

TERMS & CONDITIONS

For

SUBCONTRACTS ISSUED

FOR
RELEASED 08/22/2019

FLIGHT PRODUCTS

MAXAR

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1. DEFINITIONS

The following definitions apply throughout these Terms and Conditions unless otherwise specifically stated:

- (a) “Affiliate” means, with respect to an entity, any other entity, directly or indirectly, Controlling or Controlled by or under common Control with such first named entity.
- (b) “Anti-Bribery Terms” shall have the meaning set forth in Article 36(b).
- (c) “Article” means an article of these Terms and Conditions.
- (d) “Background Intellectual Property” shall have the meaning set forth in Article 24(a)(i).
- (e) “Buyer” or “Robotics” means SSL Robotics LLC.
- (f) “Buyer-Furnished Property” shall have the meaning set forth in Article 8(a).
- (g) “CCL” shall have the meaning set forth in Article 35(a).
- (h) “Claim” shall have the meaning set forth in Article 19(a).
- (i) “Contract” means the contract(s) between Buyer and its Customer under which the Subcontract is issued.
- (j) “Contract Change Notice” shall have the meaning set forth in Article 11(a).
- (k) “Control” and its derivatives mean, with respect to an entity, (i) the legal, beneficial, or equitable ownership, directly or indirectly, of fifty percent (50%) or more of the capital stock (or other ownership interest if not a corporation) of such entity ordinarily having voting rights, or (ii) the power to direct, directly or indirectly, the management policies of such entity, whether through the ownership of voting stock, by contract, or otherwise.
- (l) “Counterfeit Goods” means Products produced or altered to resemble a Product without authority or right to do so, with the intent to mislead or defraud by presenting the imitation as original or genuine.
- (m) “Customer” refers to Robotics’ customer(s).
- (n) “Days” means calendar days.
- (o) “Deliverable Data” means all data and related documentation generated by Seller during the performance of the Subcontract.
- (p) “Disclosing Party” shall have the meaning set forth in Article 21(a).
- (q) “EAR” shall have the meaning set forth in Article 35(a).
- (r) “ECCN” shall have the meaning set forth in Article 35(b)(ii)(A).
- (s) “Export Control Laws” shall have the meaning set forth in Article 35(a).
- (t) “Force Majeure Events” shall have the meaning set forth in Article 13(a).

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- (u) “Foreground Intellectual Property” shall have the meaning set forth in Article 24(b)(i).
- (v) “GIDEP” shall have the meaning set forth in Article 4(c).
- (w) “Government Entity” means (i) any national, state, regional, or local government, and any government agency or department, or political party; (ii) any entity or business that is owned or controlled by any of those bodies listed in subcategory (i); or (iii) any international organization such as the United Nations or the World Bank.
- (x) “Government Official” means (i) any officer, employee, or representative (including anyone elected, nominated, or appointed to be an officer, employee, or representative) of any Government Entity, or anyone otherwise acting in an official capacity on behalf of a Government Entity; (ii) any political party, political party official, or political party employee; (iii) any candidate for public office; (iv) any royal or ruling family member; or (v) any agent or representative of any of those persons listed in subcategories (i) through (iv).
- (y) “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 subsists.
- (z) “Intellectual Property Right(s)” 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.
- (aa) “ITAR” shall have the meaning set forth in Article 35(a).
- (ab) “Latent Defects” shall have the meaning set forth in Article 7(d).
- (ac) “Lower Tier Subcontractors” refers to Seller’s subcontractors at any tier.
- (ad) “Manufacturing Materials” shall have the meaning set forth in Article 15(c).
- (ae) “NDA” shall have the meaning set forth in Article 21(g).
- (af) “OEM shall have the meaning set forth in Article 4(a).
- (ag) “Party” refers to Buyer or Seller individually and “Parties” refers to Buyer and Seller collectively.
- (ah) “Product” means any product(s), goods and associated services being purchased by Buyer under the Subcontract.
- (ai) “Proprietary Information” shall have the meaning set forth in Article 21(a).
- (aj) “Receiving Party” shall have the meaning set forth in Article 21(a).
- (ak) “Representatives” shall have the meaning set forth in Article 36(b).



- (al) "Seller" or "Subcontractor" means the provider of the Products being purchased by Buyer under the Subcontract.
- (am) "Subcontract" means the purchase order, subcontract, blanket purchase agreement or long term purchase agreement entered into between Buyer and Seller and includes, without limitation, these Terms and Conditions and all exhibits and/or attachments and any amendments thereto.
- (an) "TAA" shall have the meaning set forth in Article 35(a).
- (ao) "Termination Notice" shall have the meaning set forth in Article 14(a).
- (ap) "USML" shall have the meaning set forth in Article 35(a).
- (aq) "U.S. Person" shall have the meaning set forth in Article 35(b)(iii).
- (ar) "Work" means all design, development, construction, manufacturing, labor, and services, including tests to be performed, and any and all deliverable items, including the Product and any Deliverable Data, and equipment, materials, articles, matters, and things to be furnished and rights to be transferred to Buyer under the Subcontract.

2. ACCEPTANCE OF TERMS

Seller shall be deemed to have accepted all of the terms of the Subcontract without change or modification, upon written acceptance of the Subcontract, upon acceptance of any payment or upon the commencement of Work, whichever shall occur first. Unless specifically accepted by Buyer in writing, contrary or additional terms provided or submitted by Seller are rejected and shall not bind Buyer.

3. QUALITY AND WORKMANSHIP

All equipment, materials and articles incorporated into any Product or the Work shall be new, free from defects and of the most suitable grade for the purpose intended. All Work under the Subcontract shall be performed in a skillful and workmanlike manner and shall be consistent with the best practices of Seller's industry. If at any time during the performance of the Subcontract, Buyer notifies Seller that any such equipment, material, article or workmanship fails to meet the foregoing standards, Seller shall, at its expense, promptly take all remedial steps required to meet those standards.

4. COUNTERFEIT GOODS

- (a) Seller shall not furnish Counterfeit Goods to Buyer, defined as Products or separately identifiable items or components of Products that: (i) are an unauthorized copy or substitute of an Original Equipment Manufacturer or Original Component Manufacturer (collectively, "OEM") item; (ii) are not traceable to an OEM sufficient to ensure authenticity in OEM design and manufacture; (iii) do not contain proper external or internal materials or components required by the OEM or are not constructed in



accordance with OEM design; (iv) have been re-worked, re-marked, re-labeled, repaired, refurbished, or otherwise modified from OEM design but not disclosed as such or are represented as OEM authentic or new; or (v) have not passed successfully all OEM required testing, verification, screening, and quality control processes. Notwithstanding the foregoing, Products or items that contain modifications, repairs, re-work, or re-marking as a result of Seller's or its subcontractor's design authority, material review procedures, quality control processes or parts management plans, and that have not been misrepresented or mismarked, shall not be deemed Counterfeit Goods. Counterfeit Goods shall be deemed nonconforming to this Subcontract.

- (b) Seller shall implement an appropriate strategy to ensure that Products furnished to Buyer under this Subcontract are not Counterfeit Goods. Seller's strategy shall include, but is not limited to, the direct procurement of items from OEMs or authorized suppliers, conducting approved testing or inspection to ensure the authenticity of items, and, when items are to be procured from non-authorized suppliers, obtaining from such non-authorized suppliers appropriate certificates of conformance that provide one or more of the following: (i) the OEM's original certificate of conformance for the item; (ii) sufficient records providing unbroken supply chain traceability to the OEM; or (iii) test and inspection records demonstrating the item's authenticity.
- (c) If Seller becomes aware or suspects that it has furnished Counterfeit Goods to Buyer under this Subcontract, Seller promptly, but in no case later than thirty (30) days from discovery, shall notify Buyer and replace, at Seller's expense, such Counterfeit Goods with OEM or Buyer approved Products that conform to the requirements of this Subcontract. For confirmed Counterfeit Goods, Government Industry Data Exchange Program ("GIDEP") notification shall also be made no later than sixty (60) days after discovery. Seller shall be liable for all costs related to the replacement of Counterfeit Goods and any testing or validation necessitated by the installation of authentic Products after Counterfeit Goods have been replaced.
- (b) Seller bears responsibility for procuring authentic Products or items from its Lower Tier Subcontractors and shall ensure that all such Lower Tier Subcontractors comply with the requirements of this Article.

5. PROGRESS AND COMPLETION

- (a) All delivery and/or completion dates stated in the Subcontract are critical and are of the essence. Seller agrees to exert every reasonable effort, including the use of overtime, work around methods and premium shipments (all at the sole expense of Seller), to meet the contractual delivery dates. Seller shall notify Buyer immediately if at any time it appears the delivery schedule may not be met. Such notification shall include but not be limited to, the reasons for any possible delays and steps being taken to remedy such problems, including providing a recovery schedule if requested by Buyer. Seller's notice

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shall be for informational purposes only and shall not be construed in any manner as a waiver of Seller's obligations to meet the delivery schedule.

- (b) If after all reasonable efforts have been undertaken, Seller is still unable to meet the contractual delivery date(s), Seller shall propose a new delivery date and promptly notify Buyer in writing. Any acceptance by Buyer of a new delivery date shall not be interpreted as a waiver or release of any rights or remedies Buyer may be entitled to under the Subcontract or at law. Buyer reserves all rights and remedies under the Subcontract and at law, including but not limited to, the assessment of liquidated damages based on the original contractual delivery date.

6. ACCESS TO WORK IN PROCESS AND DATA/DOCUMENTATION

- (a) Seller agrees that all Work in process under the Subcontract and all data and documentation (regardless of any Seller marking or legend thereon) related to the work effort of Seller and its Lower Tier Subcontractors are subject to continuous examination, evaluation, monitoring and inspection by Buyer, Customer, and Customer's representatives at any reasonable hour during the period of performance of the Subcontract, including the right to have, make and retain copies of any data and documentation. For the avoidance of doubt, Buyer shall be entitled to provide copies of all data and documentation provided by Seller hereunder to its Customer and Customer's representatives without obtaining further Seller approval.
- (b) Seller shall retain all design, manufacturing and test data and documentation related to the Subcontract for the duration of the design life of the Products, or if referenced in the order, as specified in document 20013774, Procurement Quality Clauses, whichever is longer. In the event that any Product delivered hereunder becomes defective or malfunctions in any way and for any reason, including in-orbit performance anomalies or other failures of the furnished Products, said data and documentation shall upon request promptly be made available or delivered to the Buyer, Customer, and Customer's representatives.
- (c) Seller shall include the substance of this Article 6 in all of Seller's lower tier subcontracts for parts and/or materials that will be used in Products.

7. INSPECTION AND ACCEPTANCE

- (a) Seller shall provide and maintain an inspection and quality assurance system covering the Work hereunder that is acceptable to Buyer and in conformance with the requirements of the Subcontract. If a quality problem arises, Buyer reserves the right to place in Seller's facility, an inspector who shall be entitled to inspect all Work performed by Seller under the Subcontract.
- (b) All Products and Work shall be subject to inspection by Buyer prior to acceptance at such times and places as reasonably directed by Buyer. Except with respect to Latent Defects,

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fraud, gross negligence or willful misconduct, the Products shall be considered to be accepted by Buyer upon the occurrence of any of the following conditions:

- (i) Buyer makes final inspection of and gives written notice of final acceptance;
 - (ii) The conclusion of a ninety (90) day inspection period following delivery of the Products to Buyer, provided that no nonconformance with any requirements of the Subcontract is found; or
 - (iii) Buyer's written approval of Seller's correction of defects or deviations from requirements discovered by Buyer during the inspection process.
- (c) Upon receipt of notice from Buyer, Seller shall promptly correct all defects discovered during the inspection process. If Seller fails to promptly correct such defects, Buyer may, including but not limited to, (i) have any or all such defects corrected through other means at Seller's expense, or (ii) return the Products to Seller for the full invoice price plus any applicable transportation charges.
- (d) "Latent Defects", for purposes of this Article 7, are defects or conditions resulting in noncompliance of the Work or Products with one or more Subcontract requirements, which noncompliance was not disclosed through the Subcontract inspection or test programs.
- (e) Buyer's inspection and acceptance of Work, Products and/or approval of data and documentation submitted by Seller shall not constitute a waiver of any of Buyer's rights provided in the Subcontract and shall not excuse Seller from full compliance with all requirements of the Subcontract.
- (f) Customer and Customer's representatives accompanied by Buyer, shall have the same access, rights to inspect, safety protection and relief from liability that this Article affords to Buyer.

8. BUYER-FURNISHED PROPERTY

- (a) All property, including but not limited to, materials, documentation, supplies, components, parts, jigs, fixtures, molds, tooling, gauges, devices and equipment which are either furnished to Seller by Buyer for performance of the Subcontract or for which Buyer has specifically agreed to pay Seller to purchase or develop ("Buyer-Furnished Property") shall be and remain the property of Buyer. Incorporation or attachment to any other property shall not affect title to Buyer-Furnished Property. All Buyer-Furnished Property shall be kept and maintained by Seller in the condition it was originally received, excluding normal wear and tear. In the event that any Buyer-Furnished Property, while in Seller's custody, possession or control, is lost or damaged in any way from any cause, Seller shall promptly replace such Buyer-Furnished Property at its expense. Seller shall only use Buyer-Furnished Property in the performance of the Subcontract or as may otherwise be authorized in writing by Buyer. Seller shall deliver

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Buyer-Furnished Property to Buyer's designated carrier, FCA Seller's plant in accordance with ICC INCOTERMS 2010, or shall make such other disposition as Buyer may direct. Seller shall bear the risk of loss or destruction of and damage to Buyer-Furnished Property until delivered or returned to Buyer's designated carrier. Seller shall deliver or return Buyer-Furnished Property in the same condition as when manufactured, acquired or received from Buyer, except for reasonable wear and tear or for utilization thereof in accordance with the terms of the Subcontract. Seller hereby waives all liens or similar remedies Seller may have or be entitled to assert against any Buyer-Furnished Property.

- (b) The provisions of paragraph (a) of this Article shall apply with respect to any property provided by Customer and authorized for use under the Subcontract. For the avoidance of doubt, Customer shall retain title of all Customer furnished property.

9. PACKING AND MARKING

Seller shall pack and mark all Products in compliance with good commercial practice in a manner that will prevent damage to or deterioration of the Products during transit. No separate or additional charge is payable by Buyer for containers, crating, boxing, bundling, dunnage, drayage or storage unless specifically stated in the Subcontract. Seller shall reimburse any expense incurred by Buyer as a result of improper packaging, packing, or marking. Copies of packing lists showing the Subcontract number (and purchase release number, if applicable) shall be included with each shipment, and each container shall be marked to show the Subcontract number and any other information specified in the Subcontract. Seller will ensure that the packaging and marking of hazardous materials, or Products containing hazardous materials, must conform to all laws and regulations of any governmental agency having jurisdiction.

10. TRANSPORTATION AND RISK OF LOSS

- (a) In the event that Seller is responsible for shipping, Seller shall secure the most advantageous transportation service and rates and shall be fully responsible for risk of loss (used in this Article to include damage, destruction, theft or other loss of the Products) until Seller delivers the Products to the specified delivery point in accordance with the Subcontract and ICC INCOTERMS 2010. Risk of loss shall remain with the Seller and pass to Buyer upon delivery of the items to Buyer's designated delivery point.
- (b) Seller will ensure that the shipment of hazardous materials, or Products containing hazardous materials, conform to all laws and regulations of any governmental agency having jurisdiction.
- (c) If an item is shipped to a destination other than Buyer's facility, Seller shall e-mail to Buyer's representative a copy of the packing list at the time of shipment.

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- (d) If, because of a failure of Seller to meet the delivery requirements of the Subcontract, Buyer finds it necessary to require shipment of any of the Products covered by the Subcontract by a method of transportation other than the method originally specified by Buyer, Seller shall reimburse Buyer the amount, if any, by which the cost of the more expeditious method of transportation exceeds the cost of the method of transportation originally specified, unless such failure is due to causes beyond the control and without the fault or negligence of Seller or its Lower Tier Subcontractors.

11. CHANGES

- (a) Buyer may at any time during the period of performance of the Subcontract, without invalidating the Subcontract, by a written contract change notice issued by Buyer's authorized representative ("Contract Change Notice"), unilaterally direct changes within the general scope of the Subcontract. Such changes may include, without limitation, changes in drawings, designs, specifications, quantities, method of shipment or packing, place or time of delivery, additional or modified Work requirements or omissions of Work.
- (b) If any such change causes an increase or decrease in the cost of and/or the time required for the performance of the Subcontract, an equitable adjustment shall be made in the price and/or delivery schedule, provided that Seller shall only be entitled to an equitable adjustment if, within thirty (30) Days from the date of receipt of the Contract Change Notice, Seller submits a settlement proposal to Buyer, in writing, for an adjustment in the price and/or the time of performance necessitated thereby. This settlement proposal shall include a detailed breakdown of the cost of the Work, labor, services and materials to be altered, added or modified and all delivery schedule impacts. If Seller fails to submit a settlement proposal within such thirty (30) day period, Seller waives any right to an adjustment of the price and/or delivery schedule as a result of such change. If the cost of supplies or materials made obsolete or excess as a result of a change is included in the negotiated price adjustment, Buyer shall assume title to such supplies or materials and shall prescribe the manner of disposition.
- (c) If Seller submits a proposal pursuant to paragraph (b) of this Article, Seller shall prepare and furnish to Buyer a detailed accounting of cost elements and any other data as determined by Buyer to be necessary to determine reasonableness of the amount of any increase or decrease in the cost of, or the time required for the performance of the Subcontract as modified by the change notice.
- (d) Upon the receipt by Buyer of Seller's proposal, with supporting cost details as requested by Buyer, the Parties shall negotiate agreement on the price and/or delivery schedule impacts of the Contract Change Notice, in which case the Parties shall mutually execute an amendment setting forth the results of such negotiations. In the event the Parties are unable to reach agreement on the price and/or schedule impact of the Contract Change Notice, the matter shall be resolved in accordance with Article 20, Disputes/Arbitration. Upon receipt of a Contract Change Notice, Seller shall promptly proceed with the change

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in the Work even if Buyer and Seller have not yet reached agreement regarding price and/or delivery schedule adjustments. Nothing in this Article 11 shall excuse Seller from promptly proceeding with the change as directed.

12. STOP WORK ORDERS

- (a) Buyer may at any time, by written order to Seller, require Seller to stop all or any part of the Work called for under the Subcontract for a period of up to one hundred eighty (180) Days, and for any further period as required by Buyer. Any such order shall be specifically identified as a stop work order issued pursuant to this Article. Upon receipt of such an order, Seller shall immediately comply with its terms and take all steps to minimize the expenditure of costs allocable to the Work covered by the order during the period of work stoppage. Within a period of one hundred eighty (180) Days after a stop work order is delivered to Seller or within any extension thereof as required by Buyer, Buyer shall either:
 - (i) Cancel the stop work order and authorize resumption of Work, or
 - (ii) Terminate the Work covered by such stop work order as provided in Article 14, Termination for Convenience or Article 15, Termination for Default.
- (b) If a stop work order issued under this Article is canceled or the period of the stop work order or any extension expires, Seller shall promptly resume Work in accordance with the terms of the Subcontract. In such event, an equitable adjustment shall be made in the delivery schedule or subcontract price, or both, if:
 - (i) The stop work order resulted in an increase in the time required for, or in Seller's cost properly allocable to the performance of the Work contained in the stop work order, and
 - (ii) The Seller submits a proposal for such adjustment within thirty (30) Days after the end of the period of Work stoppage.
- (c) If the Work covered by a stop work order is terminated in whole or in part for the convenience of Buyer, Seller's reasonable costs resulting directly from the stop work order shall be allowed in arriving at a termination settlement, but only if Seller submits a settlement proposal for such adjustment within thirty (30) Days after the Work covered by such stop work order is terminated.
- (d) If Seller submits a proposal pursuant to paragraphs (b) or (c) of this Article, Seller shall prepare and furnish to Buyer a detailed accounting of cost elements and any other data determined by Buyer to be necessary to assess the reasonableness of the Seller's claim for adjustment.
- (e) If Seller fails to submit a proposal within the thirty (30) day period specified in paragraphs (b) or (c) of this Article, Seller waives any right to an adjustment of the

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Subcontract price or delivery schedule as a result of the applicable stop work order. In the event the Parties are unable to reach agreement on the price and/or schedule impact of a stop work order, the matter shall be determined in accordance with Article 20, Disputes/Arbitration.

13. EXCUSABLE DELAYS

- (a) Events beyond the reasonable control and without the fault or negligence of a Party or its employees, agents or subcontractors, which may include, without limitation, acts of God, acts of government, fires, floods, epidemics, acts of war, acts of terrorism, quarantine restrictions, labor disputes and embargoes (“Force Majeure Events”), shall constitute a basis for excusable delay, provided:
 - (i) Notice is given to the other Party within seven (7) Days of the occurrence of such Force Majeure Event, which notice shall contain the date of the event, a description of the event, an assessment of the impact of and the anticipated duration of the Force Majeure Event; and
 - (ii) The Party seeking relief can establish that the Force Majeure Event has delayed its performance under the Subcontract.
- (b) If a Force Majeure Event affecting Seller’s performance is likely to continue for such a duration that will adversely impact Buyer’s performance under its Contract(s), Buyer may obtain some or all of the Products covered by the Subcontract elsewhere, in which case Buyer may, without any obligation or liability to Seller, unilaterally reduce or cancel the quantity or amount of Products called for in the Subcontract and terminate the Subcontract. If Buyer opts to terminate the Subcontract under this paragraph (b), Seller shall refund to Buyer any and all amounts paid by Buyer for any undelivered or unaccepted Products. All expenses incurred by Seller on Products cancelled under this paragraph (b) shall be borne solely and entirely by Seller.
- (c) If Buyer is temporarily unable to receive Products due to a Force Majeure Event, Buyer may suspend Seller’s performance for the period of such disability by written notice to Seller, without additional liability to Seller for such suspension.
- (d) Notice shall be given to the other Party within seven (7) Days of the termination of a Force Majeure Event.
- (e) In the event of an excusable delay resulting from a Force Majeure Event, the Subcontract delivery schedule may be extended on no more than a day for day basis for the period of time of the excusable delay condition. A delivery schedule extension of greater than day for day shall be subject to negotiation. However, the Subcontract price shall not, under any circumstances, be increased as a result of a Force Majeure Event experienced by Seller. If the Parties are unable to reach agreement on a time extension, if any, to the



Subcontract delivery schedule, the matter shall be determined in accordance with Article 20, Disputes/Arbitration.

14. TERMINATION FOR CONVENIENCE

- (a) The Subcontract may be terminated for the convenience of Buyer, at its option, in whole or in part, at any time during the period of performance of the Subcontract. Such termination shall be effected by delivery to Seller of a written notice of termination (“Termination Notice”) specifying the extent to which performance of Work under the Subcontract is terminated, the effective date of the termination and the instructions for accomplishing the termination.
- (b) Upon receipt of a Termination Notice, Seller shall:
 - (i) Stop work as directed;
 - (ii) Terminate all purchase orders and subcontracts relating to the performance of the Work being terminated;
 - (iii) With the approval of Buyer, settle all outstanding liabilities and claims, if any, arising out of the termination of such purchase orders and subcontracts;
 - (iv) Deliver to Buyer for inspection and acceptance all completed Products, in accordance with the terms of the Subcontract;
 - (v) Transfer title and deliver to Buyer (A) the fabricated or unfabricated parts, Work in process, completed Work, supplies, and other material produced as a part of, or acquired in respect of, the performance of the Work being terminated, (B) the completed or partially completed plans, drawings, information and other property which, if the Subcontract had been completed, would be required to be furnished to Buyer, and (C) the jigs, dies, fixtures and other specific tools and tooling acquired or manufactured for the performance of the Subcontract for the cost of which Seller has been or will be reimbursed under the Subcontract;
 - (vi) Take all actions necessary to protect property in Seller’s possession in which Buyer has or may express an interest; and
 - (vii) Complete performance of such part of the Subcontract, if any, that is not terminated.
- (c) Upon termination by Buyer under this Article, Buyer’s sole obligation shall be to pay to Seller the following amounts without duplication:
 - (i) The Subcontract price for all completed Products that have been delivered to and accepted by Buyer in accordance with the Subcontract and not previously paid for;



- (ii) Actual costs incurred by Seller to settle or liquidate claims against Seller arising out of termination of purchase orders or subcontracts as specified in paragraph (b)(iii) of this Article;
 - (iii) Actual costs incurred by Seller in the performance of Work on terminated Products that were not completed prior to the termination to the extent that such costs are reasonable in amount and are properly allocable under generally accepted accounting practices to the terminated portion of the Subcontract, minus all costs incurred by Seller related to Work in process and/or materials that are retained by Seller in accordance with paragraph (b)(v) of this Article;
 - (iv) The reasonable costs incurred by Seller in protecting property in its possession that Buyer has or may have expressed an interest in.
- (d) Notwithstanding anything to the contrary in the Subcontract, payments made under paragraph (c), exclusive of payments under paragraph (c)(iv) hereof, shall not exceed, under any circumstances, (i) the percentage of Work satisfactorily completed by Seller on the terminated portion of the Subcontract multiplied by the Subcontract price for such terminated portion of the Subcontract or (ii) the maximum amount of any Buyer termination liability included in the Subcontract.
- (e) Within sixty (60) Days after the effective date of termination under this Article (unless otherwise extended in writing by Buyer), Seller shall submit to Buyer a termination settlement proposal, which shall contain detailed back up data and any other information requested by Buyer to determine the reasonableness of all amounts being sought by Seller. Buyer shall have access to Seller's premises and records to verify the amounts being sought in the termination settlement proposal. In the event the Parties are unable to reach agreement on the termination settlement, the matter shall be determined in accordance with Article 20, Disputes/Arbitration.
- (f) For the avoidance of doubt, the provisions of this Article do not apply if the Subcontract is terminated by Buyer for the default of Seller pursuant to Article 15, Termination for Default.

15. TERMINATION FOR DEFAULT

- (a) Buyer may by written notice of default to Seller, terminate the whole or any part of the Subcontract in any one of the following circumstances:
- (i) If Seller fails to (A) make delivery of the Products or perform the services within the time specified herein or any extension thereof; (B) commit either the necessary skilled personnel or provide for materials of a level of quality consistent with industry standards, as determined solely by Buyer; (C) perform any of the other material provisions of the Subcontract; or (D) make progress as to endanger performance of the Subcontract in accordance with its terms, and in each case

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Seller does not cure such failure within a period of ten (10) Days (or such longer period as Buyer may authorize in writing) after receipt of notice from Buyer specifying such failure; or

- (ii) If Seller becomes insolvent or is the subject of a voluntary or involuntary petition in bankruptcy.

- (b) In the event Buyer terminates the Subcontract in whole or in part as provided in paragraph (a) of this Article, Buyer shall have the option to either (i) take over such terminated Work and prosecute the same to completion by contract or otherwise, and Seller shall be liable to Buyer for any excess costs for such Work, or (ii) require Seller to refund any amounts paid by Buyer for such terminated Work; provided that Seller shall continue the performance of the Subcontract to the extent not terminated under the provisions of this Article.

- (c) In the event Buyer terminates the Subcontract in whole or in part as provided in paragraph (a) of this Article, Buyer may subcontract any other person or persons, upon such basis as it may seem proper, to complete the Work called for under the Subcontract and require Seller to transfer title and deliver to Buyer in the manner and to the extent directed by Buyer (i) any completed Products, and (ii) such partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information and contract rights (“Manufacturing Materials”) as Seller has specifically produced or specifically acquired for the performance of such part of the Subcontract as has been terminated; and Seller shall, upon direction of Buyer, protect and preserve all property in the possession of Seller in which Buyer has an interest. Payment for completed Products delivered to and accepted by Buyer shall not exceed the Subcontract price. Payment for Manufacturing Materials delivered to and accepted by Buyer and for the protection and preservation of property shall be in an amount agreed upon by Seller and Buyer.

- (d) If, after notice of termination under the provisions of this Article, it is determined for any reason that Seller was not in default under the provisions of this Article or that a delay was excusable under the provisions of Article 13, Excusable Delays, the rights and obligations of the Parties shall be the same as if notice of termination had been issued pursuant to Article 14, Termination for Convenience.

- (e) The rights and remedies of Buyer provided in this Article 15 are in addition to any other rights and remedies provided by law or under the Subcontract.

16. INDEMNITY BY SELLER

Seller shall defend, indemnify and hold harmless Buyer and Customer, and their respective Affiliates, officers, directors, employees, shareholders and agents, from and against all losses, costs, damages, suits, expenses and liabilities (including, but not limited to, reasonable attorneys’ fees) arising from or related to the actions or omissions of Seller or its employees, agents and/or Lower Tier Subcontractors in the performance of the Subcontract.



17. INSURANCE

- (a) Seller shall procure and maintain, at its sole cost and expense, in force during the entire performance period of the Subcontract, general liability, property damage, workers' compensation, automotive liability insurance and such other insurance as may be specified in the Subcontract, in prudent, reasonable and/or statutory amounts adequate to cover Seller's obligations, including those detailed in Article 16, Indemnity by Seller.
- (b) At all times during the performance of the Subcontract Seller shall provide, upon Buyer's request, certificates of insurance executed by the insurer or its authorized representative that certify the required coverage.
- (c) The furnishing of acceptable evidence of the required coverage shall not relieve Seller from any liability or obligation for which it is responsible.
- (d) If, at any time, Seller fails to maintain the insurance required pursuant to the Subcontract or fails to deliver evidence of insurance as required, Buyer may, but only upon giving Seller five (5) Days prior written notice, effect such insurance as the agent and at the expense of Seller by taking out policies with insurers acceptable to Buyer running for a period not exceeding one (1) year in any one policy. Buyer shall be entitled to recover the uninsured amount of any loss or damages and the cost and expenses of suit suffered or incurred during any period when Seller shall have failed or neglected to provide such insurance.

18. LIMITATION OF LIABILITY

In no event shall Buyer be liable directly or indirectly to Seller, its officers, directors, employees, subcontractors at any tier, agents or any permitted assignees, for any incidental, special, consequential or punitive damages, lost profits, lost revenue, or any other indirect damages in connection with the Subcontract, regardless of whether the basis of such liability is in contract, tort, or any other legal or equitable theory. In no event shall Buyer's total liability under or in connection with the Subcontract exceed the Subcontract price.

19. CLAIMS

- (a) The term "Claim" means a written demand or assertion by Seller seeking an adjustment or interpretation of the terms of the Subcontract, payment of money, an extension of time, or any other relief with respect to the Work being performed pursuant to the Subcontract. A Claim must include the following: (i) a statement that it is a Claim and a request for decision pursuant to this Article 19; (ii) a detailed description of the act, error, omission, unforeseen event or other condition giving rise to the Claim; (iii) a detailed breakdown with supporting back up of all amounts, if any, being claimed; and (iv) if the Claim seeks a time extension, a detailed schedule analysis demonstrating Seller's entitlement to a time extension.

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- (b) Claims must be submitted to Buyer within thirty (30) Days after the occurrence of the event giving rise to such Claim. Seller agrees that strict compliance with the requirements of this paragraph (b) is an express condition precedent to Seller's right to pursue its Claim against Buyer in arbitration or otherwise.
- (c) Buyer shall review Claims submitted by Seller on a timely basis. If Buyer determines that additional supporting data is necessary to fully evaluate a Claim, Buyer will request such additional supporting data, and such data shall be furnished by Seller within thirty (30) Days after the date of such request. Buyer shall render a decision within sixty (60) Days after the later of the receipt of the Claim or the receipt of any additional supporting data requested by Buyer. Buyer's decision shall be final and binding unless appealed in accordance with paragraph (d) of this Article.
- (d) If Seller disputes Buyer's decision on a Claim, Seller shall have the right, within ninety (90) Days after Buyer's decision is issued, to commence arbitration against Buyer in accordance with Article 20, Disputes/Arbitration. If arbitration is not commenced by Seller within ninety (90) Days after Buyer's decision is issued, Buyer's decision on a Claim shall be final and binding and not subject to appeal or challenge.
- (e) Notwithstanding any other provisions herein, any decision of the Customer under the Contract which binds Buyer shall also bind Seller to the extent that it relates to the Subcontract, provided Buyer shall have notified Seller promptly of such decision and if requested by Seller, shall have appealed the decision in accordance with the ~~Article 20~~, disputes clause (via arbitration, litigation or otherwise) of the Contract. A final judgment in any such appeal shall be conclusive, final and binding upon Buyer and Seller. If Buyer under this Article prosecutes any appeal, Seller shall be permitted at Seller's expense to participate fully in such prosecution for the purpose of protecting Seller's interest (provided the Buyer retains overall control over the prosecution of such appeal). Each Party shall cooperate fully in assisting the other Party in such proceedings. Buyer agrees that after Seller has commenced to participate in any appeal against the Customer pursuant to this Article, Buyer will not enter into a settlement agreement with the Customer or take any other action which would prejudice Seller's rights in such appeal without Seller's consent, which may not be unreasonably withheld, conditioned, or delayed. All costs and expenses incurred by Seller and Buyer in prosecuting any appeal initiated by Buyer solely at Seller's request shall be paid by Seller; otherwise each Party shall bear its allocable share of the expense.
- (f) Unless otherwise directed by Buyer, during the pendency of any Claim proceeding, Seller shall proceed diligently with performance of the Subcontract.



20. DISPUTES/ARBITRATION

- (a) Except for any appeal covered under Article 19, Claims, paragraph (e) above, any dispute or disagreement arising between Seller and Buyer in connection with the Subcontract, or the validity or enforceability thereof, which is not settled to the mutual satisfaction of Seller and Buyer, shall be settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association in effect on the date that such notice is given. The arbitration shall be conducted in Palo Alto, California by a panel of three (3) arbitrators. The Party which demands arbitration shall choose and nominate a competent person to act as an arbitrator. Within thirty (30) Days after receipt of such written notice, the other Party shall, in writing, choose and nominate a competent arbitrator. The two arbitrators so chosen shall meet and endeavor to select a third arbitrator, giving written notice to both Parties of the choice so made. In case the two arbitrators shall fail to agree upon a third arbitrator within a reasonable period of time, or if for any other reason there shall be a lapse in the naming of an arbitrator or arbitrators or in the filling of a vacancy or in the failure or refusal of any arbitrator or arbitrators to attend or fulfill its or their duties, then upon application by either Party, an arbitrator shall be named by the chairman of the American Arbitration Association. Proceedings and documents produced therein shall be in the English language. The arbitration award shall be final and binding upon the Parties and judgment may be entered thereon, upon the application of either Party, by any court having jurisdiction.
- (b) Each Party shall bear its own costs and expenses (including the costs and expenses of the arbitrator it selected) and one-half of the costs and expenses of the third arbitrator.
- (c) Unless otherwise directed by Buyer, during the pendency of any arbitration proceeding, Seller shall proceed diligently with performance of the Subcontract.

21. PROPRIETARY INFORMATION

- (a) “Proprietary Information” means all confidential and proprietary information (other than any Deliverable Data), in whatever form transmitted, including without limitation, designs, drawings, specifications, technical information, financial information and funding, pricing or schedule details, which is disclosed by a Party (“Disclosing Party”) to the other Party hereto (“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 thirty (30) Days of initial disclosure.
- (b) Proprietary Information shall not include any information that: (i) is already known to the Receiving Party at the time of its disclosure without an obligation of confidentiality; (ii) is or becomes publicly known through no wrongful act of the Receiving Party; (iii) is subsequently and rightfully obtained by the Receiving Party from a third party who is not

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under an obligation of confidentiality; or (iv) is independently developed by the Receiving Party without reliance on the Proprietary Information as evidenced by written records.

- (c) For a period of ten (10) years 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 directors, officers, employees, attorneys, agents, representatives and Affiliates (as long as such representatives and Affiliates are not direct competitors of the Disclosing Party), and Customer and its representatives (in the case of Buyer), who have a need to know, who have been informed of and have agreed in writing (or are otherwise subject to confidentiality obligations consistent with the obligations set forth herein) to abide by the Receiving Party's obligations hereunder. The Receiving Party shall use at least 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.
- (d) Notwithstanding the foregoing, the Receiving Party may disclose Proprietary Information in response to a subpoena or other court order, or as required by applicable law or regulation, without liability as long as it: (i) promptly provides written notice to Disclosing Party prior to making such disclosure to allow Disclosing Party a reasonable opportunity to obtain a protective order, (ii) fully cooperates with the Disclosing Party if it decides to contest disclosure, (iii) discloses only such Proprietary Information as is legally required and (iv) exercises reasonable efforts to obtain proprietary treatment for any Proprietary Information being disclosed.
- (e) All Proprietary Information disclosed by the Disclosing Party to the Receiving Party shall be and remain the sole property of Disclosing Party. The Receiving Party shall use the Disclosing Party's Proprietary Information only for the performance of Work under the Subcontract (or as otherwise authorized in writing by the Disclosing Party) and for no other purpose. Furthermore, Seller agrees to make no use of drawings, specifications and technical information or data (i) furnished by Buyer, or (ii) prepared by Seller or its employees and agents during the course of performance of Work under the Subcontract, except as required to perform hereunder. The Receiving Party will not disclose to any third party any information it has acquired under, or as a result of the Subcontract or negotiations leading to it concerning the Disclosing Party's plans, business objectives, customers, personnel, products, processes, Work or services without the other Party's prior written consent unless such confidential information becomes generally known without fault of the Receiving Party or it is obtainable from other sources without breach of the Subcontract.
- (f) Upon completion of the Subcontract or upon the Disclosing Party's request at any time, the Receiving Party shall, at the Disclosing Party's option, promptly: (i) return to Disclosing Party, all Disclosing Party's Proprietary Information, or (ii) destroy all Proprietary Information, and provide a certificate of destruction, except for one (1) copy which may be retained for legal purposes.

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- (g) If Buyer and Seller have entered into a Non-Disclosure Agreement (“NDA”) in connection with the Work to be performed under the Subcontract, the Parties agree that any Proprietary Information exchanged under such NDA shall be deemed to be Proprietary Information provided under this Article 21 and subject to the terms of the Subcontract.

22. PUBLIC RELEASE OF INFORMATION

Prior to the release of news releases, articles, brochures, advertisements, prepared speeches and other informational releases concerning the existence of the Subcontract or the Work performed or to be performed hereunder to any third parties, Seller must obtain the written approval of Buyer concerning the content and timing of such release.

23. DELIVERABLE DATA

- (a) Seller hereby irrevocably and perpetually assigns all right, title and interest worldwide in all Deliverable Data, including all associated intellectual property rights, to Buyer. If Seller has the right to the Deliverable Data that cannot be assigned to Buyer by Seller, Seller unconditionally and irrevocably grants to Buyer during the term of such rights, an exclusive, even as to Seller, irrevocable, perpetual, worldwide, fully paid and royalty-free license, with rights to sublicense through multiple levels of sublicensees, to reproduce, make derivative works of, distribute, publicly perform and publicly display in any form or medium, whether now known or later developed, to use, make, have sell, offer for sale and import any product or service. If Seller has any rights to the Deliverable Data that cannot be assigned or licensed to Buyer, Seller unconditionally and irrevocably waives the enforcement of such rights, and all claims and causes of any kind against Buyer or related to Customers, with respect to such rights, and agrees, at Buyer’s request and expense, to consent to and join in any action or enforce such rights.
- (b) If any documentation described in paragraph (a) of this Article is copyrighted, Seller agrees to and does hereby grant to Buyer and its Customer the unlimited right to make copies of such copyrighted materials without payment of additional compensation to Seller, to the extent that Seller now has or hereafter acquires the authority to grant such right to make copies to others. With respect to all documentation that is copyrighted, Seller shall apply an appropriate copyright notice to all copies of such copyrighted documentation.

24. RIGHTS IN INTELLECTUAL PROPERTY

- (a) Background Intellectual Property.
 - (i) “Background Intellectual Property” means any Intellectual Property developed by Seller prior to, or outside the scope of, the Subcontract, which Intellectual Property is incorporated or utilized in any Work by Seller performed under the Subcontract.



- (ii) Seller agrees to and does hereby grant to Buyer an irrevocable, royalty-free, non-exclusive license, with right of sublicense, through multiple levels of sublicensees, to practice and have practiced throughout the world any Background Intellectual Property, including the right to use, reproduce, perform, display, modify and create derivative works of and distribute any Background Intellectual Property, to the extent reasonably necessary to enable Buyer and/or Customer to inspect, maintain and operate the Products or the satellite system/end product which incorporates the Products.
- (b) Foreground Intellectual Property.
- (i) “Foreground Intellectual Property” means any Intellectual Property developed by, or on behalf of, Seller in the performance of Work under the Subcontract.
 - (ii) Seller agrees that all Foreground Intellectual Property shall be the property of the Buyer, whether the Products to be delivered are completed or not. Seller hereby irrevocably and perpetually assigns all right, title and interest worldwide in all Foreground Intellectual Property to Buyer. If Seller has the right to the Foreground Intellectual Property that cannot be assigned to Buyer by Seller, Seller unconditionally and irrevocably grants to Buyer during the term of such rights, an exclusive, even as to Seller, irrevocable, perpetual, worldwide, fully paid and royalty-free license, with rights to sublicense through multiple levels of sublicensees, to reproduce, make derivative works of, distribute, publicly perform and publicly display in any form or medium, whether now known or later developed, to use, make, have sell, offer for sale and import any product or service. If Seller has any rights to the Foreground Intellectual Property that cannot be assigned or licensed to Buyer, Seller unconditionally and irrevocably waives the enforcement of such rights, and all claims and causes of any kind against Buyer or related to Customers, with respect to such rights, and agrees, at Buyer’s request and expense, to consent to and join in any action or enforce such rights.
 - (iii) Buyer agrees to and hereby grants to Seller a revocable, royalty-free, fully-paid up, worldwide, non-exclusive license to internally use, perform, display, reproduce, modify and create derivative works of Foreground Intellectual Property solely for the purpose of performing the Work for Buyer under the Subcontract. For the avoidance of doubt, this license is limited to the manufacture of Products and performance of services for Buyer.
 - (iv) Seller shall furnish to Buyer a written disclosure of any Foreground Intellectual Property promptly and in no event later than three (3) months after its conception or first actual reduction to practice. This disclosure shall be sufficiently complete in technical detail to convey a clear understanding of the nature, purpose, operation and, to the extent known, the physical, chemical or electrical characteristics of the Foreground Intellectual Property to a person who is skilled in the applicable



technical aspects thereof. Seller shall give Buyer all reasonable assistance in obtaining patent protection and in preparing and prosecuting any patent application filed by Buyer, and shall cause to be executed assignments and all other documents or instruments necessary to carry out the intent of this Article.

- (c) Seller shall include the substance of this Article, granting rights to Buyer and Customer as provided above, in all lower tier subcontracts hereunder.

25. INTELLECTUAL PROPERTY INDEMNITY

- (a) Seller, at its expense, agrees to defend, indemnify and hold harmless Buyer and Customer, and their respective officers and directors, from and against any claim, suit, losses, liabilities, costs or expenses based on an allegation that the manufacture of any Product or the use, lease or sale of a Product in whole or in part, directly or indirectly, infringes, misappropriates or violates any intellectual property rights of third parties. Buyer shall give prompt written notice of such claim or suit and shall provide reasonable assistance and information to Seller. Any such assistance or information furnished by Buyer shall be at Seller's expense.
- (b) If the manufacture of any Product or the use, lease or sale of any Product is enjoined or otherwise prohibited as a result of an intellectual property claim or suit, Seller shall at its own expense (i) resolve the matter so that the injunction or prohibition no longer remains, (ii) procure for Buyer and/or Customer the right to use the infringing item, or (iii) modify the infringing item so that it becomes non-infringing or replace the infringing item with a non-infringing item, provided such item is fully equivalent in function and performance, subject to the technical approval of Buyer and Customer. If Seller is unable to accomplish (i), (ii), or (iii) as stated above, Buyer shall have the right to terminate the Subcontract for default with respect to such Product, return such Product to Seller and receive a refund of the amounts paid for such Product. In addition, Seller shall be liable for all additional costs and damages incurred by Buyer and Customer arising as a result of such injunction.

26. WARRANTY

- (a) Seller warrants that the Work performed and Products furnished hereunder shall be suitable for its intended purpose, shall be free from any defects in material, design or workmanship and shall be in strict conformance with all applicable Buyer specifications, design and performance requirements and drawings.
- (b) Notice of any defect shall be given to Seller within three (3) years from the date of final acceptance by Buyer of the defective Product, except that (i) notice of a defect in a corrected or replaced Product shall be given within three (3) years after the date of final acceptance by Buyer of the corrected or replaced item, and (ii) notice of a latent defect

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or a defect that was caused or concealed by fraud or such gross mistakes amounting to fraud may be given at any time.

- (c) Buyer may, at any time during the warranty period, and irrespective of prior inspection and acceptance, reject any Product not conforming to the above warranty and require Seller at its expense to correct or replace (at Buyer's option) such Product with a conforming Product. Seller agrees to exert every effort, including overtime, at its expense, to correct or replace a defective Product as quickly as possible. If Seller fails to correct or replace a defective Product promptly after notification and authorization from Buyer, Buyer may, by contract or otherwise, correct or replace such defective Product and Seller shall be liable for and pay to Buyer the costs of such correction or replacement. If, as a result of operational, schedule, performance and/or life limitation considerations, Buyer determines that it is impractical to either repair or replace a defective Product, Buyer may require Seller to refund to Buyer up to the total price originally paid for the defective Product in lieu of repair or replacement. In addition to the foregoing remedies, Buyer may also require Seller to reimburse all of Buyer's additional costs resulting from failure of Seller's Product to comply with the conditions of paragraph (a) of this Article, notwithstanding any provision of the Subcontract to the contrary.
- (d) Seller shall be responsible for all shipping costs and risk of loss associated with the return of defective Products to Seller and the return of the repaired or replacement Products to Buyer. Any special packaging and handling requirements shall be designated by Seller for the return of defective Products.
- (e) If requested by Buyer, Seller shall assign to Buyer all rights Seller obtains under warranties given by its Lower Tier Subcontractors in connection with the Work under the Subcontract to the extent that such rights are assignable. Any such assignment shall not relieve Seller of any of its responsibilities under this Article 26. Seller shall notify Buyer of each such warranty, and upon request shall deliver to Buyer documents by the warrantor evidencing the warranty.
- (f) The rights and remedies provided under this Article are in addition to any other rights and remedies available to Buyer under the Subcontract or at law.

27. PRODUCT SUPPORT

- (a) In the event that a Product delivered hereunder becomes defective or malfunctions for any reason and at any time (including after any applicable warranty period has expired), including in-orbit if integrated in a launched satellite, Seller shall promptly perform a failure verification and/or failure analysis and determine the appropriate corrective action at no cost to Buyer. Seller shall, at Seller's expense, take the appropriate measures to correct all defects determined to be the Seller's responsibility in all applicable documentation, undelivered Products and delivered unlaunched Products as required by Buyer. For the avoidance of doubt, Buyer shall be entitled to provide copies of all data

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and documentation provided by Seller under this Article 27 to its Customer and Customer representatives without obtaining Seller approval.

- (b) Buyer shall immediately be provided with full visibility of all technical/programmatic aspects of failures and problems occurring on the ground or in orbit that are relevant to the Product being furnished by Seller pursuant to the Subcontract. However, Seller may protect the confidentiality and commercial sensitivity of the Seller's relationships with its other customers. Seller shall not be required to reveal the identity of the other customer programs, either directly or by inference, without the permission of the respective customer.
- (c) Seller warrants that the Products supplied under the Subcontract shall be available to Buyer for a period of five (5) years from the date of final delivery under the Subcontract or three (3) years after the expiration of any option provision contained in the Subcontract, whichever is later. In the event Seller discontinues manufacture of the Products deliverable against the Subcontract and an alternate qualified source is not available to Buyer, Seller shall make available to Buyer all documentation, drawings, designs, tooling and equipment necessary to manufacture said Products under an irrevocable, perpetual, worldwide, fully-paid and royalty-free license (with rights to sublicense through multiple levels of sublicensees) to reproduce, make derivative works of, distribute, publicly perform and publicly display in any form or medium, whether now known or later developed, to use, make have made, sell, offer for sale and import any product or service, which is hereby granted to Buyer.

28. PRICE WARRANTY

Seller warrants that the prices for the Products sold to Buyer under the Subcontract are no less favorable than those currently extended to any other customer in similar conditions and circumstances, buying the same or like Products in equal or smaller quantities. If during the period of performance of the Subcontract, Seller reduces the price for any such Product to one or more customers in a comparable status to Buyer, the corresponding price to Buyer shall be likewise reduced.

29. TAXES

Unless otherwise stated in the Subcontract, the Subcontract price includes all applicable taxes, tariffs, fees and/or duties that may be due under any law, which becomes due by reason of performance of the Subcontract or Buyer's purchase of the Products.

30. LIENS

- (a) If required by Buyer, Seller shall deliver to Buyer, before submitting any invoices for payment under the Subcontract, or at any other time required by Buyer, satisfactory release of all liens arising from the Products, materials, or equipment supplied and the services rendered by Seller under the Subcontract.

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- (b) Buyer may withhold from a payment otherwise due to Seller any amount that Buyer has reason to believe may be necessary to satisfy any lien arising out of the performance of Seller under the Subcontract. Prior to the time of any such withholding, Buyer shall notify Seller in writing as to the nature of the lien and the amount of money to be withheld.
- (c) Seller shall reimburse Buyer for all amounts spent in removing liens arising out of the performance by Seller under the Subcontract, including all costs and legal fees. Such reimbursement may be deducted by Buyer from any payment otherwise due to Seller. If Buyer does not hold amounts otherwise due to Seller, Seller shall promptly, upon request by Buyer, pay Buyer any amount due under this Article.

31. ASSIGNMENT

Seller may not assign, transfer or delegate any of its rights, duties or responsibilities under the Subcontract without the prior written consent of Buyer. For purposes of this Article 31, assignment shall include the sale of all or substantially all or substantially all of the business or assets of Seller, whether by merger, reorganization, acquisition, sale or otherwise. The Subcontract shall bind any successors and assignees of the Parties as if they were an original Party to the Subcontract.

32. WAIVER

- (a) No delay or omission by Buyer to exercise any right or remedy hereunder shall be construed as a waiver of such right or remedy. Further, the waiver by Buyer of a particular breach of the Subcontract by Seller shall not be construed as, or constitute, a continuing waiver of such breach, or a waiver of any other breaches of the same or other provisions of the Subcontract.
- (b) Any waiver of a requirement granted by Buyer or acceptance of a non-compliant condition applies only to the specific unit(s) identified. Said waiver or acceptance of a non-compliant condition does not constitute a change to or a waiver of any requirement of the Subcontract.
- (c) Buyer reserves the right to grant a waiver or deviation that is non-compliant with the requirements specified in the Subcontract subject to certain limitations, conditions or equitable adjustment to the Subcontract price.

33. GOVERNING LAW

The Subcontract shall be interpreted, construed and governed by the laws of the State of California, U.S.A, without regard to its conflicts of laws rules.

34. COMPLIANCE WITH LAWS

- (a) In the performance of the Subcontract, Seller shall fully comply with all applicable laws, rules, codes, regulations, restrictions and orders of any governmental authority having jurisdiction, including all applicable anti-bribery and anti-corruption laws, including the



US Foreign Corrupt Practices Act and the UK Bribery Act 2010. If Buyer is fined or penalized as a result of any violation of any law or regulation committed or caused by Seller or Seller's Lower Tier subcontractors, or, if Customer reduces the price of the Buyer's Contract as a result of actions or failure to take actions by Seller or Seller's Lower Tier subcontractors, Buyer shall reduce the price of the Subcontract by the same amount. Buyer's exercise of its rights under this Article shall not be a waiver of any rights Buyer has under any other Article or provision of the Subcontract.

- (b) The supplies or services sold by Seller to Buyer shall conform to the requirements of such laws, orders and regulations.
- (c) The Subcontract shall be deemed to incorporate by reference all the Articles required by the provisions of said laws, orders and regulations.
- (d) Design and performance of the supplies sold by Seller (including foreign-manufactured equipment) shall meet all U.S. safety and environmental codes, regulations and standards including, but not limited to, U.S.E.P.A. (CFR Title 40) and Federal OSHA standards (CFR Title 29).
- (e) Buyer shall not be responsible for the consequences, direct or indirect, of noncompliance by Seller or its Lower Tier Subcontractors and their employees, of applicable laws or statutes. Seller shall indemnify Buyer, its officers, employees, agents or assignees from and against any claims or action therefor.

35. EXPORT CONTROL

- (a) Export Compliance: Seller shall comply with the most current export control and sanctions laws, regulations, and orders applicable at the time of the export, re-export, transfer, disclosure or provision of goods, software, technology or services including, without limitation, the (i) Export Administration Regulations ("EAR") administered by the Bureau of Industry and Security, U.S. Department of Commerce, 15 C.F.R. parts 730-774; (ii) International Traffic in Arms Regulations ("ITAR") administered by the Directorate of Defense Trade Controls, U.S. Department of State, 22 C.F.R. parts 120-130; (iii) Foreign Assets Control Regulations and associated Executive Orders administered by the Office of Foreign Assets Control, U.S. Department of the Treasury, 31 C.F.R. parts 500-598; and (iv) laws and regulations of other countries (collectively, "Export Control Laws") in the performance of the Subcontract. Seller agrees that no employee or other person acting on behalf of the Seller will ship, mail, hand carry or in any other way export any U.S. Munitions List ("USML") or Commerce Control List ("CCL") commodity or directly related technical data, to a Foreign Person (as defined by ITAR or EAR as applicable) within or outside the United States, or knowingly cause or permit any other person to do so without the authority of an export license, agreement, or applicable exemption or exception. Seller shall hold Buyer harmless from any claim, suit, loss, cost, damage, expense (including reasonable attorneys' fees) or liability by



reason of Seller's violation hereof. Seller also agrees to promptly complete, execute and provide to Buyer all forms and certificates, and to enter into any US government approved Technical Assistance Agreement ("TAA") or similar agreement required in Buyer's judgment for proper performance of the Subcontract and conform to the provisions of the TAA and applicable export license. Nothing in the Subcontract or in any requirement under the Subcontract shall be construed to mean that Seller should perform Work in violation of any law, statute, code or ordinance.

(b) Designation of Export Controlled Commodities for U.S. Manufacturers: Unless an order is for goods to be supplied on a "build to print" basis by Seller, Seller shall identify which of the two U.S. export control regimes (ITAR or EAR) pertains to each Product that Seller provides to Buyer hereunder.

(i) If the Product is subject to ITAR, Seller is in the business of manufacturing, exporting or brokering USML items and further represents that Seller maintains registration with the Directorate of Defense Trade Controls as may be required. Seller shall provide one of the following:

(A) The USML Category for the Product; or

(B) If deemed to be subject to ITAR because of a formal determination (via a Commodity Jurisdiction request to the US Department of State), Seller shall provide a copy of Seller's Commodity Jurisdiction request and the Department of State's response letter.

(ii) If subject to EAR, Seller shall provide one of the following:

(A) The Export Control Classification Number ("ECCN") for the Product which is contained in the CCL to include the ECCN of parts and components if such classification differs from the ECCN of the Product; or

(B) If deemed to be subject to EAR because of a determination (via a Commodity Classification request to the Department of Commerce), Seller shall provide a copy of Seller's request and the Department of Commerce response.

In the event Seller does not know which U.S. export control regulation controls the Product, Seller must promptly notify Buyer.

(iii) Unless otherwise permitted under U.S. export regulations, only U.S. Persons as defined herein shall be permitted to work on the Subcontract. The term "U.S. Person" means (A) any natural person who is a lawful permanent resident as defined by 8 U.S.C. 1101(a)(20) or who is a protected individual as defined by 8 U.S.C. 1324b(a)(3); (B) any corporation, business association, partnership, trust, society or any other entity or group that is incorporated to do business in the United States; and (C) any governmental (federal, state or local) entity.



- (c) Designation of Export-Controlled Commodities for Non U.S. Manufacturers: The Products or services provided hereunder by Seller may be regulated by the U.S. Department of Commerce or the U.S. Department of State. Accordingly, Seller shall provide the following information for each Product that Seller provides to Buyer hereunder: (i) whether any parts or components in Seller's Product originated from the United States, and if so, Seller must identify for each specific item the U.S. manufacturer, part number, and item name; and (ii) whether a U.S. part manufacturer or supplier has advised Seller of any restrictions or other guidance relating to U.S. export control regulations, and if so, Seller must provide a copy of any such input from the U.S. part manufacturer.
- (d) Buyer's Obligation: Buyer's obligations under the Subcontract are subject to and shall be modified if and to the extent required to conform to applicable U. S. and foreign government export laws and/or export license provisions.

36. IMPROPER PAYMENTS, KICKBACKS, GIFTS AND GRATUITIES; ANTI-BRIBERY

- (a) Seller agrees that in carrying out its obligations under the Subcontract it will not make improper or unlawful payments of any salary, fee, commission or compensation of any kind or grant any improper or unlawful gift or gratuity of any kind either directly or indirectly to any officer, employee, Affiliate, agent or representative of Buyer or Customer.
- (b) Seller shall ensure that all of its officers, directors, employees, agents, and anyone acting on its behalf in connection with the Subcontract (collectively, the "Representatives") do so only in compliance with the terms imposed on Seller in this Article 36 (the "Anti-Bribery Terms"). Seller shall be responsible for the observance and performance by the Representatives of the Anti-Bribery Terms, and shall be directly liable to Buyer for any breach by the Representatives of any of the Anti-Bribery Terms.
- (c) Seller shall not make, directly or indirectly, in connection with the Subcontract or in connection with any other business transaction related to Buyer, a payment or gift of, or an offer, promise, or authorization to give money or anything of value to any:
 - (i) Government Official;
 - (ii) person or entity; or
 - (iii) other person or entity while knowing or having reason to believe that some portion or all of the payment or thing of value will be offered, given, or promised, directly or indirectly, to a Government Official or another person or entity; for the purpose of:
 - (A) influencing any act or decision of such Government Official or such person or entity in his/her or its official capacity, including a decision to do or omit



to do any act in violation of his/her or its lawful duties or proper performance of functions; or

- (B) inducing such Government Official or such person or entity to use his, her or its influence or position with any Government Entity or other person or entity to influence any act or decision;

in order to obtain or retain business for, direct business to, or secure an improper advantage for Buyer or any third-party intermediary.

- (d) Seller shall maintain books and records that describe in accurate and reasonable detail all expenditures incurred by it in connection with the Subcontract, and shall permit Buyer, at Buyer's expense, to review and inspect such books and records no less than annually.
- (e) If Buyer reasonably determines, at any time, that there is credible evidence that Seller or any of its Representatives has violated any Anti-Bribery Terms, Buyer shall have the right to suspend all payments due under the Subcontract while it investigates the credible evidence. Upon a good faith request by Buyer, Seller shall cooperate with Buyer's investigation to determine if such a violation has occurred. If Buyer determines reasonably and in good faith that there has been such a violation, all payments due Seller under the Subcontract shall be forfeited and all payment previously made to Seller by Buyer returned, and Buyer shall also have the right to terminate the Subcontract for default as provided in Article 15, Termination for Default.

37. SEVERABILITY

If for any reason any provision hereof is found to be illegal, unenforceable, or void, the Parties shall negotiate in good faith to agree upon a substitute provision that is legal, enforceable, and as consistent as possible with the intentions underlying the original provision. If the remainder hereof is not materially affected by such finding and is capable of substantial performance, then the remainder shall be enforced to the extent permitted under law.

38. ENTIRE AGREEMENT AND AMENDMENTS

The Subcontract constitutes the entire understanding and agreement between the Parties with respect to the subject matter hereof and supersedes all prior or contemporaneous negotiations, understandings and agreements with respect to the subject matter hereof. With the exception of a unilateral Contract Change Notice issued by Buyer pursuant to the provisions of Article 11, Changes, only a written instrument executed by both Parties may amend the Subcontract.



39. SURVIVAL

A Party's obligations under any provisions set forth in the Subcontract related to ownership and licenses of intellectual property, deliverables, confidentiality, publicity, governing law, limitation of liability and indemnification or which contemplate performance or observance subsequent to termination or expiration of the Subcontract shall survive such expiration or termination.