

**CUSTOMER CONTRACT REQUIREMENTS**  
**Proprietary**  
**CUSTOMER CONTRACT 12-001A**

CUSTOMER CONTRACT REQUIREMENTS

**1. Prime Contract Special Provisions** The following prime contract special provisions apply to this purchase order

**ARTICLE 1 Licenses and Other Approvals**

Seller shall, at its own expense, obtain, maintain and cause its U.S. subcontractors to obtain and maintain all U.S. government approvals, permits and licenses as may be required for the performance of the Work, including, but not limited to, all authorizations required for the export of any Deliverable Item, or any part thereof, as well as any agreements and other approvals of the U.S. government that are required for Customer and "foreign person" personnel (as defined under the ITAR) and/or representatives of Customer (including, but not limited to, foreign subsidiaries and agents, consultants, and subcontractors of Customer involved with the procurement), to have access to Buyer's facilities, hardware, software, Deliverable Item, Training, other technical information, or technical services in connection with the performance of this Contract. Seller shall perform its role in accordance with all applicable laws, government rules, regulations and ordinances of the U.S. government in connection with such permits and licenses. The Deliverable Data and hardware furnished under this Contract are subject to the ITAR or the U.S. Export Administration Regulations (the "EAR").

If a non-U.S. Launch Site is selected, Seller is responsible for obtaining, or having its subcontractors obtain, all United States governmental approvals, licenses and permits, including those which may be required to perform the work in compliance with the laws at the Launch Site.

NOTWITHSTANDING ANY PROVISION IN THIS CONTRACT, IN NO EVENT SHALL EITHER PARTY BE OBLIGATED UNDER THIS CONTRACT TO PROVIDE ACCESS TO THE OTHER PARTY'S FACILITIES OR SUBCONTRACTOR FACILITIES, PROVIDE ACCESS TO OR FURNISH HARDWARE, SOFTWARE, DELIVERABLE DATA, OR OTHER TECHNICAL INFORMATION, OR PROVIDE TECHNICAL/DEFENSE SERVICES OR TRAINING, TO ANY PERSON EXCEPT IN COMPLIANCE WITH APPLICABLE U.S. EXPORT CONTROL LAWS, REGULATIONS, POLICIES, AND LICENSE CONDITIONS.

**Article 2 Excusable Delays**

**Force Majeure**

The Boeing Company General Provisions Article entitled Force Majeure, second to last sentence is hereby revised as follows:

WAS: "Seller shall notify Buyer in writing within ten (10) days after the beginning of any such cause(s)."

NOW: "Seller shall notify Buyer in writing within five (5) days after the beginning of any such cause(s)."

### **Article 3 Representations and Warranties**

#### **1. Software Warranty**

**Subcontractor shall grant Buyer an irrevocable, worldwide, royalty-free right to sublicense Subcontractor Software.**

**Subcontractor warrants that during a period of one (1) year from Acceptance, the Subcontractor Software shall conform in all material respects to the applicable specifications and requirements for the Subcontractor Software. Subcontractor warrants that operation of the Subcontractor Software shall be uninterrupted and error free for the specified periods.**

**Subcontractor further represents and warrants that all Subcontractor Software as and when Delivered is free of viruses or similar items as verified by testing the Subcontractor Software using commercially reasonable anti-viral software; (ii) it will not introduce into any Delivered Subcontractor Software, without Buyer's prior written approval, any code that would have the effect of disabling or otherwise shutting down all or any portion of the Delivered Subcontractor Software; and (iii) it will not seek to gain access to Buyer's Work through any special programming devices or methods, including trapdoors or backdoors, to bypass, without Buyer's prior written approval, any Buyer security measures protecting the Work.**

**Buyer shall have the option to purchase additional maintenance and support of the Subcontractor Software at commercially reasonable terms and prices on behalf of Buyer's Customer. Buyer shall be permitted to flow down all Seller's warranties to Buyer's Customer.**

#### **2. Title**

**Subcontractor represents and warrants that it shall provide good and marketable title to all Subcontractor Deliverable Items for which title shall pass in accordance with the contract free and clear of any claims, liens and encumbrances and security interests of any kind (except those, if any, of Buyer or Buyer's Customer), at the time title passes to Buyer or Buyer's Customer.**

### **Article 4 Non-U.S. Taxes and Duties**

The Firm Fixed Price excludes, and Seller and Seller's subcontractors shall not be required to pay, any present or future non-U.S. Taxes imposed by any jurisdiction other than the United States or its political subdivisions as follows including but not limited to the following:

- A. Taxes on Deliverable Items imported into Customer's country, country where the Satellite Control Facility is located, or the Launch Site under this Contract;
- B. Taxes levied by Customer's country, non-United States launch site or country where the Satellite Control Facility is located on Seller or its subcontractors or affiliates;
- C. Non-United States Taxes associated with the Launch Services.

### **Article 5 License to Subcontractor Deliverable Data and Subcontractor Software**

**1. Subcontractor grants to Buyer a nonexclusive, non-transferable, worldwide, royalty-free right under Subcontractor's Intellectual Property Rights to: (a) use and reproduce the Subcontractor**

**Deliverable Data and Subcontractor Software solely to develop, manufacture, use, maintain, modify and operate the Satellite and Satellite Control Equipment; (b) distribute the Subcontractor Deliverable Data and Subcontractor Software and sublicense the right to use and reproduce the Subcontractor Deliverable Data and Subcontractor Software to its Customers, and their Consultants and their satellite operators on a need-to-know basis solely to maintain and operate the as-delivered Satellite and as-delivered Satellite Control Equipment; provided that such Consultants and satellite operators are not competitors of Subcontractor; and (c) to reproduce the Subcontractor Software in object code form solely for backup or archival purposes, provided that all copyright notices and proprietary markings are reproduced on any such copies.**

## **2. Ownership**

**Buyer and its licensors own and shall retain all right, title and interest, including all Intellectual Property Rights, in and to the Deliverable Data and Software disclosed to Subcontractor under this Contract. Subcontractor shall, and shall contractually require its subcontractors to, reproduce and/or apply the appropriate copyright notice and any other proprietary notices or legends to all copies made of the Deliverable Data and Software.**

### **Article 6 Intellectual Property Indemnification**

**(Note: this Article is added to The Boeing Company General Provisions clause entitled Patent, Trademark and Copyright Indemnity)**

**1. Seller shall have control of the defense and settlement of such Intellectual Property Claim, except that Seller shall not enter into any agreement, settlement, consent judgment, or the like that is binding on Buyer or Buyer's Customer and which compromises any rights of Buyer and/or Buyer's Customer, without their prior written consent, which shall not be unreasonably withheld, delayed or conditioned. Notwithstanding Seller's assumption of the defense and indemnification regarding an Intellectual Property Claim, Buyer and/or Buyer's Customer shall have the right to employ separate counsel and participate in the defense and investigation of such Intellectual Property Claim.**

## **2. Infringing Equipment**

**If the manufacture of any Seller Deliverable Item or the normal intended use, lease or sale of any Seller Deliverable Item under this Contract is enjoined as a result of an Intellectual Property Claim or is otherwise prohibited, Seller shall, at its option and expense, (i) resolve the matter so that the injunction or prohibition no longer pertains, (ii) procure for the Indemnified Parties 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 applicable specification. Buyer shall, at Seller's expense, reasonably cooperate with Seller to mitigate or remove any infringement. If Seller is unable to accomplish (i), (ii) or (iii) as stated above, prior to Launch, Buyer shall have the right to terminate this Contract, in whole or in part, and receive a refund of the amounts paid to Seller for such terminated items, less a reasonable allowance for use and depreciation.**

### **Article 7 Proprietary Information**

**(Note: This Article is added to The Boeing Company General Provisions clause entitled Confidential, Proprietary and Trade Secret Information and Materials)**

**The obligations of this Article Confidential, Proprietary and Trade Secret Information and Materials, including the restrictions on disclosure and use, shall not apply with respect to any Proprietary Information to the extent such Proprietary Information:**

- A. is or becomes publicly known without breach of this Contract or other wrongful act or omission by the recipient or a third party under an obligation not to disclose the Proprietary**

**Information; or**

- B. is known to the recipient without restriction as to further disclosure when received; or**
- C. is independently developed by the recipient without use of or reference to the disclosing Party's Proprietary Information, as demonstrated by the recipient's contemporaneous written records; or**
- D. becomes known to the recipient from a third party who has a lawful right to disclose it and who does not owe a duty of confidentiality to the disclosing Party with respect to such Proprietary Information.**

**Specific Proprietary Information shall not be deemed to be available to the public or in the possession of the recipient merely because it is embraced by more general information so available or in the recipient's possession.**

**Provided that the recipient complies with U.S. laws and regulations, a recipient may also disclose Proprietary Information to employees of Affiliates who are not direct competitors of the disclosing Party and have a need-to-know for the purposes of this Contract but only if such employees of Affiliates are under an obligation to hold such information in confidence under terms and conditions at least as restrictive as the terms and conditions contained in this Article.**

**Seller shall treat all proprietary information of Buyer's other subcontractors or consultants as Proprietary Information in accordance with these terms. If requested, Seller agrees that it will enter into direct non-disclosure agreements with Buyer's other subcontractor(s), or require third parties to whom it provides the other subcontractor's Proprietary Information to enter into a direct non-disclosure agreements with Buyer's subcontractor(s).**

**Boeing Customer may disclose Subcontractor's Proprietary Information to its Customer Representatives (who are not direct competitors of the disclosing Party) solely for the purposes of exercising its rights or performing its obligations under the Prime Contract, provided that such Customer Representatives are under written obligations to hold such Proprietary Information in confidence under terms and conditions at least as restrictive as these terms and conditions. Boeing Customer may disclose Subcontractor's Proprietary Information to the following entities but only the Proprietary Information for which they have a need-to-know for purposes of their participation with respect to the Satellite project: (i) customers of Transponders on the Satellite, (ii) financing entities or auditors, (iii) underwriters insurance brokers, (iii) potential or actual investors (who are not direct competitors of the disclosing Party), and (iv) .contractors providing tracking, telemetry and command services or other services to test, operate or maintain the Satellite (who are not direct competitors of the disclosing Party) are under written obligations to hold the Proprietary Information in confidence under terms and conditions at least as restrictive as these terms and conditions.**

**If the recipient is faced with judicial or administrative governmental action or otherwise be required by law, regulation or rule, to disclose the other Party's Proprietary Information to a Governmental or regulatory body, including any departments, agencies and/or relevant regulatory authority, stock exchange or securities regulatory body, the recipient shall promptly notify the disclosing Party in sufficient time, to the extent practicable under the circumstances, to permit the disclosing Party to intervene in response to such action, and shall cooperate with the disclosing Party in protecting against any such disclosure and/or obtaining a protective order narrowing the scope of such disclosure and/or use of the Proprietary Information. Each Party shall put forth all reasonably commercial efforts to cooperate to seek the protection of the confidentiality or proprietary nature of said Proprietary Information. In any such event requiring disclosure under judicial or administrative governmental action or applicable law regulation or rule, the recipient will disclose only such Proprietary 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, and such recipient shall not be liable for a disclosure or use of the disclosing Party's Proprietary Information under this Article if it has complied with the provisions specified under this Article.**

The recipient shall promptly notify the disclosing Party of the loss or unauthorized use or disclosure of any Proprietary Information and make Reasonable Efforts to mitigate the effects of such unauthorized use or disclosure. Upon request of the disclosing Party, the recipient shall surrender any part or all of the Proprietary Information to the disclosing Party.

Upon termination of any portion or all of the Work under this Contract, the recipient shall cease use of all Proprietary Information furnished by the disclosing Party corresponding to the applicable portion of the terminated Work under this Contract and shall, at the direction of the disclosing Party, return to or destroy all such Proprietary Information, together with all copies. Upon request, the recipient shall send the disclosing Party a destruction certificate.

Under no circumstances shall Seller disclose Buyer's Proprietary Information to a third party who competes directly with Buyer or its subcontractors.

Except as expressly provided in this Contract, nothing in this Contract shall be construed as granting the recipient 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.

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