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MDA972-00-9-0015
Orbital Express Advance Technology Demonstration (ATD)

(a) Financial Records. The Comptroller General, at its discretion, shall have access to and right to examine records of any party to the Orbital Express Advance Technology Demonstration Agreement (“the Agreement”) or any entity that participates in the performance of the Agreement that directly pertains to, and involve transactions relating to, the Agreement. Excepted from this requirement is any party to the Agreement or any entity that participates in the performance of the Agreement, or any subordinate element of such party or entity, that has not entered into any other agreement (contract, grant, cooperative agreement, or “other transaction”) that provides for audit access by a Government entity in the year prior to the date of the Agreement.

(b) Patent Rights

Note: The provisions of Article VII Patent Rights have been modified from the Prime Agreement to suitably identify the parties and their respective rights under the terms of the Prime Agreement. As used herein, “Contractor” shall mean subcontractor, or Seller, and “Agreement” shall mean this subcontract under the Prime Agreement.

ARTICLE VII: PATENT RIGHTS

A. Definitions

1. “Invention” means any invention or discovery that is or may be patentable or otherwise protectable under Title 35 of the United States Code.

2. “Made” when used in relation to any invention means the conception or first actual reduction to practice of such invention.

3. “Practical application” means to manufacture, in the case of a composition of product; to practice, in the case of a process or method, or to operate, in the case of a machine or system and, in each case, under such conditions as to establish that the invention is capable of being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public on reasonable terms.

4. “Subject invention” means any Contractor invention conceived or first actually reduced to practice in the performance of work under this Agreement

5. “Interface specification” means non-proprietary, fully documented draft and final specification for the satellite-to-satellite mechanical and electrical interfaces developed for the Orbital Express Demonstration System, together with source code and full documentation for all enabling software,

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and specification of associated protocols (e.g., communications, satellite states and modes, etc.).

6. "Background Invention" means any invention made by the Contractor prior to the performance of this Agreement or outside the scope of work performed under the Task Description Document (TDD).

B. Allocation of Principal Rights

Unless the Contractor shall have notified DARPA (in accordance with subparagraph C.2 below) that the Contractor does not intend to retain title, the Contractor shall retain the entire right, title, and interest throughout the world to each subject invention consistent with the provisions of this Article, and 35 U.S.C. § 202. With respect to any subject invention in which the Contractor retains title, DARPA shall have a non-exclusive, nontransferable, irrevocable, paid-up license to practice or have practiced on behalf of the United States the subject invention throughout the world, except as stated in Paragraph K of this article.

C. Invention Disclosure, Election of Title, and Filing of Patent Application

1. The Contractor shall disclose each subject invention to DARPA within four (4) months after the inventor discloses it in writing to his company personnel responsible for patent matters. The disclosure to DARPA shall be in the form of a written report and shall identify the Agreement under which the invention was made and the identity of the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding to the extent known at the time of the disclosure, of the nature, purpose, operation, and the physical, chemical, biological, or electrical characteristics of the invention. The disclosure shall also identify any publication, sale, or public use of the invention and whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. The Contractor shall also submit to DARPA an annual listing of subject inventions.

2. If the Contractor determines that it does not intend to retain title to any such invention, the Contractor shall notify DARPA, in writing, within eight (8) months of disclosure to DARPA. However, in any case where publication, sale, or public use has initiated the one (1)-year statutory period wherein valid patent protection can still be obtained in the United States, the period for such notice may be shortened by DARPA to a date that is no more than sixty (60) calendar days prior to the end of the statutory period.

3. The Contractor shall file its initial patent application on a subject invention to which it elects to retain title within one (1) year after election of

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title or, if earlier, prior to the end of the statutory period wherein valid patent protection can be obtained in the United States after a publication, or sale, or public use. The Contractor may elect to file patent applications in additional countries (including the European Patent Office and the Patent Cooperation Treaty) within either ten (10) months of the corresponding initial patent application or six (6) months from the date permission is granted by the Commissioner of Patents and Trademarks to file foreign patent applications, where such filing has been prohibited by a Secrecy Order.

4. Requests for extension of the time for disclosure, election, and filing under Article VII, paragraph C, may, at the discretion of DARPA, and after considering the position of the Contractor, be granted.

D. Conditions When the Government May Obtain Title

Upon DARPA's written request, the Contractor shall convey title to any subject invention to DARPA under any of the following conditions:

1. If the Contractor fails to disclose or elects not to retain title to the subject invention within the times specified in paragraph C of this Article; provided, that DARPA may only request title within sixty (60) calendar days after learning of the failure of the Contractor to disclose or elect within the specified times.
2. In those countries in which the Contractor fails to file patent applications within the times specified in paragraph C of this Article; provided, that if the Contractor has filed a patent application in a country after the times specified in paragraph C of this Article, but prior to its receipt of the written request by DARPA, the Contractor shall continue to retain title in that country; or
3. In any country in which the Contractor decides not to continue the prosecution of any application for, to pay the maintenance fees on, or defend in reexamination or opposition proceedings on, a patent on a subject invention.

E. Minimum Rights to the Contractor and Protection of the Contractor's Right to File

1. The Contractor shall retain a non-exclusive, royalty-free license throughout the world in each subject invention to which the Government obtains title, except if the Contractor fails to disclose the invention within the times specified in paragraph C of this Article. The Contractor license extends to the domestic (including Canada) subsidiaries and affiliates, if any, of the Contractor within the corporate structure of which the Contractor is a party and includes the right to grant licenses of the same scope to the

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extent that the Contractor was legally obligated to do so at the time the Agreement was awarded. The license is transferable only with the approval of DARPA, except when transferred to the successor of that part of the business to which the invention pertains. DARPA approval for license transfer shall not be unreasonably withheld.

2. The Contractor domestic license may be revoked or modified by DARPA to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted consistent with appropriate provisions at 37 CFR Part 404. This license shall not be revoked in that field of use or the geographical areas in which the Contractor has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of DARPA to the extent the Contractor, its licensees, or the subsidiaries or affiliates have failed to achieve practical application in that foreign country.

3. Before revocation or modification of the license, DARPA shall furnish the Contractor a written notice of its intention to revoke or modify the license, and the Contractor shall be allowed thirty (30) calendar days (or such other time as may be authorized for good cause shown) after the notice to show cause why the license should not be revoked or modified.

F. Action to Protect the Government's Interest

1. The Contractor agrees to execute or to have executed and promptly deliver to DARPA all instruments necessary to (i) establish or confirm the rights the Government has throughout the world in those subject inventions to which the Contractor elects to retain title, and (ii) convey title to DARPA when requested under paragraph D of this Article and to enable the Government to obtain patent protection throughout the world in that subject invention.

2. The Contractor agrees to require, by written agreement, that employees of the Members of the Contractor, other than clerical and non-technical employees, agree to disclose promptly in writing, to personnel identified as responsible for the administration of patent matters and in a format acceptable to the Contractor, each subject invention made under this Agreement in order that the Contractor can comply with the disclosure provisions of paragraph C of this Article. The Contractor shall instruct employees, through employee agreements or other suitable educational programs, on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.

3. The Contractor shall notify DARPA of any decisions not to continue the prosecution of a patent application, pay maintenance fees, or defend in a reexamination or opposition proceedings on a patent, in any country, not

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less than thirty (30) calendar days before the expiration of the response period required by the relevant patent office.

4. The Contractor shall include, within the specification of any United States patent application and any patent issuing thereon covering a subject invention, the following statement:

“This invention was made with Government support under a lower tier agreement under Agreement No. MDA972-00-9-0015 awarded by DARPA. The Government has certain rights in the invention.”

G. REPORTING TO DARPA OFFICE

All reporting of subject inventions and utilization of subject inventions required by this Article VII shall be addressed as follows:

Scott R. Ullrey, Agreements Officer
The Defense Advanced Research Projects Agency
3701 North Fairfax Drive Arlington VA 22203-1714

H. Reporting on Utilization of Subject Inventions

The Contractor agrees to submit, during the term of the Agreement, an annual report on the utilization of a subject invention or on efforts at obtaining such utilization that are being made by the Contractor or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the subcontractor (s), and such other data and information as the agency may reasonably specify. The Contractor also agrees to provide additional reports as may be requested by DARPA in connection with any march-in proceedings undertaken by DARPA in accordance with paragraph J of this Article. Consistent with 35 U.S.C. § 202(c)(5), DARPA agrees it shall not disclose such information to persons outside the Government without permission of the Contractor.

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I. Preference for American Industry

Notwithstanding any other provision of this clause, the Contractor agrees that it shall not grant to any person the exclusive right to use or sell any subject invention in the United States or Canada unless such person agrees that any product embodying the subject invention or produced through the use of the subject invention shall be manufactured substantially in the United States or Canada. However, in individual cases, the requirements for such an agreement may be waived by DARPA upon a showing by the Contractor that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that, under the circumstances, domestic manufacture is not commercially feasible.

J. March-in Rights

The Contractor agrees that, with respect to any subject invention in which it has retained title, DARPA has the right to require the Contractor, an assignee, or exclusive licensee of a subject invention to grant a non-exclusive license to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the Contractor, assignee, or exclusive licensee refuses such a request, DARPA has the right to grant such a license itself if DARPA determines that:

1. Such action is necessary because the Contractor or assignee has not taken effective steps, consistent with the intent of this Agreement, to achieve practical application of the subject invention;
2. Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the Contractor, assignee, or their licensees;
3. Such action is necessary to meet requirements for public use and such requirements are not reasonably satisfied by the Contractor, assignee, or licensees; or
4. Such action is necessary because the agreement required by paragraph (I) of this Article has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject invention in the United States is in breach of such Agreement.

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K. Supplement to Paragraph B, Allocation of Principal Rights

Notwithstanding Paragraph B above, with respect to any subject invention relating to the Interface Specification, DARPA shall have a non-exclusive, transferable, irrevocable, paid-up license to use, duplicate, release, or disclose, the subject invention, in whole or in part, in any manner and for any purposes whatsoever, and to have or permit others to do so.

L. Opportunity to Cure

Certain provisions of this Article provide that the Government may gain title or license to a subject invention by reason of the Contractor's action, or failure to act, within the times required by this Article. Prior to claiming any rights under above paragraph J. March-in Rights, the Government will give written notice to the Contractor of the Government's intent, and afford the Contractor a reasonable period of time to cure such action or failure to act. The length of the cure period will depend on the circumstances, but in no event will be less than sixty (60) days. The Contractor may also use the cure period to show good cause why the claiming of such title or right would be inconsistent with the intent of this Agreement in light of the appropriate timing for introduction of the technology in question, the relative funding and participation of the parties in the development, and other factors.

M. Background Inventions

In no event shall the provisions set forth in this Article apply to any Background Inventions or Patents obtained thereon by the Contractor. The Contractor shall retain the entire right, title, and interest throughout the world to each such Inventions and Patents, and the Government shall not have any rights under this Agreement.

N. Lower Tier Agreements

Seller shall include this clause, suitably modified to identify the parties, in all subcontracts, regardless of tier, for experimental, developmental, production, or research work.

(c) Data Rights

Note: The provisions of Article VIII Data Rights have been modified from the Prime Agreement to suitably identify the parties and their respective rights under the terms of the Prime Agreement. As used herein, "Contractor" shall mean subcontractor, or Seller, and "Agreement" shall mean this subcontract under the Prime Agreement.

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ARTICLE VIII: DATA RIGHTS

A. Definitions

1. "Government Purpose Rights," as used in this article, means rights to use, duplicate, or disclose Data, in whole or in part and in any manner, for Government purposes only, and to have or permit others to do so for Government purposes only. Government purposes do not include any commercial purpose or use.
2. "Unlimited Rights," as used in this article, means rights to use, duplicate, release, or disclose, Data in whole or in part, in any manner and for any purposes whatsoever, and to have or permit others to do so.
3. "Data," as used in this article, means recorded information, regardless of form or method of recording, which includes but is not limited to, technical data, software, trade secrets, and mask works. The term does not include financial, administrative, cost, pricing or management information and does not include subject inventions included under Article VII.
4. "Interface specification" means non-proprietary, fully documented preliminary and final specifications for the satellite-to-satellite mechanical and electrical interfaces developed for the Orbital Express Demonstration System, together with source code and full documentation for all enabling software, and specification of associated protocols (e.g., communications, satellite states and modes, etc.).
5. "Limited Rights," as used in this article, means the right of the Government to use, modify, reproduce, release, perform, display, or disclose Data in whole or in part within the Government, provided that such Data may not without written permission of the Contractor be released or disclosed, in whole or in part, to any third party.
6. "Proprietary Data" means information which embodies trade secrets developed at private expense or business, commercial or financial information that is privileged or confidential provided that such information:
 - (a) is not known or available from other sources without obligations concerning its confidentiality;
 - (b) has not been made available by the owners to others without obligation concerning its confidentiality;
 - (c) is not already available to the Government without obligation concerning its confidentiality; and,

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- (d) has not been developed independently by persons who had no access to the Proprietary Information.
7. Background Data, as used in this article, means any Data developed by the Contractor prior to the performance of this Agreement or outside the scope of work performed under this Agreement, that is considered by the Contractor to be proprietary, and that is identified as Background Data.
8. Software means computer programs, source code, source code listings, object code listings, design details, algorithms, processes, and related materials.
9. Background Software, as used in this article, means any Software developed by the Contractor prior to the performance of this Agreement or outside the scope of work performed under this Agreement, that is considered by the Contractor to be proprietary, and that is identified as Background Software.
10. Restricted Rights, as used in this article, means the right of the Government to (i) use a computer program with one computer at one time. The program may not be accessed by more than one terminal or central processing unit or time shared unless otherwise permitted by this contract; (ii) Transfer a computer program to another Government agency without the further permission of the Contractor if the transferor destroys all copies of the program and related computer software documentation in its possession and notifies the licensor of the transfer. Transferred programs remain subject to the provisions of this clause; and (iii) make the minimum number of copies of the computer software required for safekeeping (archive), backup, or modification purposes.

B. Allocation of Principal Rights

1. The Contractor agrees that in consideration for Government funding under this Agreement, the Contractor intends to reduce to practical application items, components and processes developed under this Agreement.
2. The Contractor agrees to retain and maintain in good condition until five (5) years after completion or termination of this Agreement, all Data necessary to achieve practical application. In the event of exercise of the Government's March-in Rights as set forth under Article VII or subparagraph B.3 of this article, the Contractor agrees, upon written request from the Government, to deliver at no additional cost to the Government, all Data necessary to achieve practical application within sixty (60) calendar days from the date of

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the written request. The Government shall retain Unlimited Rights, as defined in paragraph A, above, to this delivered Data.

3. The Contractor agrees that, with respect to Data necessary to achieve practical application, DARPA has the right to require the Contractor to deliver all such Data to DARPA in accordance with its reasonable directions if DARPA determines that:
 - (a) Such action is necessary because the Contractor or assignee has not taken effective steps, consistent with the intent of this Agreement, to achieve practical application of the technology developed during the performance of this Agreement; or
 - (b) Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the Contractor, assignee, or their licensees; or
 - (c) Such action is necessary to meet requirements for public use and such requirements are not reasonably satisfied by the Contractor, assignee, or licensees.
4. With respect to Data developed, except for data related to the interface specification and Data specified in Paragraph H. below, the Government shall receive Government Purpose Rights, as defined in paragraph A above. With respect to all Data developed, in the event of the Government's exercise of its right under subparagraph B.2 of this article, the Government shall receive Unlimited Rights except as defined in paragraph C. below.
5. With respect to Data related to the Interface Specification and Data specified in Paragraph H. below, the Government shall receive Unlimited Rights. The satellite-to-satellite interface preliminary and final specifications, enabling software and associated protocols, for the Orbital Express ATD program must be delivered to the Government free of restriction on their use or further distribution.

C. Contractor Background Data and Software

1. The Government recognizes that the Contractor has developed certain Background Data and Software over a period of time at private expense. It is not the Government's intent to require the Contractor to deliver this previously developed Data or Software with other than Limited Rights or Restricted Rights. As a part of the Contractor's work under this Agreement, the Contractor may modify or deliver to the Government such Data. All such Data or Software shall remain Contractor Background Data or Background Software and, if delivered to the Government, the Government shall obtain

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only Limited Rights in such Data or Restricted Rights in such Software. Table C.1.A below identifies Background Data and Background Software in which the Government will obtain only Limited Rights or Restricted Rights.

TABLE C.1.A – Phase II

(Contractor Name)

<i>(List Background Data and Software)</i>	

2. In addition to the legend specified in Section E. below, the Contractor may provide copies of the Contractor Background Data or Background Software to the Government marked with the following legend:

"CONTRACTOR BACKGROUND DATA & BACKGROUND SOFTWARE / LIMITED RIGHTS & RESTRICTED RIGHTS IN ACCORDANCE WITH **MDA972-00-9-0015.**"

D. Contractor Proprietary Data

1. The Government recognizes that the Contractor has developed certain Proprietary Information over a period of time at private expense. It is not the Government's intent to require the Contractor to submit this previously developed Data with other than Limited Rights. As a part of the Contractor's work under this Agreement, the Contractor may modify such Data or deliver such Data to the Government. All such Data shall remain Contractor Proprietary Data, if delivered to the Government, the Government shall obtain only Limited Rights in such Data. Table D.2.A and D.2.B below identify Proprietary Information in which the Government will obtain only Limited Rights.

2. In addition to the legend specified in Section E below, the Contractor may provide copies of the Contractor Proprietary Data to the Government marked with the following legend:

"CONTRACTOR PROPRIETARY DATA/ LIMITED RIGHTS IN ACCORDANCE WITH **MDA972-00-9-0015.**"

TABLE D.2. A - RESERVED

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TABLE D.2.B

(Contractor Name)

Technical Data or Computer Software to be Furnished with Restrictions*	Basis for Assertion**	Asserted Rights Category***	Name of Person Asserting Restrictions****
<i>To be approved by Government</i>			

* For technical data (other than computer software documentation) pertaining to items, components, or processes developed at private expense, identify both deliverable technical data and each such items, components or processes. For computer software or computer software documentation identify the software or documentation.

** Generally, developed at private expense, either exclusively or partially, is the only basis for asserting restrictions. For technical data, other than computer software documentation, development refers to development of the item, component or process to which the data pertain. The Government's rights in computer software documentation generally may not be restricted. For computer software, development refers to the software. Indicate whether development was accomplished exclusively or partially at private expense. If development was not accomplished at private expense, or for computer software documentation, enter the specific basis for asserting restrictions.

*** Enter asserted rights category (e.g., Government purposes license rights from a prior contract, rights in SBIR data generated under another contract, limited, restricted, or Government purpose rights under this or a prior contract, or specially negotiated licenses).

**** Corporation, individual or other person, as appropriate.

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E. Marking of Data

Pursuant to paragraph B above, any Data delivered under this Agreement shall be marked with the following legend:

“Use, duplication, or disclosure is subject to the restrictions as stated in Agreement
--- MDA972-00-9-0015 --- between the Government and the Contractor.”

The Contractor will not blanket or convenience mark data as proprietary data.

F. Boeing Rights in Data

Boeing, as prime contractor under Prime Agreement MDA972-00-9-0015, shall not acquire any rights in data flowed to the Contractor herein except that the Contractor agrees to permit Boeing to use, disclose, or reproduce such data only as required to perform the Prime Agreement.

G. Government Support Contractors

Nothing herein shall be construed as prohibiting the Government's disclosure of data covered by this section to the Government's support Contractors (and their successors) as the Government shall deem necessary in connection with its administration of this Agreement. Such disclosures shall be made only to support Contractors whose contracts with the Government prohibit further disclosure and other use of the materials disclosed.

H. Government Unlimited Rights Data

The following is a listing of data that will be provided to DARPA with unlimited rights:

1. Notwithstanding any other provision to the contrary, the Government shall have unlimited Data rights as stated in the table below.
2. Data Type in the following table refers to data in hard copy or electronic form, except as noted, and applies to all Boeing team members and subcontractors, except as noted.
3. “Unlimited Rights” data may not include all math models, simulations, processes, and procedures used to develop and generate the Data Type, except as noted.

Deliverables

A001 Business Status Report

A002 OEDS Risk Assessment and Mitigation Plan & Technology
Development Plan (RAMP/TDP)

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- A003 OEDS Systems Requirements Document (SRD)
- A004 OEDS Systems Definition Document (SDD)
- A005 Satellite Servicing Interface Specification (SIS)
- A006 OEDS Ground Test, Integration, and Qualification Plan
- A007 Autonomous Guidance, Navigation and Control (AGN&C)
Software Development, Verification, and Validation Plan
- A008 OEDS On-Orbit Demonstration Plan (ODP)
- A009 OEDS Follow-on Test and Evaluation Plan (FOT&E)
- A010 OEOS Refinement Plan
- A011 OEOS Life Cycle Cost Estimates, Cost Effectiveness and
Affordability Analysis
- A012 OE Transition Plan (TP)
- A013 Performance Incentive Period Review Package
- A014 Software Test Plan
- A015 Updated OEOS System Capability Document (SCD),
including CONOPS & Figures of Merit (FOM)

All ASTRO to NEXTSat Interface Parameters per SIS

- Mechanical, Electrical, and Fluid Data Interface Designs
- Fluid Transfer System Designs
- Capture Mechanism Design
- ORU Sims, Models, and Design
- All MicroSat Accommodations and Designs
- Free-Flyer Capture Interface Requirements and Design

All ASTRO Software Including Source Code and Algorithms

- Navigation
- Guidance
- Control
- Servicing
- Autonomy / Exec
- RPO Sensors (AVGS & Visible)
- Capture

All Software Integration Laboratory (SIL) Hardware and
Software Results

Design Review and Performance Incentive Period Review Data
Packages

Requirements and Verification Documentation

Trade Studies

Technical Performance Measurement (TPM) Documentation

Risk Management Documentation (Identification, Analyses,
Mitigation, Tracking)

Hardware and Software Baseline Documentation Including
Configuration Management

Specialty Engineering Analyses and Design Studies

Hardware and Software Specifications

Interface Control Documents

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System and Subsystem Analyses and Design Studies
System and Subsystem Design Drawings
System and Subsystem Schematic Diagrams
Equipment Layout Drawings
Test Planning Documentation
Test Requirements and Procedures Documentation
Test Results
Producibility and Manufacturing Analyses and Documentation
Deviations and Waivers
Nonconformance Reports
Acceptance Data Package
All Training and Operating Manuals
Simulation and test plans and reports for all rendezvous
simulations and berthing/docking simulations
Performance and utility data collected during the mission for all
flown rendezvous sensors and techniques

I. Lower Tier Agreements

Seller shall include this clause, suitably modified to identify the parties, in all subcontracts, regardless of tier, for experimental, developmental, production, or research work.

(d) Foreign Access to Technology

- (1) "Foreign Firm or Institution" means a firm or institution organized or existing under the laws of a country other than the U.S. or its territories or possessions; "Know-How" means all information including (but not limited to) discoveries, formulas, materials, inventions, processes, ideas, approaches, concepts, techniques, methods, software, programs, documentation, procedures, firmware, hardware, technical data, specifications, devices, apparatus and machines; "Technology" means discoveries, innovations, Know-How and inventions, whether patentable or not, including computer software, recognized under U.S. law as intellectual creations to which rights of ownership accrue, including (but not limited to) patents, trade secrets, maskworks and copyrights developed under this contract.
- (2) Seller agrees that research findings and technology developments arising under this contract may constitute a significant enhancement to the national defense, and to the economic vitality of the United States. Accordingly, access to important technology developments under this contract by Foreign Firms and Institutions must be carefully controlled. The controls contemplated by this clause are in addition to, and are not intended to change or supersede, the provisions of the International Traffic in Arms Regulation (22 CFR 121 et seq.), the DoD Industrial Security Regulation

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(DoD 5220.22-R), and the Department of Commerce Export Regulation (15 CFR 770 et seq.).

- (3) In order to promote the national security interests of the United States and to effectuate the policies that underlie the regulations cited above, the procedures stated in paragraphs (4) and (5), below, shall apply to any transfer of Technology. For purposes of this paragraph, a transfer includes a sale of the company, and sales or licensing of Technology. Transfers do not include sales of products or components, licenses of software or documentation related to sales of products or components, or transfer to foreign subsidiaries of Seller for purposes related to this contract, or transfer which provides access to Technology to a foreign firm which is an approved source of supply or source for the conduct of research under this contract.
- (4) Seller shall provide timely notice to Buyer's Customer (DARPA) through Boeing of any proposed transfers from Seller of technology developed under this contract to Foreign Firms or Institutions. If Boeing's Customer determines that the transfer may have adverse consequences to the national security interests of the United States, Seller, its subcontractors, Buyer, and Buyer's Customer shall jointly endeavor to find alternatives to the proposed transfer that obviate or mitigate potential adverse consequences of the transfer but which provide substantially equivalent benefits to Seller.
- (5) In any event, Seller shall provide written notice to Boeing's Customer through Buyer of any proposed transfer to a Foreign Firm or Institution at least 60 calendar days prior to the proposed date of transfer. Such notice shall cite this clause and shall state specifically what is to be transferred and the general terms of the transfer. Within 60 calendar days of receipt of Seller's written notification, Buyer will inform Seller as to whether Buyer's Customer consents to the proposed transfer. In any case, no transfer shall take place until a formal decision is rendered by Buyer's Customer.
- (6) In the event a transfer of Technology to Foreign Firms or Institutions which is not approved by Buyer's Customer takes place, Seller shall refund to Buyer the funds paid to Seller for development of the Technology, and Buyer's Customer shall be provided a non-exclusive, nontransferable, irrevocable, paid-up license to practice or have practiced on behalf of the United States the Technology throughout the world for Government and any and all other purposes, particularly to effectuate the intent of this contract. Upon request of Buyer, Seller shall provide written confirmation of such licenses.
- (7) Seller shall include this clause, suitably modified to identify the parties, in all subcontracts, regardless of tier, for experimental, developmental, production, or research work.

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- (e) Insurance. Seller shall maintain: workers' compensation and employers' liability; general liability; and automobile liability with the minimum amounts indicated in FAR 28.307-2.

- (f) Civil Rights Act. This contract is subject to the requirements of Title VI of the Civil Rights Act of 1964 as amended (42 U.S.C. 2000-d) relating to nondiscrimination in employment.