursuant to this Article 12.1, the provisions of Article 9.1.7 shall apply except as to any damage to such Satellite that may have occurred as a result of the Intentional Ignition followed by Terminated Ignition, the costs of which shall, as between the Parties, be the responsibility of the Purchaser.

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12.2 Deliverable Items Other Than the Satellite

Title (free and clear of all liens and encumbrances of any kind) and risk of loss of or damage to each Deliverable Item of hardware other than the Satellite shall pass from Contractor to Purchaser upon Acceptance of such Deliverable Item pursuant to Article 11, except for Deliverable Data. With respect to Deliverable Data, Purchaser's rights in Deliverable Data are as set forth in Article 32.

12.3 Liens

Any reference to Contractor being obligated to provide title to any Deliverable Item free and clear of liens or encumbrances shall be without regard to any liens or encumbrances created by Purchaser.

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ARTICLE 13 - ORBITAL PERFORMANCE INCENTIVES

13.1 General

Except as otherwise provided in this Article 13, Contractor shall earn, and Purchaser shall pay Contractor to the extent earned, the Orbital Performance Incentives for the Satellite over the Orbital Performance Incentive Period with respect thereto, all in accordance with this Article 13. As used herein, "Orbital Performance Incentives" means with respect to the Satellite, an amount equal to **XXXXX** which may be earned by Contractor based on on-orbit performance of such Satellite as set forth in this Article 13. "Orbital Performance Incentive Period" means, with respect to the Satellite, the period commencing at 12:01 a.m. Greenwich Mean Time on the first day after Acceptance for such Satellite and ending on the same date **XXXXX** thereafter.

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.

On-board redundancy and/or spare components shall be taken into consideration to maintain service on the 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, Satellite Performance Specification, are met by such Satellite.

13.2 Earning Orbital Performance Incentives

13.2.1 Daily Rate of Orbital Performance Incentives. Contractor shall earn Orbital Performance Incentives over the Orbital Performance Incentive Period at a daily rate of **XXXXX** for each day that the Satellite is a Satisfactorily Operating Satellite (the "Daily Rate"). "Satisfactorily Operating Satellite" means that all performance parameters for the Satellite meet the requirements of Exhibit B, Satellite Technical Specification. A "Less than Satisfactorily Operating Satellite" means a Satellite that does not meet all of the performance requirements of Exhibit B, Satellite Technical Specification.

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For each day during the Orbital Performance Incentive Period where the Daily Rate is not earned in whole or in part due to the operation of this Article 13, such portion of the Orbital Performance Incentive shall be lost (subject to Article 13.2. and Article 13.2.5).

13.2.2 Partial Incentives. For any day during the Orbital Performance Incentive Period that a Satellite is a Less than a Satisfactorily Operating Satellite, the Daily Rate shall be reduced to an amount calculated in accordance with the tables and formulae set forth in this Article 13.2.2.

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13.2.3 Orbital Storage. Except as provided in Article 13.2.5, if Purchaser places the Satellite in Orbital Storage, Contractor shall earn Orbital Performance Incentives

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with respect to such Satellite at the same Daily Rate as Contractor would be earning if the Satellite had not been put in Orbital Storage.

13.2.4 Additional Costs. If Purchaser shall incur additional costs (such as additional ground segment staffing or facilities hardware or software) to correct the performance of a Less than Satisfactorily Operating Satellite (but not to a greater extent than that required of a Satisfactorily Operating Satellite)), Purchaser shall have the right to deduct such additional costs from the Orbital Performance Incentives otherwise due to Contractor hereunder provided that Purchaser may not deduct more than the aggregate amount of Orbital Performance Incentives that Contractor would otherwise have lost by operation of this Article 13 if Purchaser did not incur such additional costs.

13.2.5 Complete Loss of Unearned Incentives. **XXXXX**

13.2.6 Purchaser Operation of the Satellite. If, as a result of 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, such Satellite operates in a manner that is not in accordance with any requirements of Exhibit B, Satellite Performance Specification, 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 Articles 13.2.2, 13.2.4, or 13.2.5 with respect to failures to meet the requirements of Exhibit B, Satellite Performance Specification, not resulting from any such act or omission of Purchaser or Purchaser's representatives, consultants or subcontractors).

13.2.7 In-Orbit Data and Performance Calculation. During the life of the Satellite, Contractor shall have access to the data records of the Satellite for purposes of evaluating any degradation in the performance of the Satellite resulting in any potential loss of Orbital Performance Incentives as notified by Purchaser. The Parties shall agree on or before **XXXXX** as to the methodologies, precise equipment and calibrations to be used for taking and/or making measurements (incorporating measurement uncertainty), computations and analyses to

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determine whether any reduction in Orbital Performance Incentives, that may be earned by the Contractor, pursuant to Article 13.2.2 is warranted.

13.2.8 ~~XXXXX~~13.2.9 Total Loss. In the event that, at or after Intentional Ignition but prior to completion of IOT, the Satellite is deemed to be a Total Loss, Contractor shall not earn any Orbital Performance Incentives, unless the Total Loss is due to causes attributable to Purchaser or its suppliers or contractors (including the Launch Agency, but not including Contractor), in which case the Contractor shall be entitled to earn the Orbital Performance Incentives for the Orbital Performance Incentive Period. Payments shall be made in accordance with Article 13.3, except that (solely for the purpose of this Article 13.2.9) the date of Acceptance shall be deemed to be the date of the event resulting in the Total Loss of the Satellite.

13.2.10 Eclipse. In the event the IOT or such later testing in accordance with Article 10.3 shows non-compliance with the applicable performance requirements during an eclipse, then the Parties shall agree to an adjustment to the amounts Contractor may earn under Article 13 (considering without limitation the impact of operation during an eclipse).

13.3 Payment and Interest

Amounts due Contractor pursuant to Article 13 shall be paid as follows: (i) the first payment shall be due no later than the end of the first full month following Acceptance, and shall cover the first partial month of earned Orbital Performance Incentives, if any, and (ii) thereafter, all subsequent payments shall be due no later than ~~XXXXX~~ following the end of each calendar month for the prior month's earned Orbital Performance Incentives, if any. Included with payment, if any, Purchaser shall provide Contractor with a report of the Orbital Performance Incentives due for the prior month. Purchaser shall pay interest on the Orbital Performance Incentives payable for such period calculated from the date of Acceptance and ending on the date the payment is made by Purchaser, at the annual interest rate of ~~XXXXX~~

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13.4 Satellite Performance after Intentional Ignition. Except as otherwise provided in Article **XXXXX**, Contractor's loss of Orbital Performance Incentives pursuant to this Article 13 shall be Purchaser's sole and exclusive remedy with respect to the Satellite Performance after Intentional Ignition.

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

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

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ARTICLE 15 - WARRANTY

15.1 Terms and Period of Warranty

15.1.1 Satellite. Notwithstanding any prior inspection, Contractor warrants that the Satellite shall be free from defects in materials or workmanship and shall have been manufactured and will perform in conformity with the requirements of this Contract including the Satellite Performance Specification (as may be waived or deviated from pursuant to Article 9.3). After successful completion of the SPSR, but prior to Intentional Ignition, Contractor's only liability under the preceding sentence shall be as and to the extent set forth in Article 9.1.7 hereof.

XXXXX Notwithstanding the foregoing, Contractor shall continue to provide any notices required under Article 14.

15.1.2 Deliverable Items of Hardware Other Than the Satellite

- A. Contractor warrants that each Deliverable Item of hardware other than the Satellite delivered under this Contract shall be manufactured in conformity with the Performance Specification applicable to such Deliverable Item (as may be waived pursuant to Article 11.1) and will be free from defects in materials and workmanship during the period commencing on the date of Acceptance of such Deliverable Item pursuant to Article 11 and ending on the first anniversary after the later of Acceptance of such Delivered Item or the scheduled delivery date of such Deliverable Item.
- B. During the period specified in Article 15.1.2 (A) for any Deliverable Item other than the Satellite, any non-conformance or defect discovered in such Deliverable Item and notified to Contractor shall be remedied by Contractor at Contractor's expense by repair or replacement of the defective component (at Contractor's election). For any such Deliverable Item, Contractor shall determine if repair or replacement is required to be performed at Contractor's plant. If required, Purchaser shall ship to Contractor's designated facility any such Deliverable Item. Contractor shall be responsible for the cost of shipment (including transportation and transit insurance) to such facility in accordance with its standard

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commercial practice (including any taxes and/or duties) of any such Deliverable Item, and the cost of packing, return shipment (including transportation and transit insurance) in accordance with its standard commercial practice of any such Deliverable Item once repaired or replaced to Purchaser at the location designated therefor by Purchaser. Risk of loss for such Deliverable Item shall transfer to Contractor upon delivery of such Deliverable Item to the shipping carrier by Purchaser, and risk of loss shall transfer to Purchaser for any such Deliverable Item once repaired or replaced pursuant to this Article 15.1.2 (B) upon receipt thereof by Purchaser at the location designated by Purchaser. If Contractor fails or is unable to repair or replace such non-conforming or defective component within a reasonable period of time after notification from Purchaser, Purchaser may, by contract or otherwise, repair or replace such non-conforming or defective component and Contractor shall be liable for the reasonable cost thereof.

15.1.3 Training and Services. Contractor warrants that the training and other services it provides to Purchaser pursuant to this Contract will conform to reasonable industry standards of the commercial aerospace and satellite communications industry practice for work similar in type, scope, and complexity to the Work at the time such training or other services are provided. In the event Contractor breaches this warranty, as Purchaser's sole remedy, Contractor shall apply reasonable efforts to correct the deficiencies in the provision of such training and other services where it is practicable to do so (e.g., cannot correct deficiencies in or redo Launch Support Services from and after Launch).

15.1.4 Third-Party Warranties. Contractor shall assign to Purchaser to the extent assignable, or make available to Purchaser, the benefit of all third party warranties Contractor has from any other party with respect to any Deliverable Item.

15.1.5 Disclaimer. **XXXXXX**

15.2 Satellite Anomalies

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At no cost to Purchaser, Contractor shall investigate any Satellite Anomaly in the Satellite delivered on-orbit arising during the life of such Satellite and known to it or as notified in writing by Purchaser and undertake anomaly resolution support services in accordance with Section 2.3.9 (Standard On-Orbit Support) of Exhibit A, Statement of Work. If for any reason any such Satellite Anomaly cannot be or is not corrected (after reasonable efforts to effect a correction) as set forth in the immediately preceding sentence and as a result thereof, such Satellite suffers any loss, Purchaser's sole and exclusive remedies with respect to such loss and any consequences therefrom shall be those set forth in Articles 13 and 35.2 as applicable, subject to the conditions and limitations of such Articles and in all cases subject to the limitation of liability stated in Article 15.1 above and Article 30. In the event that the occurrence of a Satellite Anomaly is due to causes not attributable to Contractor (including any subcontractor, agent or representative of Contractor), Purchaser shall pay Contractor the Actual Costs reasonably incurred by Contractor associated with such anomaly services, plus a markup of **XXXXX** which shall be invoiced and paid pursuant to the provisions of Article 5. If the causes are attributable to Contractor (including any subcontractor, agent or representative of Contractor), such costs shall be borne by Contractor.

15.3 Use Conditions Not Covered by Warranty

With respect to Deliverable Items other than the Satellite, the warranty under this Article 15 shall not apply if adjustment, repair or parts replacement is required as a result, directly or indirectly, of accident, unusual physical or electrical stress, negligence, misuse, failure of environmental control prescribed in operations and maintenance manuals, repair or alterations by any party other than Contractor (including any subcontractor, agent or representative of Contractor), or by causes other than normal and ordinary use. The warranty provided pursuant to this Article 15 is conditioned upon Contractor being given access, if required, to Deliverable Items delivered at Purchaser's facility in order to accomplish 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, Purchaser shall pay Contractor the Actual Costs reasonably incurred by Contractor associated with such repair or remedy, plus a markup of **XXXXX** which shall be invoiced

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and paid pursuant to the provisions of Article 5. Contractor makes no warranty with respect to the performance of any Launch Vehicle.

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ARTICLE 16 – CHANGES AND STOP WORK

16.1 Changes Requested by Purchaser

16.1.1 Purchaser may at any time in writing request a change in the Work in whole or in part including changes to any Deliverable Item or service (as may be modified from time to time, a “Change Request”).

Contractor shall respond in writing to a Change Request within **XXXXX** after receipt thereof, which response shall include Contractor’s reasonable good faith proposal of the changes to the Contract that would be caused by such Change Request including, without limitation, the estimated increase or decrease to the Firm Fixed Price **XXXXX**. The proposal shall include reasonably sufficient detail setting forth the basis used by Contractor (including a detailed description of the work to be performed, break down showing estimated labor and major material costs together with such other information/explanation as Purchaser may reasonably request).

16.1.2 If Purchaser desires to implement the Change Request, Purchaser and Contractor shall negotiate in good faith and in a timely manner the changes, if any, to the Contract caused by implementation of the Change Request. Except as provided in Article 16.1.3, any changes made pursuant to this Article 16.1 shall be formalized by the execution of an amendment to this Contract in accordance with Article 37.5. Except as set forth in such amendment, the terms of the Contract shall remain unchanged.

16.1.3 If the Parties are not able to agree on the changes to the Contract necessitated by such Change Request, then within **XXXXX** of a request from either Party, each Party shall deliver to the other a good faith offer of the changes to the Contract (the “Purchaser’s Offer” and “Contractor’s Offer”). Thereafter, Purchaser has the right to direct Contractor to implement the requested changes. In such event:

(a) the Parties shall continue to negotiate in good faith as to the terms of any changes to the Contract;

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(b) either Party shall have the right to invoke the dispute resolution procedures of Article 25; and

(c) **XXXXX**

16.1.4 If Purchaser directs that certain goods or services be provided by Persons other than Contractor, Contractor agrees to provide reasonable cooperation with such Persons, subject to Contractor's reasonable requirements concerning access, confidentiality and compliance with law, as set forth in this Contract.

16.2 Stop Work Order

Purchaser shall have the right at any time (and from time to time) to direct Contractor to stop Work. To exercise the right hereunder, Purchaser shall deliver a written notice to stop Work (the "Notice to Stop Work"). **XXXXX**

16.3 Changes Requested by Contractor

Contractor may at any time request a change in the Work. Any proposed change shall contain a written proposal identifying such change, the reasons therefore and the impact thereof on the price, Delivery schedule, or other terms of this Contract. Purchaser will attempt to respond to such change request from Contractor within **XXXXX** of receipt. If the Parties reach an agreement on such change request in writing, it shall be incorporated into the Contract by the execution of an amendment to this Contract in accordance with Article 37.5. If the Parties are unable to reach an agreement in writing on the proposed change request, then such request shall be deemed rejected.

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ARTICLE 17 - FORCE MAJEURE

17.1 Force Majeure Defined

17.1.1 Subject to Article 23.3, Contractor shall not be responsible to Purchaser for late Delivery, 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 a Party 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 or contractual capacity (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) strikes, lockouts and other industrial disputes (other than at the facilities of Contractor), (8) sabotage, riot and embargoes; (9) **XXXXX**, and (10) other unforeseen and extraordinary events ("Force Majeure"); provided written notice is given to Purchaser, in writing, within **XXXXX** after Contractor's performance has been impacted by the occurrence of such Force Majeure and further provided such Force Majeure is not caused by the failure of Contractor or its suppliers or subcontractors to perform their obligations under this Contract. Notwithstanding the foregoing, in no event will financial hardship or insolvency of Contractor or any of its respective Affiliates constitute Force Majeure.

Any notice to be provided by Contractor, as required by the preceding provisions, shall include a detailed description of the performance of Contractor known to be affected by such delay as well as Contractor's plans for minimizing the effects of such event upon the performance of its obligations under the Contract. In all cases, Contractor shall use best reasonable efforts to avoid or minimize and/or work around such delay through the implementation of any work-around plans, alternate sources, or other means Contractor may reasonably utilize to minimize a delay in performance of the Work. Contractor shall also provide Purchaser prompt written notice when the event constituting Force Majeure as to Contractor appears to have ended and shall during the period of Force Majeure provide such other reports as Purchaser may reasonably request (including, without

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limitation, estimates when the matter is to be rectified and the steps made to meet the applicable Contract requirements thereafter).

17.1.2 In the event Purchaser disputes any Force Majeure, Purchaser shall inform Contractor in writing within **XXXXX** from the date of receipt of written notice of the event purportedly constituting the Force Majeure and, if the Parties have not resolved the dispute within **XXXXX** of Contractor's receipt of such written notice from Purchaser, the dispute shall be resolved pursuant to Article 25.

17.2 Adjustment to Delivery Schedule and Other Affected Terms

17.2.1 Subject to Article 23.3, upon the occurrence of Force Majeure that causes a delay in Contractor's performance of its obligations hereunder, an Equitable Adjustment shall be negotiated in the Delivery schedules of this Contract affected by Force Majeure. Such adjustment in Delivery schedules shall not affect any other provisions of this Contract (including the Firm Fixed Price).

17.2.2 Any adjustment made pursuant to this Article 17.2 shall be formalized by the execution of an amendment to this Contract in accordance with Article 37.5.

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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 delayed or interrupted by Purchaser's failure to perform its contractual obligations hereunder within the time specified in this Contract or within a reasonable time if no time is specified, or by an act or failure to act of Purchaser that unreasonably interferes with and delays Contractor's performance of its obligations under this Contract ("Purchaser Delay"), Contractor shall promptly give Purchaser written notice thereof. In the event of a Purchaser Delay, Contractor shall cooperate with Purchaser to develop a plan using best reasonable efforts to avoid or minimize and/or work around such delay (including work-around plans, use of alternate sources, or other means to minimize the delay). Within **XXXXX** of Contractor's issuance of its notice of Purchaser Delay, Contractor shall provide Purchaser with a written estimate of the impacts to the Contract. Subject to such notice, and issuance of the written estimate as provide immediately above, Contractor shall be entitled to an Equitable Adjustment for the Purchaser Delay. Any Equitable Adjustment made pursuant to this Article 18 shall be incorporated into this Contract by the execution of an amendment in accordance with Articles 16 and 37.5. At Purchaser's written request pursuant to Article 16, Contractor shall use best reasonable efforts to avoid or minimize and/or work around any delay resulting from such Purchaser Delay through the implementation of any work-around plans, alternate sources, or other means Contractor may utilize or expect to utilize to minimize a delay in performance of the Work.

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ARTICLE 19 - INTELLECTUAL PROPERTY INDEMNITY

19.1 Indemnification

Contractor, at its own expense, hereby agrees to defend and to indemnify and hold harmless Purchaser and its Affiliates, and their respective officers, directors, employees, shareholders, and agents from and against any claim or suit based on, arising from, or in connection with any allegation that 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 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 (including court costs and reasonable attorneys' fees and disbursements, costs of investigation, expert fees, litigation, settlement, judgment, interest and penalties) 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 the manufacture of any Deliverable Item or the normal intended use, lease or sale of any Deliverable Item under this Contract is enjoined as a result of an Intellectual Property Claim or is otherwise prohibited, 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 may be modified or waived pursuant to Article 9.3). 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, with respect to such Deliverable Item (and any other Deliverable Item whose utility has been adversely impacted by Purchaser's loss of use of the infringing Deliverable Item), return such Deliverable Item(s) to Contractor (in space, with respect to an in-orbit Satellite), and within **XXXXX** of such return, Contractor shall refund the price paid for such terminated Deliverable Item(s) less a reasonable allowance for use and depreciation.

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19.3 Combinations and Modifications

Contractor shall have no liability under this Article 19 for any Intellectual Property Claim arising solely from (i) use of any Deliverable Item in combination with other items not provided, recommended, or approved by Contractor or its suppliers or subcontractors or (ii) modifications of any Deliverable Item after Delivery by a Person other than Contractor (or its suppliers or subcontractors acting through Contractor) unless (A) in the case of a Deliverable Item other than the Satellite, such modification was made by such other Person due to Contractor's failure to perform a contractual obligation hereunder (except where Contractor believes such modification would result in an infringement of a third party's rights) or (B) is directed in writing by Purchaser to which Contractor has taken written exception including by way of disclaimer.

19.4 Sole Remedies

The remedies set forth in this Article 19 are Purchaser's sole and exclusive remedies for or related to any Intellectual Property Claim.

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ARTICLE 20 - INDEMNITY FOR PERSONAL INJURY AND PROPERTY DAMAGE

20.1 Contractor's Indemnity

Contractor, at its own expense, shall defend, indemnify and hold harmless Purchaser and its Affiliates and their respective directors, officers, employees, shareholders, and agents, from and against any losses, damages, and other liabilities, adjudicated (or provided for in settlement of the matter) to be owing to the claimant as well as costs and expenses (including court costs, and reasonable attorneys' fees and disbursements, costs of investigation, expert fees, litigation, settlement, judgment, interest and penalties) (collectively, "Losses") based on, arising from or in connection with any third party claims for injury to persons or property damage, but only if such Losses were caused by, or resulted from, a negligent act or omission or willful misconduct of Contractor, or its employees, representatives, contractors or subcontractors at any tier (including suppliers of any kind). For the avoidance of doubt, Contractor shall have no indemnity obligations pursuant to this Article 20 for any Losses with respect to the Satellite after Intentional Ignition of the Launch Vehicle for such Satellite, unless and to the extent of a Terminated Ignition as provided in Article 12.1, even if such Losses are attributable, in whole or in part, to an act or omission of Contractor or its employees, representatives, contractors or subcontractors at any tier (including suppliers of any kind) prior to Intentional Ignition.

20.2 Purchaser's Indemnity

Purchaser, at its own expense, shall defend, indemnify and hold harmless Contractor and its Affiliates, and their respective directors, officers, employees, shareholders and agents, from and against any Losses based on, arising from or in connection with any third party claims for injury to persons or property damage but only if such Losses were caused by, or resulted from, a negligent act or omission or willful misconduct of Purchaser or its employees or representatives.

20.3 Indemnification Process

In connection with any claim for indemnification under Article 20.1 and Article 20.2 the Parties agree as follows:

20.3.1 The Party seeking indemnification shall promptly advise the other Party in writing of the filing of any suit or of any written or oral claim for which it seeks

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indemnification upon receipt thereof and shall provide the other Party, at its written request, with copies of all documentation relevant to such suit or claim. Failure to so notify the indemnifying Party shall not relieve the indemnifying Party of its obligations under this Contract except to the extent it can demonstrate that it was prejudiced by such failure. Within **XXXXX** following receipt of written notice from the Party seeking indemnification relating to any claim, but no later than a reasonable time before the date on which any response to a complaint or summons is due, the indemnifying Party shall notify the Party seeking indemnification in writing if the indemnifying Party elects to assume control of the defense or settlement of that claim (a "Notice of Election") when not contrary to the governing rules of procedure. A Notice of Election shall require the indemnifying Party to assume the defense in full and without reservation of rights.

20.3.2 If the indemnifying Party delivers a Notice of Election relating to any claim within the required notice period, so long as it is actively defending such claim, the indemnifying Party shall be entitled to have sole control over the defense and settlement of such claim; provided that (i) the Party seeking indemnification shall be entitled to participate in the defense of such claim and to employ counsel (reasonably acceptable to the indemnifying Party) at its own expense to assist in the handling of such claim provided there is no conflict of interest and that such participation would not adversely affect the conduct of the proceedings; (ii) where the Party seeking indemnification is so represented, the indemnifying Party shall keep counsel of the Party seeking indemnification informed of each step in the handling of any such claim; and (iii) the Party seeking indemnification shall provide, at the indemnifying Party's request and expense, such assistance and information as is available to the Party seeking indemnification for the defense and settlement of such claim and (iv) the indemnifying Party shall notify the Party seeking indemnification before entering into any non-monetary settlement of such claim or ceasing to defend against such claim. After the indemnifying Party has delivered a Notice of Election relating to any claim in accordance with the preceding paragraph, the indemnifying Party shall not be liable to the Party seeking indemnification for any legal expenses incurred by the Party seeking

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indemnification in connection with the defense of that claim. In addition, the indemnifying Party shall not be required to indemnify the Party seeking indemnification for any amount paid or payable by the Party seeking indemnification in the settlement of any claim for which the indemnifying Party has delivered a timely Notice of Election if such amount was agreed to without the prior written consent of the indemnifying Party. The indemnifying Party may not settle any claim on behalf of the indemnified Party except claims solely for monetary damages paid by the indemnifying Party in full.

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

20.4 Waiver of Subrogation

Each Party shall use best 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, officers, employees, shareholders and agents, that are involved in the performance of this Contract from any insurer providing coverage for the risks such Party has agreed to indemnify against under this Article 20.

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ARTICLE 21 - TERMINATION FOR CONVENIENCE

21.1 Right to Terminate. Purchaser may at any time terminate this Contract without cause, in whole or in part, by giving Contractor written notice of termination ("Notice of Termination for Convenience"); provided, however, Purchaser may not terminate this Contract as to a Satellite after Launch of such Satellite and provided further that, absent the consent of Contractor, if Purchaser shall terminate the Satellite portion of this Contract, Purchaser shall be required to terminate the Contract as a whole. Upon receipt by Contractor of the Notice of Termination for Convenience, Contractor shall: (a) stop Work under this Contract on the date and to the extent specified in the Notice of Termination for Convenience; (b) place no further orders or subcontracts for materials, services, or facilities, except as may be necessary for completion of such portion of the Work as is not terminated; (c) terminate orders and subcontracts to the extent that they relate to the performance of Work terminated by the Notice of Termination for Convenience; (d) settle all outstanding liabilities and all claims arising out of such termination or orders, subcontracts for materials, services, or facilities; and (e) with respect to the portion(s) of the Work subject to the Notice of Termination for Convenience, take such action as may be necessary, or as Purchaser may direct, for the protection and preservation of the Work associated with this Contract which is in the possession of Contractor or any subcontractor and in which Purchaser has or may acquire an interest.

21.2 Termination Liability

21.2.1 Termination in Whole. If Purchaser terminates this Contract in whole, Purchaser shall be liable to Contractor for the firm fixed price amount set forth in the Whole Termination Liability Schedule of Exhibit F Payment Plan and Termination Liability Amounts as applicable on the date of issuance of the Notice of Termination of Convenience ("Whole Termination Claim"), reduced by all amounts already paid by Purchaser to Contractor ("Net Whole Termination Claim"). Contractor shall, within **XXXXX** of the Notice of Termination for Convenience, provide Purchaser with a calculation of the Net Whole Termination Claim, together with an invoice for payment of any deficiency, if any, which invoice shall be paid in accordance with Article 5. In the event that the Net Whole Termination Claim results in moneys being due to Purchaser, Contractor

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shall at the time of delivery of its calculation of the Net Whole Termination Claim refund to Purchaser said excess funds. In no event shall the amounts payable pursuant to this Article 21.2.1 exceed the Net Whole Termination Claim.

21.2.2 Reserved.

21.2.3 Reserved.

21.2.4 Reserved.

21.3 Disposition of Work

Title to all items of Work, which would have been incorporated into a Deliverable Item or otherwise conveyed to Purchaser under this Contract (not including 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) and which are in progress before the Notice of Termination for Convenience shall, upon payment in full of the Net Whole Termination Claim, vest in Purchaser, and Contractor shall deliver, FOB Contractor's plant, subject to U.S. Export Regulations for which Contractor has no liability in the event of failure to obtain stated export authorizations (other than due to Contractor's fault or negligence), all such items to Purchaser who shall remove such items from Contractor's facility within **XXXXX** of the Notice of Termination for Convenience. All terminated Work which is under the custody or control of Contractor or any subcontractor shall be insured by Contractor at its cost and risk, until the earlier of: (i) Purchaser's removal of all such items of Work from Contractor's facility or (ii) **XXXXX** after the Notice of Termination for Convenience, and risk of loss shall pass to Purchaser at such time. Alternatively, Purchaser may request Contractor to make a reasonable, good faith effort to sell all or some of the Work and to remit any sales proceeds to Purchaser less a deduction for Actual Costs reasonably incurred in such sales efforts plus a markup of **XXXXX**. Within **XXXXX** after the written request of Purchaser, Contractor shall submit a good faith long term storage proposal for the storage of the Work.

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ARTICLE 22 - LIQUIDATED DAMAGES FOR LATE SATELLITE DELIVERY

22.1 Liquidated Damages

22.1.1 The Parties acknowledge and agree that failure to meet the Delivery schedule specified in Article 3 may cause substantial financial loss or damage being sustained by Purchaser. The Parties further acknowledge and agree that the following liquidated damages are believed to represent a genuine and reasonable estimate of certain of the losses (including non-productive time and increased cost of money) that would be suffered by Purchaser by reason of any such delay (which losses would be difficult or impossible to calculate with certainty).

22.1.2 If Delivery of the Satellite does not occur on or before the date specified for Satellite in Article 3.1 (as such date may be adjusted pursuant to Articles 16, 17 or 18), then Contractor shall pay Purchaser as liquidated damages and not a penalty for Contractor’s late Delivery the following per day amounts for each such late day:

<u>Number of Days Late</u>	<u>Liquidated Damages Per Day</u>	<u>Maximum Amount of Liquidated Damages During Period</u>	<u>Maximum Cumulative Amount of Liquidated Damages</u>
XXXXX	XXXXX	XXXXX	XXXXX
XXXXX	XXXXX	XXXXX	XXXXX
XXXXX	XXXXX	XXXXX	XXXXX

Notwithstanding the above, the maximum amount of liquidated damages that Contractor may be required to pay Purchaser shall not exceed **XXXXXX** for the Satellite.

22.1.3 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 **XXXXXX** of receipt of an invoice from Purchaser.

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22.2 Remedy

Such damages shall be Purchaser's sole remedy and compensation for Contractor delays with respect to late Delivery of the Satellite during the time period set forth above; provided, however, Purchaser retains all rights and remedies under Article 21 and Article 23.

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ARTICLE 23 - TERMINATION FOR DEFAULT AND EXCESSIVE FORCE MAJEURE

23.1 Contractor Default

23.1.1 Right to Terminate. Subject to 23.1.4 and further subject to Articles 17 and 18, Purchaser may terminate this Contract in whole or in part by written notice to Contractor ("Notice of Termination for Default") if (i) Contractor fails to Deliver the Satellite by the date specified in Article 3.1 **XXXXX** (or such longer time as may be agreed to in writing by Purchaser); (ii) **XXXXX**; or (iii) Contractor commits a material breach of this Contract and fails, within **XXXXX** (or such longer period as may be agreed to in writing by Purchaser) after receipt from Purchaser of written notice thereof, to cure such material breach in full.

23.1.2 Termination Liability. **XXXXX** Contractor shall pay the foregoing amounts no later than **XXXXX** after Contractor's receipt of the Notice of Termination for Default. Payment of such amounts shall be Purchaser's sole remedy in case of a termination pursuant to this Article 23.1.

23.1.3 Contractor's Reimbursement for Terminated Work. In the event of termination pursuant to this Article 23.1, Purchaser may in its discretion elect to retain portions of the Work-in-process ("WIP"). Purchaser shall deliver notice of its intent to retain any WIP within **XXXXX** after the giving of any Notice of Termination for Default. **XXXXX** Purchaser shall not be deemed to retain any Work-in-process other than Work-in-process designated by Purchaser in writing to be retained (and, for example, Contractor shall be required to refund Purchaser with respect to training even if such training had already been completed).

23.1.4 Special Provision Limiting Purchaser's Remedies. **XXXXX**

23.1.5 Disposition of the Work. Unless Purchaser retains WIP pursuant to Article 23.1.3 hereof, Contractor shall retain title to any and all Work, Work-in-process, parts or other material, inventories, and any associated warranties, and any subcontracted items Contractor has specifically produced, acquired, or entered into in accordance with this Contract. If Purchaser elects to retain any WIP pursuant to Article 23.1.3, Purchaser may require Contractor to transfer to

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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 WIP (including all Work-in-process, parts and materials, all inventories, and associated warranties) and Contractor shall, upon direction of Purchaser, protect and preserve such WIP 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. **XXXXX** of request of Purchaser, Contractor shall submit a good faith long term storage proposal for the storage of the WIP to be retained by Purchaser and stored with Contractor.

23.1.6 Invalid Default Termination. If, after termination pursuant to this Article 23.1, it is 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 Articles 17 or 18, the rights and obligations of the Parties shall be the same as if Purchaser had, rather than deliver Notice of Termination for Default, delivered a Notice of Termination for Convenience under Article 21 (whether in whole or in part shall be determined whether Purchaser's original Notice of Termination for Default was in whole or in part).

23.2 Purchaser Default

23.2.1 Right to Terminate. Contractor may terminate this Contract upon written notice to Purchaser ("Contractor Notice of Default") if Purchaser fails to cure any default **XXXXX**.

23.2.2 Termination Liability. In the event of termination pursuant to this Article 23.2, it shall be treated as a termination for convenience of the whole of the Contract pursuant to Article 21.1 (effective as of the date of the Contractor Notice of Default). The rights and remedies provided to Contractor under this Article 23.2.2 shall be exclusive and in lieu of any other rights and remedies under this Contract or otherwise provided by law or in equity in relation to the termination of this Contract for Purchaser's default of its obligations under this Contract.

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23.2.3 Disposition of the Work. Contractor may elect immediately upon termination to take over all Deliverable Items and Work-in-process and use or dispose of the same in any manner Contractor may elect. In such case, the fair market value of any Deliverable Items or Work-in-process retained or disposed of by Contractor shall be set-off against Purchaser's Net Whole Termination Claim as established in accordance with Article 21. Upon payment of the amount due under this Article 23.2.3, Purchaser may require Contractor to transfer to Purchaser in the manner and to the extent directed by Purchaser, title to (not including 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) and possession of any items comprising all or any part of the Work terminated (including all Work-in-process, parts and materials, all inventories, and associated warranties) not used or disposed of by Contractor pursuant to the foregoing sentence, and 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 a reasonable, good faith effort to sell such items and to remit any sales proceeds to Purchaser less a deduction for Actual Costs reasonably incurred by Contractor in the sales of such items plus a markup of XXXXX. Within XXXXX of written request of Purchaser, Contractor shall submit a good faith long term storage proposal for the storage of the Work.

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, the Contract shall be deemed to have been terminated in whole pursuant to Article 23.1 and Purchaser shall have all rights thereunder.

23.3 Excessive Force Majeure

XXXXX Upon the occurrence of any of these events and issuance by Purchaser of a Notice of Termination for Excessive Force Majeure, Purchaser shall have the right to

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terminate the Contract in whole or in part and the rights and obligations of the Parties shall be the same as if a Notice for Termination for Default had been issued under Article 23.1. After the occurrence of an event that would otherwise entitle Purchaser to deliver Notice of Termination for Excessive Force Majeure, Contractor shall have the right to deliver written request to Purchaser that Purchaser advise Contractor whether Purchaser will deliver the Notice of Termination for Excessive Force Majeure. Within **XXXXX** of receipt of Contractor's written request, Purchaser will notify Contractor as to its decision to either terminate this Contract or to waive its rights to terminate for such Excessive Force Majeure provided that it shall be a condition to any obligation of Purchaser to provide the requested notice of election that Contractor unconditionally acknowledge Purchaser's rights to terminate in accordance with this Article 23.3. Failure of Purchaser to provide such requested notice of election in the **XXXXX** period specified above shall be deemed to be a waiver of Purchaser's rights to terminate for such Excessive Force Majeure under this Article 23.3.

23.4 Limitation on Right to Terminate

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

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ARTICLE 24 - OPTIONS

24.1 Option Satellite

Purchaser shall have an option (the "Satellite Option"), which Purchaser may exercise in writing at any time ("Satellite Option Exercise") during the period from **XXXXX** to order an additional satellite (the "Option Satellite") **XXXXX**. Upon Satellite Option Exercise, Contractor shall construct and Deliver the Option Satellite, and shall perform all Launch Support Services, Mission Operations Support Services, training and other services in accordance with the terms and conditions of this Contract, except as expressly modified by this Article 24. Contractor shall Deliver the Option Satellite on or before **XXXXX**.

24.1.1 The total Option Satellite price includes Launch Support Services, Mission Operations Support Services and other services required to be provided by Contractor under this Contract. The payment plan for the Option Satellite shall be the payment plan applicable at the time of the Satellite Option Exercise set forth on Exhibit F, Payment Plan (with reference to "Option Satellite Payment Plan"). The price for the Option Satellite (the "Satellite Option Price") shall be determined in accordance with the following table based upon the date of the Satellite Option Exercise:

Option Exercise Date	Satellite Option Price(*)
XXXXX	XXXXX
XXXXX	XXXXX
XXXXX	XXXXX
XXXXX	XXXXX

(*) The Satellite Option Price assumes a Launch on a U.S. domestic Launch Vehicle. Additional charges as noted in Article 4.3 shall apply for a non-U.S. domestic launch.

The Satellite Option Price for the Option Satellite includes Orbital Performance Payments in an amount equal to **XXXXX**

24.1.2 XXXXX

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24.1.3 The Parties shall promptly incorporate the exercise of this option into the Contract through an Amendment according to Article 37.5.

24.2 Dynamic Satellite Simulator

Purchaser shall have an option, which Purchaser may exercise in writing at any time prior to **XXXXX**, to order a Contractor standard Dynamic Satellite Simulator ("DSS") for operations and training, with capabilities for station-keeping operations, attitude control, eclipse management and contingency operations. Contractor shall complete the DSS ready for Delivery to Purchaser designated facilities **XXXXX**. The price for the DSS is **XXXXX**. The payment plan and termination liability for the DSS shall be the payment plan and termination liability amounts set forth on Exhibit F, Payment Plan with reference to the DSS.

24.3 Satellite Control Center Software/Equipment (SCCS/E)

Purchaser shall have an option, which Purchaser may exercise in writing at any time prior to **XXXXX**, to order Contractor to provide standard Satellite Control Software/Equipment, specifically Integrated Telemetry, Analysis, Control, and Simulation (iTACS) and Analysis and Planning Software (APS), to the designated Purchaser Primary Satellite Control and Backup Control Center (collectively, "SCCS/E"). Delivery and installation of the SCCS/E shall occur **XXXXX**. The price for the SCCS/E is **XXXXX**. The payment plan and termination liability for the SCCS/E shall be the payment plan and termination liability set forth on Exhibit F, Payment Plan with reference to the SCCS/E.

24.4 Command Encryption

Purchaser shall have an option, which Purchaser may exercise in writing at any time prior to **XXXXX** (or such later time as agreed to by the Parties), to order Contractor to provide a Command Security ("CS") subsystem (to be integrated on the Satellite associated with the command subsystem, by means of cryptographically secure authorization signatures, based on secure keys and portions of commands, which are decrypted on-board the Satellite). Delivery of the CS shall occur simultaneously with Delivery of the Satellite. The price for CS is **XXXXX**. The payment plan and termination liability for the CS shall be the payment plan set forth on Exhibit F, Payment Plan with reference to the CS.

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24.5 Storage

Purchaser, at its option to be exercised no later than **XXXXX** prior to Delivery, may direct Contractor to store the Satellite, after Delivery of the Satellite, for a period of up to **XXXXX** ("Storage").

- (a) Storage Location. Storage for a Satellite shall be performed at a Contractor controlled facility and shall be performed pursuant to Section 7 (Storage and Post-Storage Test) of Exhibit D, Satellite Test Plan, the Satellite storage plan ("Satellite Storage Plan").
- (b) Storage Prices. The price for Storage of the Satellite placed into storage shall be **XXXXX**. The price for Storage includes all costs associated with storage including the post-storage testing as set forth in Section 7 (Storage and Post-Storage Test) of Exhibit D, Satellite Program Test Plan. Purchaser may direct Contractor, through a Change Request, to perform additional post-storage verification testing in addition to those tests described in Section 7 (Storage and Post-Storage Test) of Exhibit D, Satellite Test Plan.
- (c) Payments. The monthly payment for storage costs shall be due **XXXXX** after delivery of the relevant invoice for payment **XXXXX** and shall continue monthly until the Satellite is removed from storage. Payments under this Article 24.5. shall be made by in accordance with Article 5 hereof.
- (d) Title and Risk of Loss. **XXXXX**.
- (e) Notification of Intention to Launch a Previously Stored Satellite. Purchaser shall notify Contractor in writing that a Satellite in Storage pursuant to this option should be removed from storage and delivered to the designated Launch Site. This notification must be received by Contractor not less than **XXXXX** (subject to approval by the Launch Agency and consistent with any required U. S. export license obligations) for delivery of the Satellite to the designated Launch Site. Failure to notify Contractor in a timely manner may result in an Equitable Adjustment. Upon Purchaser direction to Contractor to remove the Satellite from Storage, Contractor shall conduct the post-storage verification tests as set forth in Section 7 (Storage and Post-Storage Test) of Exhibit D, Satellite Test Plan,

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and ship the Satellite to the designated Launch Site (or to such other location as Purchaser may direct).

(f) Orbital Performance Incentives During Storage. **XXXXX**

Upon Acceptance of the Satellite, Contractor shall be eligible to earn Orbital Performance Incentives over the **XXXXX** Orbital Incentive Performance Period as provided in Article 13, **XXXXX**.

- (g) Stored Satellite Refurbishment. By no later than the **XXXXX** of storage of a Satellite, Purchaser shall notify Contractor in writing of its desire to have such Satellite refurbished once it is stored for **XXXXX**, or to continue storage past **XXXXX** (identifying the extended storage requirement). Within **XXXXX** after receipt of Purchaser's notice electing refurbishment or continued storage, Contractor shall, at no cost to Purchaser, provide Purchaser with (i) a plan for refurbishment and a retest plan to verify the Satellite as launch-worthy (with the costs of implementation of said plan to be borne by Purchaser in accordance with Article 16.1), or (ii) a plan for continued storage, in either case together with proposed adjustments to the applicable provisions of this Contract.
- (h) Delivery to Purchaser other than for Launch. Purchaser shall have the right at any time to require Contractor to deliver to Purchaser a Satellite which is in Storage. Upon written request from Purchaser, Contractor shall at its own cost deliver the Satellite to its loading dock and assist Purchaser in the transport of said Satellite from Contractor's facilities. **XXXXX**. Title to the Satellite and risk of loss thereto shall transfer to the Purchaser upon Contractor's delivery of the Satellite to its loading dock and Purchaser shall be responsible for payment of any Taxes which may be imposed upon such transfer. In addition, in the event that Purchaser does not Launch the Satellite within **XXXXX** of title transfer pursuant to this paragraph, Contractor shall be entitled to start earning its Orbital

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Performance Incentives at **XXXXX** of the Daily Rate which to be paid, including interest thereon (to the extent not previously prepaid) in accordance with Article 13, with the date of Acceptance of the Satellite being deemed the date of title transfer thereto.

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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:

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

25.1.2 In the event agreement cannot be reached within **XXXXX** of receipt of written notice under Article 25.1.1, either Party may request the Dispute be escalated, and the respective positions of the Parties shall be forwarded to an executive level higher than that under Article 25.1.1 above for resolution of the Dispute.

25.1.3 In the event agreement cannot be reached within **XXXXX** of receipt of written notice under Article 25.1.1, either Party may request the Dispute be escalated, and the respective positions of the Parties shall be forwarded to the Chief Executive Officer (CEO) or highest senior executive of each Party for resolution of the Dispute.

25.1.4 In the event (i) agreement cannot be reached within **XXXXX** of receipt of written notice in 25.1.1, after application of Articles 25.1.1, 25.1.2, 25.1.3 or (ii) a Party determines in good faith that amicable resolution through continued negotiation of the Dispute does not appear likely, either Party may proceed in accordance with Article 25.2 or Article 25.3, as applicable.

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25.2 Expedited Arbitration for Certain Disputes

Any Disputes regarding (i) amounts not paid by Purchaser to Contractor under Article 5.6, (ii) amounts in dispute under Article 16.1.3 or 16.2, (iii) payment disputes arising under Article 13 and Article 22, and/or (iv) as otherwise mutually agreed, shall be settled by final and binding arbitration pursuant to the JAMS Streamlined Arbitration Rules and Procedures . The expedited arbitration shall be before a single arbitrator and shall be completed **XXXXXX** after appointment of the arbitrator. The Parties shall have **XXXXXX** to mutually agree upon an arbitrator to conduct the expedited proceeding. Should the Parties fail to reach agreement within such **XXXXXX** period, a single arbitrator shall be appointed by JAMS. **XXXXXX** Any determination hereunder shall be enforceable in any court of competent jurisdiction as provided in Article 25.3. In the event that the arbitrator rules that a payment is due, the Party owing such payment shall have **XXXXXX** to pay any and all amounts awarded by the arbitrator. A failure to pay any amount awarded by the arbitrator within such **XXXXXX** period shall be an event of default pursuant to Article 23 hereof, and shall not require further notice or period for cure.

25.3 Litigation

25.3.1 Notwithstanding Article 25.1 and 25.2, if a Party makes a good faith determination that (i) a breach by the other Party is such that a temporary restraining order or other preliminary injunctive relief to enforce its rights or the other Party's obligations under the provisions of this Contract and which is necessary or (ii) litigation is appropriate to avoid the expiration of an applicable limitations period or to preserve a superior position with respect to creditors, either Party shall have the right to bring suit at any time.

25.3.2 Subject to Article 25.1 and 25.2, any Dispute shall be brought in the United States District Court for the Central District of California, and the Parties hereby waive any objection to that venue and that court's exercise of personal jurisdiction over the case; provided further that if, for any reason, such court does not have or refuses to exercise subject matter jurisdiction over the Dispute, then litigation as permitted herein may be brought in the Superior Court for the County of Los Angeles. The Parties hereby irrevocably consent to the exercise of

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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.

25.3.3 THE PARTIES HEREBY WAIVE ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM ARISING OUT OF THIS CONTRACT, WHETHER NOW OR HEREAFTER ARISING AND WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE, AND HEREBY CONSENT AND AGREE THAT ANY SUCH CLAIM MAY BE DECIDED BY TRIAL WITHOUT A JURY AND THAT ANY PARTY MAY FILE AN ORIGINAL COUNTERPART OR COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF THE WAIVER AND AGREEMENT CONTAINED HEREIN.

25.3.4 Nothing in this Contract precludes a Party prevailing 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.

25.4 Continued Performance

Unless the Dispute involves a termination of the Contract under Articles 21 or 23 hereof: (i) pending final resolution of any Dispute, each Party shall, unless directed otherwise by the other Party in writing, perform all its obligations under this Contract to the extent undisputed and practical to do so, including the obligation to take all steps necessary during the pendency of the Dispute to ensure the Work will be performed within the time stipulated or within such extended time as may be allowed under this Contract; and (ii) failure to pay disputed amounts under Article 5.6 shall not excuse failure to so perform the Work.

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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 each Launch and to cause their respective contractors and subcontractors at any tier (including suppliers of any kind) that are involved in the performance of this Contract and any other person having an interest in the Satellite (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 best reasonable efforts to obtain from their respective insurers, and shall require their respective contractors and subcontractors at any tier (including suppliers of any kind) that are involved in the performance of this Contract and any other person having an interest in the Satellite (including non-consumer customers of Purchaser) to use best reasonable efforts to obtain from their respective insurers, an express waiver of such insurers' rights of subrogation with respect to any and all claims that have been waived pursuant to this Article 26.

26.2 Indemnity Related to the Inter-Party Waiver of Liability

Each Party shall indemnify against and hold harmless the other Party from and against any claim the other Party or its contractors and subcontractors at any tier (including suppliers of any kind) that are involved in the performance of this Contract, made by the indemnifying Party or any of its contractors and subcontractors (including suppliers of any kind) that are involved in the performance of the Contract, or by any person having an interest in the Satellite (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

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against, or to cause any other person the indemnifying Party is obligated to cause to waive any liability against, the Launch Agency, the other Party or either of their contractors and subcontractors at any tier (including suppliers of any kind) involved in the performance of this Contract. The Parties shall execute and deliver any instrument that may be reasonably required by the Launch Agency to evidence their respective agreements to be bound by such indemnifications.

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 Additional Insured.

Purchaser shall use reasonable efforts to cause the Launch Agency to name, as additional insured under any third-party liability insurance procured by the Launch Agency under the Launch Services Agreement for the Launch of the Satellite, Contractor and any other person identified by Contractor in writing to Purchaser no later than **XXXXX** before such Launch.

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ARTICLE 27 - MAJOR SUBCONTRACTS

27.1 Selection of Major Subcontractors

27.1.1 **XXXXX**. Contractor shall provide Purchaser with a copy of the full text of any Major Subcontract (including technical content but excluding price and payment schedule) promptly upon execution thereof.

27.1.2 **XXXXX**

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ARTICLE 28 - CONTRACTOR INSURANCE REQUIREMENTS

28.1 Insurance Requirements.

28.1.1 Coverages. Contractor represents that it has procured and will maintain at all relevant times during its performance of this Contract the following insurance coverages:

- A. [REDACTED] Ground insurance ("Property Insurance") against all risks and loss or damage to the Satellite, and to any and all component parts thereof and all materials of whatever nature used or to be used in completing the Work, in an amount not less than the greater of **XXXXX**. Such insurance shall provide (i) coverage for removal of debris, and insuring the structures, machines, equipment, facilities, fixtures, and other properties constituting part of the Work, (ii) transit coverage, including ocean marine coverage (unless insured by the supplier), (iii) off-site coverage covering any key equipment, and (iv) off-site coverage covering any property or equipment not stored on the construction site. For the Satellite, such insurance shall cover the period beginning at EDC up to the moment risk of loss passes to Purchaser in accordance with this Contract. **XXXXX**
- B. Worker's compensation insurance, including occupational illness or disease coverage, or other similar social insurance in accordance with the laws of any country, state, or territory exercising jurisdiction over the employee and employer's liability insurance in an amount not less than **XXXXX**. Contractor shall maintain such insurance until Acceptance of all Work, including remedial work, has occurred; and
- C. Comprehensive automobile liability insurance against liability claims for personal injury (including bodily injury and death) and property damage covering all owned, leased, non-owned, and hired vehicles used by Contractor in the performance of the Work. Such insurance shall be for an amount not less than **XXXXX** for combined bodily injury and property

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

- D. Such other insurance in types and amounts as is adequate to cover Contractor's potential liabilities under this Contract and applicable law.

28.1.2 Additional Insured. Purchaser and each Financing Entity shall be named as an additional named insured under Contractor's third-party liability coverages, provided that, with respect to each Financing Entity, such Financing Entity has an insurable interest recognized by the applicable insurance underwriters.

28.1.3 Insurers Rating. The insurers selected by Contractor to provide the insurance required by Article 28.1.1 above shall have a rating at least as high as those insurers providing coverage on Contractor's programs for its other major commercial customers.

28.1.4 Evidence of Insurance. Prior to commencing the Work, and whenever requested by Purchaser, Contractor shall produce evidence that the insurance required by Article 28.1.1 has been effected and is being maintained. Contractor shall, at the written request of Purchaser, provide Purchaser with a certificate of insurance evidencing the procurement of all required insurance policies and **XXXXX** written notice prior to any modification that diminishes the insurance coverage required hereunder, cancellation, or non-renewal of such policies. If, after being requested in writing by Purchaser to do so, Contractor fails to produce evidence of compliance with Contractor's insurance obligations within **XXXXX**, Purchaser may effect and maintain the insurance and pay the premiums. The amount paid shall be a debt due from Contractor to Purchaser and may be offset against any payments due Contractor by Purchaser. Purchaser may, at reasonable times upon reasonable notice, inspect any insurance policy required hereunder at Contractor's offices.

28.1.5 Claims. Contractor shall, as soon as practicable, inform Purchaser in writing of any occurrence with respect to the Work that may give rise to a claim under a policy of insurance required by paragraph (a) above. Contractor shall ensure

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that its Subcontractors similarly inform Purchaser of any such occurrences through Contractor.

28.1.6 Waiver of Subrogation. Contractor shall use best reasonable efforts to require its insurers to waive all rights of subrogation against Purchaser and Purchaser's Affiliates and their respective Associates.

28.1.7 Warranty. Contractor warrants and covenants that the insurance coverages and deductibles set forth in this Article 28 are substantially comparable to those provided to Contractor's other major commercial customers.

28.2 Preparation of Claims

Each Party shall provide to the other Party any information that may reasonably be required to prepare, present, and substantiate an insurance claim at the other Party's written request.

28.2.1 Subject to compliance with Article 7, each Party warrants and covenants that it will not intentionally withhold from the other Party any material information it has or will have concerning anomalies, failures, or non-conformances with or deviations from the requirements of this Contract.

28.2.2 Upon written request of a Party, subject to Article 7, the other Party will respond or permit the first Party to respond to any insurers in relation to all specific and reasonable questions relating to design, test, quality control, launch, and orbital information. In addition, in the event of a Launch and In-Orbit Insurance claim, Contractor shall provide the support described in Article 35.2.

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ARTICLE 29 - PERSONNEL AND KEY PERSONNEL

29.1 Personnel Qualifications.

Contractor shall assign properly qualified and experienced personnel to the program contemplated under this Contract.

29.2 Key Personnel Positions.

Within **XXXXX**, Contractor shall notify Purchaser of the program Key Personnel. The Key personnel ("Key Personnel") shall be the personnel filling the following or equivalent positions:

29.2.1 XXXXX.

29.3 Assignment of Key Personnel.

29.3.1 Contractor will assign individuals from within Contractor's organization to the Key Personnel positions to carry out the Work. Such individuals shall be fully competent and skilled to perform the services required of them pursuant to this Contract.

29.3.2 Key Personnel will be familiar with programs similar to Purchaser's program.

29.3.3 Before assigning an individual to any Key Personnel positions, whether as an initial assignment or a subsequent assignment, Contractor shall notify Purchaser of the proposed assignment, shall introduce the individual to appropriate Purchaser representatives and, upon request, provide such representatives with the opportunity to interview the individual and shall provide Purchaser with the individual's resume. If Purchaser in good faith objects to the qualifications of the proposed individual within **XXXXX** after being notified thereof, then Contractor agrees to discuss such objections with Purchaser and attempt to resolve such concerns on a mutually agreeable basis; however, Contractor retains the unilateral right to make all decisions regarding the assignment of Contractor personnel to the program. The Key Personnel that have been identified as of the Effective Date of Contract are listed in Attachment B (Key Personnel). Should the individuals filling the positions of Key Personnel leave such positions for whatever reason, Contractor shall follow the procedures set forth in this Article 29 to

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select replacement personnel. Contractor shall use best reasonable efforts to retain such personnel on Purchaser's program for the duration of such program.

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ARTICLE 30 - LIMITATION OF LIABILITY

30.1 Limitation of Liability

30.1.1 No Consequentials. WITHOUT PREJUDICE TO THE PARTIES OBLIGATIONS SPECIFIED IN **XXXXX** NEITHER PARTY SHALL BE LIABLE DIRECTLY OR INDIRECTLY TO THE OTHER, TO THEIR OFFICERS, DIRECTORS, EMPLOYEES, CONTRACTORS OR SUBCONTRACTORS AT ANY TIER (INCLUDING SUPPLIERS OF ANY KIND), AGENTS OR CUSTOMERS, TO ITS PERMITTED ASSIGNEES OR SUCCESSOR OWNERS OF THE SATELLITE OR OTHER DELIVERABLE ITEM OR TO ANY OTHER PERSON CLAIMING BY OR THROUGH PURCHASER FOR ANY AMOUNTS REPRESENTING LOSS OF PROFITS, LOSS OF BUSINESS, OR INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING WITHOUT LIMITATION COSTS OF EFFECTING COVER, LOST PROFITS, LOST REVENUES OR COSTS OF RECOVERING THE SATELLITE, ARISING FROM OR RELATING TO THE PERFORMANCE OR NONPERFORMANCE OF THIS CONTRACT OR ANY ACTS OR OMISSIONS ASSOCIATED THEREWITH OR RELATED TO THE USE OF ANY ITEMS DELIVERED OR SERVICES FURNISHED HEREUNDER, WHETHER THE BASIS OF SUCH LIABILITY IS BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE OF ANY TYPE AND STRICT LIABILITY), STATUTE OR OTHER LEGAL OR EQUITABLE THEORY.

30.1.2 Indemnity. EACH PARTY SHALL INDEMNIFY THE OTHER PARTY AND HOLD THE OTHER PARTY HARMLESS FOR AND AGAINST ANY CLAIM ASSERTED DIRECTLY OR INDIRECTLY AGAINST SUCH OTHER PARTY THAT IS WITHIN THE SCOPE OF THE FOREGOING LIMITATION OF LIABILITY AND DISCLAIMER.

30.2 Cap on Liability

XXXXX

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ARTICLE 31 - DISCLOSURE AND HANDLING OF PROPRIETARY INFORMATION

31.1 Definition of Proprietary Information

31.1.1 Definition. For the purpose of this Contract, "Proprietary Information" means all confidential and proprietary information (other than the Exhibits and Attachments to this Contract and Deliverable Data, which are subject to the provisions of Article 32) 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 **XXXXX** of initial disclosure. In the case of Purchaser, Proprietary Information also shall include, whether or not designated "Proprietary Information (subject to the exceptions contained in Article 31.1.2)," (i) correspondence under this Contract and (ii) all information concerning Purchaser (and/or its Affiliates) regarding its operations, affairs and businesses, its financial affairs, and its relations with its customers, employees and service providers (including business plans, customer lists, customer information, account information and consumer markets).

31.1.2 Exceptions. 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.

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31.2 Terms for Handling and Use of Proprietary Information

Subject to Article 31.1.2, for a period of **XXXXX** 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 and consultants (who are not direct of the disclosing party) who have a need to know, who have been informed of and have agreed in writing (or, in the case of employees or attorneys are otherwise subject to confidentiality obligations consistent with the obligations set forth herein) to abide by the receiving party's obligations under this Article 31, 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 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.

31.3 Reserved

31.4 Legally Required Disclosures

Notwithstanding the foregoing, in the event that the receiving party becomes legally compelled (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), to disclose Proprietary Information of the disclosing party, including this Contract or other supporting document(s), 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.

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31.5 Reserved

31.6 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.

31.7 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.

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ARTICLE 32- INTELLECTUAL PROPERTY RIGHTS

32.1 Ownership of IP and IP Rights

32.1.1 Purchaser's Intellectual Property

Subject to the licenses granted in Article 32.2.2, all Background and Foreground Intellectual Property made, developed, or created by Purchaser (or by others, other than Contractor or any of its subcontractors, acting on behalf of Purchaser), and all Intellectual Property Rights therein, shall be the sole and exclusive property of Purchaser.

32.1.2 Contractor's Intellectual Property

- A. Subject to the licenses granted in Article 32.2.1, all Background Intellectual Property and Foreground Intellectual Property made, developed, or created by Contractor (or its subcontractors), and all Intellectual Property Rights therein, shall be the sole and exclusive property of Contractor.
- B. For the avoidance of doubt and subject to Article 32.2, the Parties agree Contractor shall retain title to all Deliverable Data and Contract Exhibits and Attachments thereto utilized or developed by Contractor during the performance of this Contract.

32.2 License Rights

32.2.1 Grant by Contractor. Subject to the terms and conditions stated herein, Contractor grants to Purchaser and its permitted successors and assigns a fully paid-up, irrevocable, perpetual, worldwide, nonexclusive right and license to use and have used, reproduce, and modify for the sole and exclusive purpose of testing, operating, and/or maintaining any Deliverable Item (including Deliverable Data), all Contractor Background Intellectual Property and Foreground Intellectual Property incorporated into such Deliverable Items (for the purposes of this paragraph A, Deliverable Items includes Contract Exhibits and Attachments thereto), including, to the extent necessary for the limited purpose of this license, those associated Intellectual Property Rights therein, now or hereafter owned by

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Contractor (and/or its subcontractors) for which Contractor (and/or its subcontractors) has or may acquire the right to grant such a license. Purchaser shall have no rights in Deliverable Data other than as expressly stated in this Contract. Title to Deliverable Data shall not pass to Purchaser or any other entity pursuant to the terms hereof.

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

32.2.3 Subcontracts. Contractor shall, unless otherwise authorized or directed in writing by Purchaser, to the extent necessary to fulfill its obligations under this Article 32.2 hereof, use reasonable efforts as practical to include in each subcontract issued hereunder a license rights clause pursuant to which each such subcontractor will grant to Purchaser (through Contractor) license rights in Intellectual Property incorporated in Deliverable Items hereunder and which Intellectual Property is developed by such subcontractor, and all associated Intellectual Property Rights therein, to the same extent as the license rights granted by Contractor in this Article 31.2.

32.3 No Limitation on Deliverable Items

This Article 32 shall not be construed as limiting any right of Purchaser otherwise contained herein or at law (or any obligation of Contractor to grant Purchaser the right), subject to compliance with applicable laws and with no payment of additional compensation to use, have used, deliver, lease, sell, or otherwise dispose of the Satellite or other Deliverable Item of hardware or any part thereof.

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32.4 No Additional Deliverable Data Obligation

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

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ARTICLE 33- PUBLIC RELEASE OF INFORMATION

33.1 Generally

Each Party shall obtain the prior written approval of the other Party, which approval shall not be unreasonably withheld or delayed, concerning the content and timing of news releases, articles, brochures, advertisements, prepared speeches and other information releases concerning the Work performed or to be performed hereunder, within a reasonable time prior to the release of such information. To the extent disclosure shall be required by law, it shall be subject to Article 31.4.

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ARTICLE 34- NOTICES

34.1 Written Notification

Each 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 (followed by mailing of the original copy), 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:

ICO Satellite Management LLC
XXXXX

With a copy to:

Davis Wright Tremaine, LLP
XXXXX

In the case of Contractor:

Space Systems/Loral, Inc.
3825 Fabian Way, M/S G-44
Palo Alto, CA 94303-4697
XXXXX
XXXXX XXXXX
XXXXX XXXXX

With a separately delivered copy to:
Space Systems/Loral, Inc.

3825 Fabian Way, M/S G-40

Palo Alto, CA 94303-4697

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XXXXX
XXXXX
XXXXX

XXXXX
XXXXX

34.2 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.

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ARTICLE 35- RISK MANAGEMENT SERVICES

35.1 Purchaser Responsibility

Purchaser may, at its election procure a Launch and in-orbit insurance policy covering the risks of Launch and in-orbit failures with respect to partial loss, total loss, or constructive total loss of such Satellite ("Launch and In-Orbit Insurance Policy").

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

35.2 Contractor Support

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

35.2.1 Claims Support. Contractor shall cooperate with and provide reasonable support to Purchaser 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. Such support shall consist of (i) the support described in Article 35.2.1, (ii) providing on-site inspections as required by Purchaser's insurers and underwriters, (iii) participating in review sessions with a competent representative selected by the insurers and underwriters to discuss any continuing issue relating to such occurrence, including information conveyed to

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either Party, (iv) using its reasonable efforts to secure access for the insurers and underwriters to all information used in or resulting from any investigation or review of the cause or effects of such occurrence, (v) making available for inspection and copying all information necessary to establish the basis of a claim, and (vi) supporting Purchaser in establishing the basis of a total loss, constructive total loss and partial loss as those terms are defined in the Launch and In-Orbit Insurance Policy and provided Purchaser furnishes Contractor with the definitions of such terms. Notwithstanding Contractor's specifying such basis, Purchaser shall make the final determination of whether a partial loss, constructive total loss or total loss under its Launch and In-Orbit Insurance Policy has occurred. For all claims that may arise on or before Acceptance of the Satellite as provided in Article 10 hereof, such Contractor support shall be provided within the overall price of this Contract; thereafter, Contractor shall be entitled to reimbursement of Actual Costs reasonably incurred in connection with the provision of such support plus a mark-up of **XXXXX**, to be invoiced and paid in accordance with Article 5.

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ARTICLE 36- ORDER OF PRECEDENCE

In the event of conflict among the terms of the Terms and Conditions (Preamble, Recitals, and Articles 1 to 37) of this Contract and the Exhibits, the following order of decreasing precedence shall apply:

- o **XXXXX**

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ARTICLE 37- GENERAL

37.1 Assignment

37.1.1 XXXXX

XXXXX

XXXXX

37.1.4 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.

37.2 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.

37.3 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.

37.4 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

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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 37.4.

37.5 Amendments

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

37.6 Captions

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

37.7 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.

37.8 Entire Agreement

This Contract, including all its Schedules, Attachments, Annexes, Exhibits and Appendices, 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.

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37.9 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.

37.10 Construction

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

37.11 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.

37.12 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 California, without reference to its conflicts of laws rules.

37.13 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 that (i) the Parties have expressly agreed shall survive any such termination or expiration or (ii) remain to be performed or by their nature would be intended to be applicable following any such termination or expiration.

37.14 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.

37.15 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

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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.

37.16 Consents and Approvals

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

37.17 Mitigation and Good Faith

Each Party shall have a duty to mitigate damages and to act in good faith.

37.18 Record Retention and Audit Rights

Contractor and its subcontractors shall maintain books, records, documents and other evidence which sufficiently and properly reflects the accuracy of the costs assessed or charged directly or indirectly to Purchaser. In the event that Contractor's costs shall be subject to bona fide inquiry (for example, under Articles 16, 21 and 23 hereof), Purchaser shall have the right to audit Contractor's records provided that: (a) the scope of the audit shall be limited to matters relevant to the bona fide inquiry; (b) the audit shall be performed by a third party auditor reasonably satisfactory to Contractor; (c) all costs of the auditor shall be borne by Purchaser; and (d) Purchaser shall not be provided with confidential information (such as labor rates), which in any report to Purchaser shall be excluded or otherwise redacted.

37.19 Time is of the Essence

Subject to the applicable remedies and procedures set forth in this Contract, the parties agree that time is of the essence in the performance of this Contract.

37.20 Alignment of Interests

XXXXX

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37.21 Representations

Each Party hereby represents and warrants to the other:

(a) Such Party is an entity duly formed, validly existing and in good standing in its jurisdiction of formation, with full power and authority to conduct its business as it is now being conducted, to own or use the properties and assets that it purports to own or use, and to perform all its obligations under Contract.

(b) This Contract constitutes the legal, valid, and binding obligation of such Party, enforceable against it in accordance with its terms.

(c) This Contract has been duly executed and delivered by such Party; and

(d) Neither the execution and delivery of this Contract nor the performance by the Party of its obligations hereunder: (i) contravene, conflict with, or result in a violation of (A) any provision of the organizational documents of the Party, (B) any resolution adopted by the board of directors or the stockholders or its equivalent of a Party; or (C) any contract or obligation of the Party; or (ii) require, other than in the case of licenses and permits referred to in Article 7, the consent of approval of any Person including, in the case of Contractor, the approval of the bankruptcy court.

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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.

ICO Satellite Management LLC

By: _____

By: _____

Name: C. P. DeWitt

Name: _____

Title: President and Chief Operating Officer

Title: _____

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ATTACHMENT A
FORM OF INVOICE

[Date]

ICO Satellite Management LLC
2300 Carillon Point
Kirkland, Washington, 98033

Attention: _____

RE: Terms and conditions of the Satellite Contract, dated as of _____ (as amended, supplemented or modified from time to time, the "ICO Satellite Contract"), between ICO SATELLITE MANAGEMENT LLC ("PURCHASER" OR "ICO") and SPACE SYSTEMS/LORAL, INC. ("CONTRACTOR")

Ladies and Gentlemen:

This Invoice is delivered to ICO pursuant to Article 5 of the ICO Satellite Contract and constitutes Contractor's request for payment in the amount of \$ _____ for Milestone No. _____ / Time Payment No. _____.

Very truly yours,

SPACE SYSTEMS/LORAL, INC.

By: _____
Title: _____

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Annex I to Attachment A

Form of Contractor Certificate

Reference: Milestone No. _____/Time Payment No. _____

[Date]

ICO Satellite Management LLC
2300 Carillon Point
Kirkland, Washington, 98033

Attention: Treasurer

RE: Terms and conditions of the Satellite Contract, dated as of _____ between ICO SATELLITE MANAGEMENT LLC ("PURCHASER" OR "ICO") and SPACE SYSTEMS/LORAL, INC. ("CONTRACTOR") (as amended, supplemented or modified from time to time, the "ICO Satellite Contract")

Ladies and Gentlemen:

This Certificate is delivered to you pursuant to Article 5 of the terms and conditions of the ICO Satellite Contract. Each capitalized term used herein and not otherwise defined shall have the meaning assigned thereto in the terms and conditions of the ICO Satellite Contract.

We hereby certify, based on information and belief, that, as of the date hereof:

1. The ICO Satellite Contract is in full force and effect and except as set forth in Schedule I hereto, has not been amended, supplemented or otherwise modified
2. Except as set forth in Schedule I hereto, no event or condition is known to exist that permits or requires us to cancel, suspend, or terminate our performance under the ICO Satellite Contract or that could excuse us from liability for non-performance thereunder.
3. Except with respect to amounts that are the subject of a dispute or are overdue (such overdue amounts and such disputed amounts, if any, being described in reasonable detail in an attachment hereto), all amounts due and owing to us have been paid in full through the date of the immediately preceding Contractor Certificate or are not overdue.
4.
 - a. The amount contained in the invoice delivered to you concurrently herewith in accordance with the terms of Article 5 of the terms and conditions of the ICO Satellite Contract represents monies owed to us in respect of Milestone No. _____/Time Payment No. ____.
 - b. The amount referred to in paragraph (a) above was computed in accordance with the terms of the ICO Satellite Contract.

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- c. The Milestone to which Milestone No. _____ relates has been completed in accordance with the ICO Satellite Contract.

Very truly yours,
SPACE SYSTEMS/LORAL, INC.

By: _____
Title: _____

SCHEDULE I TO
ANNEX I TO ATTACHMENT A

List of Exceptions:

Amendments to ICO Satellite Contract:

Exceptions Affecting Final Acceptance Date:

Exceptions Affecting Contractor's Performance:

ATTACHMENT B

KEY PERSONNEL

XXXXX	XXXXX
XXXXX	
XXXXX	
XXXXX	
XXXXX	

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