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6017 Woodley Road
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April 13, 2007

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Federal Communications Commission
Office of the Secretary

Marlene H. Dortch
Secretary
Federal Communications Commission
The Portals, Room TW-A325
455 12th Street, S.W.
Washington, DC 20554

REQUEST FOR CONFIDENTIAL TREATMENT
ROUTE DIRECTLY TO INTERNATIONAL BUREAU

Re: AtContact Communications, LLC's Demonstration of Compliance With the First Milestone for its Ka-Band FSS Satellite System

File Nos. SAT-MOD-20060511-00056 (NGSO), SAT-MOD-20060511-00059 (83° W.L.), SAT-MOD-20060511-00060 (121° W.L.), SAT-MOD-20060511-00058 (34° E.L.), SAT-MOD-20060511-00057 (130° E.L.); Call Signs S2346, S2680, S2681, S2682, S2683

Dear Ms. Dortch:

AtContact Communications, LLC (“@contact”), by its counsel, hereby requests that the identified portions of the documents submitted herewith demonstrating compliance with the contract execution milestone contained in @contact’s Ka-band license¹ and required by Section 25.164(c) of the Commission’s rules² and the Commission’s First Space Station Licensing Reform Order,³ be held in confidence and not made available for public inspection, pursuant to Section 0.459 of the Commission’s

¹ *Order and Authorization, in the Matter of contactMEO Communications, LLC, For Authority to Launch and Operate a Non-Geostationary Orbit Fixed-Satellite System in the Ka-band Frequencies*, 21 FCC Rcd 4035 (2006) at ¶68.

² 47 C.F.R. § 25.164(c) (requiring demonstration of a binding, non-contingent contract for construction of the licensed satellite system).

³ *In the Matter of Amendment of the Commission’s Space Station Licensing Rules and Policies; Mitigation of Orbital Debris, First Report and Order and Further Notice of Proposed Rulemaking in IB Docket No. 02-34, and First Report and Order in IB Docket No. 02-54*, 18 FCC Rcd 10760, 10831 (¶184) (2003) (“*First Space Station Licensing Reform Order*”) (requiring that a licensee demonstrate compliance with the one-year contract execution milestone).

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rules.⁴ Confidential treatment in this circumstance is fully consistent with the Administrative Procedure Act and past Commission practice.

AtContact Communications, LLC (“@contact has filed through IBFS a public redacted version of the binding, non-contingent contract between @contact and Space Systems/Loral for the construction of its above-referenced satellite system.

@contact is submitting under cover of this request an unredacted copy of the fully-executed, non-contingent agreement, with exhibits, between Space Systems/Loral (“Loral”) and @contact. This agreement covers the five Call Signs referenced above. Also, in furtherance of this request, only one copy of this document is being filed with the Commission. Brackets or shaded text are used to identify the specific language in the attached for which confidential treatment is requested. The contents of all the exhibits are considered redacted and the subject of this request.

@contact hereby requests that the bracketed language and all exhibits in the enclosed unredacted contract be treated as confidential and not routinely available for public inspection pursuant to 47 C.F.R. §§ 0.457 and 0.459, and 5 U.S.C. § 552(b)(4). These components of the contract contain highly sensitive information that qualifies as “commercial, financial, or technical information that “would customarily be guarded from competitors” regardless of whether or not such materials are protected from disclosure by a privilege. *See* 47 C.F.R. § 0.457(d); *see also Critical Mass Energy Project v. NRC*, 975 F.2d 871, 879 (D.C. Cir. 1992) (“*Critical Mass Energy*”) (concluding that financial or commercial information provided to the Government voluntarily is “confidential” for purposes of Exemption 4 of the Freedom of Information Act, which applies to information constituting “trade secrets and commercial or financial information” that “would not customarily be released to the public”). Revealing the redacted information in the contract if disclosed could place @contact and Loral at a competitive disadvantage.

In support of this request and pursuant to 47 C.F.R. § 0.459(d) of the Commission’s rules, @contact provides the following information:

1. **Specific Information For Which Confidential Treatment is Sought - § 0.459(b)(1):** @contact seeks confidential treatment for those parts of the satellite construction contract, including all exhibits, between it and Loral that relate to specific technical characteristics, financial terms, payment plans and construction schedules and similar matters. As noted, @contact has also filed a public version of the attached materials, which reflects redaction of these parts of the contract.

⁴ 47 C.F.R. § 0.459; *see also, id.*, ¶187.

2. **Circumstances Giving Rise to the Submission - § 0.459(b)(2):** The information is being submitted pursuant to 47 C.F.R. § 25.164(c) to demonstrate compliance with the binding, non-contingent contract milestone contained at paragraph 68 of @contact's Ka-band license.
3. **Degree to Which The Information is Commercial or Financial, or Contains a Trade Secret or is Privileged - § 0.459(b)(3):** The contract materials for which @contact request confidential treatment contain sensitive commercial, financial and technical information that would customarily be kept from competitors. This information includes confidential terms associated with technical information and characteristics, and operational and financial details. @contact would be severely prejudiced in its ability to compete were such information released to become available to a competitor. It could also adversely impact future negotiations between @contact and Loral, as well as between Loral and their potential contractors or customers. Disclosure of these terms would therefore be damaging to both companies.
4. **Degree to Which The Information Concerns a Service That is Subject to Competition - § 0.459(b)(4):** The commercial provision of Ka-band FSS is relatively new in the industry, and there are numerous @contact applicants and competitors who would stand to benefit competitively from any knowledge of the materials for which @contact requests confidential treatment.
5. **How Disclosure of The Information Could Result in Substantial Competitive Harm - § 0.459(5):** Disclosure of the information for which confidentiality treatment is requested could result in substantial harm to @contact and Loral by revealing to their competitors the satellite construction industry and the public information that would be useful in negotiating contracts to develop competing service offerings. "Buyers receive a clear competitive advantage if they know the prices that other buyers have been charged as a result of individual negotiations." *See In re Application of Mobile Communications Holdings, Inc. for Authority to Construct the ILLIPSO Elliptical Orbit Mobile Satellite System*, 10 FCC Rcd 1547, 1548 (Int'l Bur. 1994). In addition, @contact would be adversely affected in any future negotiations for satellite construction if this information were available to other satellite manufacturers.
6. **Measures Taken by @contact to Prevent Unauthorized Disclosure - § 0.459(b)(6):** By the terms of the contract and through non-disclosure agreements, @contact and Loral go to great lengths to prevent unauthorized persons from having access to the sensitive technical and financial information for which confidential treatment is

requested.

7. **The Information Submitted is Not Available to the Public and Has Not Previously Been Disclosed to Third Parties, Except for Appropriately Limited Circumstances - § 0.459(b)(7):** No part of the materials for which confidential treatment is requested has been or is available to the public or any third party without direct “need to know” involvement.
8. **Period During Which the Submitted Material Should Not be Available for Public Disclosure – § 0.459(b)(8):** @contact requests that the materials for which confidential treatment have been requested remain withheld from public disclosure indefinitely.
9. **Other Information Supporting Request for Confidential Treatment – § 0.459(b)(9):** Denying @contact’s request for confidential treatment would impair the Commission’s ability to obtain voluntarily this kind of information in the future. The Commission has long recognized the need for respecting confidentiality of certain materials, as shown by its discussion in its *First Space Station Licensing Reform Order* at paragraphs 186-87, by §§ 0.457 and 0.459 of its rules, and by its and U.S Court of Appeals decisions.⁵ These policies and practices apply fully to the enclosed materials.

For the foregoing reasons, @contact asks that the Commission

⁵ See *Examination of Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission*, 13 FCC Rcd 24816, ¶ 8 (1998) (declining to disclose competitively sensitive contracts “on the mere chance” that such disclosure might be helpful to a third party in some fashion). See also *Critical Mass Energy*, supra, at 878 (“Where, however, the information is provided to the Government voluntarily, the presumption is that [the Government’s] interest will be threatened by disclosure as the persons whose confidences have been betrayed will, in all likelihood, refuse further cooperation.”)

extend confidential treatment to the attached information as requested herein.

Please contact me if you have any questions concerning this submission.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "James M. Talens". The signature is fluid and cursive, with a horizontal line drawn underneath it.

James M. Talens
703.241.1144

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Enclosures