

**CUSTOMER CONTRACT REQUIREMENTS**  
**Geosynchronous Mobile Satellite System**  
**40-0167**  
**THURAYA CONTRACT**

**CUSTOMER CONTRACT REQUIREMENTS**

If Form GP1 is applicable to this procurement, this Attachment constitutes the customer contract requirements contemplated by Article 29. If Form GP2 is applicable to this procurement, this Attachment constitutes the customer contract requirements contemplated by Article 28. If Form GP3 is applicable to this procurement, this Attachment constitutes the customer contract requirements contemplated by Article 41. If Form GP4 is applicable to this procurement, this Attachment constitutes the Government clauses contemplated by Article 31.

The following prime contract special provisions apply to this contract:

**A. RIGHT OF ACCESS**

1. Right of access

Buyer, its customers and its Consultants, subject to applicable U.S. Government laws and regulations, shall be allowed reasonable access to all Work (whether completed or in progress) and all data and information to be delivered under this Contract, including all Subcontractors and facilities therefor, for purpose of observation, inspection, examination and evaluation, at any reasonable time prior to the earlier of Final Acceptance, termination of this Contract for convenience or Buyer's written confirmation that such right is no longer required.

2. Conditions on right of access

The rights of Buyer under any of the provisions of this Article shall at all times be subject to:

- (a) Seller providing unescorted access to Satellite test areas that contain Buyer hardware for a limited number of Buyer in-house residents;
- (b) Buyer giving Seller two week's advance notice of such visit;
- (c) Seller accompanying Buyer to any Subcontractor which Seller shall be obliged to do;
- (d) any provisions relating to national or international security requirements of the U.S. Government as applicable to Seller or the Subcontractors or any reasonable internal security requirements of Seller or the Subcontractors which shall not be arbitrarily or discriminatorily applied with respect to Buyer, its customers or its Consultants.

3. Subcontracts

Seller shall ensure that each of the Subcontracts having a value of greater than five million Dollars (US\$5,000,000) shall include provisions substantially the same as those contained in this Article. In addition, Seller shall exercise its best endeavors to insert provisions substantially the same as this Article in other Subcontracts.

#### 4. Buyer obligations

Buyer, its customers and/or its Consultants visiting at Seller's or a Subcontractor's facility (a) shall abide by national or international security requirements of the U.S. Government as applicable to Seller or the Subcontractors or any reasonable internal security requirements of Seller or the Subcontractors which shall not be arbitrarily or discriminatorily applied with respect to Buyer, its customers or its Consultants; and (b) shall not remove any documents, materials or other items from any facility of Seller or its Subcontractors without the express written consent of Seller's Program Manager or his duly designated representative. All persons having access to Seller's data or manufacturing facility are required to be bound by a duly executed non-disclosure agreement containing provisions no more onerous than those contained in Article 21 which shall be the responsibility of Buyer to put in place.

#### 5. Consultants

Subject to obtaining prior U. S. Government export control and other required approvals, all Consultants whom Buyer wish to have access in accordance with this Article shall be approved by Seller. Such approval shall not be unreasonably withheld and shall also be subject to the execution of a non-disclosure agreement by the Consultants containing provisions substantially similar and materially no more onerous than those contained in Buyer's contract with its customer. If Seller declines to approve a Consultant, it shall provide to Buyer detailed and objectively justifiable reasons for such failure to approve.

### **B. INDEMNITY IN RESPECT OF APPLICABLE LAWS**

Each Party shall comply with all relevant laws, regulations, directives, ministerial decisions, orders or decrees of any national, federal, state or local authority (the "Applicable Requirements") affecting its performance of this Contract and binding upon it. Each Party shall indemnify and hold harmless the other and its officers, agents, servants, employees, subsidiaries, successors and assigns, or any of them from and against any and all material liabilities, damages, claims, fines, penalties and expenses of whatever nature arising out of or resulting from the violation of the Applicable Requirements by the indemnifying Party or its personnel, including the Subcontractors and their personnel.

### **C. DAMAGE TO PERSON AND PROPERTY AT THE LAUNCH SITES**

#### 1. Inter-Party waiver

All operations at the Designated Launch Site ("Launch Operations") pursuant to this Contract will be subject to a no-fault, no-subrogation inter-Party waiver of liability ("Inter-Party Waiver") under which Buyer, Seller and the Launch Provider agrees to be responsible for any loss or liability which it sustains as a result of damage to its own property and employees, including death, while involved in operations, whether or not such damage arises through negligence of any Person. It is the intent of the Parties that the Inter-Party Waiver be construed broadly to achieve its intended objectives of clarifying and minimizing the risk of liability to third parties arising from Launch Operations. Prior to commencement of Launch Operations, the Parties will provide each other with evidence reasonably satisfactory to the other that each of them and the Launch Provider have agreed to the Inter-Party Waiver.

**2. Third parties and Subcontractors**

a. If the Subcontractors' presence is necessitated at the Designated Launch Site, then Seller will ensure that such Subcontractor agrees to a no-fault, no-subrogation inter-Party waiver of liability and acceptance of its own responsibility for damage it sustains, identical to the Inter-Party Waiver.

b. If either Party fails to obtain the inter-Party waiver of liability and acceptance of its own responsibility indemnity described in paragraph a. above from their respective subcontractor(s) then such Party shall indemnify and hold the other Party and the Launch Provider, and their respective subcontractors harmless from claims brought by such Party's subcontractor with respect to matters that otherwise would have been covered by such inter-Party waiver of liability.

**3. Survival**

Notwithstanding any other term or provision contained in this Contract, this Article shall survive the completion or termination of this Contract in any manner whatsoever.

**4. Further actions**

The Parties will take such further actions as may be required to implement the provisions of this Article, including the execution of such agreements and waivers as are customarily used with respect to operations at the Designated Launch Site and are consistent with the provisions of this Article.

**D. ALL RISK INSURANCE**

1. The policy(s) for "All Risks" insurance shall insure Seller and shall cover the Work while in or about Seller's and Subcontractor's plants, while at other premises which may be used or operated by Seller for construction or storage purposes, and while in transit, or while at the Designated Launch Site until Intentional Ignition or upon placing a Satellite into on-ground storage.

2. Such insurance shall be sufficient to cover the full replacement value of all the Work and may be issued with deductibles, for which losses shall be borne by Seller.

3. The policy(s) shall cover loss or damage to the Work from the time it commences in Seller's or Subcontractors' plants or other premises used by Seller or Subcontractor(s) and shall continue until all Seller's liabilities have expired in accordance with this contract.

**E. TERMINATION FOR CONVENIENCE**

**1. Notice of termination**

Buyer may, prior to Final Acceptance, by written notice to Seller, terminate this Contract for convenience and Seller shall cease performance of the Work. This provisions will apply in lieu of the Termination article set forth in the General Provisions.

**2. Determining Total Verified Termination Cost**

Following receipt of Buyer's notice of termination, Seller shall promptly submit to Buyer a detailed written statement of:

a. Seller's total costs:

- (i) including the direct costs of the Subcontractors to the extent they are payable by Seller following a termination for convenience of the relevant Subcontracts; but
- (ii) excluding any profit of Seller, whether actual, notional, imputed or otherwise, directly attributable to the Program incurred in the performance of Work at the date of Buyer's notice of termination, as determined in accordance with Seller's standard accounting practice for commercial contracts which accounting practices shall conform with U.S. GAAP and shall be reasonably applied in a manner non-discriminatory to Buyer; plus

b. ten percent (10%) profit,

the total amount shown in such statement being the "Total Termination Cost".

3. In establishing the Total Termination Cost Seller shall disregard any costs that have been incurred at a time that is materially inconsistent with the time that such costs ought to have been incurred to ensure consistency with the Payment Plan

4. The "Total Verified Termination Cost" shall be:

- a. the total termination cost agreed to by the Buyer; or
- b. such other amounts as agreed to by the Parties, provided that in no event shall the Total Verified Termination Cost exceed the Contract Price.

5. Payment of Total Verified Termination Cost

The Total Verified Termination Cost shall be paid by Buyer within thirty (30) Days of its agreement or determination and the issuance, by Seller, of an invoice for the Total Verified Termination Cost.

6. Property in Deliverable Items

Subject to U.S. Government approval, in the event of such termination in accordance with this Article, all Deliverable Items paid for as part of the Total Verified Termination Cost shall become the property of Buyer. Seller shall use its best endeavors to dispose on behalf of Buyer any such inventory that may not be transferred to Buyer due to failure to receive U.S. Government approval or if otherwise requested to do so by Buyer.

**F. SUBCONTRACTS**

1. Seller shall provide to Buyer a list of all Subcontracts (each a "Key Subcontract") with a value in excess of one million Dollars (US\$1,000,000) and shall identify the Work provided in each. The Subcontractor Party to any Key Subcontract shall be a "Key Subcontractor". The Key Subcontractors known to Seller at the date of this Contract are:

Hughes Network Systems, Inc. (HNS)  
Raytheon Information Technology System Co.  
Ericsson  
ASCOM Business Systems AG

2. Seller shall use best endeavours to include provisions in each Key Subcontract pursuant to which the Key Subcontractor agrees that it shall not assign or delegate the Key Subcontract or any of its rights, duties or obligations thereunder without the prior written consent of Seller and Buyer, and that any attempted assignment or delegation without such consent shall be void and without effect.

3. Seller shall deliver to Buyer five (5) copies of:

- a. all Key Subcontracts, less any financial data, within fourteen (14) Days of signature thereof; and
- b. any modifications, amendments or supplements to, or replacements for, any such Key Subcontract within fourteen (14) Days of the same being agreed.

4. Seller shall use best endeavours to include the provisions of this Article F. in each Key Subcontract obligating Subcontractors to provide to Buyer collateral warranties guaranteeing such obligation as undertaken by Seller for the quality, material, workmanship and availability of necessary spare parts of subcontracted equipment and to confer on Buyer the right to enforce those warranties against such Key Subcontractors directly but without diminishing or reducing the liability of Seller.

5. The obligations of the Subcontractors shall be primary obligations of Seller.

#### **G. SELLER-PROVIDED OFFICE SPACE**

Upon request by Buyer, at any time during the performance of this Contract, Seller shall provide to Buyer's personnel and its consultants, and use best endeavors to cause the Key Subcontractors to do likewise, adequate office space and international telephone, fax and data services at Seller's facilities (up to a maximum of six (6) persons).

#### **H. PROGRESS AND STATUS REPORTS**

Seller shall require all of its Key Subcontractors to submit copies of written periodic progress and status reports to Buyer concurrently with the Key Subcontractor's submission of its progress and status reports to Buyer.

#### **I. BUYER FURNISHED EQUIPMENT AND DATA**

With respect to all information and property, including but not limited to equipment, models and devices, furnished by Buyer under this Contract:

1. title to such information and property shall remain exclusively in Buyer;
2. Seller shall assume all risk of loss or damage, reasonable wear and tear excepted, to such information and property while in Seller or any Subcontractor's possession or control;
3. Seller shall ensure that such information and property are used solely in the performance of this Contract;
4. Seller shall be responsible for payment of all Taxes which become due by reason of Seller or any Subcontractor's possession, control or use of such information and property, and to comply with all requirements of laws and regulations relating to such Taxes, including making payment of any interest or penalties related to or arising from such Taxes;

5. Seller shall ensure that no claim, lien, security interest, encumbrance or other interest whatsoever attaches to such information and property as a result of Seller or any Subcontractor's acts or omissions; and
6. except as may otherwise be provided in this Contract, Seller shall return such information and property to Buyer upon completion of the Work or termination of this Contract for whatever reason.