

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 10-Q

(MARK ONE)

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE
ACT OF 1934 FOR THE QUARTERLY PERIOD ENDED MARCH 31, 2000

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE
ACT OF 1934

For the transition period from _____ to _____.

Commission File Number: 0-26176

ECHOSTAR COMMUNICATIONS CORPORATION
(Exact name of registrant as specified in its charter)

NEVADA
(State or other jurisdiction of incorporation or organization)

88-0336997
(I.R.S. Employer Identification No.)

5701 S. SANTA FE DRIVE
LITTLETON, COLORADO
(Address of principal executive offices)

80120
(Zip code)

(303) 723-1000
(Registrant's telephone number, including area code)

NOT APPLICABLE
(Former name, former address and former fiscal year, if changed
since last report)

INDICATE BY CHECK MARK WHETHER THE REGISTRANT (1) HAS FILED ALL REPORTS
REQUIRED TO BE FILED BY SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF
1934 DURING THE PRECEDING 12 MONTHS (OR FOR SUCH SHORTER PERIOD THAT THE
REGISTRANT WAS REQUIRED TO FILE SUCH REPORTS), AND (2) HAS BEEN SUBJECT TO SUCH
FILING REQUIREMENTS FOR THE PAST 90 DAYS. YES X NO
--- ---

AS OF APRIL 20, 2000, THE REGISTRANT'S OUTSTANDING COMMON STOCK CONSISTED
OF 231,172,351 SHARES OF CLASS A COMMON STOCK AND 238,435,208 SHARES OF CLASS B
COMMON STOCK.

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EHOSTAR COMMUNICATIONS CORPORATION
CONDENSED CONSOLIDATED BALANCE SHEETS
(Dollars in thousands)

	DECEMBER 31, 1999	MARCH 31, 2000
	-----	-----
ASSETS		(Unaudited)
Current Assets:		
Cash and cash equivalents	\$ 905,299	\$ 679,788
Marketable investment securities	348,876	371,120
Trade accounts receivable, net of allowance for uncollectible accounts of \$13,109 and \$16,182, respectively	159,685	173,735
Insurance receivable	106,000	106,000
Inventories	123,630	152,493
Other current assets	40,205	47,351
	-----	-----
Total current assets	1,683,695	1,530,487
Restricted cash and marketable investment securities	3,000	3,000
Property and equipment, net	1,339,939	1,338,275
FCC authorizations, net	722,402	723,816
Other noncurrent assets	149,153	229,296
	-----	-----
Total assets	\$ 3,898,189	\$ 3,824,874
	=====	=====
LIABILITIES AND STOCKHOLDERS' EQUITY (DEFICIT)		
Current Liabilities:		
Trade accounts payable	\$ 194,046	\$ 171,481
Deferred revenue	181,531	210,709
Accrued expenses	499,265	545,566
Current portion of long-term debt	22,067	20,982
	-----	-----
Total current liabilities	896,909	948,738
Long-term obligations, net of current portion:		
1994 Notes	1,503	1,503
1996 Notes	1,097	1,097
1997 Notes	15	15
Seven Year Notes	375,000	375,000
Ten Year Notes	1,625,000	1,625,000
Convertible Notes	1,000,000	1,000,000
Mortgages and other notes payable, net of current portion	27,990	24,839
Long-term deferred satellite services revenue and other long-term liabilities	19,093	26,541
	-----	-----
Total long-term obligations, net of current portion	3,049,698	3,053,995
	-----	-----
Total liabilities	3,946,607	4,002,733
Commitments and Contingencies (Note 5)		
Stockholders' Equity (Deficit):		
6 3/4% Series C Cumulative Convertible Preferred Stock, 908,665 and 348,135 shares issued and outstanding, respectively	45,434	17,407
Class A Common Stock, \$.01 par value, 1,600,000,000 shares authorized, 220,087,230 and 230,803,137 shares issued and outstanding, respectively	2,200	2,308
Class B Common Stock, \$.01 par value, 800,000,000 shares authorized, 238,435,208 shares issued and outstanding	2,384	2,384
Class C Common Stock, \$.01 par value, 800,000,000 shares authorized, none outstanding	--	--
Additional paid-in capital	1,622,538	1,691,467
Deferred stock-based compensation	(117,780)	(104,071)
Accumulated other comprehensive income	--	1,463
Accumulated deficit	(1,603,194)	(1,788,817)
	-----	-----
Total stockholders' equity (deficit)	(48,418)	(177,859)
	-----	-----
Total liabilities and stockholders' equity (deficit)	\$ 3,898,189	\$ 3,824,874
	=====	=====

See accompanying Notes to Condensed Consolidated Financial Statements.

EHOSTAR COMMUNICATIONS CORPORATION
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
(In thousands, except per share amounts)
(Unaudited)

	THREE MONTHS ENDED MARCH 31,	
	1999	2000
REVENUE:		
DISH Network:		
Subscription television services	\$ 261,016	\$ 476,874
Other	2,263	1,313
	-----	-----
Total DISH Network	263,279	478,187
DTH equipment sales and integration services	32,669	62,704
Satellite services	7,974	14,250
C-band and other	5,654	10,580
	-----	-----
Total revenue	309,576	565,721
COSTS AND EXPENSES:		
DISH Network Operating Expenses:		
Subscriber-related expenses	110,357	201,574
Customer service center and other	24,109	56,049
Satellite and transmission	9,446	12,476
	-----	-----
Total DISH Network operating expenses	143,912	270,099
Cost of sales - DTH equipment and integration services	22,916	46,222
Cost of sales - C-band and other	4,050	8,116
Marketing:		
Subscriber promotion subsidies	127,608	250,087
Advertising and other	11,689	23,170
	-----	-----
Total marketing expenses	139,297	273,257
General and administrative	30,023	55,577
Non-cash, stock-based compensation	--	14,009
Depreciation and amortization	25,060	40,458
	-----	-----
Total costs and expenses	365,258	707,738
	-----	-----
Operating loss	(55,682)	(142,017)
Other Income (Expense):		
Interest income	4,936	18,998
Interest expense	(52,510)	(61,513)
Other	(10)	(543)
	-----	-----
Total other income (expense)	(47,584)	(43,058)
	-----	-----
Loss before income taxes	(103,266)	(185,075)
Income tax provision, net	(66)	(55)
	-----	-----
Net loss before extraordinary charges	(103,332)	(185,130)
Extraordinary charge for early retirement of debt, net of tax	(268,999)	--
	-----	-----
Net loss	(372,331)	(185,130)
8% Series A Cumulative Preferred Stock dividends	(124)	--
12 1/8% Series B Senior Redeemable Exchangeable Preferred Stock dividends payable in-kind	(241)	--
Accretion of 6 3/4% Series C Cumulative Convertible Preferred Stock	(1,834)	--
6 3/4% Series C Cumulative Convertible Preferred Stock dividends	--	(493)
	-----	-----
Numerator for basic and diluted loss per share - loss attributable to common shareholders	\$(374,530)	\$(185,623)
	=====	=====
Denominator for basic and diluted loss per share - weighted-average common shares outstanding	361,528	465,768
	=====	=====
Net loss per common share:		
Basic and diluted loss per share before extraordinary charge	\$ (0.30)	\$ (0.40)
Extraordinary charge	(0.74)	--
	-----	-----
Basic and diluted net loss	\$ (1.04)	\$ (0.40)
	=====	=====

See accompanying Notes to Condensed Consolidated Financial Statements.

ECHOSTAR COMMUNICATIONS CORPORATION
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(In thousands)
(Unaudited)

	THREE MONTHS ENDED MARCH 31,	
	1999	2000
CASH FLOWS FROM OPERATING ACTIVITIES:		
Net loss	\$ (372,331)	\$ (185,130)
Adjustments to reconcile net loss to net cash flows from operating activities:		
Extraordinary charge for early retirement of debt	268,999	--
Deferred stock-based compensation recognized	--	13,709
Depreciation and amortization	25,060	40,458
Amortization of debt discount and deferred financing costs	11,036	1,534
Employee benefits funded by issuance of Class A Common Stock	3,184	7,280
Change in reserve for excess and obsolete inventory	(298)	303
Change in long-term deferred satellite services revenue and other long-term liabilities	5,729	7,448
Other, net	70	990
Changes in current assets and current liabilities, net	63,912	8,831
Net cash flows from operating activities	5,361	(104,577)
CASH FLOWS FROM INVESTING ACTIVITIES:		
Purchases of marketable investment securities	(213,594)	(218,888)
Sales of marketable investment securities	229,018	198,107
Funds released from escrow and restricted cash and marketable investment securities	77,657	--
Purchases of property and equipment	(8,854)	(36,900)
Investment in iSKY, Inc.	--	(50,000)
Investment in Replay TV	--	(10,000)
Other	(490)	(694)
Net cash flows from investing activities	83,737	(118,375)
CASH FLOWS FROM FINANCING ACTIVITIES:		
Proceeds from issuance of Seven Year Notes	375,000	--
Proceeds from issuance of Ten Year Notes	1,625,000	--
Debt issuance costs and prepayment premiums	(273,718)	--
Retirement of 1994 Notes	(575,674)	--
Retirement of 1996 Notes	(501,350)	--
Retirement of 1997 Notes	(378,110)	--
Retirement of Senior Exchange Notes	(228,528)	--
Redemption of Series A Preferred Stock	(90,934)	--
Repayments of mortgage indebtedness and notes payable	(4,956)	(4,236)
Net proceeds from Class A Common Stock options exercised and Class A Common Stock issued to Employee Stock Purchase Plan	1,525	2,170
Other	--	(493)
Net cash flows from financing activities	(51,745)	(2,559)
Net increase (decrease) in cash and cash equivalents	37,353	(225,511)
Cash and cash equivalents, beginning of period	106,547	905,299
Cash and cash equivalents, end of period	\$ 143,900	\$ 679,788
SUPPLEMENTAL DISCLOSURE OF CASH FLOW INFORMATION:		
8% Series A Cumulative Preferred Stock dividends	124	--
12 1/8% Series B Senior Redeemable Exchangeable Preferred Stock dividends payable in-kind	241	--
Accretion of 6 3/4% Series C Cumulative Convertible Preferred Stock	1,834	--
Class A Common Stock issued related to acquisition of Kelly Broadcasting Systems, Inc.	--	31,556

See accompanying Notes to Condensed Consolidated Financial Statements.

EHOSTAR COMMUNICATIONS CORPORATION
 NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
 (Unaudited)

1. ORGANIZATION AND BUSINESS ACTIVITIES

Principal Business

The operations of EchoStar Communications Corporation ("ECC," and together with its subsidiaries, or referring to particular subsidiaries in certain circumstances, "EchoStar" or the "Company") include three interrelated business units:

- o The DISH Network - a direct broadcast satellite ("DBS") subscription television service in the United States. As of March 31, 2000, EchoStar had approximately 3.9 million DISH Network subscribers.
- o EchoStar Technologies Corporation ("ETC") - engaged in the design, distribution and sale of DBS set-top boxes, antennae and other digital equipment for the DISH Network ("EchoStar receiver systems"), and the design and distribution of similar equipment for direct-to-home ("DTH") projects of others internationally, together with the provision of uplink center design, construction oversight and other project integration services for international DTH ventures.
- o Satellite Services - engaged in the delivery of video, audio and data services to business television customers and other satellite users. These services may include satellite uplink services, satellite transponder space usage, billing, customer service and other services.

Since 1994, EchoStar has deployed substantial resources to develop the "EchoStar DBS System." The EchoStar DBS System consists of EchoStar's FCC-allocated DBS spectrum, DBS satellites ("EchoStar I," "EchoStar II," "EchoStar III," "EchoStar IV," and "EchoStar V"), digital satellite receivers, digital broadcast operations centers, customer service facilities, and other assets utilized in its operations. EchoStar's principal business strategy is to continue developing its subscription television service in the United States to provide consumers with a fully competitive alternative to cable television service.

Recent Developments

On March 22, 2000, EchoStar completed a two-for-one split of its outstanding Class A and Class B common stock. An amount equal to the par value of the common shares issued in the stock split was transferred from additional paid-in capital to Class A common stock and Class B common stock. All references to shares included herein retroactively give effect to the stock split completed in March 2000.

During March 2000, EchoStar acquired Kelly Broadcasting Systems, Inc. ("KBS"), a New Jersey based provider of international and foreign-language programming in the United States. In connection with the acquisition, EchoStar issued approximately 510,000 shares of its Class A common stock and paid \$3.5 million in cash, for 100% ownership of KBS.

During March 2000, EchoStar completed a \$50 million investment in iSKY Inc. Pursuant to the investment agreement, following the launch of iSKY's service, currently anticipated during late 2001, EchoStar would distribute the iSKY satellite Internet service along with DISH Network satellite TV service through its retailers nationwide. With this investment, EchoStar acquired a 11.03% interest in iSKY and received warrants which, subject to reaching certain iSKY customer targets through the DISH Network, could increase its stake up to 19.26% on an outstanding basis.

EHOSTAR COMMUNICATIONS CORPORATION
 NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS - CONTINUED
 (Unaudited)

2. SIGNIFICANT ACCOUNTING POLICIES

Basis of Presentation

The accompanying unaudited condensed consolidated financial statements have been prepared in accordance with generally accepted accounting principles and with the instructions to Form 10-Q and Article 10 of Regulation S-X for interim financial information. Accordingly, these statements do not include all of the information and footnotes required by generally accepted accounting principles for complete financial statements. In the opinion of management, all adjustments (consisting of normal recurring adjustments) considered necessary for a fair presentation have been included. All significant intercompany accounts and transactions have been eliminated in consolidation. Operating results for the three months ended March 31, 2000 are not necessarily indicative of the results that may be expected for the year ending December 31, 2000. For further information, refer to the consolidated financial statements and footnotes thereto included in EchoStar's Annual Report on Form 10-K for the year ended December 31, 1999. Certain prior year amounts have been reclassified to conform with the current year presentation.

Use of Estimates

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses for each reporting period. Actual results could differ from those estimates.

Comprehensive Income (Loss)

The components of comprehensive loss, net of tax, are as follows (in thousands):

	THREE MONTHS ENDED MARCH 31,	
	1999	2000
	(Unaudited)	
Net loss	\$(372,331)	\$(185,130)
Change in unrealized gain (loss) on available-for-sale securities ...	--	1,463
	-----	-----
Comprehensive loss	\$(372,331)	\$(183,667)
	=====	=====

Accumulated other comprehensive income presented on the accompanying condensed consolidated balance sheets consists of the accumulated net unrealized gain on available-for-sale securities, net of deferred taxes.

Basic and Diluted Loss Per Share

As of March 31, 2000 and 1999, options to purchase approximately 27,861,000 and 29,448,000 shares of Class A common stock were outstanding, respectively. Common stock equivalents (employee stock options and warrants) are excluded from the calculation of diluted loss per share as they are antidilutive. Securities which are convertible into shares of Class A common stock (6 3/4% Series C Cumulative Convertible Preferred Stock and 4 7/8% Convertible Subordinated Notes) also are excluded from the calculation of diluted loss per share as they are antidilutive. Approximately 37,720,000 and 5,713,000 shares of Class A common stock were issuable upon conversion of the 6 3/4% Series C Cumulative Convertible Preferred Stock as of March 31, 1999 and 2000, respectively. As of March 31, 2000, the 4 7/8% Convertible Subordinated Notes are convertible into approximately 11 million shares of Class A common stock.

ECHOSTAR COMMUNICATIONS CORPORATION
 NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS - CONTINUED
 (Unaudited)

3. INVENTORIES

Inventories consist of the following (in thousands):

	DECEMBER 31, 1999	MARCH 31, 2000
	-----	-----
Finished goods - DBS	\$ 63,567	\$ 55,633
Raw materials	35,751	61,774
Finished goods - reconditioned and other	19,509	25,281
Work-in-process	7,666	13,220
Consignment	1,084	835
Reserve for excess and obsolete inventory	(3,947)	(4,250)
	-----	-----
	\$ 123,630	\$ 152,493
	=====	=====

4. ECHOSTAR IV IMPAIRMENT

As a result of the failure of EchoStar IV solar arrays to fully deploy and the failure of 22 transponders to date, a maximum of approximately 16 of the 44 transponders on EchoStar IV are currently available for use at this time. Due to the normal degradation of the solar arrays, the number of available transponders may further decrease over time. Based on current data from Lockheed Martin, we expect that at least 10 high power transponders or 5 extra-high power transponders will probably be available over the remaining useful life of the satellite, absent significant additional transponder problems or other failures.

In addition to transponder failures, EchoStar IV experienced anomalies affecting its heating systems and fuel system during 1999. As a result of the heating system and fuel system anomalies, the estimated remaining useful life of EchoStar IV has been reduced to approximately 4 years. This change increased EchoStar's net loss for the three months ended March 31, 2000 by approximately \$2.4 million.

During September 1998, EchoStar recorded a \$106 million provision for loss in connection with the partial failure of EchoStar IV solar arrays to deploy. During December 1999, EchoStar recorded an additional \$13.7 million provision for loss. The aggregate loss provision of \$119.7 million represented EchoStar's estimate, at December 31, 1999, of the asset impairment attributable to lost transmission capacity on EchoStar IV resulting from the solar array anomaly described above. EchoStar also recorded a \$106 million gain, during September 1998, attributable to an anticipated insurance claim receivable that it believes is probable of receipt. While there can be no assurance as to the amount of the final insurance settlement, EchoStar believes that it will receive insurance proceeds at least equal to the \$106 million receivable recorded. To the extent that it appears probable that EchoStar will receive insurance proceeds in excess of the \$106 million currently recorded and that no further provision for loss is necessary, a gain will be recognized for the incremental amount in the period that the amount of the final settlement can be reasonably estimated.

In September 1998, EchoStar filed a \$219.3 million insurance claim for a constructive total loss under the launch insurance policy related to EchoStar IV. However, if the Company receives \$219.3 million for a constructive total loss on the satellite, the insurers would obtain the sole right to the benefits of salvage from EchoStar IV under the terms of the launch insurance policy. Although we believe we have suffered a total loss of EchoStar IV under that definition in the launch insurance policy, we intend to negotiate a settlement with the insurers to compensate us for the reduced satellite transmission capacity and allow us to retain title to the asset.

EHOSTAR COMMUNICATIONS CORPORATION
 NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS - CONTINUED
 (Unaudited)

The satellite insurance policy for EchoStar IV consists of separate identical policies with different carriers for varying amounts which, in combination, create a total insured amount of \$219.3 million. Two of the participants in EchoStar's insurance line have notified EchoStar they believe that its alleged delay in providing required insurance claim information may reduce their obligation to pay any settlement related to the claim.

During April 2000, the insurance carriers offered EchoStar a total of approximately \$88 million, or 40% of the total policy amount, in settlement of the EchoStar IV insurance claim. The insurers allege that all other impairment to the satellite occurred after expiration of the policy period and is not covered by the policy. EchoStar strongly disagrees with the position of the insurers. As a result, EchoStar filed for arbitration to resolve its insurance claim for constructive total loss with respect to the EchoStar IV satellite. There can be no assurance that EchoStar will receive the amount claimed or, if it does, that EchoStar will retain title to EchoStar IV with its reduced capacity.

While there can be no assurance, we do not currently expect a material adverse impact on short term satellite operations. We will continue to evaluate the performance of EchoStar IV and may modify our loss assessment as new events or circumstances develop.

5. COMMITMENTS AND CONTINGENCIES

DirectTV

During February 2000 EchoStar filed suit against DirectTV and Thomson Consumer Electronics/RCA in the Federal District Court of Colorado. The suit alleges that DirectTV has utilized improper conduct in order to fend off competition from the DISH Network. According to the complaint, DirectTV has demanded that certain retailers stop displaying EchoStar merchandise and has threatened to cause economic damage to retailers if they continued to offer both product lines in head-to-head competition. The suit alleges, among other things, that DirectTV has acted in violation of federal and state anti-trust laws in order to protect DirectTV's market share. EchoStar is seeking injunctive relief and monetary damages. It is too early in the litigation to make an assessment of the probable outcome.

The DirectTV defendants filed a counterclaim against EchoStar. DirectTV alleges that EchoStar tortuously interfered with a contract that DirectTV allegedly had with Kelly Broadcasting Systems, Inc. (KBS). DirectTV alleges that EchoStar "merged" with KBS, in contravention of DirectTV's contract with KBS. DirectTV also alleges that EchoStar has falsely advertised to consumers about EchoStar's right to offer network programming. DirectTV further alleges that EchoStar improperly used certain marks owned by PrimeStar, now owned by DirectTV. Finally, DirectTV alleges that EchoStar has been marketing National Football League games in a misleading manner. The amount of damages DirectTV is seeking is as yet unquantified. EchoStar intends to vigorously defend against these claims. The case is currently in discovery.

The News Corporation Limited

During February 1997, News Corporation agreed to acquire approximately 50% of our outstanding capital stock. During late April 1997, substantial disagreements arose between the parties regarding their obligations under this agreement. Those substantial disagreements led to litigation which the parties subsequently settled. In connection with the News Corporation litigation, we have a contingent fee arrangement with the attorneys who represented us in that litigation, which provides for the attorneys to be paid a percentage of any net recovery obtained in the News Corporation litigation. The attorneys have asserted that they may be entitled to receive payments totaling hundreds of millions of dollars under this fee arrangement. We are vigorously contesting the attorneys' interpretation of the fee arrangement, which we believe significantly overstates the magnitude of our liability. We also believe that the fee arrangement is void and

EHOSTAR COMMUNICATIONS CORPORATION
 NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS - CONTINUED
 (Unaudited)

unenforceable because the attorneys who represented us are seeking a fee that we believe is unreasonable and excessive, among other things. If we are unable to resolve this fee dispute with the attorneys, it would be resolved through arbitration or litigation. During mid-1999, we initiated litigation against the attorneys in the District Court, Arapahoe County, Colorado, arguing that the fee arrangement is void and unenforceable. In December 1999, the attorneys initiated an arbitration proceeding before the American Arbitration Association. It is too early to determine the outcome of negotiations, arbitration or litigation regarding this fee dispute.

WIC Premium Television Ltd.

During July 1998, a lawsuit was filed by WIC Premium Television Ltd., an Alberta corporation, in the Federal Court of Canada Trial Division, against General Instrument Corporation, HBO, Warner Communications, Inc., John Doe, Showtime, United States Satellite Broadcasting Company, Inc., EchoStar, and two of EchoStar's wholly-owned subsidiaries. The lawsuit seeks, among other things, an interim and permanent injunction prohibiting the defendants from activating receivers in Canada and from infringing any copyrights held by WIC. It is too early to determine whether or when any other lawsuits or claims will be filed. It is also too early to make an assessment of the probable outcome of the litigation or to determine the extent of any potential liability or damages.

During September 1998, WIC filed another lawsuit in the Court of Queen's Bench of Alberta Judicial District of Edmonton against certain defendants, including EchoStar. WIC is a company authorized to broadcast certain copyrighted work, such as movies and concerts, to residents of Canada. WIC alleges that the defendants engaged in, promoted, and/or allowed satellite dish equipment from the United States to be sold in Canada and to Canadian residents and that some of the defendants allowed and profited from Canadian residents purchasing and viewing subscription television programming that is only authorized for viewing in the United States. The lawsuit seeks, among other things, an interim and permanent injunction prohibiting the defendants from importing hardware into Canada and from activating receivers in Canada, together with damages in excess of \$175 million.

We filed motions to dismiss each of the actions for lack of personal jurisdiction. The Court in the Alberta action recently denied our Motion to Dismiss. The Alberta Court also granted a motion to add more EchoStar parties to the lawsuit. EchoStar Satellite Corporation, EchoStar DBS Corporation, EchoStar Technologies Corporation, and EchoStar Satellite Broadcast Corporation have been added as defendants in the litigation. The newly added defendants have also challenged jurisdiction. The Court in the Federal action has stayed that case before ruling on our motion to dismiss. We intend to vigorously defend the suits in the event our motions are denied. It is too early to determine whether or when any other lawsuits or claims will be filed. It is also too early to make an assessment of the probable outcome of the litigation or to determine the extent of any potential liability or damages.

Broadcast network programming

Under the Satellite Home Viewer Act, the determination of whether a household qualifies as "unserved" for the purpose of eligibility to receive a distant network channel depends, in part, on whether that household can receive a signal of "Grade B intensity" as defined by the FCC.

During 1998, the national networks and local affiliate stations challenged, based upon copyright infringement, PrimeTime 24's methods of selling network programming to consumers. Historically, we obtained distant broadcast network signals for distribution to our customers through PrimeTime 24. The United States District Court for the Southern District of Florida entered a nationwide permanent injunction preventing PrimeTime 24 from selling its programming to consumers unless the programming was sold in accordance with certain stipulations in the injunction. The injunction covers distributors as well. The plaintiffs in the Florida litigation informed us they considered us a distributor for purposes of that injunction. A federal district court in North Carolina also issued an injunction against PrimeTime 24 prohibiting certain distant signal retransmissions in the Raleigh area. The Fourth Circuit Court of Appeals recently affirmed the North Carolina Court's decision. We have implemented Satellite Home Viewer Act compliance procedures which materially restrict the market for the sale of network channels by us.

ECHOSTAR COMMUNICATIONS CORPORATION
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS - CONTINUED
(Unaudited)

In October 1998, we filed a declaratory judgment action in the United States District Court for the District of Colorado against the four major networks. We asked the court to enter a judgment declaring that our method of providing distant network programming does not violate the Satellite Home Viewer Act and hence does not infringe the networks' copyrights. In November 1998, the four major broadcast networks and their affiliate groups filed a complaint against us in federal court in Miami alleging, among other things, copyright infringement. The court combined the case that we filed in Colorado with the case in Miami and transferred it to the Miami court.

In February 1999, CBS, NBC, Fox and ABC filed a "Motion for Temporary Restraining Order, Preliminary Injunction and Contempt Finding" against DirecTV in Miami related to the delivery of distant network channels to DirecTV customers by satellite. Under the terms of a settlement between DirecTV and the networks, some DirecTV customers were scheduled to lose access to their satellite-provided network channels by July 31, 1999, while other DirecTV customers were to be disconnected by December 31, 1999. Subsequently, PrimeTime 24 and substantially all providers of satellite-delivered network programming other than us agreed to this cut-off schedule.

The networks are pursuing a Motion for Preliminary Injunction in the Miami Court, asking the Court to enjoin us from providing network programming except under very limited circumstances, and to turn off network programming to many of our customers.

A preliminary injunction hearing was held during September 1999. The Court took the issues under advisement to consider the networks' request for an injunction, whether to hear live testimony before ruling upon the request, and whether to hear argument on why the Satellite Home Viewer Act may be unconstitutional, among other things. The Court did not say when a decision will be made, or whether an additional hearing will be necessary prior to ruling on the networks' preliminary injunction motion. Additional motions and affidavits have been filed with the Court over the past several months and a ruling adverse, or favorable, to us could issue at any time.

If this case is decided against us, or a preliminary injunction is issued, significant material restrictions on the sale of distant ABC, NBC, CBS and Fox channels by us could result, including potentially a nationwide permanent prohibition on our broadcast of ABC, NBC, CBS and Fox network channels by satellite. The litigation and the new legislation discussed above, among other things, could also require us to terminate delivery of network signals to a material portion of our subscriber base, which could cause many of these subscribers to cancel their subscription to our other services. While the networks have not sought monetary damages, they have sought to recover attorney fees if they prevail. We have sent letters to some of our subscribers warning that their access to distant broadcast network channels might be terminated soon and have terminated ABC, NBC, CBS and Fox programming to many customers.

In November 1999, Congress passed new legislation regarding the satellite delivery of network programming and it was signed into law by President Clinton. This new law has the potential of reducing the number of customers whose network channels EchoStar may otherwise be required to terminate, as the law "grandfathers" many subscribers to continue to receive network channels by satellite.

EHOSTAR COMMUNICATIONS CORPORATION
 NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS - CONTINUED
 (Unaudited)

6. SEGMENT REPORTING

Financial Data by Business Unit

	DISH NETWORK -----	EHOSTAR TECHNOLOGIES CORPORATION -----	SATELLITE SERVICES -----	ELIMINATIONS AND OTHER -----	CONSOLIDATED TOTAL -----
THREE MONTHS ENDED MARCH 31, 1999					
Revenue	\$ 269,189	\$ 26,517	\$ 9,110	\$ 4,760	\$ 309,576
Net income (loss) before extraordinary charges	(495,439)	(3,776)	4,962	390,921	(103,332)
THREE MONTHS ENDED MARCH 31, 2000					
Revenue	\$ 484,448	\$ 52,469	\$ 17,661	\$ 11,143	\$ 565,721
Net income (loss)	(534,017)	(4,494)	11,062	342,319	(185,130)

7. SUBSEQUENT EVENTS

During April 2000, EchoStar announced an investment of \$50 million in Gilat-To-Home Inc. Gilat-To-Home, a joint venture whose partners now include EchoStar, Gilat Satellite Networks Ltd., and Microsoft, plans to provide consumer, two-way satellite, broadband Internet service later this year. With the investment, EchoStar will hold approximately a 17.6% stake in Gilat-To-Home.

EchoStar and Gilat previously announced an agreement to jointly offer consumers two-way, Ku-band, high-speed satellite Internet access along with DISH Network satellite television programming via a single small consumer dish. Under the terms of the agreement, EchoStar will distribute the Gilat-To-Home broadband satellite Internet service powered by MSN along with DISH Network satellite TV service through its retailers nationwide. The Gilat-To-Home services are expected to be available during late 2000.

ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

All statements contained herein, as well as statements made in press releases and oral statements that may be made by us or by officers, directors or employees acting on our behalf, that are not statements of historical fact constitute "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995. Such forward-looking statements involve known and unknown risks, uncertainties and other factors that could cause our actual results to be materially different from historical results or from any future results expressed or implied by such forward-looking statements. Among the factors that could cause our actual results to differ materially are the following: a total or partial loss of a satellite due to operational failures, space debris or otherwise; an unsuccessful launch or deployment of our sixth satellite, EchoStar VI; delays in the construction of our seventh, eighth or ninth satellites; a decrease in sales of digital equipment and related services to international direct-to-home or DTH service providers; a decrease in DISH Network subscriber growth; an increase in subscriber turnover; an increase in subscriber acquisition costs; an inability to obtain certain retransmission consents; our inability to retain necessary authorizations from the FCC; an increase in competition from cable, direct broadcast satellite, other satellite system operators, and other providers of subscription television services; the introduction of new technologies and competitors into the subscription television business; a change in the regulations governing the subscription television service industry; the outcome of any litigation in which we may be involved; general business and economic conditions; and other risk factors described from time to time in our reports filed with the Securities and Exchange Commission. In addition to statements that explicitly describe such risks and uncertainties, readers are urged to consider statements that include the terms "believes," "belief," "expects," "plans," "anticipates," "intends" or the like to be uncertain and forward-looking. All cautionary statements made herein should be read as being applicable to all forward-looking statements wherever they appear. In this connection, investors should consider the risks described herein and should not place undue reliance on any forward-looking statements.

RESULTS OF OPERATIONS

Three Months Ended March 31, 2000 Compared to the Three Months Ended March 31, 1999.

Revenue. Total revenue for the three months ended March 31, 2000 was \$566 million, an increase of \$256 million compared to total revenue for the three months ended March 31, 1999 of \$310 million. The increase in total revenue was primarily attributable to DISH Network subscriber growth. We expect that our revenues will continue to increase as the number of DISH Network subscribers increases.

DISH Network subscription television services revenue totaled \$477 million for the three months ended March 31, 2000, an increase of \$216 million compared to the same period in 1998. This increase was directly attributable to the increase in the number of DISH Network subscribers and higher average revenue per subscriber. DISH Network subscribers for the three months ended March 31, 2000 increased approximately 71% compared to the same period in 1999. As March 31, 2000, we had approximately 3.9 million DISH Network subscribers compared to 2.3 million at March 31, 1999. The strong subscriber growth reflects the impact of aggressive marketing promotions, including our free installation program, together with increased interest in satellite television resulting from the availability of local network channels by satellite, together with generally good economic conditions and positive momentum for the DISH Network generally. Monthly revenue per subscriber was approximately \$43.85 during the three months ended March 31, 2000 and approximately \$41.50 during the same period during 1999. DISH Network subscription television services revenue principally consists of revenue from basic, premium and pay-per-view subscription television services. DISH Network subscription television services revenue will continue to increase to the extent we are successful in increasing the number of DISH Network subscribers and maintaining or increasing revenue per subscriber.

For the three months ended March 31, 2000, DTH equipment sales and integration services totaled \$63 million, an increase of \$30 million compared to the same period during 1999. DTH equipment sales consist of sales of digital set-top boxes and other digital satellite broadcasting equipment to international DTH service operators and sales of DBS accessories. This increase in DTH equipment sales and integration services revenue was primarily attributable to an increase in international demand for digital set-top boxes as compared to the same period during 1999.

ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS - CONTINUED

Substantially all of our EchoStar Technologies Corporation, or ETC, revenues have resulted from sales to two international DTH providers. We currently have agreements to provide equipment to DTH service operators in Spain and Canada. As a result, our ETC business currently is economically dependent on these two DTH providers. Our future revenue from the sale of DTH equipment and integration services in international markets depends largely on the success of these DTH operators and continued demand for our digital set-top boxes. Although there can be no assurance, we expect that our DTH equipment and integration services revenue for the year ended December 31, 2000 will approximate DTH equipment and integration services revenue during 1999. Although we continue to actively pursue additional distribution and integration service opportunities internationally, no assurance can be given that any such efforts will be successful.

As previously reported, since 1998, Telefonica, one of the two DTH service providers described above, has had recurrent discussions and negotiations for a possible merger with Sogecable (Canal Plus Satellite), one of its primary competitors. While we are not currently aware of any formal negotiations between Telefonica and Canal Plus Satellite, there are again rumors of a potential merger in the marketplace. Although we have binding purchase orders from Telefonica for deliveries of DTH equipment in 2000, we cannot predict the impact, if any, eventual consummation of this possible merger might have on our future sales to Telefonica.

Satellite services revenue totaled \$14 million during the three months ended March 31, 2000, an increase of \$6 million as compared to the same period during 1999. These revenues principally include fees charged to content providers for signal carriage and revenues earned from business television, or BTV customers. The increase in satellite services revenue was primarily attributable to increased BTV revenue due to the addition of new full-time BTV customers. Satellite services revenue for the year ended December 31, 2000 is expected to increase as compared to the year ended December 31, 1999, to the extent we are successful in increasing the number of our BTV customers and developing and implementing new services.

In order, among other things, to prepare for a potential adverse result in our pending litigation with the four major broadcast networks and their affiliate groups, we have sent letters to some of our subscribers warning that their access to CBS, NBC, Fox and ABC distant network channels might be terminated this year. Such terminations would result in a small reduction in average monthly revenue per subscriber and possibly increased subscriber turnover. While there can be no assurance, any such decreases could be offset by increases in average monthly revenue per subscriber resulting from the delivery of local network channels by satellite, and increases in other programming offerings that will follow the launch of EchoStar VI this summer.

DISH Network Operating Expenses. DISH Network operating expenses totaled \$270 million during the three months ended March 31, 2000, an increase of \$126 million or 88%, compared to the same period in 1999. The increase in DISH Network operating expenses was consistent with, and primarily attributable to, the increase in the number of DISH Network subscribers. DISH Network operating expenses represented 57% and 55% of subscription television services revenue during the three months ended March 31, 2000 and 1999, respectively. The percentage increase is primarily attributable to operating inefficiencies resulting from our rapid growth including upgrades to our installation and call center infrastructure. We believe these issues will be resolved shortly and will provide long term efficiency improvement.

Subscriber-related expenses totaled \$202 million during the three months ended March 31, 2000, an increase of \$92 million compared to the same period in 1999. Such expenses, which include programming expenses, copyright royalties, residuals currently payable to retailers and distributors, and billing, lockbox and other variable subscriber expenses, represented 42% of subscription television services revenues during each of the three months ended March 31, 2000 and 1999. Although we do not currently expect subscriber-related expenses as a percentage of subscription television services revenue to increase materially in future periods, there can be no assurance this expense to revenue ratio will not materially increase.

Customer service center and other expenses principally consist of costs incurred in the operation of our DISH Network customer service centers, such as personnel and telephone expenses, as well as subscriber equipment installation and other operating expenses. Customer service center and other expenses totaled \$56 million during the

ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS - CONTINUED

three months ended March 31, 2000, an increase of \$32 million as compared to the same period in 1999. The increase in customer service center and other expenses primarily resulted from increased personnel and telephone expenses to support the growth of the DISH Network and from installation expenses related to the expansion of our installation business. Customer service center and other expenses totaled 12% of subscription television services revenue during the three months ended March 31, 2000, as compared to 9% during the same period in 1999. These expenses in total, and as a percentage of subscription television services revenue, may continue to increase in future periods as we continue to develop and expand our customer service centers and installation business to provide additional customer support and help us better accommodate anticipated subscriber growth, resulting in long term efficiency improvements.

Satellite and transmission expenses include expenses associated with the operation of our digital broadcast center, contracted satellite telemetry, tracking and control services, and satellite in-orbit insurance. Satellite and transmission expenses totaled \$12 million during the three months ended March 31, 2000, a \$3 million increase compared to the same period in 1999. This increase resulted from higher satellite and other digital broadcast center operating expenses due to an increase in the number of operational satellites. We expect satellite and transmission expenses to continue to increase in the future as additional satellites or digital broadcast centers are placed in service. Satellite and transmission expenses totaled 3% and 4% of subscription television services revenue during the three months ended March 31, 2000 and 1999, respectively.

Cost of sales - DTH equipment and Integration Services. Cost of sales - DTH equipment and integration services totaled \$46 million during the three months ended March 31, 2000, an increase of \$23 million compared to the same period in 1999. Cost of sales - DTH equipment and integration services principally includes costs associated with digital set-top boxes and related components sold to international DTH operators and DBS accessories. This increase in cost of sales - DTH equipment and integration services is consistent with the increase in DTH equipment sales and integration services revenue. Cost of sales - DTH equipment and integration services represented 74% and 70% of DTH equipment revenue, during the three months ended March 31, 2000 and 1999, respectively. The increase reflects price pressure resulting from increased competition from other providers of DTH equipment.

Marketing Expenses. Marketing expenses totaled \$273 million during the three months ended March 31, 2000, an increase of \$134 million compared to the same period in 1999. The increase in marketing expenses was primarily attributable to an increase in subscriber promotion subsidies. Subscriber promotion subsidies include the excess of transaction costs over transaction proceeds at the time of sale of EchoStar receiver systems, activation allowances paid to retailers, and other promotional incentives. Advertising and other expenses totaled \$23 million and \$12 million during the three months ended March 31, 2000 and 1999, respectively.

We subsidize the purchase and installation of EchoStar receiver systems in order to attract new DISH Network subscribers. Consequently, our subscriber acquisition costs are significant. In connection with our plans to encourage as many new subscribers as possible to be ready for the additional services that will become available at the 110(Degree) WL orbital location, and as a result of continuing competition and our plans to attempt to continue to drive rapid subscriber growth, we expect our subscriber acquisition costs for 2000 may average as much as \$450 or more for the full year.

During the three months ended March 31, 2000, our marketing promotions included our DISH Network One-Rate Plan, C-band bounty program, Great Rewards program (PrimeStar bounty), cable bounty and a free installation program. Our subscriber acquisition costs under these programs are significantly higher than those under our marketing programs historically.

Under the DISH Network One-Rate Plan, consumers are eligible to receive a rebate that ranges from \$100 up to \$299 on the purchase of certain EchoStar receiver systems. To be eligible for this rebate, a subscriber must make a one-year commitment to subscribe to our America's Top 100 CD programming package plus additional channels. The amount of the monthly programming commitment determines the amount of the rebate. Although subscriber acquisition costs are materially higher under this plan compared to previous promotions, DISH Network One-Rate Plan customers generally provide materially greater average revenue per subscriber than a typical DISH Network subscriber. In addition, we believe that these customers represent lower credit risk and therefore may be marginally less likely to

ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS - CONTINUED

disconnect their service than other DISH Network subscribers. To the extent that actual consumer participation levels exceed present expectations, subscriber acquisition costs may increase. Although there can be no assurance as to the ultimate duration of the DISH Network One-Rate Plan, it will continue through at least April 2000.

Under our bounty programs, current cable, C-band and PrimeStar customers are eligible to receive a free base-level EchoStar receiver system and free installation. In addition, PrimeStar customers are eligible to receive six months of our America's Top 40 programming or our DISH Latino programming (both packages retail for \$19.99 per month) without charge. A subscriber must make a one-year commitment to subscribe to either our America's Top 40, our DISH Latino programming package or our America's Top 100 CD programming package and prove that they are a current cable, C-band or PrimeStar customer to be eligible for these programs.

Under our free installation program all customers who purchase an EchoStar receiver system through April 30, 2000 are eligible to receive a free professional installation. The free installation program was responsible, in part, for the strong subscriber growth during the first quarter of 2000. The free installation program was also largely responsible for the increase in subscriber acquisition costs during the first quarter. While there can be no assurance, we expect that subscriber acquisition costs may be lower during the remainder of 2000 following expiration of the free installation program and commencement of other less expensive programs including our new Digital Home Plan. That plan provides consumers with the use of two receivers plus installation, in home service and our America's Top 150 programming package for only \$49.99, plus a \$99 up front fee.

During the three months ended March 31, 2000, our total subscriber acquisition costs, inclusive of acquisition marketing expenses, totaled approximately \$273 million, or approximately \$467 per new subscriber activation. Comparatively, our subscriber acquisition costs during the three months ended March 31, 1999, inclusive of acquisition marketing expenses, totaled \$142 million, or approximately \$355 per new subscriber activation. The increase in our subscriber acquisition costs, on a per new subscriber activation basis, principally resulted from the impact of several aggressive marketing promotions to acquire new subscribers, including most significantly our free installation offer which commenced in January and is scheduled to conclude during the second quarter.

In connection with the launch of EchoStar V and EchoStar VI, we will utilize the 110(Degree) orbital location to enhance revenue opportunities with new value added services for our current and future subscribers, and maintain our primary DBS service at the 119(Degree) orbital location. Our existing subscribers will need to upgrade their dish and receiver systems in order to take advantage of all of the services we offer. To encourage existing subscribers to upgrade their systems and remain subscribers, we are currently subsidizing upgrades by existing subscribers to our DISH 500 system. The cost of this program could be significant if utilized by a large number of our existing subscribers. The anticipated date for the launch of EchoStar VI, previously scheduled for June 2000, is now expected in July as a result of a delay of an Atlas launch scheduled prior to EchoStar VI.

Our subscriber acquisition costs, both in the aggregate and on a per new subscriber activation basis, may materially increase further to the extent that we continue or expand our bounty programs, our "free system/free installation" program, or the DISH Network One-Rate Plan, or if we determine that other more aggressive promotions are necessary to respond to competition, or for other reasons.

General and Administrative Expenses. General and administrative expenses totaled \$56 million during the three months ended March 31, 2000, an increase of \$26 million as compared to the same period in 1999. The increase in G&A expenses was principally attributable to increased personnel expenses to support the growth of the DISH Network. G&A expenses represented 10% of total revenue during each of the three months ended March 31, 2000 and 1999. Although we expect G&A expenses as a percentage of total revenue to remain near the current level or decline modestly in future periods, this expense to revenue ratio could increase.

Non-cash, Stock-based Compensation. During 1999, we adopted an incentive plan which provided certain key employees a contingent incentive including stock options. The payment of these incentives was contingent upon our achievement of certain financial and other goals. We met certain of these goals during 1999. Accordingly, we recorded approximately \$179 million of deferred compensation related to post-grant appreciation of stock

ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS - CONTINUED

options granted pursuant to the 1999 incentive plan. The related deferred compensation will be recognized over the five-year vesting period. As a result of substantial post-grant appreciation of options, during the three months ended March 31, 2000 we recognized \$14 million of the total of \$179 million of deferred stock-based compensation under this performance based plan. The remainder will be recognized over the remaining vesting period.

EBITDA. EBITDA represents earnings before interest, taxes, depreciation, amortization, and non-cash, stock-based compensation. EBITDA was negative \$88 million during the three months ended March 31, 2000 compared to negative \$31 million during the same period in 1999. This decline in EBITDA principally resulted from an increase in subscriber acquisition costs due to the success of several aggressive marketing promotions to acquire new subscribers, as well as other previously described factors. It is important to note that EBITDA does not represent cash provided or used by operating activities. Further, our calculation of EBITDA for the three months ended March 31, 2000 does not include approximately \$14 million of non-cash compensation expense resulting from post-grant appreciation of employee stock options. EBITDA should not be considered in isolation or as a substitute for measures of performance prepared in accordance with generally accepted accounting principles.

As previously discussed, to the extent we expand our current marketing promotions and our subscriber acquisition costs materially increase, our EBITDA results will be negatively impacted because subscriber acquisition costs are expensed as incurred.

Depreciation and Amortization. Depreciation and amortization expenses aggregated \$40 million during the three months ended March 31, 2000, a \$15 million increase compared to the same period in 1999. The increase in depreciation and amortization expenses principally resulted from an increase in depreciation related to the commencement of operation of EchoStar V in November 1999 and other depreciable assets placed in service during 1999.

Other Income and Expense. Other expense, net totaled \$43 million during the three months ended March 31, 2000, a decrease of \$5 million compared to the same period in 1999. This decrease resulted from an increase in interest income partially offset by an increase in interest expense.

LIQUIDITY AND CAPITAL RESOURCES

Cash Sources

As of March 31, 2000, our unrestricted cash, cash equivalents and marketable investment securities totaled \$1.051 billion compared to \$1.254 billion as of December 31, 1999. For the three months ended March 31, 1999 and 2000, we reported net cash flows from operating activities of \$5 million and negative \$105 million, respectively. The increase in net cash flows reflects, among other things, the significant increase in subscriber acquisition costs associated with our rapid subscriber growth and our "free installation" promotion.

We expect that our future working capital, capital expenditure and debt service requirements will be satisfied primarily from existing cash and investment balances and cash generated from operations. Our ability to generate positive future operating and net cash flows is dependent upon our ability to continue to rapidly expand our DISH Network subscriber base, retain existing DISH Network subscribers, and our ability to grow our ETC and Satellite Services businesses. There can be no assurance that we will be successful in achieving our goals. The amount of capital required to fund our 2000 working capital and capital expenditure needs will vary, depending, among other things, on the rate at which we acquire new subscribers and the cost of subscriber acquisition. Our working capital and capital expenditure requirements could increase materially in the event of increased competition for subscription television customers, significant satellite failures, or in the event of a general economic downturn, among other factors. These factors could require that we raised additional capital in the future.

Subscriber Turnover

Our churn increased during 1999, but did not further increase during the three months ended March 31, 2000. We believe that our average churn continues to be lower than satellite industry averages. Our maturing subscriber base, together with the effects of rapid growth, were responsible for the increase in churn during 1999. Rapid growth resulted

ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS - CONTINUED

in customer installation delays, and the effectiveness of our customer service has also been impacted. We are rapidly expanding our customer service and installation capabilities in response to our increased business, but churn may increase until we have completed the upgrades to our infrastructure. Further, our litigation with the networks in Miami, and other factors, including our inability to obtain retransmission consents from local network stations on or before May 29, 2000, could require us to terminate delivery of network channels to a material portion of our subscriber base, which could cause many of those customers to cancel their subscription to our other services. Any such terminations could result in a small reduction in average monthly revenue per subscriber and could result in increased churn. While there can be no assurance, notwithstanding the issues discussed above we expect to be able to continue to manage churn to a level at or below satellite industry averages during 2000.

Subscriber Acquisition Costs

As previously described, we subsidize the purchase and installation of EchoStar receiver systems in order to attract new DISH Network subscribers. Consequently, our subscriber acquisition costs are significant. Our average subscriber acquisition cost was \$467 during the first quarter of 2000. While there can be no assurance, we expect that our per subscriber acquisition costs for the remainder of 2000 will be less than during the first quarter, unless competition, the desire to drive stronger subscriber growth or other factors require relatively more costly promotions than those presently planned, or result in the extension of our free installation program beyond the currently scheduled second quarter expiration.

In connection with our plans to encourage as many new subscribers as possible to be ready for the additional services that will become available at the 110(Degree) WL orbital location, and as a result of continuing competition and our plans to attempt to continue to drive rapid subscriber growth, we expect our subscriber acquisition costs for 2000 may average as much as \$450 or more for the full year. Our subscriber acquisition costs, both in the aggregate and on a per new subscriber activation basis, may materially increase further to the extent that we continue or expand our bounty programs, our "free system/free installation" program, or the DISH Network One-Rate Plan, or if we determine that more aggressive promotions are necessary to respond to competition, or for other reasons.

Funds necessary to meet subscriber acquisition costs will be satisfied from existing cash and investment balances to the extent available. We may, however, be required to raise additional capital in the future to meet these requirements. If we were required to raise capital today a variety of debt and equity funding sources would likely be available to us. However, there can be no assurance that additional financing will be available on acceptable terms, or at all, if needed in the future.

Conditional Access System

The access control system is central to the security network that prevents unauthorized viewing of programming. Theft of cable and satellite programming has been widely reported and our signal encryption has been pirated and could be further compromised in the future. If other measures are not successful, it could be necessary to replace the credit card size card that controls the security of each consumer set top box at a material cost to us.

Obligations and Future Capital Requirements

As of March 31, 2000, we had approximately \$3.0 billion of outstanding long-term debt (including the current portion), which includes \$2.6 million of outstanding notes that were not tendered during our January 1999 refinancing. We are required to retire these remaining notes when they mature, and the indentures governing these notes will remain outstanding (although substantially all of the restrictive covenants have been eliminated) until each series of notes has been retired in full.

Semi-annual cash debt service requirements of approximately \$94 million related to our 9 1/4% Senior Notes due 2006 (seven year notes) and our 9 3/8% Senior Notes due 2009 (ten year notes), is payable in arrears on February 1 and August 1 each year. Semi-annual cash debt service requirements of approximately \$24 million related to our 4 7/8% Convertible Subordinated Notes due 2007 (convertible notes) is payable

ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS - CONTINUED

in arrears on January 1 and July 1 of each year, commencing July 1, 2000. There are no scheduled principal payment or sinking fund requirements prior to maturity of any of these notes.

We utilized \$91 million of satellite vendor financing for our first four satellites. As of March 31, 2000, approximately \$36 million of that satellite vendor financing remained outstanding. The satellite vendor financing bears interest at 8 1/4% and is payable in equal monthly installments over five years following launch of the satellite to which it relates. A portion of the contract price with respect to EchoStar VII is payable over a period of 13 years following launch with interest at 8%, and a portion of the contract price with respect to EchoStar VIII and EchoStar IX is payable following launch with interest at 8%. Those in orbit payments are contingent on the continued health of the satellite.

Dividends on our 6 3/4% Series C Cumulative Convertible Preferred Stock began to accrue on November 2, 1999. Holders of the Series C Preferred Stock are entitled to receive cumulative dividends at an annual rate of 6 3/4% of the Liquidation Preference of \$50 per share. Dividends are payable quarterly in arrears, commencing February 1, 2000, when, as, and if declared by our Board of Directors. All accumulated and unpaid dividends may, at our option, be paid in cash, Class A common stock, or a combination thereof upon conversion or redemption. We declared a cash dividend of approximately \$290,000 or \$0.84375 per share, payable on May 1, 2000 to Series C Preferred Stock shareholders of record on April 21, 2000.

During the remainder of 2000, we anticipate total capital expenditures of approximately \$300-\$425 million. This amount includes approximately \$180-\$240 million related to the construction and launch of EchoStar VI, EchoStar VII, EchoStar VIII and EchoStar IX, approximately \$50-\$100 million related to EchoStar receiver systems to be provided under our Digital Home program and \$40 million for capital expenditures related to the build-out of our digital broadcast centers.

In addition to our DBS business plan, we have licenses, or applications pending with the FCC, for a two satellite FSS Ku-band satellite system, a two satellite FSS Ka-band satellite system, and a proposed modification thereof and a Low Earth Orbit Mobile-Satellite Service 6-satellite system. We will need to raise additional capital to fully construct these satellites. We recently announced agreements for the construction and delivery of three new satellites. Two of these satellites, EchoStar VII and EchoStar VIII, will be advanced, high-powered DBS satellites. The third satellite, EchoStar IX, will be a hybrid Ku/Ka-band satellite.

We expect that our future working capital, capital expenditure and debt service requirements will be satisfied from existing cash and investment balances, and cash generated from operations. Our ability to generate positive future operating and net cash flows is dependent, among other things, upon our ability to continue to rapidly expand our DISH Network subscriber base, retain existing DISH Network subscribers, and our ability to grow our ETC and Satellite Services businesses. During the first quarter of 2000, subscriber growth exceeded our expectations. To the extent the subscriber growth rate continues to exceed our expectations, it may be necessary for us to raise additional capital to fund increased working capital requirements. There may be a number of other factors, some of which are beyond our control or ability to predict, that could require us to raise additional capital. These factors include unexpected increases in operating costs and expenses, a defect in or the loss of any satellite, or an increase in the cost of acquiring subscribers due to additional competition, among other things. If cash generated from our operations is not sufficient to meet our debt service requirements or other obligations, we would be required to obtain cash from other financing sources. If we were required to raise capital today a variety of debt and equity funding sources would likely be available to us. However, there can be no assurance that such financing would be available on terms acceptable to us, or if available, that the proceeds of such financing would be sufficient to enable us to meet all of our obligations.

PART II - OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

DirecTV

During February 2000 we filed suit against DirecTV and Thomson Consumer Electronics/RCA in the Federal District Court of Colorado. The suit alleges that DirecTV has utilized improper conduct in order to fend off competition from the DISH Network. According to the complaint, DirecTV has demanded that certain retailers stop displaying our merchandise and has threatened to cause economic damage to retailers if they continued to offer both product lines in head-to-head competition. The suit alleges, among other things, that DirecTV has acted in violation of federal and state anti-trust laws in order to protect DirecTV's market share. We are seeking injunctive relief and monetary damages. It is too early in the litigation to make an assessment of the probable outcome.

The DirecTV defendants filed a counterclaim against us. DirecTV alleges that we tortuously interfered with a contract that DirecTV allegedly had with Kelly Broadcasting Systems, Inc., or KBS. DirecTV alleges that we "merged" with KBS, in contravention of DirecTV's contract with KBS. DirecTV also alleges that we have falsely advertised to consumers about our right to offer network programming. DirecTV further alleges that we improperly used certain marks owned by PrimeStar, now owned by DirecTV. Finally, DirecTV alleges that we have been marketing National Football League games in a misleading manner. The amount of damages DirecTV is seeking is as yet unquantified. We intend to vigorously defend against these claims. The case is currently in discovery.

The News Corporation Limited

During February 1997, News Corporation agreed to acquire approximately 50% of our outstanding capital stock. During late April 1997, substantial disagreements arose between the parties regarding their obligations under this agreement. Those substantial disagreements led to litigation which the parties subsequently settled. In connection with the News Corporation litigation, we have a contingent fee arrangement with the attorneys who represented us in that litigation, which provides for the attorneys to be paid a percentage of any net recovery obtained in the News Corporation litigation. The attorneys have asserted that they may be entitled to receive payments totaling hundreds of millions of dollars under this fee arrangement. We are vigorously contesting the attorneys' interpretation of the fee arrangement, which we believe significantly overstates the magnitude of our liability. We also believe that the fee arrangement is void and unenforceable because the attorneys who represented us are seeking a fee that we believe is unreasonable and excessive, among other things. If we are unable to resolve this fee dispute with the attorneys, it would be resolved through arbitration or litigation. During mid-1999, we initiated litigation against the attorneys in the District Court, Arapahoe County, Colorado, arguing that the fee arrangement is void and unenforceable. In December 1999, the attorneys initiated an arbitration proceeding before the American Arbitration Association. It is too early to determine the outcome of negotiations, arbitration or litigation regarding this fee dispute.

WIC Premium Television Ltd.

During July 1998, a lawsuit was filed by WIC Premium Television Ltd., an Alberta corporation, in the Federal Court of Canada Trial Division, against General Instrument Corporation, HBO, Warner Communications, Inc., John Doe, Showtime, United States Satellite Broadcasting Company, Inc., EchoStar, and two of EchoStar's wholly-owned subsidiaries. The lawsuit seeks, among other things, an interim and permanent injunction prohibiting the defendants from activating receivers in Canada and from infringing any copyrights held by WIC. It is too early to determine whether or when any other lawsuits or claims will be filed. It is also too early to make an assessment of the probable outcome of the litigation or to determine the extent of any potential liability or damages.

During September 1998, WIC filed another lawsuit in the Court of Queen's Bench of Alberta Judicial District of Edmonton against certain defendants, including EchoStar. WIC is a company authorized to broadcast certain copyrighted work, such as movies and concerts, to residents of Canada. WIC alleges that the defendants engaged in, promoted, and/or allowed satellite dish equipment from the United States to be sold in Canada and to Canadian residents and that some of the defendants allowed and profited from Canadian residents purchasing and viewing subscription television programming that is only authorized for viewing in the United States. The lawsuit

PART II - OTHER INFORMATION

seeks, among other things, an interim and permanent injunction prohibiting the defendants from importing hardware into Canada and from activating receivers in Canada, together with damages in excess of \$175 million.

We filed motions to dismiss each of the actions for lack of personal jurisdiction. The Court in the Alberta action recently denied our Motion to Dismiss. The Alberta Court also granted a motion to add more EchoStar parties to the lawsuit. EchoStar Satellite Corporation, EchoStar DBS Corporation, EchoStar Technologies Corporation, and EchoStar Satellite Broadcast Corporation have been added as defendants in the litigation. The newly added defendants have also challenged jurisdiction. The Court in the Federal action has stayed that case before ruling on our motion to dismiss. We intend to vigorously defend the suits in the event our motions are denied. It is too early to determine whether or when any other lawsuits or claims will be filed. It is also too early to make an assessment of the probable outcome of the litigation or to determine the extent of any potential liability or damages.

Broadcast network programming

Under the Satellite Home Viewer Act, the determination of whether a household qualifies as "unserved" for the purpose of eligibility to receive a distant network channel depends, in part, on whether that household can receive a signal of "Grade B intensity" as defined by the FCC.

During 1998, the national networks and local affiliate stations challenged, based upon copyright infringement, PrimeTime 24's methods of selling network programming to consumers. Historically, we obtained distant broadcast network signals for distribution to our customers through PrimeTime 24. The United States District Court for the Southern District of Florida entered a nationwide permanent injunction preventing PrimeTime 24 from selling its programming to consumers unless the programming was sold in accordance with certain stipulations in the injunction. The injunction covers distributors as well. The plaintiffs in the Florida litigation informed us they considered us a distributor for purposes of that injunction. A federal district court in North Carolina also issued an injunction against PrimeTime 24 prohibiting certain distant signal retransmissions in the Raleigh area. The Fourth Circuit Court of Appeals recently affirmed the North Carolina Court's decision. We have implemented Satellite Home Viewer Act compliance procedures which materially restrict the market for the sale of network channels by us.

In October 1998, we filed a declaratory judgment action in the United States District Court for the District of Colorado against the four major networks. We asked the court to enter a judgment declaring that our method of providing distant network programming does not violate the Satellite Home Viewer Act and hence does not infringe the networks' copyrights. In November 1998, the four major broadcast networks and their affiliate groups filed a complaint against us in federal court in Miami alleging, among other things, copyright infringement. The court combined the case that we filed in Colorado with the case in Miami and transferred it to the Miami court.

In February 1999, CBS, NBC, Fox and ABC filed a "Motion for Temporary Restraining Order, Preliminary Injunction and Contempt Finding" against DirecTV in Miami related to the delivery of distant network channels to DirecTV customers by satellite. Under the terms of a settlement between DirecTV and the networks, some DirecTV customers were scheduled to lose access to their satellite-provided network channels by July 31, 1999, while other DirecTV customers were to be disconnected by December 31, 1999. Subsequently, PrimeTime 24 and substantially all providers of satellite-delivered network programming other than us agreed to this cut-off schedule.

The networks are pursuing a Motion for Preliminary Injunction in the Miami Court, asking the Court to enjoin us from providing network programming except under very limited circumstances, and to turn off network programming to many of our customers.

A preliminary injunction hearing was held during September 1999. The Court took the issues under advisement to consider the networks' request for an injunction, whether to hear live testimony before ruling upon the request, and whether to hear argument on why the Satellite Home Viewer Act may be unconstitutional, among other things. The Court did not say when a decision will be made, or whether an additional hearing will be

necessary prior to ruling on the networks' preliminary injunction motion. Additional motions and affidavits have been filed with the Court over the past several months and a ruling adverse, or favorable to us could be issued at any time.

If this case is decided against us, or a preliminary injunction is issued, significant material restrictions on the sale of distant ABC, NBC, CBS and Fox channels by us could result, including potentially a nationwide permanent prohibition on our broadcast of ABC, NBC, CBS and Fox network channels by satellite. The litigation and the new legislation discussed above, among other things, could also require us to terminate delivery of network signals to a material portion of our subscriber base, which could cause many of these subscribers to cancel their subscription to our other services. While the networks have not sought monetary damages, they have sought to recover attorney fees if they prevail. We have sent letters to some of our subscribers warning that their access to distant broadcast network channels might be terminated soon and have terminated ABC, NBC, CBS and Fox programming to many customers.

In November 1999, Congress passed new legislation regarding the satellite delivery of network programming and it was signed into law by President Clinton. This new law has the potential of reducing the number of customers whose network channels EchoStar may otherwise be required to terminate, as the law "grandfathers" many subscribers to continue to receive network channels by satellite.

ITEM 6. EXHIBITS AND REPORTS ON FORM 8-K

(a) Exhibits.

3.1(a)[] Amended Restated Articles of Incorporation of EchoStar.

10.1[] Satellite contract dated as of January 27, 2000, between EchoStar Orbital Corporation and Lockheed Martin Corporation.

10.2[] Satellite contract dated as of February 4, 2000, between EchoStar Orbital Corporation and Space Systems/Loral Inc.

10.3[] Satellite contract dated as of February 22, 2000, between EchoStar Orbital Corporation and Space Systems/Loral Inc..

10.4[] Agreement dated February 22, 2000, between EchoStar Orbital Corporation and Loral Skynet, a division of Loral SpaceCom Corporation.

27[] Financial Data Schedule.

 [] Filed herewith.

(b) Reports on Form 8-K.

On February 28, 2000, we filed a Current Report on Form 8-K to report a 2-for-1 split of our common stock. Effective March 22, 2000, stockholders of record at the close of business on March 10, 2000 received one additional share of common stock for each share they owned on the record date.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

ECHOSTAR COMMUNICATIONS CORPORATION

By: /s/ David K. Moskowitz

David K. Moskowitz
Senior Vice President, General
Counsel, Secretary and Director
(Duly Authorized Officer)

By: /s/ Steven B. Schaver

Steven B. Schaver
Chief Financial Officer
(Principal Financial Officer)

Date: April 27, 2000

EXHIBIT INDEX

Exhibit No. -----	Description -----
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27[]	Financial Data Schedule.

[] Filed herewith.

ARTICLES OF INCORPORATION OF
ECHOSTAR COMMUNICATIONS CORPORATION
(incorporating all amendments and reflecting two separate two-for-one
stock splits in 1999, and one two-for-one stock split in March 2000)

ARTICLE I
NAME

The name of the corporation shall be ECHOSTAR COMMUNICATIONS CORPORATION
(the "Corporation").

ARTICLE II
PERIOD OF DURATION

The Corporation shall exist in perpetuity, from and after the date of
filing of its original Articles of Incorporation with the Secretary of State of
the State of Nevada unless dissolved according to law.

ARTICLE III
PURPOSES

The purpose for which this Corporation is organized is to engage in any
lawful acts and activities for which corporations may be organized under the
laws of the State of Nevada and to exercise any powers permitted to
corporations under the laws of the State of Nevada.

ARTICLE IV
CAPITAL

1. Authorized Capital Stock. The total number of shares of capital stock
which the Corporation is authorized to issue shall be 3,220,000,000 shares,
consisting of 3,200,000,000 shares of common stock, par value \$0.01 per share
("Common Stock"), and 20,000,000 shares of preferred stock, par value \$0.01 per
share ("Preferred Stock").

2. Common Stock. (a) Of the 3,200,000,000 shares of authorized Common
Stock, 1,600,000,000 shares shall be designated Class A Common Stock ("Class A
Common Stock"), 800,000,000 shares shall be designated Class B Common Stock
("Class B Common Stock"), and 800,000,000 shares shall be designated Class C
Common Stock ("Class C Common Stock").

3. Preferred Stock. The Board of Directors of the Corporation is hereby authorized to provide, by resolution or resolutions adopted by such Board, for the issuance of Preferred Stock from time to time in one or more classes and/or series, to establish the number of shares of each such class or series, and to fix the powers, designations, preferences and relative, participating, optional or other rights, if any, and the qualifications, limitations or restrictions thereof, of any of the shares of each such class or series, all to the full extent permitted by the Nevada General Corporation Law, or any successor law(s) of the State of Nevada. Without limiting the generality of the foregoing, the Board of Directors is authorized to provide that shares of a class or series of Preferred Stock:

(1) are entitled to cumulative, partially cumulative or noncumulative dividends or other distributions payable in cash, capital stock or indebtedness of the Corporation or other property, at such times and in such amounts as are set forth in the Board resolutions establishing such class or series or as are determined in a manner specified in such resolutions;

(2) are entitled to a preference with respect to payment of dividends over one or more other classes and/or series of capital stock of the Corporation;

(3) are entitled to a preference with respect to any distribution of assets of the Corporation its liquidation, dissolution or winding up over one or more other classes and/or series of capital stock of the Corporation in such amount as is set forth in the Board resolutions establishing such class or series or as is determined in a manner specified in such resolutions;

(4) are redeemable or exchangeable at the option of the Corporation and/or on a mandatory basis for cash, capital stock or indebtedness of the Corporation or other property, at such times or upon the occurrence of such events, and at such prices, as are set forth in the Board resolutions establishing such class or series or as are determined in a manner specified in such resolutions;

(5) are entitled to the benefits of such sinking fund, if any, as is required to be established by the Corporation for the redemption and/or purchase of such shares by the Board resolutions establishing such class or series;

(6) are convertible at the option of the holders thereof into shares of any other class or series of capital stock of the Corporation, at such times or upon the occurrence of such events, and upon such terms, as are set forth in the Board resolutions establishing such class or series or as are determined in a manner specified in such resolutions;

(7) are exchangeable at the option of the holders thereof for cash, capital stock or indebtedness of the Corporation or other property, at such times or upon the occurrence of such events, and at such prices, as are set forth in the Board

resolutions establishing such class or series or as are determined in a manner specified in such resolutions;

(8) are entitled to such voting rights, if any, as are specified in the Board resolutions establishing such class or series (including, without limiting the generality of the foregoing, the right to elect one or more directors voting alone as a single class or series or together with one or more other classes and/or series of Preferred Stock, if so specified by such Board resolutions) at all times or upon the occurrence of specified events; and

(9) are subject to restrictions on the issuance of additional shares of Preferred Stock of such class or series or of any other class or series, or on the reissuance of shares of Preferred Stock of such class or series or of any other class or series, or on increases or decreases in the number of authorized shares of Preferred Stock of such class or series or of any other class or series.

Without limiting the generality of the foregoing authorizations, any of the voting powers, designations, preferences, rights and qualifications, limitations or restrictions of a class or series of Preferred Stock may be made dependent upon facts ascertainable outside the Board resolutions establishing such class or series, all to the full extent permitted by the Nevada General Corporation Law. Unless otherwise specified in the Board resolutions establishing a class or series of Preferred Stock, holders of a class or series of Preferred Stock shall not be entitled to cumulate their votes in any election of directors in which they are entitled to vote and shall not be entitled to any preemptive rights to acquire shares of any class or series of capital stock of the Corporation.

ARTICLE V VOTING AND CONVERSION RIGHTS

1. Voting Rights.

(a) Except as otherwise required by law or, in any Preferred Stock Statement and Certificate of Designations, Preferences and Rights ("Certificate of Designations"), with respect to all matters upon which stockholders are entitled to vote or to which stockholders are entitled to give consent, the holders of any outstanding shares of Class A Common Stock, Class B Common Stock, Class C Common Stock and Preferred Stock shall vote together without regard to class, and every holder of any outstanding shares of the Class A Common Stock and Class C Common Stock held by such holder; every holder of any outstanding shares of Class B Common Stock shall be entitled to cast ten votes in person or by proxy for each share of Class B Common Stock held by such holder; and every holder of any outstanding shares of Preferred Stock shall be entitled to cast, in person or by proxy for each share of Preferred Stock held by such holder, the number of votes specified in the applicable Certificate of Designations; provided however, in the event of a "Change in Control" of the Corporation, the holders

of any outstanding shares of Class C Common Stock shall be entitled to cast ten votes in person or by proxy for each share of Class C Common Stock held by such holder. As used herein, a "Change of Control" of the Corporation means: (i) any transaction or series of transactions, the result of which is that the Principals and their Related Parties (as such terms are hereinafter defined), or an entity controlled by the Principals and their Related Parties, cease to be the "beneficial owners" (as defined in Rule 13(d) (3) under the Securities Exchange Act of 1934) of at least 30% of the total equity interests of the Corporation and to have the voting power to elect at least a majority of the Board of Directors of the Corporation; or (ii) the first day on which a majority of the members of the Board of Directors of the Corporation are not continuing directors. "Principals" means Charles W. Ergen, James DeFranco, and David K. Moskowitz. "Related Parties" means, with respect to any Principal: (y) the spouse and each immediate family member of such Principal; and (z) each trust, corporation, partnership or other entity of which such Principal beneficially holds an 80% or more controlling interest.

(b) A quorum for the purpose of shareholder meeting shall consist of a majority of the voting power of EchoStar. If a quorum is present, the effective vote of a majority of the voting power represented at the meeting and entitled to vote on the subject matter shall be the act of the shareholders, unless the vote of a greater proportion or number is required by any provisions contained in the NGCL. Notwithstanding any provisions contained in the NGCL requiring the vote of shares possessing two-thirds of the voting power of EchoStar to take action, absent a provision herein to the contrary, in the case of such provisions the affirmative vote of a majority of the voting power shall be the act of the shareholders.

(c) Holders of Common Stock shall not be entitled to cumulate their votes in the election of directors and shall not be entitled to any preemptive rights to acquire shares of any class or series of capital stock of the Corporation. Subject to any preferential rights of holders of Preferred Stock, holders of Common Stock shall be entitled to receive their pro rata shares, based upon the number of shares of Common Stock held by them, of such dividends or other distributions as may be declared by the Board of Directors from time to time and of any distribution of the assets of the Corporation upon its liquidation, dissolution or winding up, whether voluntary or involuntary.

2. Conversion Rights.

(a) Each share of Class B Common Stock and Class C Common Stock shall be convertible at the option of the holder thereof into Class A Common Stock of the Corporation in accordance with this Article V. In order to exercise the conversion privilege, a holder of Class B Common Stock or Class C Common Stock shall surrender the certificate evidencing such Class B Common Stock or Class C Common Stock to the Corporation at its principal office, duly endorsed to the Corporation and accompanied by written notice to the Corporation that the holder thereof elects to convert a specified portion or all of such shares. Class B Common Stock or Class C Common Stock

converted at the option of the holder shall be deemed to have been converted on the day of surrender of the certificate representing such shares for conversion in accordance with the foregoing provisions, and at such time the rights of the holder of such Class B Common Stock or Class C Common Stock, as such holder, shall cease and such holder shall be treated for all purposes as the record holder of Class A Common Stock issuable upon conversion. As promptly as practicable on or after the conversion date, the Corporation shall issue and mail or deliver to such holder a certificate or certificates for the number of Class A Common Stock issuable upon conversion, computed to the nearest one hundredth of a full share, and a certificate or certificates for the balance of Class B Common Stock or Class C Common Stock surrendered, if any, not so converted into Class A Common Stock.

(b) The Class B Common Stock and Class C Common Stock shall be convertible into one share of Class A Common Stock for each share of Class B Common Stock or Class C Common Stock so converted (the "Conversion Rate"). In the event the Corporation shall at any time subdivide or split its outstanding Class A Common Stock, into a greater number of shares or declare any dividend payable in Class A Common Stock, the Conversion Rate in effect immediately prior to such subdivision, split or dividend shall be proportionately increased, and conversely, in case the outstanding Class A Common Stock of the Corporation shall be combined into a smaller number of shares, the Conversion Rate in effect immediately prior to such combination shall be proportionately decreased.

(c) Upon any adjustment of the Conversion Rate then and in each such case the Corporation shall give written notice thereof, by first-class mail, postage prepaid, addressed to the registered holders of Class B Common Stock and Class C Common Stock at the addresses of such holders as shown on the books of the Corporation, which notice shall state the Conversion Rate resulting from such adjustment and the increase or decrease, if any, in the number of shares receivable at such price upon the conversion of Class B Common Stock or Class C Common Stock, setting forth in reasonable detail the method of calculation and the facts upon which such calculation is based.

(d) The holders of Class B Common Stock and Class C Common Stock shall have the following rights to certain properties received by the holders of Class A Common Stock:

(i) In case the Corporation shall declare a dividend or distribution upon Class A Common Stock payable other than in cash out of earnings or surplus or other than in Class A Common Stock, then thereafter each holder of Class B Common Stock or Class C Common Stock upon the conversion thereof will be entitled to receive the number of shares of Class A Common Stock into which such Class B Common Stock or Class C Common Stock shall be converted, and, in addition and without payment therefor, the property which such holder would have received as a dividend if continuously since the record date for any such dividend or distribution such holder: (A) had been the record holder of the number of Class A Common Stock then received; and (B) had retained all dividends or distributions originating directly or indirectly from such Class A Common Stock.

(ii) If any capital reorganization or reclassification of the capital stock of the Corporation, or consolidation or merger of the Corporation with another corporation, or the sale of all or substantially all of its assets to another corporation shall be effected in such a way that holders of Class A Common Stock shall be entitled to receive stock, securities or assets with respect to or in exchange for a Class A Common, then, as a condition of such reorganization, reclassification, consolidation, merger or sale, lawful and adequate provision shall be made whereby the holders of Class B Common Stock and Class C Common Stock shall thereafter have the right to receive, in lieu of Class A Common Stock of the Corporation immediately theretofore receivable upon the conversion of such Class B Common Stock and Class C Common Stock, such shares of stock, securities or assets as may be issued or payable with respect to or in exchange for a number of outstanding Class A Common Stock equal to the number of Class A Common Stock immediately theretofore receivable upon the conversion or such Class B Common Stock and Class C Common Stock had such reorganization, reclassification, consolidation, merger or sale not taken place, and in any such case appropriate provision shall be made with respect to the rights and interests of the holders of the Class B Common Stock and Class C Common Stock to the end that the provisions hereof (including without limitation provisions for adjustments of the Conversion Rate and of the number of shares receivable upon the conversion of such Class B Common Stock and Class C Common Stock) shall thereafter be applicable, as nearly as may be, in relation to any shares of stock, securities or assets thereafter receivable upon the conversion of such Class B Common Stock and Class C Common Stock. The Corporation shall not effect any such reorganization, reclassification, consolidation, merger or sale, unless prior to the consummation thereof the surviving corporation (if other than the Corporation), the corporation resulting from such consolidation or the corporation purchasing such assets shall assume by written instrument executed and mailed to the registered holders of the Class B Common Stock and Class C Common Stock at the last address of such holders appearing on the books of the Corporation, the obligation to deliver to such holders such shares of stock, securities or assets as, in accordance with the foregoing provisions, such holders may be entitled to receive.

(e) In case at any time:

(iii) the Corporation shall pay any dividend payable in stock upon Class A Common Stock or make any distribution (other than regular cash dividends to the holders of Class A Common Stock); or

(iv) the Corporation shall offer for subscription pro rata to the holders of Class A Common Stock any additional shares of stock of any class or other rights; or

(v) there shall be any capital reorganization, reclassification of the capital stock of the Corporation, or consolidation or merger of the Corporation with, or sale of all or substantially all of its assets, to another corporation (provided however, that this provision shall not be applicable to the merger or consolidation of the Corporation with or into another corporation if, following such merger or consolidation, the shareholders of the Corporation immediately prior to such merger or consolidation own at least 80% of the equity of the combined entity); or

(vi) there shall be a voluntary or involuntary dissolution, liquidation or winding up of the Corporation;

then, in any one or more of the aforesaid cases, the Corporation shall give written notice, by first-class mail, postage prepaid, addressed to the holders of Class B Common Stock and Class C Common Stock at the addresses of such holders as shown on the books of the Corporation, of the date on which: (A) the books of the Corporation shall close or a record shall be taken for such dividend, distribution or subscription rights; or (B) such reorganization, reclassification, consolidation, merger, sale, dissolution, liquidation or winding up shall take place, as the case may be. Such notice shall also specify the date as of which the holders of Class A Common Stock of record shall participate in such dividend, distribution, or subscription rights, or shall be entitled to exchange their Class A Common Stock for securities or other property deliverable upon such reorganization, reclassification, consolidation, merger, sale, dissolution, liquidation or winding up, as the case may be. Such written notice shall be given at least 20 days prior to the action in question and not less than 20 days prior to the record date or the date on which the Corporation's transfer books are closed in respect thereto.

ARTICLE VI
Board of Directors

The name and addresses of the first board of directors, which shall be three (3) in number, are as follows:

NAME ----	ADDRESS -----
Charles W. Ergen	5701 S. Santa Fe Drive Littleton, CO 80102
James DeFranco	5701 S. Santa Fe Drive Littleton, CO 80120
R. Scott Zimmer	5701 S. Santa Fe Drive Littleton, CO 80120

The number of directors shall be increased or decreased as prescribed by the Bylaws of the Corporation.

ARTICLE VII
Right of Directors to Contract with Corporation

The following provisions are inserted for the management of the business and for the conduct of the affairs of the Corporation, and the same are in furtherance of and not in limitation of the powers conferred by law.

1. No contract or other transaction between this Corporation and one or more of its directors or any other corporation, firm, association, or entity in which one or more of its directors are directors or officers or are financially interested shall be either void or voidable solely because of such relationship or interest or solely because such directors are present at the meeting of the Board of Directors or a committee thereof which authorizes, approves or ratifies such contract or transaction or solely because their votes are counted for such purpose if:

(a) The material facts as to such relationship or interest and as to the contract or transaction are disclosed or are otherwise known to the Board of Directors or committee and the Board or committee authorizes, approves, or ratifies such contract or transaction by the affirmative vote of a majority of the disinterested directors, even though such directors are less than a quorum; or

(b) The material facts of such relationship or interest and as to the contract or transaction are disclosed or are otherwise known to the shareholders entitled to vote thereon and they authorize, approve or ratify such contract or transaction by vote or written consent; or

(c) The contract or transaction is fair and reasonable to the Corporation.

2. Common or interested directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or a committee thereof which authorizes, approves or ratifies such contract or transaction.

ARTICLE VIII
Corporate Opportunity

The officers, directors and other members of management of this Corporation shall be subject to the doctrine of "corporate opportunities" only insofar as it applies to business opportunities in which this Corporation has expressed an interest as determined from time to time by this Corporation's Board of Directors as evidenced by resolutions appearing in

the Corporation's minutes. Once such areas of interest are delineated, all such business opportunities within such areas of interest which come to the attention of the officers, directors and other members of management of this Corporation shall be offered first to the Corporation. In the event the Corporation declines to pursue any or all such business opportunities, the officers, directors and other members of management of this Corporation shall be free to engage in such areas of interest on their own and this doctrine shall not limit the right of any officer, director or other member of management of this Corporation to continue a business existing prior to the time that such area of interest is designated by the Corporation. This provision shall not be construed to release any employee of this Corporation (other than an officer, director or member of management) from any duties which he may have to this Corporation.

ARTICLE IX
Indemnification of Officers, Directors and Others

1. To the full extent permitted by the NGCL, the Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit in proceeding, whether civil, criminal, administrative or investigative and whether formal or informal (other than an action by or in the right of the Corporation) by reason of the fact that he is or was a director, officer, employee, fiduciary or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee, fiduciary or agent of another corporation, partnership, joint venture, trust, employee benefit plan or other enterprise, against expenses (including attorneys' fees), judgements, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding, if he conducted himself in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, or conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Corporation and, with respect to any criminal action or proceeding, had no reasonable cause to believe that his conduct was unlawful.

2. The Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Corporation to procure a judgment in its favor by reason of the fact that he is or was a director, officer, employee, fiduciary or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust, employee benefit plan or other enterprise against expenses (including attorneys fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests

of the Corporation and except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his duty to the Corporation unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.

3. To the extent that a director, officer, employee, fiduciary or agent of a corporation has been wholly successful on the merits or otherwise in defense of any action, suit or proceeding referred to in paragraphs 1 and 2 of this Article, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys fees) actually and reasonably incurred by him in connection therewith.

4. Any indemnification under paragraphs 1 and 2 of this Article IX (unless ordered by a court) shall be made by the Corporation only as authorized in the specific case upon a determination that indemnification of the director, officer, employee, fiduciary or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in paragraphs 1 and 2. Such determination shall be made: (1) by the Board of Directors by a majority vote of a quorum consisting of directors who were not parties to such action, suit or proceeding; or (2) if such quorum is not obtainable, or, even if obtainable a quorum of disinterested directors so directs, by independent legal counsel in a written opinion; or (3) by the shareholders.

5. Expenses (including attorneys fees) incurred in defending a civil or criminal action, suit or proceeding may be paid by the Corporation in advance of the final disposition of such action, suit or proceeding as authorized in the manner provided in paragraph 4 of this Article IX upon receipt of an undertaking by or on behalf of the director, officer, employee, fiduciary or agent to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the Corporation.

6. The Corporation shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee, fiduciary or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust, employee benefit plan or other enterprise, against any liability asserted against him and incurred by him in any such capacity or arising out of his status as such, whether or not the Corporation would have the power to indemnify him against such liability under the provisions of this Article IX.

7. In addition to the forgoing, the Corporation shall have the power to indemnify current or former directors, officer, employees and agents to the fullest extent provided by law.

ARTICLE X
DIRECTOR LIABILITY

To the fullest extent permitted by the Nevada General Corporation Law, as the same exists or may hereafter be amended, a director of this Corporation shall not be liable to the Corporation or its shareholders for monetary damages for breach of fiduciary duty as a director.

ARTICLE XI
INCORPORATOR

The name and address of the sole incorporator of the Corporation is as follows: Gregory S. Brown, and his address is 303 East 17th Avenue, Suite 1100, Denver, Colorado 80203.

ARTICLE XII
REGISTERED OFFICE AND REGISTERED AGENT

The address of the registered office of the Corporation is One East First Street, Reno, Nevada 89501. The name of the Corporation's resident agent at that address is The Corporation Trust Company of Nevada. Either the registered office or the registered agent may be changed in the manner permitted by law.

Certain portions of this document have been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934.

SATELLITE CONTRACT
(ECHOSTAR VII - 119(DEGREE) WEST LONGITUDE)

BETWEEN

LOCKHEED MARTIN CORPORATION

AND

ECHOSTAR ORBITAL CORPORATION

JANUARY 27, 2000

THIS SATELLITE CONTRACT (the "Contract") dated as of the 27th day of January 2000, made between Lockheed Martin Corporation (hereinafter referred to as "Contractor"), a corporation organized under the laws of the State of Maryland, having its principle place of business at 1272 Borregas Avenue, Sunnyvale, California, 94089, and EchoStar Orbital Corporation (hereinafter referred to as "Buyer"), a corporation organized under the laws of the State of Colorado, having its principle place of business at 5701 South Santa Fe Drive, Littleton, Colorado, 80120-1838.

WHEREAS, Buyer desires to purchase and Contractor desires to provide a Direct Broadcast Satellite (the "Satellite" or "Spacecraft") and services as hereinafter specified, and Buyer and Contractor (hereinafter referred to as "Parties") desire to define the terms and conditions under which the same shall be furnished;

NOW THEREFORE, the Parties hereto, in consideration of the mutual covenants herein expressed, agree as follows:

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ARTICLE 1. SCOPE OF WORK

- A. The Contractor shall provide the necessary personnel, material, services, and facilities to perform work in accordance with the provisions of this Contract, including the ATTACHMENTS hereto, which are made a part hereof, and the EXHIBITS listed below, which are attached hereto and made a part hereof and to make Delivery to Buyer of the equipment and services set forth in ARTICLE 2 hereof in accordance with the Delivery schedule specified in ARTICLE 3 hereof:

EXHIBIT A: EchoStar VII Statement of Work (SOW) 8575922
 EXHIBIT B: EchoStar VII Spacecraft Performance Specification 8575921
 EXHIBIT C: EchoStar VII Test Plan 8575920
 EXHIBIT D: A2100 Program Product Assurance Plan PN-8569826 Rev N/C

In the event of any inconsistency among or between the parts of this Contract set forth above, such inconsistency shall be resolved by giving precedence in the order of the parts as set forth below:

1. Terms & Conditions, Spacecraft Contract Dated January 27, 2000, including ATTACHMENT A hereto
2. EchoStar VII Statement of Work, EXHIBIT A
3. EchoStar VII Spacecraft Performance Specification, EXHIBIT B
4. EchoStar VII Test Plan, EXHIBIT C
5. A2100 Program Product Assurance Plan, EXHIBIT D

- B. In the event that, thirty (30) days after EDC, the TBDs in the EchoStar VII Spacecraft Performance Specification, EXHIBIT B, and the TBDs set forth in ARTICLE 2 have not been agreed to by both Parties or such Performance Specification is not otherwise finalized to the mutual satisfaction of the Parties, then notwithstanding ARTICLE 18. TERMINATION FOR CONVENIENCE, or any other provision in this Contract, Buyer may immediately terminate this Contract by providing written notice to Contractor. In full and final settlement of such termination Contractor shall retain the first milestone payment amount of DOLLARS (\$XXXXXXX) paid to Contractor at fifteen (15) days after EDC and all other liabilities and obligations of the Parties shall be released, waived and terminated.

- C. Contractor agrees to fly the Spacecraft until the earlier to occur of: (i) the material anomaly(ies) being resolved; (ii) insurance for the material anomaly(ies) being paid to Buyer; or (iii) Buyer informing Contractor that it desires to use the Spacecraft for commercial purposes (provided that, in such instance, Contractor shall continue to fly the Spacecraft until such time as the material anomaly(ies) is fully understood and Buyer has been trained how to fly the Spacecraft in such anomalous condition). Provided, however Buyer shall use its reasonable commercial efforts to include in the policy for insurance of the Spacecraft, that, "The Spacecraft manufacturer's efforts concerning Spacecraft rescue, anomaly resolution and flying time will be covered by the Underwriters."

ARTICLE 2. EQUIPMENT AND SERVICES TO BE FURNISHED AND PRICES THEREFOR

A. Upon the full, satisfactory and timely completion and Delivery, as required, of each item of work specified below, and acceptance by Buyer thereof in accordance with the requirements of this Contract, Contractor shall be entitled to payment by Buyer of the applicable fixed price specified below in accordance with terms and conditions of this Contract, as such price may be adjusted in accordance with the provisions of the Contract. The prices stated below, which are inclusive of the In-Orbit Incentives and include all transportation and related charges for Delivery of Spacecraft and associated equipment to destination and all Launch ("Launch" means the launch of the Spacecraft as defined in the launch services agreement the Buyer enters into with the launch service provider or in the event of a change from one Launch provider to another, then the definition will be changed to that Launch provider who actually launches the Spacecraft, and which definition Buyer will provide to Contractor upon request) and mission support and services through In-Orbit Test (IOT) which includes post IOT support as specified in EXHIBIT A. Except as otherwise provided for herein, the prices stated below include all applicable taxes and all copyright and patent rights necessary to effectuate this Contract.

Item -----	Quantity -----	Description -----	Total Price -----
1.	1	Spacecraft as defined in EXHIBIT B	\$XXXXXXXX (i)
2.	1 Lot	Launch and mission support services for Spacecraft on an Atlas IIIB launch vehicle	NSP
3.	1 Lot	Optional additional CONUS Transmit reflector and Feed System for Spot Beams for less than or equal to 10(degree)from 119(degree)W.L.	\$XXXXXXXX
4.	1 Lot	Optional additional CONUS Transmit reflector, Receive reflector and Feed System for Spot Beams for more than 10(degree)from 119(degree)W.L.	\$XXXXXXXX
5.	1 Lot	Optional Satellite Control Facility ("SCF") Equipment, Software, Setup and Training	\$XXXXXXXX
6.	1 Lot	Optional incremental costs to Item 1, in support of a Launch from either an Ariane, or a Proton or a SeaLaunch, Launch at their respective locations:	
6a.	1 Lot	Optional incremental cost for Launch out of Kourou, French Guiana on an Ariane Launch	\$XXXXXXXX
6b.	1 Lot	Optional incremental cost for Launch out of Baikonur, Kazakhstan on a Proton Launch	\$XXXXXXXX
6c.	1 Lot	Optional incremental cost for Launch out of Long Beach, CA on a SeaLaunch (Zenit)	\$XXXXXXXX
		TOTAL PRICE	\$XXXXXXXX (ii) -----

(i) Total Price for Spacecraft, including without limitation the cost of Delivery of Spacecraft to Cape Canaveral, Florida.

(ii) Does not include the price of the Optional items.

- B. The Spacecraft will include some imported goods. In the event the Spacecraft and its included imported goods are not exported in a timely manner due to the actions or inactions of Buyer, any duties and penalties arising therefrom will be the responsibility of Buyer. Contractor shall pay such above duties and penalties as may be required by law to be so paid and Buyer agrees to reimburse the Contractor for payments so made; provided that Contractor uses reasonable commercial efforts to challenge the imposition of such duties and penalties and keeps Buyer reasonably apprised of its activities in that regard.
- C. Contractor shall be entitled to an early Delivery incentive payment for each day the Spacecraft is delivered to the Launch site prior to the Delivery date set forth in ARTICLE 3. DELIVERY, provided Buyer is given three (3) months prior notice of the early Delivery date, by an amount of \$XXXXXXX per day for days 1 through 60 and \$XXXXXXX for each day thereafter, up to a maximum of \$XXXXXXX. In the event Contractor is entitled to an early Delivery incentive payment in accordance with this paragraph, the amount of any such incentive shall be added to the Contract price, and Buyer shall make payment of same to Contractor, ninety (90) days after Launch of the Spacecraft, and in the event the Spacecraft is placed into Storage, Buyer shall make payment of same to Contractor ninety (90) days after it is placed into Storage. Notwithstanding the above, Contractor shall not be entitled to an early Delivery incentive payment in the event Contractor is the cause of a Launch delay.
- D. Option for additional CONUS Transmit Reflector and Feed System for Spot Beams for less than or equal to ten (10) degrees from 119 degrees W. L. Buyer may exercise this option by providing Contractor authorization to proceed, at a specific orbital location, no later than thirty (30) days after EDC. Additionally, Buyer shall have the option, exercisable in its discretion by providing written notice to Contractor, at any time until ten (10) months after EDC (or later if Buyer and Contractor mutually agree to an equitable adjustment, or to the deletion of testing as necessary in order to maintain schedule), to direct Contractor to commence integration and test of either the baseline antenna set or this Optional CONUS Transmit Reflector and Feed System for Spot Beams for installation on the Spacecraft, without affecting schedule. In the event Buyer desires to exercise this Option subsequent to the date(s) specified above, but prior to twenty-three (23) months following EDC, then the price for the Option and the Delivery schedule shall be subject to equitable adjustments. The Contractor shall use reasonable care to mitigate any impacts to the price and/or delivery schedule. [AT LEAST 3 INTERIM MILESTONES TBD]

- E. Option for additional CONUS Transmit Reflector, Receive reflector and Feed System for Spot Beams for more than ten (10) degrees from 119 degrees W.L. Buyer may exercise this option by providing Contractor authorization to proceed, at a specific orbital location, no later than thirty (30) days after EDC. Additionally, Buyer shall have the option, exercisable in its discretion by providing written notice to Contractor, at any time until ten (10) months after EDC (or later if Buyer and Contractor mutually agree to an equitable adjustment, or to the deletion of testing as necessary in order to maintain schedule), to direct Contractor to commence integration and test of either the baseline antenna set or this Optional CONUS Transmit Reflector, Receive reflector and Feed System for Spot Beams for installation on the Spacecraft, without affecting schedule. In the event Buyer desires to exercise this Option subsequent to the date(s) specified above, but prior to twenty-three (23) months following EDC, then the price for the Option and the Delivery schedule shall be subject to equitable adjustment. The Contractor shall use reasonable care to mitigate any impacts to the price and/or delivery schedule. [AT LEAST 3 INTERIM MILESTONES TBD]
- F. Optional Satellite Control Facility. Buyer shall have the option, exercisable at its discretion by providing Contractor authorization to proceed, no later than nine (9) months after EDC, to purchase the following SCF equipment, software, setup and training at the price set forth above:

Item	Description	Qty	Redundant
1	Satellite Control Center	n/a	n/a
1a	- Real Time System/Remote User Interface	2	2:1
2	Baseband TT&C	n/a	n/a
2a	- CR&T Unit	2	2:1
3	O&M Documentation	2 sets	n/a
4	Design Review	1	n/a
5	Installation and Test of Hardware	n/a	n/a
6	Training (described below)	n/a	n/a

Documentation Delivery (no design doc):

1	SOW
2	Performance Spec
3	Test Plan
4	Compliance Matrix
5	Design Review Material
6	Test Procedure(s)
7	Current Version(s) of Hardware O&M Manual(s)
8	Current Version(s) of Software O&M Manual(s)
9	Shipping Lists/Export Paperwork
10	Test Report(s)
11	Closeout Package

NOT INCLUDED:

- 1 ICS (scripts)
- 2 DSS or STS
- 3 Monitor & Control system
(p/o Antenna/RF)
- 4 Mission Analysis Software
- 5 Antenna/RF System
- 6 Command Encryption
- 7 Source Code
- 8 Design Documentation
- 9 Consoles (Desk Top)
- 10 Spares

TRAINING COURSE DESCRIPTIONS:

SPACECRAFT ANALYST (15 DAYS). This course shall present, in detail, the design and operation of each of the A2100 satellite bus subsystems. The design of the payload subsystem shall be presented to the extent that the payload influences satellite bus design and operations. This course shall be primarily for satellite engineers.

SPACECRAFT CONTROLLER (10 DAYS). This course shall describe in detail ground console operation and use of the on-station operating instructions and procedures for the satellite bus and payload subsystems. Operating instructions for the communications subsystem shall be covered in a summary fashion.

GROUND SYSTEM OPERATIONS AND MAINTENANCE (5 DAYS). This course shall detail the operation and maintenance of the A2100 Ground System including operation and interfaces of the computer, status and control, baseband, and antenna/RF subsystems. This course shall be primarily for the Ground Systems O&M engineer.

- G. Option to select a Launch other than an Atlas IIIB. Buyer, after entering into a launch services agreement with the Launch provider, may exercise this option by providing Contractor authorization to proceed with any one of the Launch vehicles listed in Item 6, in lieu of an Atlas IIIB Launch, at the applicable price increase to Item 1. price no later than 12 months after EDC for the Ariane or Proton, without affecting schedule. In the event that a SeaLaunch is selected then the latest date by which that Option may be exercised without affecting schedule is 10 months after EDC. In either case the coupled loads analysis as well as a mission analysis plan will not be available until after the Launch provider is contracted for by Buyer, as delineated in EXHIBIT A.

ARTICLE 3. DELIVERY SCHEDULE

A. "Delivery", in the case of the Spacecraft, shall mean delivery of the Spacecraft, at Contractor's expense, to the applicable Launch site and, in the case of all other equipment, shall mean delivery of such equipment, at Contractor's expense, to the applicable delivery destination.

B. Delivery shall be as indicated below:

Item	Description	Delivery Date
1.	Spacecraft as defined in EXHIBIT B.	12/20/2001
2.	Launch and Mission Operation Support Services	Commencing on Delivery of the Spacecraft to the Launch Site and Continuing Through On Orbit Check-out and all mission support costs and services through IOT together with post IOT support as specified in EXHIBIT A
3	1 Lot Optional additional CONUS Transmit Reflector and Feed System for Spot Beams for less than or equal to ten (10) degrees from 119 degrees W.L.	As provided in ARTICLE 2, Paragraph D.
4.	1 Lot Optional additional CONUS Transmit Reflector, Receive Reflector and Feed System for Spot Beams for more than 10(degree) from 119(degree)W.L.	As Provided in ARTICLE 2, Paragraph E.
5.	1 Lot Optional Satellite Control Facility ("SCF") Equipment, Software, Setup and Training	Fourteen (14) months after exercise of option
6.	1 Lot Optional incremental Delivery days to be added to Item 1, in support of a Launch from either an Ariane, or a Proton or a SeaLaunch, Launch at their respective locations	
6a.	1 Lot Optional incremental Delivery days for Launch out of Kourou, French Guiana on an Ariane Launch	plus one (1) day
6b.	1 Lot Optional incremental Delivery days for Launch out of Baikonur, Kazakhstan on a Proton Launch	plus two (2) days
6c.	1 Lot Optional incremental Delivery days for Launch out of Long Beach, CA on a SeaLaunch (Zenit)	No Change

ARTICLE 4. PAYMENT

A. The total price stipulated in ARTICLE 2. EQUIPMENT AND SERVICES TO BE FURNISHED AND PRICES THEREFOR, as such price may be adjusted in accordance with the provisions of the Contract, shall be paid by Buyer to Contractor in accordance with the payment arrangements specified for the construction payments in the Spacecraft Payment Plan set forth in paragraph B of this ARTICLE (the "Payment Plan"), and the payment arrangements for the In-Orbit Incentives described in paragraph C of this ARTICLE and ARTICLE 6. IN-ORBIT INCENTIVE PAYMENTS. Except for the first two construction payments, which will be paid at the dates set forth below, the amounts specified in the Payment Plan shall in each case be paid by Buyer to Contractor on the dates indicated; provided that: (i) Contractor submits an invoice for each payment no later than thirty (30) days in advance of the payment due date; and (ii) Contractor completes the applicable milestone no later than three (3) business days in advance of the payment due date. Notwithstanding the foregoing, in the event that Contractor does not deliver an invoice to Buyer at least thirty (30) days prior to the applicable payment date and/or does not achieve the relevant milestone, or provide a work-around that does not affect schedule and is otherwise acceptable to Buyer, at least three (3) business days prior to the applicable payment date, Buyer may suspend construction payments until such time as the relevant invoice is received and milestone is completed. Within thirty (30) days following Buyer's receipt of the relevant invoice or three (3) business days following Contractor's completion of the relevant milestone, whichever occurs later, Buyer shall pay Contractor for all construction payments that were required to have been made but were not as a result of the suspension.

All payments required to be made to Contractor under this Contract shall be made by either cable transfer to Citibank N.Y. ABA# 021000089, Lockheed Martin, A/C #38469306, or by check payable to Lockheed Martin Corporation sent by overnight mail carrier (at Contractor's expense) to the address and attention of the Lockheed Martin representative designated in ARTICLE 10, PROGRESS MEETING, PRESENTATIONS AND DOCUMENTATION DELIVERABLES, paragraph C.

B. SPACECRAFT PAYMENT PLAN

1. The construction payments applicable to Spacecraft shall be made as follows:

MILESTONE PAYMENT SCHEDULE FOR ECHOSTAR VII SPACECRAFT

MILESTONE DESCRIPTION*	MONTHS AFTER EDC	AMOUNT, \$	CUMULATIVE AMOUNT, \$
Initial Payment	15 days after EDC	\$ XXXXXXX	XXXXXXX
Agreement on the TBDs in EXHIBIT B and the TBDs set forth in ARTICLE 2	1	\$ XXXXXXX	XXXXXXX
Complete 1st Monthly report & Program Kick-Off	2	\$ XXXXXXX	XXXXXXX
Place Subcontractor orders**	3	\$ XXXXXXX	XXXXXXX
Deliver Program Management Plan	4	\$ XXXXXXX	XXXXXXX
Conduct System PDR	5	\$ XXXXXXX	XXXXXXX
First Quarterly Management Report & Spacecraft/Launch Vehicle Kick-off	6	\$ XXXXXXX	XXXXXXX
Select Spacecraft Harness Vendor	7	\$ XXXXXXX	XXXXXXX
Complete Payload ICD & Start Panel Design	8	\$ XXXXXXX	XXXXXXX
Conduct System CDR	9	\$ XXXXXXX	XXXXXXX
Start Antenna Integration & Test	10	\$ XXXXXXX	XXXXXXX
Start Electronics Box I&T	11	\$ XXXXXXX	XXXXXXX
Start Propulsion Subsystem I&T	12	\$ XXXXXXX	XXXXXXX
Deliver OMUX's to SV	13	\$ XXXXXXX	XXXXXXX
Deliver CORE to PSS I&T	14	\$ XXXXXXX	XXXXXXX
Deliver Electronic Boxes to B159	15	\$ XXXXXXX	XXXXXXX
Deliver Solar Array and Batteries to B159	16	\$ XXXXXXX	XXXXXXX
Deliver TWTAs to SV	17	\$ XXXXXXX	XXXXXXX
Complete Payload Initial Turn-Ons	18	\$ XXXXXXX	XXXXXXX
Complete Spacecraft Mate	19	\$ XXXXXXX	XXXXXXX
Deliver Mission Ops Plan	20	\$ XXXXXXX	XXXXXXX
Complete Vibration Test ***	21	\$ XXXXXXX	XXXXXXX
Complete Thermal/Vacuum Test ***	22	\$ XXXXXXX	XXXXXXX
Complete Range Test	23	\$ XXXXXXX	XXXXXXX
PSR and Spacecraft Final Acceptance	24	\$	XXXXXXX

* Work arounds that do not affect schedule and are otherwise acceptable to Buyer will satisfy the milestone event.

Notwithstanding the above milestones, if it becomes reasonably clear that problems with deliverables are reasonably likely to cause schedule delays, then the construction payments may

be suspended, at Buyers option, and the date for payment of each subsequent construction payment delayed, by an amount of time equal to the difference between the Delivery date for the Spacecraft set forth in ARTICLE 3 above and the revised forecast Delivery date. In the event that Contractor subsequently recovers all or a portion of the originally scheduled Delivery date, the construction payments will again be revised to reflect that recovery. Further, if, following completion of a milestone, a problem arises which requires rework of elements of the milestone, then all construction payments may be suspended, at Buyer's option, until the milestone is again complete.

** Subcontractor List (see below)

Subcontractor List

Description	Quantity
Structure (core & panels)	1
Arcjets	4
PCU	1
Tanks	5
OMUXes	12
IMUXes	9
Command Receivers	3
Beacon Transmitters	3
OBC	1
LAE	1
REAs	18
Battery Cells	78
TWTAs	60

*** In the event the Program Managers of Contractor and Buyer jointly agree to conduct Thermal Testing prior to Vibration Testing, then the order of these milestones shall be reversed.

2. In the event of earlier Delivery of the Spacecraft, and provided the proper notice of early Delivery was provided, then Buyer shall use its reasonable efforts to pay the remaining construction payments promptly following receipt of Contractor's invoice therefor as provided in paragraph A of this ARTICLE.

C. Spacecraft In-Orbit Incentive Payments

1. In addition to the construction payments described above, Buyer shall pay In-Orbit Incentives in the aggregate amount of \$XXXXXX, plus interest at X% per annum, to Contractor in accordance with the requirements set forth in ARTICLE 6 below.
2. The Parties are willing to enter into good faith negotiations to establish an alternative to the payment schedule set out in ARTICLE 6 for the In-Orbit Incentives including without limitation, prepayment. Buyer shall have the right to

prepay, at any time, without penalty, that amount of the In-Orbit Incentives outstanding. In the event of prepayment of In-Orbit Incentives, if there is subsequently a reduction in the amount of In-Orbit Incentives that would have otherwise been due Contractor, then the Contractor shall pay Buyer for the reduced performance, calculated from the date of prepayment by Buyer to the subsequent date of repayment by Contractor, at a rate of X% per annum

D. Failure to make any payments required hereunder, shall constitute a default by Buyer subject to the provisions of ARTICLE 17. TERMINATION FOR DEFAULT, paragraph F.

E. 1. For the Spacecraft delivered by Contractor which, following Launch, does not achieve Successful Injection, as a result of a Launch vehicle failure unrelated to the Spacecraft defined in ARTICLE 6, Contractor shall be entitled to receive \$XXXXXXX, which payment is in lieu of and in full satisfaction of the In-Orbit Incentives.

For purposes of this paragraph, the Spacecraft shall be deemed to have been "Successfully Injected" provided that:

- (a) at the time of separation from the launch vehicle, the transfer orbit perigee altitude error, apogee altitude error, inclination error, argument of perigee error, Spacecraft attitude, and Spacecraft spin are within or equal to +/-3 sigma limits of their specified values; and
- (b) the Spacecraft has not suffered damage as a consequence of a failure or malfunction of the launch vehicle or other cause that is not the fault or is beyond the control of Contractor.

Notwithstanding that the transfer orbit does not meet all of the criteria stated in paragraph E(1)(a) above, the Spacecraft shall be deemed to have been Successfully Injected if the Spacecraft has nevertheless been positioned in its orbital slot as defined in EXHIBIT B, Spacecraft Performance Specification, and the then remaining calculated operation time period is equal to or greater than 13 years.

2. In the event Buyer is obligated to make payment to Contractor in accordance with paragraph 1 above, payment shall be due within ten (10) days from Buyer's receipt of the insurance proceeds.

F. Except in the case of a bona fide dispute, in the event that either Party fails to make any payment required hereunder when due, such payment shall bear interest at the rate of X% per annum until paid.

ARTICLE 6. IN-ORBIT INCENTIVE PAYMENTS

- 6.1 In addition to the construction payments described in ARTICLE 4, Buyer will pay the Contractor in orbit incentives in the aggregate amount of XXXXXXX Dollars (\$XXXXXXX), plus interest at X% per annum accruing from the completion of the IOT review, for the in-orbit performance of the Satellite as set forth herein (the "In Orbit Incentives").
- 6.2 The In Orbit Incentives will be payable in thirteen (13) equal annual payments, the first such payment becoming due on the last day of the month during which the one year anniversary of the completion of the IOT review occurs, provided that no payment shall be due any sooner than thirty (30) days following receipt of an invoice therefor from Contractor.
- 6.3 Except as provided below, the criteria for determining a loss pursuant to pages 5 through 11 (inclusive) of the commercial insurance policy that Buyer procured with respect to the launch and operation of the EchoStar V satellite, copies of which are attached hereto as ATTACHMENT A (the "Criteria"), shall be utilized by Contractor and Buyer to determine the extent, if any, to which Contractor's In Orbit Incentives are reduced, if at all. Buyer and Contractor agree that the Criteria will be utilized for the duration of this Contract. The formula to determine losses will, in the sole discretion of Buyer (regardless of the mode of operation at the time or the number of licensed frequencies), be based upon, notwithstanding the Criteria: (i) with respect to full CONUS payload, on either 32 transponders operating at high power mode with a Stated Spacecraft Life of 13 years, not subject to the Deductible, or 16 transponders operating at super high power mode with a Stated Spacecraft Life of 13 years, not subject to the deductible; and (ii) with respect to the spot beam payload, on 25 transponders with a Stated Spacecraft Life of 13 years, not subject to the Deductible. The entire amount of the \$XXXXXXX of In Orbit Incentives shall be at risk of being reduced based on failures of the full CONUS payload. In addition, \$XXXXXXX of the In Orbit Incentives shall be at risk of being reduced based on failures of the spot beam payload. So, for example, in the event of the failure of a transponder which results in only 15 full CONUS transponders operating at super high power being available, in addition to any adjustment to the In Orbit Incentives pursuant to paragraph 6.6, the In Orbit Incentives would be reduced by $XX \times \$XXXXXXX \times (\text{the number of days of remaining life at the time of the failure}/4,745)$. If the same transponder failure resulted in only 13 available spot beam transponders, then the In Orbit Incentives would be further reduced by $13/25 \times \$XXXXXXX \times (\text{the number of days of remaining life at the time of the failure}/4,745)$. Each reduction to the In Orbit Incentives shall be applied on an equal basis to all annual payments subsequent to the occurrence of the underlying failure/anomaly.

In the event that Buyer obtains launch/operation insurance for the Spacecraft ("EchoStar VII Insurance"), if application of the criteria in the EchoStar VII Insurance Policy would result in a larger reduction in the In Orbit Incentives than application of the Criteria

would, then the reduction in the In Orbit Incentives will be based on the criteria in the EchoStar VII Insurance Policy.

- 6.4 If any anomaly with respect to the Satellite would result in a loss under the Criteria, then Contractor's In Orbit Incentives shall be reduced by a percentage equal to the percentage loss which would be payable in accordance with the Criteria. In the case of a conflict or inconsistency between the terms of this Section 6.4 and Section 6.3 above, the Parties agree that only one Section can apply to any particular failure/anomaly and that Buyer shall choose, in its sole judgment, which Section shall apply each particular failure/anomaly.
- 6.5 If the cumulative losses pursuant to this ARTICLE 6 are equal to or greater than 50%, then the Satellite shall be considered a total loss, and Contractor's In Orbit Incentives shall be reduced to zero.
- 6.6 If an anomaly occurs with respect to the Satellite which would not result in a loss under the Criteria, or with respect to which Buyer does not believe the loss amount fairly reflects the consequences of the anomaly, then the amount of In Orbit Incentives due to Contractor may nonetheless be further reduced as provided below, if the anomaly: (1) would cause commercial insurers to demand terms, conditions or rates for continued insurance which are greater than would be required for a satellite which does not experience such an anomaly, or (2) results in a reduction in the fair market value of the Satellite. Contractor and Buyer shall jointly agree on the amount of any such reduction of the In Orbit Incentives, taking into account the anticipated degradation of the Satellite or of its life as a result of the anomaly, any reduction in its value over such term as a result of the anomaly, the extent to which Contractor is able to devise ways and methods to overcome the impacts of such anomaly, and any increased costs to Buyer as a result of the anomaly.
- For example (and not by way of limitation), if tubes on the Spacecraft experience failures, the exact nature of which, and the timing of additional numbers of failures which, can not be predicted with certainty, and/or with respect to which redundancies on the Spacecraft allow continued operation of all frequencies, then even if commercial insurers would claim that the number of failures to date, together with the number of potential future failures, is not sufficiently certain to result in a loss under the Criteria (or should result in only a small loss under the Criteria), a further reduction in the In Orbit Incentives would none-the-less occur based on the guidelines in the paragraph above.
- 6.7 If Contractor and Buyer are unable to agree whether an event as described in Paragraph 6.3, 6.4 or 6.6 above has occurred, or on the appropriate amount payable, the parties shall submit the matter to binding arbitration as provided for in ARTICLE 22.
- 6.8 If at the time an In Orbit Incentive payment is due, a potential reduction of the In Orbit Incentives is pending, then the payment date shall be delayed until 30 days following

resolution of the potential reduction. Notwithstanding the prior sentence, Buyer shall timely pay any amounts reasonably likely to be in excess of the value of the potential reduction.

- 6.9 If an anomaly which results in a loss is caused by Buyer's operation of the Satellite outside of the appropriate criteria established by Contractor or by a Launch Vehicle failure that is not caused by the Satellite, then no reduction in the In-Orbit Incentive payments shall be made for such anomaly. Further, if either of these two events occur, and the Satellite becomes a total loss under this ARTICLE 6, then Buyer shall pay to Contractor all In Orbit Incentives (less any reductions as a result of anomalies or amounts previously paid) within thirty (30) days after Buyer receives payment from its insurance carrier.
- 6.10 Unless Launch is delayed due to the fault of Contractor, if the Satellite is not launched within one hundred eighty (180) days after Delivery and final acceptance pursuant to ARTICLE 7, Buyer shall commence making In Orbit Incentive payments in accordance with the above as though the IOT review of the Satellite had been completed after the one hundred and eightieth (180th) day after Delivery and final acceptance pursuant to ARTICLE 7.
- 6.11 Notwithstanding anything to the contrary above, in no event shall the reduction in In-Orbit Incentives exceed the amount of unearned In-Orbit Incentives remaining due from Purchaser to Contractor at the relevant point in time.

ARTICLE 7. INSPECTION AND FINAL ACCEPTANCE

A. Inspection

Buyer, or its designated representative, shall have the right to witness and review the results of the final acceptance testing at the system level of the deliverable hardware at the facilities of Contractor. To allow Buyer to most effectively schedule the monitoring stated above, Contractor shall give Buyer reasonably timely notification of the acceptance testing of the deliverable hardware.

B. Final Acceptance

Final acceptance of the items to be delivered hereunder shall be in accordance with the requirements of this Contract, including the EXHIBITS. Delivery and final acceptance shall be as provided herein.

1. The Spacecraft furnished under this Contract shall be tested by Contractor in the presence of Buyer or Buyer's representative, and in the case of Spacecraft to be delivered to storage, shall be finally accepted by Buyer upon demonstration at Contractor's facility, prior to Delivery of Spacecraft to storage, by means of test results obtained pursuant to the test requirements set forth in EXHIBIT C, that the Spacecraft meets the performance specifications set forth in EXHIBIT B for the Spacecraft.
2. In the case of Spacecraft delivered for launch, upon arrival of Spacecraft at the Launch site, as required by EXHIBIT A for the Spacecraft, Contractor shall promptly conduct an inspection and test the Spacecraft, in accordance with the requirements of EXHIBIT C, in the presence of Buyer or Buyer's representative.
3. However, in paragraphs 1 and 2 above, Contractor may conduct the test without the Buyer's presence providing Buyer or Buyer's representative is notified within a reasonable time before the test is to be conducted. At the written request of the Contractor, Buyer or Buyer's representative shall either finally accept the Spacecraft in writing or notify Contractor in writing of those particulars in which the Spacecraft to be delivered does not meet the requirements of this Contract. For the purposes of paragraph 2 above, this action shall take place no later than forty-eight hours after Buyer or Buyer's representative has received the final Launch System Performance Test (LSPT) Test Data. Upon remedy of such particulars to meet the requirements of this Contract, the Spacecraft shall be deemed to have been Delivered and finally accepted. Notwithstanding the above, if Buyer or Buyer's representative is not present and Contractor presents the test results to Buyer and Buyer does not respond within three (3) business days, the final acceptance will have been deemed to have taken place.

4. Final acceptance of items other than the Spacecraft shall take place after Delivery by Contractor to the applicable delivery destination and, if required by Contract, completion of installation and inspection. Contractor shall promptly conduct an inspection and, if required, test the items other than the Spacecraft, in accordance with the requirements of EXHIBIT C, in the presence of Buyer or Buyer's representative. However, Contractor may conduct the test without the Buyer's presence providing Buyer or Buyer's representative is notified within a reasonable time before the test is to be conducted. At the written request of the Contractor, Buyer shall either finally accept the item(s) in writing or notify Contractor in writing of those particulars in which the items to be delivered do not meet the requirements of this Contract. Upon remedy of such particulars to meet the requirements of this Contract, the item involved shall be deemed to have been Delivered and finally accepted. Notwithstanding the above, if Buyer or Buyer's representative is not present and Contractor presents the test results to Buyer and Buyer does not respond within three (3) business days, the final acceptance will have been deemed to have taken place.

ARTICLE 8. TITLE AND ASSUMPTION OF RISK

- A. Unless otherwise stated herein, the following shall apply:
1. Title and risk of loss or damage to a Spacecraft shall pass to Buyer at Launch, even in the case of a Spacecraft delivered to storage.
 2. Title and risk of loss or damage to items other than Spacecraft shall pass to Buyer upon final acceptance.
- B. Buyer agrees to cause its insurer(s) to waive all rights of subrogation against Contractor and its officers, agents, servants, subsidiaries and employees, subject to terms and conditions as are then customarily available regarding such waivers.
- C. EXCEPT WITH RESPECT TO WILLFUL MISCONDUCT OR GROSS NEGLIGENCE BY CONTRACTOR, UPON AND AFTER LAUNCH OF THE LAUNCH VEHICLE FOR THE SPACECRAFT, CONTRACTOR'S SOLE FINANCIAL RISK, AND THE SOLE AND EXCLUSIVE REMEDIES OF BUYER, WITH RESPECT TO THE USE OR PERFORMANCE OF THE SPACECRAFT, SHALL BE AS SET FORTH IN ARTICLES 6, 13, 14, 15 AND 21.

ARTICLE 9. ACCESS TO WORK

- A. For the purpose of observing the quality of Contractor's performance of work, Contractor shall afford a reasonable number of Buyer's personnel (including without limitation Buyer's consultants) access, with office facilities as delineated in EXHIBIT A, to all work in process at Contractor's facilities. Upon Buyer's request, Contractor will request and attempt to obtain similar access to work related to Buyer's Spacecraft that is being performed at Contractor's major subcontractors.
- B. The Contractor shall use reasonable commercial efforts to obtain the U.S. Governments' authorization to allow Telesat Consultants access to the same extent as delineated in paragraph A above. Additionally, Contractor shall apply for and, once issued, use reasonable commercial efforts to maintain all U.S. Government export licenses and approvals needed for Buyer's personnel, representatives, agents and consultants who are citizens of a country other than the U.S., to access Contractor facilities or technical data in connection with the performance of this Contract as delineated in paragraph A above. Buyer shall cooperate with Contractor and provide the support necessary for Contractor to apply for and maintain such export licenses and approvals, and shall promptly notify Contractor of any occurrence or change in circumstances of which it becomes aware that is relevant to or affects such export license and approvals.
- C. Information disclosed to Buyer pursuant to this ARTICLE shall be subject to the limitations set forth in ARTICLE 25. DISCLOSURE AND USE OF INFORMATION BY THE PARTIES.

ARTICLE 10. PROGRESS MEETINGS, PRESENTATIONS AND DOCUMENTATION DELIVERABLES

A. Meetings and Presentations

In addition to any other meetings called for under the provisions of this Contract and without limitation thereto, Contractor shall provide the manpower, facilities, materials and support required to conduct the following periodic meetings and presentations:

1. Informal Program Manager meetings.
2. Technical Review meetings as determined by Contractor's Program Manager.
3. Quarterly Summary Executive Reviews.

Copies of view graphs or other documents utilized during these meetings shall be furnished or be made available to Buyer. Buyer's management personnel, as may be deemed appropriate by Buyer, shall be invited to the Quarterly Summary Executive Reviews. Contractor shall be represented by its Program Manager and such other personnel as are specifically required to support the particular presentation. All periodic meetings shall be held at Contractor's facilities at either Sunnyvale, CA or Newtown, PA, or such other locations that the Parties shall mutually agree to.

B. Distribution of Reports

All materials, reports and documentation furnished pursuant to this ARTICLE shall be the property of Buyer subject to the limitations set forth in ARTICLE 25, DISCLOSURE AND USE OF INFORMATION BY THE PARTIES, except that, Contractor or its subcontractors may retain copies for their own purposes, including the using of such materials and reports in the performance of other contracts.

C. Correspondence

All correspondence, including notices, reports and documentation deliverables, to be provided to Buyer or Contractor under this Contract shall be sent in writing to Buyer or Contractor, signed by the Party issuing them, and sent by either: (i) facsimile transmission; (ii) first class certified mail, postage prepaid; or (iii) overnight courier service, charges prepaid, to the Party to be notified, addressed to such Party at the address set forth below, or sent by facsimile to the fax number set forth below, or such other address or fax number as such party may have substituted by notice given to the others in accordance with this paragraph C. The sending of such notice with confirmation or receipt thereof (in the case of facsimile transmission) or receipt of such notice (in the case of delivery by certified mail or by overnight courier service) shall constitute the giving thereof.

EchoStar Orbital Corporation
 5701 South Santa Fe Drive
 Littleton, Colorado 80120-1838
 Attention: Mr. C. Ergen
 Fax: 303-723-1699
 CC: Mr. David Moskowitz
 Fax: 303-723-1608
 CC: Mr. Rohan Zaveri
 Fax: 303-723-1099

Lockheed Martin Corporation
 1272 Borregas Avenue
 Sunnyvale C.A, 94089
 Attention: Ms. S. McMahan
 Fax: 408-743-4906

D. The only representatives of Buyer and Contractor authorized to sign contractual documents are:

BUYER:
 Mr. C. Ergen
 Mr. D. Moskowitz

CONTRACTOR:
 Mr. P.L. Kujawski
 Mr. C. Stees
 Ms. Sandra McMahan
 Mr. P.H. Wiggett

Or others authorized by written delegation of the Board of Directors of EchoStar Orbital Corporation

Or others authorized by written delegation by Lockheed Martin Corporation

ARTICLE 11. RIGHTS IN DATA

- A. Except as provided in paragraph B below, Buyer shall have an unlimited right to use, duplicate, and disclose the information contained in the Spacecraft Operations Manual (SOM) furnished pursuant to EXHIBIT A for the Spacecraft, however, if any written material furnished as part of said document is copyrighted, Buyer shall have an unlimited right to make copies of such copyrighted material and to use such copies for any Buyer purpose associated with the operation of the Spacecraft without payment of additional compensation to Contractor to the extent that Contractor has the authority to grant such right. In the event Contractor does not have such right, Contractor will exert its best efforts to obtain such rights for Buyer.
- B. All data that are or may be delivered or disclosed by either party to the other shall be subject to ARTICLE 25, DISCLOSURE AND USE OF INFORMATION BY THE PARTIES.
- C. Notwithstanding any other provision hereof, the ownership and title to copyrights and computer programs and their related documentation delivered to Buyer by Contractor in accordance with this Contract shall remain in Contractor or its licensor. Contractor shall grant to Buyer a paid up non-exclusive, non-transferable license to use (including "to duplicate" and "to adapt") solely for use in connection with this Contract, the copies of computer programs and their related documentation specified in the Contract required for the operation of the Spacecraft delivered under this Contract.

ARTICLE 12. PUBLIC RELEASE OF INFORMATION

During the term of this Contract, neither Party, its affiliates, subcontractors, employees, agents and consultants shall release items of publicity of any kind, including, without limitation, news releases, articles, brochures, advertisements, prepared speeches, company reports or other information releases, related to the work performed hereunder, including the denial or confirmation thereof, without the other Party's prior written consent which consent shall not be unreasonably withheld. Notwithstanding the foregoing either Party may disclose the existence and the purpose of this Contract to the extent required by any laws, rules, or regulations.

ARTICLE 13. INDEMNIFICATION

- A. Each party shall defend the other party and its officers, agents, servants, subsidiaries and employees, and any of them, from and against all claims, actions, suits and proceedings (collectively "Claims") alleging damage to any property, private or public, and injuries, including death, to persons caused by any act or omission of the indemnifying Party and/or the indemnifying Party's agents or representatives at any tier or any of them, and, notwithstanding the provisions of Article 28, shall pay any final judgment or settlement, provided the indemnifying Party is given prompt written notice of any such Claim and full authority to resist, defend and settle such Claim. The indemnified Party shall provide at the indemnifying Party's request such assistance and information as may be required the indemnifying Party. The indemnifying Party shall in no event be liable for any costs or expenses incurred without its written authorization.
- B. Other than as provided in ARTICLES 6, 13, 14, 15 and 21, upon and after Launch of the launch vehicle for the Spacecraft, Contractor shall not be liable to Buyer, customers of Buyer or their customers for any damages resulting from: (i) any loss or destruction of the Spacecraft; or (ii) failure of the Spacecraft or its subsystems to operate satisfactorily, except any such liabilities, losses and damages that are caused by the gross negligence or willful misconduct of Contractor. Buyer also agrees to cause its insurers to waive all right of subrogation against Contractor and its officers, agents, servants, subsidiaries and employees, subject to terms and conditions as are then customarily available regarding such waivers.

ARTICLE 14. PATENT INDEMNITY

- A. Contractor shall defend Buyer and its officers, agents, servants, subsidiaries and employees, and any of them from and against all Claims alleging that the manufacture of any Spacecraft, delivered under this Contract or the use, lease, sale or other disposition of any such Spacecraft infringes any U.S. patent, and, notwithstanding ARTICLE 28, shall pay any final judgment or settlement, provided Contractor is given prompt written notice of any such Claim and full authority to resist, defend and settle such Claim. Buyer shall provide at Contractor's request such assistance and information as may be required by Contractor.
- B. If an injunction or other order is obtained against the manufacture, use, lease, sale or other disposition of any Spacecraft hereunder, Contractor agrees to use its best efforts either to procure rights so that such Spacecraft and the manufacture, use, lease, sale or other disposition thereof is no longer infringing or to modify or replace such Spacecraft so that it is no longer subject to such order. In the event that such injunction or order becomes permanent and that neither of the foregoing alternatives is suitably accomplished and Contractor is unable to reasonably perform its obligations hereunder, Buyer may terminate this Contract and receive a refund of all amounts paid to Contractor hereunder.
- C. Contractor shall in no event be liable for any costs or expenses incurred without Contractor's written authorization and, except in the case of gross negligence or willful misconduct, in no event shall Contractor's total liability to Buyer under, or as a result of compliance with, the provisions of this ARTICLE exceed the aggregate Spacecraft price for all Spacecraft under construction or delivered. The foregoing states the entire warranty by Contractor and the exclusive remedy of Buyer, with respect to any alleged patent infringement by such product or part.

ARTICLE 15. INDEMNIFICATION FOR TAXES

Contractor shall assume responsibility, and shall defend Buyer, its officers, agents, employees, servants, subsidiaries and assignees, or any of them, from and against all Claims arising out of, or relating to, taxes, which may be required under present federal, state, or local laws and which become due by reason of the performance of work under this Contract, and, notwithstanding the provisions of Article 28, shall pay any final judgment or settlement (including without limitation any interest or penalties), provided Contractor is given prompt written notice of any such Claim and full authority to resist, defend and settle such Claim, and Contractor shall execute and deliver such other and further documents, and comply with such requirements of said laws, as may be necessary thereunder to confirm and effectuate this Contract, including making of payment of any interest or penalties related to or arising from such taxes. Buyer shall provide at Contractor's request such assistance and information as may be required by Contractor. The indemnifying Party shall in no event be liable for any costs or expenses incurred without its written authorization. It is Contractor's belief that no sales, use, income or personal property taxes will be incurred under this Contract as presently structured. In the event that Buyer directs changes which result in the assessment of sales, use, income or personal property taxes which would not be payable absent such direction, Buyer shall be responsible for such taxes.

ARTICLE 16. EXCUSABLE DELAYS

Without limiting any other provision specifying what constitutes an excusable delay under this Contract, acts of God or of the public enemy; acts of the Government in its sovereign or contractual capacity, including Government priorities, allocations, regulations or orders affecting materials, facilities, or completed Spacecraft (including changes in the launch specifications); fires; floods; snowstorms; earthquakes; epidemics; quarantine restrictions; strikes; wars; freight embargoes; or any similar events which cause failure or delay to perform hereunder, and in every case are beyond the reasonable control and without fault or negligence of a Party or its subcontractors hereunder shall constitute an excusable delay, if notice thereof is given to the other Party as soon as possible but in no event later than within thirty (30) days after such event shall have occurred. In the event of a delay resulting from any of the above causes, the Delivery requirement shall be extended for the period of the excusable delay.

ARTICLE 17. TERMINATION FOR DEFAULT

- A. Buyer may, by written notice of default sent to Contractor in accordance with paragraph C of ARTICLE 10, terminate the whole or any part of this Contract in any one of the following circumstances:
1. If Contractor fails to make Delivery of the supplies or to perform the services within the time specified herein.
 2. If Contractor fails to perform any of the other provisions of this Contract or so fails to make progress as to endanger performance of this Contract in accordance with its terms, and in either of these two circumstances does not act to correct such failure within a period of thirty (30) days (or such longer period as Buyer may authorize in writing) after receipt of notice from Buyer specifying such failure.
- B. To the extent the Contract is terminated under this ARTICLE, Buyer shall use all reasonable efforts to utilize all work in process hereunder in order to mitigate any costs sustained by Buyer as a result of Contractor's default. Contractor will pay to Buyer all costs reasonably incurred by Buyer in obtaining all of the work described in this Contract, according to the schedule set forth herein, provided that Buyer enters into a contract for such work within twelve (12) months of Contractor's default.
- C. If this Contract is terminated as provided in this ARTICLE, Contractor shall promptly refund all payments made by Buyer for the terminated work, except that Buyer shall remain liable to Contractor for and pay Contractor: (a) the Contract price for completed items which are delivered to Buyer and finally accepted by Buyer pursuant to ARTICLE 7; and (b) the cost of, and a reasonable profit on, all work in process, materials in stock and services for which Buyer takes Delivery and which Buyer finally accepts pursuant to ARTICLE 7.
- D. If this Contract is terminated as provided in this ARTICLE, Contractor shall protect and preserve property in the possession of Contractor in which Buyer has an interest.
- E. Absent gross negligence or willful misconduct, the remedies set forth in this ARTICLE, and ARTICLES 6, 13, 14, 15, 21 and 30, shall be the sole recourse to which Buyer is entitled, under paragraph 1 or paragraph 2 above, in the event of Contractor's default, and Contractor shall have no liability for special, indirect, incidental or consequential damages for lost profits or lost revenues.
- F. In the event Buyer fails to perform any obligation which it is required to perform pursuant to this Contract, Contractor may, if such failure is not corrected within thirty (30) days after written notice of such failure is given by Contractor to Buyer in accordance with paragraph C of ARTICLE 10, halt work on this Contract and consider this entire Contract to be terminated due to the default of Buyer. In the event that Contractor terminates this

Contract pursuant to this paragraph F, Contractor shall be entitled to compensation as set forth in ARTICLE 18, TERMINATION FOR CONVENIENCE. Absent gross negligence or willful misconduct, the remedies set forth in this paragraph F shall be the sole recourse to which Contractor is entitled, under this ARTICLE, in the event of Buyer's default, and Buyer shall have no liability for special, indirect, incidental or consequential damages for lost profits or lost revenues.

- G. If, after notice of termination of the Contractor's right to proceed under the provisions of this ARTICLE, it is determined for any reason that the Contractor was not in default under the provisions of this ARTICLE, or that the delay was excusable under the provisions of ARTICLE 16, EXCUSABLE DELAYS, the rights and obligations of the Parties shall be the same as if notice of termination had been issued pursuant to ARTICLE 18, TERMINATION FOR CONVENIENCE.
- H. If, after notice of termination of the Buyer's right to proceed under the provisions of this ARTICLE, it is determined for any reason that the Buyer was not in default under the provisions of this ARTICLE, or that the delay was excusable under the provisions of ARTICLE 16, EXCUSABLE DELAYS, the rights and obligations of the Parties shall be the same as if Contractor was terminated for default under this ARTICLE.

ARTICLE 18. TERMINATION FOR CONVENIENCE

A. Buyer, by written notice to Contractor, may terminate this Contract in whole, or in part, for any reason or for Buyer's convenience at any time prior to final acceptance of all the work. In the event of such termination, Contractor will cease work as directed in the termination notice. The termination charges shall be limited to the total direct costs (including applicable overhead charges) reasonably incurred by Contractor with respect to termination and settlement with all vendors and subcontractors, plus a profit of fifteen (15) percent on such direct costs, and reasonable costs incurred by Contractor in connection with the reassignment of the personnel involved in the Spacecraft program (provided that Contractor shall use reasonable commercial efforts to minimize all of the above-listed costs). In the event of termination by the Buyer of any deliverable item, it is agreed that the termination charges shall be negotiated but shall not exceed the total price for deliverable item set forth in ARTICLE 2, EQUIPMENT AND SERVICES TO BE FURNISHED AND PRICES THEREFORE, hereof. Notwithstanding the above, in no event shall the Buyer's liability, under this paragraph A, exceed the percentage of the total price of the Spacecraft, as such total price is set forth in ARTICLE 2. EQUIPMENT AND SERVICES TO BE FURNISHED AND PRICES THEREFORE, which corresponds to the month such termination occurs in the following schedule:

SPACECRAFT TERMINATION LIABILITY SCHEDULE

MONTHS AFTER EDC	% OF TOTAL PRICE OF SPACECRAFT
1	XX
2	XX
3	XX
4	XX
5	XX
6	XX
7	XX
8	XX
9	XX
10	XX
11	XX
12	XX
13	XX
14	XX
15	XX
16	XX
17	XX
18	XX
19	XX
20	XX
21	XX
22	XX
23	XX

- B. Direct costs (including applicable overhead charges) and costs incurred by Contractor in connection with the reassignment of the personnel involved in the Spacecraft program shall be determined in accordance with Contractor's standard accounting practice and may be verified, at Buyer's option and expense, by an independent certified public accounting firm to be mutually agreed upon by the Buyer and Contractor.
- C. Buyer shall pay Contractor the aforesaid termination charges within thirty (30) days following the submission of an invoice. Upon payment of Contractor's invoice, Contractor shall deliver to Buyer all termination inventory which has not been credited by Contractor against the termination charges set forth in paragraph D.2 below. In the event that Contractor's invoice is not paid within thirty (30) days following submission, Buyer shall be in default pursuant to ARTICLE 17, TERMINATION FOR DEFAULT, paragraph F.
- D. Final payment shall be in the amount of the total termination charges, less the following:
1. Amounts previously paid by Buyer to Contractor with respect to previously completed work and any terminated work pursuant to ARTICLE 4. PAYMENT, hereof; and
 2. Amounts representing the total of Contractor's costs with respect to previously completed work and any terminated work of segregable items of inventory not desired by Buyer and which Contractor elects to retain for its use.
- In the event the amount set forth in this paragraph D above exceeds the termination charges defined in paragraph A of this ARTICLE, Contractor shall promptly refund such excess to Buyer.
- E. In no event shall the total amount paid to Contractor pursuant to this Agreement, including termination charges paid pursuant to this ARTICLE, exceed the total price stated in ARTICLE 2, EQUIPMENT AND SERVICES TO BE FURNISHED AND PRICES THEREFORE, hereof.
- F. The remedies set forth in this ARTICLE shall be the sole recourse to which Contractor is entitled, under this ARTICLE, in the event of Buyer's exercise of termination for convenience.
- G. Contractor agrees to use all reasonable efforts to assist Buyer in disposing/selling of the work in process upon termination pursuant to this ARTICLE.

ARTICLE 19. CHANGES

Buyer may, from time to time between the EDC and the completion of this Contract, by written change order issued by Buyer, make changes within the general scope of this Contract in drawings, designs, specifications, method of shipment or packing, quantities of items to be furnished, place of Delivery, postpone Delivery, require additional work, or direct the omission of work. If any such change causes an increase or decrease in costs of, or the time required for, the performance of this Contract, an equitable adjustment shall be made in the price, or Delivery schedule, or both, and any other affected provision, and this Contract shall be modified in writing accordingly. Any claim by Contractor for adjustment under this paragraph shall be deemed waived unless asserted in writing within thirty (30) days from the date of receipt by Contractor of the change order. The amount of the claim shall be stated when it is submitted, or at a later date, not to exceed sixty (60) days from the date for assertion of the claim, which later date shall be requested at the time of such submission. Unless Contractor has waived its claim, all changes and equitable adjustments pursuant to this ARTICLE shall be subject to negotiation between and approval by both Parties prior to the implementation of any such change. Except for Excusable Delays pursuant to ARTICLE 16. EXCUSABLE DELAYS, none of the Contract dates will change unless mutually agreed upon in writing by the Parties.

ARTICLE 20. ASSIGNMENT

- A. Neither party shall assign or delegate this Contract or any of its rights, duties, or obligations hereunder to any other person without the prior express written approval of the other party, such approval shall not be unreasonably denied. Nothing contained in this ARTICLE shall restrict Contractor from subcontracting work or procuring parts/materials or services in the ordinary course of performance of this Contract.
- B. Buyer may assign this Contract, provided Buyer can reasonably demonstrate that any such proposed assignee is in at least as good financial condition as the Buyer at the EDC.

ARTICLE 21. WARRANTY

- A. Contractor warrants that the goods or services furnished hereunder shall be free from any defects in material or workmanship and shall be manufactured in conformity with the performance specifications applicable to such goods and services.
- B. Buyer shall have the right at any time during the period of this warranty and irrespective of prior inspections or acceptance to reject any goods or services not conforming to the above warranty and require that Contractor at its expense, correct or replace as promptly as is reasonably possible, at Contractor's option, such goods or services with conforming goods or services.
- C. For the Spacecraft, this warranty shall run for a period of one (1) year from the date of final acceptance by Buyer or until Launch, whichever is sooner. Notwithstanding the foregoing, Contractor shall investigate any and all anomalies arising during the life of the Spacecraft, and use reasonable best efforts to correct any such anomaly that is correctable by Contractor from Buyer's SCF using the facilities and equipment available at such site.
- D. Except for the Spacecraft, this warranty shall run for a period of one (1) year from the date of final acceptance by Buyer.
- E. Contractor shall pass on or assign to Buyer all warranties on goods or services given by suppliers or manufacturers other than Contractor to the extent to which Contractor is permitted by the terms of its purchase contracts with such suppliers or manufacturers.
- F. THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, WHETHER STATUTORY, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

ARTICLE 22. ARBITRATION

- A. Any dispute or disagreement arising between the Parties in connection with any interpretation of any provision of this Contract, or the compliance or noncompliance therewith, or the validity or enforceability thereof, or any other dispute under any ARTICLE hereof which is not settled to the mutual satisfaction of the Parties within thirty (30) days (or such longer period as may be mutually agreed upon) from the date that either party informs the other, in writing, that such dispute or disagreement exists, 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.
- B. Either party which demands arbitration of the controversy shall, in writing, specify the matter to be submitted to arbitration and, at the same time, choose and nominate a competent person to act as an arbitrator; thereupon, within fifteen (15) days after receipt of such written notice, the other party to this agreement shall, in writing, choose and nominate a competent arbitrator. The two arbitrators so chosen shall meet and endeavor to resolve the question in dispute, and, if they agree upon such determination, the determination so made shall be in writing and signed by both arbitrators. If such two arbitrators fail to agree, they shall forthwith select a third arbitrator, giving written notice to both Parties of the choice so made and fixing a time and place at which both Parties may appear and be heard with respect to such controversy. In case the two arbitrators shall fail to agree upon a third arbitrator within a period of seven (7) days, 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 event of failure or refusal of any arbitrator or arbitrators to attend or fulfill his or their duties, then upon application by either Party to the controversy, an arbitrator or arbitrators shall be named by the American Arbitration Association.
- C. The arbitration award made 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. Subject to any other limitation of damages set forth herein, the relief that may be awarded by the arbitrators under any arbitration arising from this Contract may not exceed actual compensatory damages. In no event may the arbitrators award punitive damages.
- D. Each party shall bear the cost of preparing and presenting its case, and the cost of arbitration, including the fees and expenses of the arbitrator or arbitrators, will be shared equally by the Parties unless the award otherwise provides.

ARTICLE 23. APPLICABLE LAW

- A. This Contract shall be interpreted and enforced in accordance with the substantive laws of the State of New York, exclusive of its conflict rules.
- B. This Contract is subject to all applicable laws and regulations and each Party agrees to comply with all such applicable laws and regulations.

ARTICLE 24. ENTIRE AGREEMENT

This Contract constitutes the entire agreement between the Parties and supersedes all prior understandings, commitments, and representations with respect to the subject matter hereof. It may not be amended, modified, or terminated (other than as specifically provided in the ARTICLES hereof), and none of its provisions may be waived, except by a writing signed by an authorized representative of the Party against which the amendment, modification, termination or waiver is sought to be enforced. The paragraph headings herein shall not be considered in interpreting the text of this Contract.

ARTICLE 25. DISCLOSURE AND USE OF INFORMATION BY THE PARTIES

- A. If documents supplied by one party to the other are marked with a proprietary legend, the receiving party shall take all necessary steps to ensure that the documents and contents of such documents are not disclosed to any person other than a person employed or engaged by the receiving party, whether under subcontract or otherwise, who has a bona fide need to know the information contained thereon in order to perform this Contract. Any such document supplied hereunder shall be returned to the disclosing party together with any copies thereof promptly upon written request of the disclosing party, except for one copy to be retained for legal purposes. Whenever the receiving party makes copies of such proprietary documents for performance of work covered by this Contract, the receiving party shall mark each such copy as proprietary to the disclosing party.
- B. Any disclosure to any person permitted under paragraph A of this ARTICLE shall be made under the same conditions that apply to the initial disclosure and shall extend only so far as may be necessary for the purposes of this Contract. Any such disclosure to a person other than an employee of the receiving party shall be made pursuant to a written confidential disclosure agreement or with prior written approval of the disclosing party.
- C. Except with the written consent of the disclosing party, the receiving party shall not make use of any document mentioned in paragraph A of this ARTICLE other than for the purposes of this Contract.
- D. The obligations and restrictions imposed by this ARTICLE shall not apply to the following:
1. information that is or becomes available to the public from a source other than the receiving party, before or after the effective date of this Contract;
 2. information that is authorized for release in writing by the disclosing party;
 3. information that is lawfully obtained by the receiving party from a third party;
 4. information that is known by the receiving party prior to such disclosure; and
 5. information that is, at any time, developed by the receiving party completely independently of any disclosure or disclosures from the disclosing party.
- E. Neither party shall be liable for inadvertent or accidental disclosure of such information marked as proprietary if such disclosure occurs despite both Parties exercising reasonable efforts to preserve and safeguard such information.
- F. Neither party shall be liable for the disclosure of any proprietary information of the other party pursuant to any legally enforceable requirement of the U.S. Government or any

State or local government, or any agency, or department of any of the above, or any binding court order.

- G. No license, under any patents or any other intellectual property, is granted or implied by merely conveying data or information under this Contract.
- H. Any proprietary disclosure to either party, if made orally, or visually, shall be identified as confidential or proprietary at the time of disclosure, in order for such information to be treated as proprietary and subject to the restrictions of this ARTICLE 25.
- I. The obligations of this ARTICLE shall be effective for a period of three (3) years from the date of termination or expiration of this Contract whichever comes first.

ARTICLE 26. EFFECTIVE DATE

The term Effective Date of the Contract (EDC), as used in this Contract, shall mean the 27th day of January 2000.

ARTICLE 27. PERMITS AND LICENSES

- A. This Contract is subject to all applicable U.S. laws and regulations relating to the export of Spacecraft, technical data and other equipment and services being furnished pursuant to, or to be utilized in connection with, this Contract (hereinafter in this ARTICLE referred to as "Licensed Items") and to all applicable laws and regulations of the country or countries to which Spacecraft, technical data, and other equipment and services are exported or are sought to be exported.
- B. Contractor shall use its best efforts to obtain such U.S. Government approvals and licenses for export of the "Licensed Items." Buyer shall not be liable for any additional cost associated with Contractor processing any export license application for Delivery of any Spacecraft.
- C. If, within a reasonable time, the U.S. Government fails to grant a required approval or license to Contractor to export the "Licensed Items" or revokes or suspends such an approval or license subsequent to its grant, or grants such a license or approval subject to conditions, this Contract shall, nevertheless, remain in full force and effect. In the event of such U.S. Government action or inaction, deliveries and acceptance of all items to be furnished by Contractor shall be made at locations within the continental U.S. as agreed upon between the Parties. Such U.S. Government action or inaction shall not otherwise modify in any way the rights and obligations of the Parties under this Contract except to relieve Contractor of any obligations which cannot be performed without such an approval or license and to make the price and Delivery schedule subject to equitable adjustment in accordance with ARTICLE 19, CHANGES, to reflect the obligations of which Contractor is relieved.
- D. If, within a reasonable time, any foreign country or countries to which such "Licensed Items" are sought to be exported fails to grant a required approval or license or suspends or revokes a required approval or license subsequent to its grant, or grants a license subject to conditions, or if any foreign country or countries to which such "Licensed Items" are exported fails to grant an approval or licenses to utilize the "Licensed Items" for the purpose for which exported, this Contract shall, nevertheless, remain in full force and effect. In the event of such foreign country or countries action or inaction, deliveries and acceptance of all items to be furnished by Contractor shall be made at locations within the continental U.S. as agreed upon between the Parties. Such foreign government action or inaction shall not otherwise modify in any way the rights and obligations of the Parties under this Contract except to relieve Contractor of any obligations which cannot be performed without such an approval or license and to make the price and Delivery schedule subject to equitable adjustment in accordance with ARTICLE 19, CHANGES, to reflect the obligations of which Contractor is relieved.

ARTICLE 28. LIMITATION OF LIABILITY

ABSENT GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, IN NO EVENT SHALL EITHER PARTY BE LIABLE, WHETHER IN CONTRACT, TORT OR OTHERWISE, FOR SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, FOR LOST PROFIT OR REVENUES TO THE OTHER PARTY.

ARTICLE 29. SPACECRAFT TEST AND HANDLING EQUIPMENT

Contractor shall provide Spacecraft unique test and handling equipment at the Launch Site, during the period between Delivery of the Spacecraft to the Launch Site, and final acceptance for use in connection with the inspection and final acceptance of the Spacecraft pursuant to ARTICLE 7. INSPECTION AND FINAL ACCEPTANCE. Title to such equipment shall remain with Contractor.

ARTICLE 30. LIQUIDATED DAMAGES

- A. Contractor acknowledges that its failure to Deliver the Spacecraft to the Launch site on or before the applicable Delivery date set forth in ARTICLE 3. DELIVERY SCHEDULE, may cause serious damage to Buyer, the amount of which may be difficult or impossible to prove.
1. The amount of Liquidated Damages applicable to the Spacecraft shall be \$XXXXXXX per day for days 1 through 60 and \$XXXXXXX for each day thereafter, but shall not, absent gross negligence or willful misconduct, exceed a total of \$XXXXXXX.
- B. Contractor and Buyer agree that such liquidated damages, without further proof of same, shall be deemed to represent the damages actually sustained by reason of such delay.
- C. The liquidated damages are intended to be compensatory and do not constitute a penalty.
- D. These amounts are firm, fixed and not subject to adjustment due to changes in economic conditions. The Contractor's total liability for late Delivery of the Spacecraft shall not exceed the specified liquidated damages, absent gross negligence or willful misconduct.
- E. Any interval of excusable delays as defined in ARTICLE 16. EXCUSABLE DELAYS, shall be excluded from the period for which liquidated damages accrue. However, such time period shall continue at the conclusion of the excluded interval as if no such interruption had occurred.
- F. In the event that liquidated damage are owed by Contractor to Buyer, Contractor shall make payment of same to Buyer ninety (90) days after Launch of the Spacecraft, and in the event the Spacecraft is placed into Storage, Contractor shall make payment of same to Buyer ninety (90) days after it is placed into Storage.

ARTICLE 31. SPACECRAFT STORAGE

- A. If as a result of a delay or failure to launch, through no fault of Contractor, Buyer requests Contractor to store the Spacecraft within sixty (60) days of completion of in-plant acceptance testing, the Contractor shall store, at a site designated by Buyer and such site shall be subject to the approval of Contractor, or if no site is designated by Buyer, at a site designated by Contractor, the Spacecraft delivered under this Contract. Title and risk of loss to the Spacecraft to be stored shall remain with Contractor at the storage site. Contractor shall assume full responsibility for any loss or damage to the Satellite during ground storage. There shall be no charge for storage or reverification work if the Contractor's failure to perform is the reason that the Satellite is stored, or if the Satellite is stored for less than six (6) months. Should the Satellite be stored for a reason other than Contractor's failure to perform and the Spacecraft remains in storage beyond the six (6) month period, Buyer shall be responsible for all storage costs (in excess of six (6) months) and shall be responsible for paying directly or reimbursing Contractor for all direct costs actually incurred by Contractor to re-verify system flight assurance and reverification testing (in excess of six (6) months). Contractor shall be responsible, except in the event of negligence or willful misconduct by the Buyer, for all transportation cost and insurance to cover the risk and expense of loss or damage of the Spacecraft in transit, (i) from Contractor's facility to storage, (ii) from Buyer's facility to the storage site, (iii) from the storage site to the launch site or (iv) if necessary, from the storage site to the refurbishment site and then to the launch site.
- B. Upon the request of Buyer, the Contractor shall provide periodic testing, necessary equipment, and environmental maintenance suitable for prevention of deterioration to the Spacecraft during the period of storage. Unless the Contractor's failure to perform is the reason that the Satellite is stored, and except for the first six (6) months that the Satellite is stored, the cost for such service shall be subject to ARTICLE 19. CHANGES, and shall be negotiated upon the request of such services by Buyer. Any deterioration to a Spacecraft while in storage shall be at Contractor's risk and shall be corrected at Contractor's expense.
- C. If at any time after storage begins, Buyer elects to launch the stored Spacecraft, the Contractor shall inspect, test and refurbish as necessary such Spacecraft to a launch-ready condition and arrange for transit to the launch site as directed by Buyer. The cost for such services shall be subject to ARTICLE 19. CHANGES, and shall be negotiated in good faith by the Contractor and Buyer at the time such services are required.
- D. In the event the Spacecraft is placed into storage as a result of a delay or failure to launch, through no fault of Contractor, Contractor shall be entitled to commencement of the payment of In-Orbit Incentives associated with the Spacecraft in accordance with the provisions of ARTICLE 6, as though the IOT review had been completed on the date that the Spacecraft was placed into storage. Notwithstanding the foregoing, in the event that Contractor's late Delivery of the Spacecraft is the sole cause of the Spacecraft having to be placed into storage, the In-Orbit Incentives shall commence as set forth in ARTICLE 6.

ARTICLE 32. SURVIVAL

The following ARTICLES shall survive the completion, expiration or termination of this Contract: ARTICLE 11. RIGHTS IN DATA; ARTICLE 12. PUBLIC RELEASE OF INFORMATION; ARTICLE 13. INDEMNIFICATION; ARTICLE 14. PATENT INDEMNITY; ARTICLE 15. INDEMNIFICATION FOR TAXES; ARTICLE 21. WARRANTY; ARTICLE 22. ARBITRATION; ARTICLE 23. APPLICABLE LAW; ARTICLE 25. DISCLOSURE AND USE OF INFORMATION BY THE PARTIES; ARTICLE 27. PERMITS AND LICENSES; ARTICLE 28. LIMITATION OF LIABILITY; ARTICLE 34. INTERPARTY WAIVER OF LIABILITY.

ARTICLE 33. INSURANCE

- A. If the Buyer applies for insurance regarding risks relating to the Launch of the Spacecraft, the Contractor shall furnish Buyer with such information regarding the Spacecraft as is requested by the insurers and will cooperate in any insurance reviews.
- B. If Buyer obtains such insurance, Buyer agrees to cause its insurer(s) to waive all rights of subrogation against Contractor and its officer, agents, servants, subsidiaries and employees, subject to terms and conditions as are then customarily available regarding such waivers.

ARTICLE 34. INTERPARTY WAIVER OF LIABILITY

The Parties hereby agree to be bound by the no-fault, no-subrogation inter-party waiver of liability and related indemnity provisions provided in the launch services agreement that Buyer enters into with the Launch provider who actually launches the Satellite, with respect to the Launch and to cause their respective contractors and subcontractors at any tier (including suppliers of any kind) that are involved in the performance of this Contract and any other person having an interest in the Satellite or any transponder thereon (including customers of Buyer), as required by the launch services agreement and as specified by Buyer, to accede to such waiver. The Parties shall execute and deliver any instrument that may be required by the Launch provider to evidence their agreement to be bound by such waiver. Buyer and Contractor also shall obtain, from their insurers, and shall cause their respective contractors and subcontractors at any tier (including suppliers of any kind) that are involved in the performance of this Contract and any other person having an interest in any Satellite or any transponder thereon (including customers of Buyer), as required by the launch services agreement and as specified by Buyer, to obtain from their insurers, an express waiver of such insurers' rights of subrogation, subject to terms and conditions as are then customarily available regarding such waivers, with respect to any and all claims that have been waived pursuant to this ARTICLE 34.

ARTICLE 35. COOPERATION REGARDING SPOT BEAMS

Until thirty (30) days after EDC, Contractor shall use reasonable commercial efforts to cooperate with Space Systems/Loral, Inc. ("SS/L") regarding the footprints of the spot beams for the Spacecraft and the EchoStar 8 satellite being manufactured by SS/L. In addition, upon Buyer's request, Contractor shall use reasonable commercial efforts to cooperate with SS/L as necessary to change the initial footprints of the spot beams for the Spacecraft and the EchoStar 8 satellite. Finally, Contractor shall use reasonable commercial efforts to cooperate with SS/L as necessary to ensure that the spot beams of the Spacecraft and the EchoStar 8 satellite, as deployed, will operate in accordance with the final approved beam footprints.

ARTICLE 36. DRY MASS PENALTY

If, at the time of final acceptance pursuant to ARTICLE 7, the mass of the Spacecraft without propellant or pressurant (the "Dry Mass") exceeds 1868 Kilograms (Kg), Contractor shall pay to Buyer an amount calculated as XXXXXXX Dollars (\$XXXXXX) per each Kg by which such Dry Mass exceeds 1868 Kg (the "Dry Mass Penalty") and, if Buyer elects to launch the Satellite using a launch vehicle other than an Atlas IIIB launch vehicle, then, in addition to paying the Dry Mass Penalty, Contractor will perform all necessary integration activities in connection with the new launch vehicle on an expedited basis, at no additional cost or expense to Buyer (the "Integration Penalty").

Notwithstanding the prior paragraph, if the Dry Mass exceeds 1868 Kg, but the orbital life of the Spacecraft is still expected to be at least 14 years, with industry standard margins, after completion of the IOT review, assuming an Atlas IIIB launch vehicle having a nominal supersynchronous MRS mission, then Contractor shall not be required to pay a Dry Mass Penalty or be subject to the Integration Penalty.

Contractor hereby represents and warrants to Buyer that, to the best of its knowledge and belief on the date hereof, after the exercise of reasonable diligence, if the Satellite has a Dry Mass of 1868 or less Kilograms (Kg), at the time of final acceptance pursuant to ARTICLE 7, and is launched using an Atlas IIIB launch vehicle, with a nominal supersynchronous MRS mission, the Satellite will have an orbital life of at least 14 years after completion of the IOT review, with industry standard margins.

ARTICLE 37. KEY PERSONNEL

The Contractor will assign properly qualified and experienced personnel to the program contemplated under the Contract. Personnel assigned to the following positions shall be considered "Key Personnel":

- a) the Contractor's Program Manager
- b) the Contractor's Contracts Manager
- c) the Contractor's PA Manager
- d) the Contractor's Vehicle Systems Engineering Manager
- e) the Contractor's Vehicle Manager

The Buyer shall have the right to approve the Contractor's Program Manager which approval shall not be unreasonably withheld or delayed. Key Personnel shall not be assigned to other duties without the Contractor giving prior written notice to and consulting with the Buyer. The Contractor shall provide a chart to the Buyer of the program Key Personnel and shall keep such chart current.

Additionally:

- 1) Dave Bair shall continue to be the primary interface with the Buyer in the capacity of the EchoStar Account Executive and Technical Expert and have a key decision making role within the EchoStar VII program when an issue remains unresolved.
- 2) Surjit Dhillon shall be assigned to the program on a full time basis, directing the design and implementation of the payload, have the key decision-making role on payload-related issues, and shall be the primary interface with the Buyer on all payload-related technical and performance issues. Mr. Dhillon must be consulted, and sign off, on the following payload-related deliverables: (a) all portions of PDRs and CDRs relating to payload; (b) payload end item data package; (c) payload performance data; and (d) payload IOT reports.

IN WITNESS WHEREOF, the parties hereto have executed this Contract.

ECHOSTAR ORBITAL CORPORATION

LOCKHEED MARTIN CORPORATION

By:

By:

David K. Moskowitz
Senior Vice President and
General Counsel

Peter H. Wiggett
Director of Contracts

EchoStar Communications Corporation hereby guarantees all of the obligations and duties of EchoStar Orbital Corporation under the Contract to which this guarantee is attached.

ECHOSTAR COMMUNICATIONS
CORPORATION

By:

David K. Moskowitz
Senior Vice President and
General Counsel

Certain portions of this document have been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934.

CONTRACT BETWEEN
EHOSTAR ORBITAL CORPORATION
AND
SPACE SYSTEMS/LORAL, INC.
EHOSTAR 8 SATELLITE PROGRAM
(110(DEGREE) W.L.)

This document contains data and information proprietary to Space Systems/Loral, Inc. This data shall not be disclosed, disseminated or reproduced, in whole or in part, without the express prior written consent of Space Systems/Loral except as otherwise provided in this Contract.

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PREAMBLE

This Contract is entered into as of February 4, 2000 (the "Effective Date of Contract" or "EDC") between Echostar Orbital Corporation, organized and existing under the laws of the State of Colorado having an office and place of business at 5701 South Santa Fe, Littleton, Colorado 80120 (hereinafter referred to as "Purchaser") and Space Systems/Loral, Inc., a corporation organized and existing under the laws of the State of Delaware, having an office and place of business at 3825 Fabian Way, Palo Alto, California 94303 (hereinafter referred to as "Contractor").

RECITALS

WHEREAS, Purchaser desires to procure one (1) communications satellite, known as EchoStar 8, to be delivered to the Launch Site, all required ground equipment and support and training services, to the extent and subject to the terms and conditions set forth herein, and

WHEREAS, Contractor is willing to furnish such Satellite, ground equipment and support and training services, to the extent and subject to the terms and conditions set forth herein, in consideration of the price and other valid consideration.

NOW, THEREFORE, the Parties hereto agree as follows:

ARTICLE 1 - DEFINITIONS

Capitalized terms used and not otherwise defined herein shall have the following meanings:

- 1.1 "ACCEPTANCE" (i) with respect to a Satellite shall be as provided for in Article 10, and (ii) with respect to any Deliverable Item other than a Satellite shall be as provided for in Article 11.
- 1.2 "ADDITIONAL SATELLITE" has the meaning set forth in Article 29.
- 1.3 "CONTRACT" means the articles of this executed Contract, its Exhibits and its Attachment(s), as may be amended from time to time in accordance with the terms hereof.
- 1.4 "CONTRACTOR" has the meaning set forth in the preamble and any successor or assignee permitted hereunder.
- 1.5 "DELIVERABLE DATA" means the data and documentation required to be delivered to Purchaser as specified in the Statement of Work.
- 1.6 "DELIVERABLE ITEM" means any of the items listed in Article 3.1, and any Additional Satellite or other items ordered by Purchaser pursuant to Article 29, and, collectively, the "DELIVERABLE ITEMS".
- 1.7 "DELIVERY" (i) with respect to a Satellite shall be as provided for in Article 12.1, and (ii) with respect to any Deliverable Item other than a Satellite shall be as provided for in Article 12.2.
- 1.8 "EFFECTIVE DATE OF CONTRACT" or "EDC" means the effective date of this Contract as specified in the preamble.
- 1.9 "FCC" means the Federal Communications Commission or any successor agency or governmental authority.

- 1.10 "FIRM FIXED PRICE" has the meaning set forth in Article 4.1.
- 1.11 "FORCE MAJEURE" has the meaning set forth in Article 17.
- 1.12 "GROSS NEGLIGENCE" means reckless disregard for the rights of others which very closely approaches intentional wrongdoing or other actions (or failures to act) which very closely approach intentional wrongdoing.
- 1.13 "IN-ORBIT TESTING" or "IOT" means the testing of the Satellite on-orbit in accordance with the Program Test Plan.
- 1.14 "INTELLECTUAL PROPERTY CLAIM" has the meaning set forth in Article 19.
- 1.15 "INTENTIONAL IGNITION" means, with respect to the Satellite, the official time designated by the Launch Agency during the launch sequence when the initial motors of the Launch Vehicle are ignited for the purpose of Launch following a planned countdown.
- 1.16 "LAUNCH" means, with respect to the Satellite, Intentional Ignition followed by Lift-Off.
- 1.17 "LAUNCH AGENCY" means the provider responsible for conducting the Launch Services for the Satellite.
- 1.18 "LAUNCH SERVICES" means those services provided by the Launch Agency pursuant to the Launch Services Agreement.
- 1.19 "LAUNCH SERVICES AGREEMENT" or "LSA" means the contract between Purchaser and the Launch Agency which provides for Launch Services for the Satellite, as such contract may be amended from time to time in accordance with its terms.
- 1.20 "LAUNCH SITE" means the location that will be used by the Launch Agency for purposes of launching the Satellite.

- 1.21 "LAUNCH SUPPORT" or "LAUNCH SUPPORT SERVICES" means those services specified in the Statement of Work to be provided by Contractor in support of Launch.
- 1.22 "LAUNCH VEHICLE" means the launch vehicle selected by Purchaser and used for Launch of the Satellite, which is baselined to be an Atlas launch vehicle, unless changed under Article 29.4.
- 1.23 "LIBOR" means the rate of interest per annum, at any relevant time, at which thirty (30) day U.S. dollar deposits are offered at such time in the London interbank market.
- 1.24 "LIFT-OFF" means, with respect to the Satellite, physical separation of the Launch Vehicle from the ground support equipment following Intentional Ignition due to the Launch Vehicle rising under its own power for the purpose of launching the Satellite.
- 1.25 "MISSION OPERATIONS SUPPORT SERVICES" means the orbit-raising, IOT and related services specified in the Statement of Work to be performed by Contractor for a Satellite.
- 1.26 "NSP" means not separately priced.
- 1.27 "PARTY" or "PARTIES" means Purchaser, Contractor or both, as the context requires.
- 1.28 "PAYMENT PLAN" means the payment plan for the applicable Deliverable Item, attached as Attachment A.
- 1.29 "PERFORMANCE SPECIFICATION" means the Satellite performance specification attached as Exhibit B, as such Exhibit may be amended from time to time in accordance with the terms of this Contract.
- 1.30 "PMO" means the Purchaser's program management office.

- 1.31 "PRODUCT ASSURANCE PROGRAM PLAN" means the product assurance program plan attached as Exhibit C, as such Exhibit may be amended from time to time in accordance with the terms of this Contract.
- 1.32 "PROGRAM TEST PLAN" means the Satellite program test plan attached as Exhibit D, as such Exhibit may be amended from time to time in accordance with the terms of this Contract.
- 1.33 "PROPRIETARY INFORMATION" has the meaning set forth in Article 35.
- 1.34 "PURCHASER" has the meaning set forth in the preamble and any successor or assignee permitted hereunder.
- 1.35 "SATELLITE" means the communications satellite that is to be manufactured by Contractor pursuant to this Contract.
- 1.36 "SATELLITE ANOMALY" means, with respect to any Satellite, any post-Launch occurrence that has or could have an impact on the Satellite's health or performance of such Satellite.
- 1.37 "SATELLITE PRE-SHIPMENT REVIEW" OR "SPSR" has the meaning set forth in Article 9.
- 1.38 "SCF" means satellite control facility.
- 1.39 "STATEMENT OF WORK" or "SOW" means the statement of work attached as Exhibit A, as such Exhibit may be amended from time to time in accordance with the terms of this Contract.
- 1.40 "TT&C" means telemetry, tracking and control.

ARTICLE 2 - SCOPE OF WORK

2.1 Provision of Services and Materials

Contractor shall provide the necessary personnel, material, services, and facilities to: design, manufacture, test, and deliver to the location set forth in Article 3.1 (or another location agreed upon pursuant to Article 29), one (1) Satellite, together with all other Deliverable Items referred to in Article 3.1, in accordance with the following Exhibits, which are attached hereto and made a part hereof:

- 2.1.1 Exhibit A, Statement of Work, dated [TBD] (Document Reference No. [TBD]);
- 2.1.2 Exhibit B, Satellite Performance Specification, dated [TBD] (Document Reference No. [TBD]);
- 2.1.3 Exhibit C, Product Assurance Program Plan, dated [TBD] (Document Reference No. [TBD]);
- 2.1.4 Exhibit D, Satellite Program Test Plan, dated [TBD] (Doc No. [TBD]).

ARTICLE 3 - DELIVERABLE ITEMS AND DELIVERY SCHEDULE

3.1 Deliverable Items

Subject to the other terms and conditions of this Contract, the items to be delivered under this Contract are specified in the table below and the corresponding delivery schedules and locations are as follows:

ITEM ----	DESCRIPTION -----	DELIVERY SCHEDULE -----	DELIVERY LOCATION -----
1.	Satellite (EchoStar 8)	December 20, 2001	To the Launch Site.
2.	Deliverable Data	Per SOW, Exhibit A	PMO
3.	Support and Training	Per SOW, Exhibit A	Contractor's facilities and Purchaser's SCF
4.	Ground Equipment	Per SOW, Exhibit A	Purchaser's SCF

Contractor shall, at its cost, use its reasonable best efforts to obtain all U.S. and foreign Government approvals necessary to export and import the Satellite, all Deliverables required hereunder, and the individual components of the Satellite and such Deliverables.

ARTICLE 4 - PRICE

4.1 Firm Fixed Price

The price to be paid by Purchaser to Contractor for the Deliverable Items 1 through 4 set forth in Article 3.1 within the scope of work detailed in the Statement of Work, shall be a firm fixed price of \$XXX (the "Firm Fixed Price"). The prices for those Deliverable Items subject to an option under this Contract, if any, are described in the particular Articles that set forth those options. The itemization of the Firm Fixed Price is as follows:

Item Description -----	Amount -----
Satellite (EchoStar 8)	\$XXX

The item price for the Satellite includes all design, manufacturing, tests, In Orbit Incentives, Deliverable Data, training, Launch Support Services, Mission Operations Support Services, ground equipment and shipment and transportation, all in accordance with the terms and conditions of this Contract, as specified herein. The item price also includes, and Contractor shall indemnify, defend and hold Purchaser, its affiliates, directors, officers, employees, shareholders and agents harmless from and against, all applicable taxes, duties and similar liabilities imposed by any federal, state or local United States governmental entity in connection with this Contract, except any tax on the sale to Purchaser resulting from Purchaser's election to exercise the Ground Storage option in Article 33.

ARTICLE 5 - PAYMENTS

5.1 Payment Plan

Absent a bona fide dispute, payments by Purchaser to Contractor of the Firm Fixed Price set forth in Article 4 and of the amounts for options, if any, exercised by Purchaser pursuant to this Contract, shall be in accordance with the Payment Plan applicable thereto for the Satellite.

5.2 Payment Conditions

5.2.1 Payments. Absent a bona fide dispute, all payments due from Purchaser shall be paid no later than the date specified therefor as set forth in the Payment Plan, provided that: (i) Contractor submits to Purchaser an invoice with respect to each such payment no later than thirty (30) days prior to such due date; and (ii) Contractor completes the applicable milestone set forth in Attachment A no later than five (5) business days prior to such due date. Notwithstanding the foregoing, in the event that Contractor does not deliver an invoice to Purchaser at least thirty (30) days prior to such due date and/or does not achieve the relevant milestone, or provide a work-around that does not affect schedule and is otherwise acceptable to Purchaser, at least five (5) business days prior to such due date, Purchaser may suspend all payments until such time as the relevant invoice is received and milestone is completed. Within thirty (30) days following Purchaser's receipt of the relevant invoice or five (5) business days following Contractor's completion of the relevant milestone, whichever occurs later, Purchaser shall pay Contractor for all payments that were required to have been made but were not as a result of the suspension.

- 5.2.2 Milestones. Notwithstanding the milestones set forth in Attachment A, if it becomes reasonably clear that problems with deliverables are reasonably likely to cause schedule delays, then all payments may be suspended, at Purchaser's option, and the date for payment of each subsequent payment delayed, by an amount of time equal to the difference between the originally scheduled delivery date for the Satellite set forth in Article 3 and the revised forecast delivery date. In the event that Contractor subsequently recovers all or a portion of the originally scheduled delivery date for the Satellite, payments will again be revised to reflect that recovery. Further, if, following completion of a milestone, a problem arises which requires rework of elements of the milestone, then payments may be suspended, at Buyer's option, until the milestone is again complete.
- 5.2.3 Non-warranty Payments. Absent a bona fide dispute, all amounts payable to Contractor with respect to non-warranty work performed pursuant to Article 15.3 shall be paid no later than thirty (30) days after submission of an invoice by Contractor certifying that such non-warranty work has been completed.
- 5.2.4 Obligation to Pay. The failure of Contractor to deliver any invoice required hereunder shall not affect Purchaser's obligation hereunder to make any payments to Contractor. If Contractor shall not have delivered any invoice required hereunder within the time specified therefor, the relevant payment due from Purchaser shall be payable thirty (30) days after receipt of such invoice.

5.3 Late Payment

In the event that any payment to Contractor is not made when due hereunder, without prejudice to Contractor's other rights and remedies under this Contract, at law or in equity, Purchaser shall pay Contractor interest at the rate of LIBOR + XXX until such time as payment is made. If such payment is not made by the date thirty (30) days after the date due hereunder, without prejudice to Contractor's other rights and remedies under this Contract, at law or in equity, Contractor may elect to cease performance of its obligations under this Contract, without prejudice or penalty. In such case, if Contractor subsequently resumes performance in lieu of termination pursuant to Article 23.6, the schedule, price and other affected provisions of this Contract shall be modified to compensate Contractor for its added costs (and otherwise account for the impacts on Contractor) associated with such work stoppage.

5.4 Invoices

Invoices required to be delivered by Contractor hereunder shall be submitted to Purchaser (original plus one (1) copy) at the following address:

EchoStar Orbital Corporation
5701 South Santa Fe
Littleton, CO 80120
ATTN.: Rohan Zaveri
(with copies to David Moskowitz and Charlie Ergen)

or to such other address as Purchaser may specify in writing to Contractor.

5.5 Payment Bank

All payments made to Contractor hereunder shall be in U.S. currency and shall be made by electronic funds transfer to the following account:

BANK OF AMERICA
SPACE SYSTEMS/LORAL, INC.
ACCOUNT NO. 75-69165
CHICAGO, ILLINOIS
ABA #071-000-039

or by check to:

Space Systems/Loral
3825 Fabian Way
Palo Alto, CA 94303
Attn: Ronald Haley

or to such other account or address as Contractor may specify in writing to Purchaser.

ARTICLE 6 - PURCHASER-FURNISHED ITEMS

6.1 Purchaser-Furnished Support

To enable Contractor to perform Launch Support and Mission Operations Support Services, Purchaser shall timely make available to Contractor the Purchaser-furnished equipment, facilities and services described in the Statement of Work. Such equipment, facilities and services shall be in good working condition and adequate for the required purpose and shall be made available free of charge for Contractor's use (including Acceptance inspection pursuant to Article 11) during the period commencing sixty (60) days prior to such Launch and continuing through completion of the IOT review. Purchaser and Contractor will conduct an interface meeting approximately one hundred eighty (180) days prior to such Launch to confirm the availability and adequacy of Purchaser-furnished equipment, facilities and services.

6.2 Communications Authorizations

Purchaser shall be responsible, at its cost and expense, for preparing, coordinating and filing all applications for licenses with the FCC, if required to do so, for the launch and operation of the Satellite. Contractor shall timely provide Purchaser with all reasonable assistance, at no additional cost to Purchaser, requested by Purchaser in connection with Purchaser's performance of the above-specified tasks, and in connection with the filing of any technical filings required to be made by Purchaser with the FCC.

6.3 Radio Frequency Coordination

Purchaser shall be responsible for the timely preparation and submission of all filings required by the International Telecommunication Union (or any successor agency thereto) regarding radio frequency and orbital position coordination. Such filings shall be made in accordance with the Radio Regulations of the International Telecommunication Union (or any successor agency). Contractor shall timely provide Purchaser with all reasonable assistance, at no additional cost to Purchaser, requested by Purchaser in connection with Purchaser's performance of the above-specified tasks.

6.4 Satellite Performance Data

In the event of a Satellite Anomaly that occurs during the life of a Satellite, Purchaser shall timely provide Contractor with or give Contractor access to any data Contractor may reasonably require to investigate or correct (if Contractor is able to do so) such Satellite Anomaly or make or settle any insurance claim relating to such Satellite Anomaly.

6.5 Late Delivery of Purchaser-Furnished Items or Services

The late delivery of Purchaser-furnished items, individually or combined, shall be considered an event beyond the reasonable control of Contractor, and Contractor shall be entitled to a reasonable adjustment in price, schedule, and other affected terms for such late delivery.

ARTICLE 7 - COMPLIANCE WITH U.S. EXPORT LAWS AND DIRECTIVES

7.1 Technical Information, Deliverable Data and Technical Services

7.1.1 Any obligation of either Party hereunder to provide technical information, Deliverable Data or technical services to the other Party or its representatives shall be subject to applicable U.S. Government export control and security laws, regulations, policies and license conditions. The Parties shall work cooperatively and in good faith to implement this Contract consistent with such laws, regulations, policies and license conditions.

7.1.2 If and to the extent required by U.S. law, the Parties and/or their representatives shall enter into U.S. Government-approved agreement(s), separate from this Contract, governing the Party's provision of technical information, Deliverable Data or technical services in connection with this Contract.

7.2 No Retransfer

The Parties shall not transfer to any "foreign person", as defined in the International Traffic in Arms Regulations (22 C.F.R. Section 120.1) technical information, Deliverable Data or technical services furnished hereunder, except as expressly authorized by the U.S. Government in accordance with U.S. export control laws. THE PARTIES UNDERSTAND AND WARRANT THAT THEY SHALL NOT RE-EXPORT, TRANSFER OR DIVERT ANY ITEM EXPORTED UNDER OR IN CONNECTION WITH THIS CONTRACT TO ANY "FOREIGN PERSON" WITH A NATIONALITY OTHER THAN CONTRACTOR'S OR PURCHASER'S, RESPECTIVELY, WITHOUT THE PRIOR WRITTEN APPROVAL OF THE U.S. GOVERNMENT.

ARTICLE 8 - ACCESS TO WORK IN PROGRESS

8.1 Work in Progress at Contractor's Plant

Subject to Article 7 and Article 8.4 and to compliance with Contractor's safety and security regulations, Purchaser's employees shall be allowed access to work being performed at Contractor's facility for the Satellite and other Deliverable Items, for the purpose of observing the progress of such work and otherwise confirming Contractor's compliance with this Contract.

8.2 Work in Progress at Subcontractors' Plant

Subject to Article 7 and Article 8.4, to the extent permitted by Contractor's subcontractors supplying services or goods in connection with the Satellite and subject to each such subcontractor's safety and security regulations, Contractor shall allow Purchaser's employees access to work being performed with respect to the Satellite in each such subcontractor's plants for the purpose of observing the progress of such work and otherwise confirming Contractor's compliance with this Contract, subject to the right of Contractor to accompany Purchaser on any such visit to a subcontractor's plant. Contractor will use reasonable efforts to obtain permission for such access to subcontractor's facilities.

8.3 On-Site Facilities for Purchaser's Personnel

Subject to Article 7 and Article 8.4, for the purpose of monitoring the progress of the work to be performed by Contractor hereunder and otherwise confirming Contractor's compliance with this Contract, Contractor shall provide private office facilities at or proximate to Contractor's plant (which private office facilities shall in all cases at least be co-located with Contractor's program management office) for two (2) resident Purchaser personnel (or Purchaser's duly appointed consultants and agents, subject to the prior approval of Contractor,

which approval shall not be unreasonably withheld or delayed) through Acceptance of the last Satellite ordered hereunder. The office facilities to be provided shall include a reasonable amount of private office space, office furniture, local and reasonable long distance telephone service, access to copy machines and access to facsimile machines, to the extent necessary to enable Purchaser personnel to monitor the progress of work and otherwise confirm Contractor's compliance with this Contract.

8.4 Competition/Foreign Persons as Purchaser Representatives

Purchaser's representatives, consultants and agents shall not be in direct competition with Contractor, meaning they shall not currently be employed by companies or entities that are in the business of manufacturing communication satellites. Purchaser shall notify Contractor in writing of the name, title or function, business relationship, employer and such other information as may be reasonably requested by Contractor, with respect to each of its intended representatives, consultants and agents, and cause each such representative, consultant and agent to execute a confidentiality agreement directly with Contractor in form and substance reasonably satisfactory to Contractor and containing terms substantially the same as those set forth in Article 35. Contractor may deny access to Contractor provided office facilities to any representative, consultant or agent of Purchaser upon Contractor's reasonable determination that such consultant or agent is, by reason of its business or affiliations, in direct competition with Contractor.

Contractor shall apply for and, once issued, maintain all U.S. Government export licenses and approvals needed for Purchaser's personnel, representatives, agents and consultants who are citizens of Purchaser's country (if other than the U.S.), to access Contractor facilities or technical data in connection with the performance of this

Contract. Purchaser shall cooperate with Contractor and provide the support necessary for Contractor to apply for and maintain such export licenses and approvals, and shall promptly notify Contractor of any occurrence or change in circumstances of which it becomes aware that is relevant to or affects such export license and approvals. IN NO EVENT SHALL CONTRACTOR BE OBLIGATED UNDER THIS CONTRACT TO PROVIDE ACCESS TO CONTRACTOR FACILITIES, TO TRANSFER ANY TECHNICAL INFORMATION OR DELIVERABLE DATA OR TO PROVIDE ANY TECHNICAL SERVICES, TO ANY PERSON EXCEPT IN COMPLIANCE WITH APPLICABLE U.S. EXPORT CONTROL LAWS, REGULATIONS, POLICIES AND LICENSE CONDITIONS, AS CONSTRUED BY CONTRACTOR.

8.5 Interference with Operations

Purchaser shall exercise its rights under this Article 8 in a manner that does not unreasonably interfere with Contractor's or its subcontractors' normal business operations or Contractor's performance of its obligations under this Contract or any agreement between Contractor and its subcontractors.

ARTICLE 9 - SATELLITE PRE-SHIPMENT REVIEW (SPSR)

9.1 Purchaser to Review

Purchaser shall conduct a review of each Satellite prior to shipment by Contractor to the Launch Site in accordance with the terms of this Article 9 and the Statement of Work (each a "Satellite Pre-Shipment Review" or "SPSR").

9.2 Time, Place and Notice of SPSR; Failure to Conduct

Each SPSR shall take place at Contractor's facility. Contractor shall notify Purchaser in writing at least thirty (30) days prior to the date that each Satellite shall be available for SPSR, which shall be the scheduled date for commencement of such SPSR. If Purchaser cannot commence such SPSR on such scheduled date, Contractor shall make reasonable efforts to accommodate Purchaser's scheduling requirements.

9.3 Conduct and Purpose of SPSR

Each SPSR shall be conducted in accordance with Section 2.2.3 of the Statement of Work. The purpose of each SPSR shall be to review test data and analyses for the subject Satellite to determine whether such Satellite meets applicable Performance Specification requirements and is therefore ready for shipment to the Launch Site.

9.4 Waivers or Pending Waivers

At the earliest possible time, but at least ten (10) days before the commencement of the SPSR for the Satellite or the Acceptance inspection for any Deliverable Item pursuant to Article 11, Contractor shall submit to Purchaser any request for a waiver of, or deviation from, provisions(s) of the Performance Specification applicable to the Satellite or Deliverable Item. Each such waiver or deviation approved by Purchaser shall be deemed an amendment to the Performance Specification permitting such waiver thereof, or deviation therefrom,

effective on or after the date of such approval for the Satellite or Deliverable Item. Purchaser shall, in keeping with customary industry practice, consider each waiver or deviation request in good faith and shall not unreasonably withhold or delay its consent to any such request.

9.5 Purchaser's Inspection Agents

Purchaser may, subject to prior written notice to Contractor, cause any agent designated by Purchaser to observe the SPSR pursuant to this Article 9; provided, however, that the provisions of Article 7 and Article 8.4 shall apply to any such agent.

9.6 SPSR Results

Within a reasonable time after completion of the SPSR for the Satellite, Purchaser shall notify Contractor in writing of the results of the SPSR pursuant to this Article 9 with respect to the Satellite. Provided Purchaser is in compliance with its contractual obligations hereunder, such Satellite shall thereupon be prepared and shipped to the Launch Site for Launch. In the event that such SPSR discloses any non-conformance of the Satellite to the requirements of the Performance Specification not the subject of any waivers or deviations approved by Purchaser pursuant to Article 9.4, Purchaser's notice shall state each such non-conformance (with reference to the applicable requirement of the Performance Specification deemed not met), and Contractor shall correct or repair each such non-conformance and resubmit such Satellite for SPSR in accordance with this Article 9 as to each corrected or repaired element.

9.7 Inspection Costs Borne by Purchaser

All costs and expenses incurred by Purchaser and its agents in the performance of this Article 9, including travel and living expenses, shall be borne solely by Purchaser.

9.8 Correction of Deficiencies after SPSR

If at any time following the SPSR for a Satellite, and prior to Launch, such Satellite fails to meet the Performance Specification, as may be modified as of such time pursuant to Article 9.4, Contractor shall promptly correct such deficiencies at its own cost and expense.

ARTICLE 10 - SATELLITE ACCEPTANCE

10.1 Satellite Acceptance

Acceptance of the Satellite by Purchaser shall occur automatically upon Launch of the Launch Vehicle for the Satellite.

10.2 In-Orbit Test (IOT) Services

Thirty (30) days prior to Launch of the Satellite, Contractor shall notify Purchaser of the IOT schedule. Purchaser may observe IOT at Purchaser's or Contractor's location, at Purchaser's election, subject to applicable U.S. Government or Contractor security or export restrictions.

When, in the reasonable assessment of Contractor, the IOT review has been completed for a Satellite, Contractor shall submit the IOT results to Purchaser.

Within a reasonable time after Contractor provides the IOT results and certification to Purchaser, Contractor and Purchaser shall hold a Satellite review as defined in the SOW.

Contractor may elect to conduct the IOT eclipse test set forth in the Program Test Plan during the eclipse season following completion of IOT. The results of the later eclipse test will be provided to Purchaser for Satellite performance characterization and insurance purposes only.

Contractor agrees to fly the Satellite until the earlier to occur of: (i) all material anomalies being resolved; (ii) insurance for all material anomalies being paid to Purchaser; or (iii) Purchaser informing Contractor that it desires to use the Satellite for commercial purposes (provided that, in such instance, Contractor shall continue to fly the Satellite until such time as all material anomalies are fully understood by both parties and Contractor has properly trained Purchaser how to fly the Satellite in such anomalous condition).

ARTICLE 11 - ACCEPTANCE INSPECTION FOR DELIVERABLE ITEMS
OTHER THAN SATELLITES

11.1 Inspection of Deliverable Items of Hardware Other Than Satellites

With respect to each Deliverable Item of hardware other than Satellites, Purchaser shall perform Acceptance inspection within ten (10) business days after Contractor has notified Purchaser that such Deliverable Item has arrived at the location designated for delivery thereof in Article 3.1. Such Acceptance inspection shall be conducted in accordance with the procedures described in the Statement of Work. The purpose of the Acceptance inspection shall be to determine whether each such Deliverable Item meets applicable Performance Specification requirements as of the date of such delivery, as such requirements may have been modified pursuant to Article 11.3.

11.2 Purchaser's Inspection Agents

Purchaser may, upon giving prior written notice to Contractor, cause any agent designated by Purchaser to conduct the Acceptance inspection pursuant to this Article 11 in whole or in part; provided, however, that the provisions of Article 7 and Article 8.4 shall apply to any such agent and such agent shall comply with Contractor's safety and security regulations.

11.3 Pending Waivers

Waivers of or deviations from the Performance Specification applicable to any Deliverable Item subject to Acceptance inspection pursuant to this Article 11 shall be addressed as set forth in Article 9.4.

11.4 Acceptance Inspection Results

Within a reasonable time after completion of Acceptance inspection pursuant to this Article 11 for any Deliverable Item, Purchaser shall

notify Contractor in writing of the results of such Acceptance inspection. In the event that such Acceptance inspection demonstrates conformity of such Deliverable Item to the applicable requirements of the Performance Specification, such Deliverable Item shall be deemed accepted by the Purchaser for all purposes hereunder ("Acceptance" with respect to each such Deliverable Item other than a Satellite), and Purchaser's notice shall so state. In the event that such Acceptance inspection discloses any non-conformance of such Deliverable Item to the applicable requirements of the Performance Specification, Purchaser's notice shall detail each such non-conformance (with reference to the applicable requirement of the Performance Specification deemed not met), and Contractor shall correct or repair such non-conformance and resubmit such Deliverable Item for Acceptance inspection in accordance with this Article 11 as to each such corrected or repaired element.

11.5 Inspection Costs Borne by Purchaser

All costs and expenses incurred by Purchaser or its agents in the performance of this Article 11, including travel and living expenses, shall be borne solely by Purchaser.

11.6 Warranty Obligations

In no event shall Contractor be released from any of its warranty obligations applicable to any Deliverable Item other than the Satellite as set forth in Article 15 as a result of such Deliverable Item having been Accepted as set forth in this Article 11.

11.7 Deliverable Data

Purchaser shall, within ten (10) business days of delivery by Contractor to the location designated in Article 3.1 of Deliverable Data requiring Purchaser approval pursuant to the Statement of Work, notify Contractor in writing that such Deliverable Data has been accepted in accordance with the Statement of Work ("Acceptance" with respect to each such item of Deliverable Data), or advise Contractor in writing that such Deliverable Data does not comply with the applicable requirements of the Statement of Work, identifying each particular of such non-compliance. Contractor shall promptly correct any non-compliant aspect of such Deliverable Data described in such Notice from Purchaser, and re-submit it to Purchaser for inspection pursuant to this Article 11.7.

ARTICLE 12 - DELIVERY, TITLE AND RISK OF LOSS

12.1 Satellites

Delivery of the Satellite shall occur, and risk of loss of, and title to, the Satellite shall pass from Contractor to Purchaser, upon Acceptance of such Satellite pursuant to Article 10.1.

EXCEPT WITH RESPECT TO WILLFUL MISCONDUCT OR GROSS NEGLIGENCE BY CONTRACTOR, UPON AND AFTER LAUNCH OF THE LAUNCH VEHICLE FOR A SATELLITE, CONTRACTOR'S SOLE FINANCIAL RISK, AND THE SOLE AND EXCLUSIVE REMEDIES OF PURCHASER OR ANY PARTY ASSOCIATED WITH PURCHASER, WITH RESPECT TO THE USE OR PERFORMANCE OF SUCH SATELLITE (INCLUDING WITH RESPECT TO ANY ACTUAL OR CLAIMED DEFECT CAUSED OR ALLEGED TO BE CAUSED AT ANY TIME BY CONTRACTOR OR ANY OF ITS SUBCONTRACTORS), SHALL BE AS SET FORTH IN ARTICLES 4.1, 13, 15, 19 AND 20. IN ALL CASES CONTRACTOR'S LIABILITY SHALL BE SUBJECT TO THE LIMITATION OF LIABILITY SET FORTH IN ARTICLE 34. CONTRACTOR MAKES NO WARRANTY AS TO THE PERFORMANCE OF ANY LAUNCH VEHICLE.

12.2 Deliverable Items Other Than Satellites

Delivery and risk of loss of, and title to, each Deliverable Item of hardware other than Satellites shall pass from Contractor to Purchaser upon Acceptance of such Deliverable Item pursuant to Article 11.4. Purchaser's rights in Deliverable Data are as set forth in Article 36.

ARTICLE 13 - XXX

XXX

ARTICLE 14 - INTENTIONALLY DELETED

ARTICLE 15 - WARRANTY

15.1 Terms and Period of Warranty

- 15.1.1 Satellites. Contractor warrants that the Satellite delivered under this Contract shall be manufactured in conformity with the Performance Specification (as may be waived pursuant to Article 9.4) applicable to the Satellite. Contractor's sole obligation in fulfillment of this warranty after Launch is to comply with Article 15.2.1. Contractor makes no warranty regarding the performance of the Satellite from and after the Launch of the Satellite.
- 15.1.2 Deliverable Items of Hardware Other Than Satellites. Contractor warrants that each Deliverable Item of hardware other than the Satellite delivered under this Contract shall be manufactured in conformity with the Performance Specification (as may be waived pursuant to Article 11.3) applicable to such Deliverable Item and will be free from defects in materials and workmanship during the period commencing on the date of Acceptance of such Deliverable Item pursuant to Article 11 and ending on the first anniversary thereof.
- 15.1.3 Disclaimer. EXCEPT AND TO THE EXTENT PROVIDED IN ARTICLE 15.1 AND ARTICLE 15.4, CONTRACTOR HAS NOT MADE NOR DOES IT HEREBY MAKE ANY REPRESENTATION OR WARRANTY, WHETHER WRITTEN OR ORAL, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF DESIGN, OPERATION, CONDITION, QUALITY, SUITABILITY OR MERCHANTABILITY OR FITNESS FOR USE OR FOR A PARTICULAR PURPOSE, ABSENCE OF LATENT OR

OTHER DEFECTS, WHETHER OR NOT DISCOVERABLE, WITH REGARD TO ANY SATELLITE OR ANY OTHER DELIVERABLE ITEM.

15.2 Repair or Replacement

15.2.1 Satellite Anomalies.

Contractor shall investigate any Satellite Anomaly in any Satellite arising during the life of the Satellite, and use reasonable best efforts to correct any such Satellite Anomaly that is correctable by Contractor from Purchaser's SCF using the facilities and equipment available at such site.

CONTRACTOR SHALL HAVE NO LIABILITY TO PURCHASER OR TO THIRD PARTIES ARISING FROM ANY ADVICE OR ASSISTANCE THAT CONTRACTOR OR ANY SUBCONTRACTOR OR AGENT OF CONTRACTOR MAY PROVIDE IN RESPECT OF THE SATELLITE AFTER LAUNCH, REGARDLESS OF CAUSE OR LEGAL THEORY, INCLUDING NEGLIGENCE, EXCEPT WITH RESPECT TO WILLFUL MISCONDUCT OR GROSS NEGLIGENCE BY CONTRACTOR. IN ALL CASES CONTRACTOR'S LIABILITY SHALL BE SUBJECT TO THE LIMITATION OF LIABILITY SET FORTH IN ARTICLE 34.

15.2.2 Deliverable Items of Hardware Other Than Satellites.

During the period specified in Article 15.1.2 for any Deliverable Item of hardware other than a Satellite, as Purchaser's sole and exclusive remedy, any defect in such Deliverable Item discovered by Purchaser shall be remedied by Contractor at Contractor's expense by repair or replacement of the defective component (at Contractor's

election). For any such Deliverable Item, Contractor shall determine if repair or replacement is required to be performed at Contractor's plant. If required, Purchaser shall ship to Contractor's designated facility any such Deliverable Item. Contractor shall be responsible for the cost of shipment to such facility in accordance with its standard commercial practice (including any taxes and/or duties) of any such Deliverable Item, and the cost of return shipment, in accordance with its standard commercial practice, of any such Deliverable Item once repaired or replaced to Purchaser at the location designated therefor in Article 3.1. Risk of loss for such Deliverable Item shall transfer to Contractor upon delivery of such Deliverable Item to the shipping carrier by Purchaser, and risk of loss shall transfer to Purchaser for any such Deliverable Item once repaired or replaced pursuant to this Article 15.2.2 upon receipt thereof by Purchaser at the location designated therefor in Article 3.1. When necessary, Contractor shall provide free of charge temporary equipment to be used while a repair is being performed.

15.3 Use Conditions Not Covered by Warranty

With respect to Deliverable Items of hardware other than Satellites, the warranty under this Article 15 shall not apply if adjustment, repair, or parts replacement is required as a result, directly or indirectly, of accident, unusual physical or electrical stress beyond the unit's designed tolerances, negligence, misuse, failure of environmental control prescribed in operations and maintenance manuals, repair or alterations by any party other than Contractor or its agents, or by causes other than normal and ordinary use. The warranty provided pursuant to this Article 15 is conditioned upon Contractor being given

access, if required, to Deliverable Items delivered at Purchaser's facility in order to effect any repair or replacement thereof. If the defect repaired or remedied by Contractor is not covered by the warranty provided pursuant to this Article 15, Purchaser shall pay Contractor the reasonable cost of such repair or replacement, transportation charges, and a reasonable profit as determined by Contractor. Such repair costs shall be invoiced to Purchaser pursuant to the provisions of Article 5.

15.4 Warranty for Training and Services

Contractor warrants that the training and other services it provides to Purchaser pursuant to this Contract will conform to reasonable industry standards at the time such training or other services are provided. In the event Contractor breaches this warranty, as Purchaser's sole remedy, Contractor shall apply reasonable efforts to correct the deficiencies in the provision of such training and other services where it is practicable to do so.

ARTICLE 16 - CHANGES

Purchaser may, in writing, request a change within the general scope of this Contract to:

- a) Order work in addition to the work provided for herein; or
- b) Modify the whole or any part of the work provided for herein.

If such change request causes an increase or decrease in the cost, or the time required for completion, of the work to be provided herein, or otherwise affects any other provision of this Contract, Contractor shall provide Purchaser with a non-binding preliminary estimate of the impact of the change request on the Contract price (including costs associated with processing of the change request), Delivery schedules and other provisions of this Contract. If Purchaser desires to proceed with the change after receipt of Contractor's preliminary estimate, Purchaser and Contractor shall negotiate and agree in a timely manner to equitable adjustments in Contract price, Delivery schedules and other affected provisions of this Contract, and this Contract shall be amended in writing accordingly. Contractor shall have no obligation to proceed pursuant to a change request prior to execution of such amendment.

ARTICLE 17 - FORCE MAJEURE

Contractor and Purchaser shall not be responsible for late Delivery, delay of the final completion date or nonperformance of its contractual obligations due to Force Majeure. Force Majeure shall be any event beyond the reasonable control of a Party or its suppliers and subcontractors and shall include, but not be limited to: (1) acts of God; (2) acts of a public enemy; (3) acts of a government in its sovereign capacity (including any action or inaction affecting the import or export of items); (4) war and warlike events; (5) catastrophic weather conditions such as hurricanes, tornadoes and typhoons; (6) fire, earthquakes, floods, epidemics, quarantine restrictions, strikes, lockouts and other industrial disputes, sabotage, riot and embargoes; (7) non-availability of a Launch Vehicle or Launch Site for any reason beyond a Party's reasonable control; and (8) other unforeseen and extraordinary events, which in every case are beyond the reasonable control and without fault or negligence of a Party or its suppliers and subcontractors ("Force Majeure"). Upon the occurrence of Force Majeure, an equitable adjustment shall be negotiated in the schedule and other portions of this Contract affected by Force Majeure. The Party affected by a Force Majeure event shall provide reasonable notice to the other Party of a Force Majeure event.

ARTICLE 18 - PURCHASER DELAY OF WORK

Except in the case of a Force Majeure event, if the performance of all or any part of the work required of Contractor under this Contract is delayed or interrupted by Purchaser's failure to perform its contractual obligations within the time specified in this Contract or within a reasonable time if no time is specified, or an act by Purchaser that unreasonably interferes with Contractor's performance of its obligations under this Contract, this Contract shall be equitably adjusted in the price, performance requirements, Delivery schedule, and any other terms of this Contract affected by such act or failure to act of Purchaser.

ARTICLE 19 - PATENT INDEMNITY

19.1 Indemnification

Purchaser agrees that Contractor has the right to defend and, at Contractor's sole option to settle, and Contractor, at its own expense, hereby agrees to defend or, at Contractor's sole option to settle, and to indemnify and hold harmless Purchaser, and its affiliates, officers, directors, employees, shareholders and agents, from and against any and all claims, actions, suits or proceedings based on an allegation that the manufacture of any Deliverable Item or the normal intended use, lease, sale or other disposition of any Deliverable Item infringes U.S. letters patent ("Intellectual Property Claim"), and shall pay any royalties and other liabilities adjudicated to be owing to the claimant (or, in Contractor's sole discretion, provided in settlement of the matter) as well as costs incurred in defending (including court costs and reasonable attorneys' fees) such Intellectual Property Claim; provided that Purchaser promptly notifies Contractor in writing of any such Intellectual Property Claim and gives Contractor the authority and all such assistance and information as may be requested from time to time by Contractor for the defense of such Intellectual Property Claim.

19.2 Infringing Equipment

If the manufacture of any Deliverable Item or the normal intended use, lease, sale or other disposition of any Deliverable Item under this Contract is enjoined as a result of an Intellectual Property Claim or is otherwise prohibited, Contractor shall (i) resolve the matter so that the injunction or prohibition no longer pertains, (ii) procure for Purchaser the right to use the infringing item or (iii) modify the infringing item so that it becomes non-infringing while remaining in compliance with the Performance Specification (as may be waived pursuant to Article 9.4). If Contractor is unable to accomplish (i), (ii) or (iii) as stated above, Purchaser shall have right to terminate this Contract with respect to

such Deliverable Item, return such Deliverable Item to Contractor (in space, with respect to an in-orbit Satellite), and receive a refund of the price paid for such Deliverable Item (less amounts unpaid for such item plus a reasonable allowance for depreciation).

19.3 Combinations and Modifications

Contractor shall have no liability under this Article 19 for any Intellectual Property Claim arising solely from (i) use of any Deliverable Item in combination with other items, unless Contractor sold them as a combination intended to be so used or (ii) modifications of Deliverable Items after Delivery, unless Contractor made such modifications.

19.4 Sole Remedies

Except in the case of willful misconduct or Gross Negligence by Contractor, the remedies set forth in this Article 19 are Purchaser's sole and exclusive remedies for or related to any Intellectual Property Claim, and Contractor's liability under this Article 19 for any Intellectual Property Claim with respect to a Deliverable Item shall in no event exceed the Firm Fixed Price paid by Purchaser hereunder for such Deliverable Item. In all cases Contractor's liability shall be subject to the limitation of liability set forth in Article 34.

ARTICLE 20 - INDEMNITY FOR BODILY INJURY AND PROPERTY DAMAGE

20.1 Contractor's Indemnification of Purchaser

Contractor shall defend, indemnify and hold harmless Purchaser, and its affiliates, directors, officers, employees, shareholders and agents, from and against all losses, damages, liabilities, suits and expenses (including, but not limited to, reasonable attorneys' fees) (collectively "Losses") attributable to third party claims for bodily injury or property damage, but only if such Losses were caused by, or resulted from, negligent acts or omissions, Gross Misconduct or willful misconduct by Contractor or its employees or representatives. For the avoidance of doubt, and except for Losses resulting from the Gross Negligence or willful misconduct of Contractor, Contractor shall have no indemnity obligation under this Article 20.1 for any Losses with respect to the operation or use of a Satellite after Launch, even if such Losses are attributable to an act or omission of Contractor or its employees prior to Launch. In all cases Contractor's liability shall be subject to the limitation of liability set forth in Article 34.

20.2 Purchaser's Indemnification of Contractor

Purchaser shall defend, indemnify and hold harmless Contractor, and its affiliates, directors, officers, employees, shareholders and agents, from and against all Losses attributable to third party claims for bodily injury or property damage, but only if such Losses were caused by, or resulted from, negligent acts or omissions, Gross Negligence or willful misconduct by Purchaser or its employees or representatives.

20.3 Conditions to Indemnification

The right to any indemnity specified in Article 20.1 or 20.2 shall be subject to the following conditions:

- a. The Party seeking indemnification shall promptly advise the other Party in writing of the filing of any suit or of any written or oral

claim for indemnification upon receipt thereof and shall provide the other Party, at its request, with copies of all documentation relevant to such suit or claim.

- b. The Party seeking indemnification shall not make any admission nor shall it reach a compromise or settlement without the prior written approval of the other Party, which approval shall not be unreasonably withheld or delayed.
- c. The indemnifying Party shall assist and shall have the right to assume, when not contrary to the governing rules of procedure, the defense of any claim or suit in settlement thereof and shall satisfy any judgments rendered by a court of competent jurisdiction in such suits and shall make all settlement payments. The Party seeking indemnification may participate in any defense at its own expense, using counsel reasonably acceptable to the indemnifying Party, provided there is no conflict of interest and that such participation would not adversely affect the conduct of the proceedings.

ARTICLE 21 - TERMINATION FOR CONVENIENCE

21.1 Reimbursement of Contractor

Purchaser may terminate this Contract without cause, in whole or in part, by giving Contractor written notice thirty (30) days prior to the date of such termination. In the event of such termination, Contractor will cease work as directed in the termination notice. Contractor shall submit its claim for the work performed in connection with the terminated Contract, and for its termination costs plus a reasonable profit as provided in items (a) through (f) of this Article 21.1. If Purchaser terminates this Contract in whole or in part pursuant to this Article 21.1, Contractor shall be entitled to be paid:

- a. The price set forth in Article 4 for Deliverable Items completed prior to such termination for which payment had not been made by Purchaser, whether or not Delivery has occurred with respect to such Deliverable Item and whether or not this Contract has been terminated pursuant to this Article 21.1 with respect to such Deliverable Item.
- b. Actual out-of-pocket costs incurred by Contractor in performance of work on Deliverable Items for which this Contract has been terminated pursuant to this Article 21.1, that have not been completed prior to such termination.
- c. Actual out-of-pocket costs incurred by Contractor in completing the termination process.
- d. Actual out-of-pocket costs incurred by Contractor in settling claims of subcontractors and other suppliers and vendors in connection with such termination; provided that Contractor shall use reasonable efforts to minimize such costs.
- e. A XXX profit on items (b), (c) and (d) above. Less, any amounts previously paid with respect to completed Deliverable Items and terminated Deliverable Items.

- f. In no event will the aggregate of the amounts previously paid by Purchaser under this Contract and the amounts to be paid by Purchaser under this Article 21.1 exceed the Firm Fixed Price.

21.2 Partial Termination

If the termination by Purchaser is partial, the price for the non-terminated portion of this Contract shall be increased by an amount equal to the additional costs, if any, which must be borne by such portion because of the partial termination, plus XXX profit on such additional costs; however, in no event will the aggregate of the amounts previously paid by Purchaser under this Contract and the amounts to be paid by Purchaser for the non-terminated portion of this Contract, as increased under this Article 21.2, exceed the Firm Fixed Price.

21.3 Title Transfer

In the event of a termination pursuant to this Article 21, a termination settlement meeting shall be held at a mutually agreed time and place no later than sixty (60) days after submission of a claim by Contractor pursuant to Article 21.1. At or prior to the date of such termination settlement meeting, Contractor shall provide Purchaser with such documentation of the costs set forth in Articles 21.1 and 21.2 as Purchaser may reasonably request. Upon completion of the termination settlement meeting, Contractor may submit an invoice to Purchaser for payment in accordance with the terms of Article 5.2. Upon payment by Purchaser to Contractor of the sums invoiced, subject to applicable U.S. Government export laws, Contractor shall, at Contractor's or subcontractor's plant, transfer title and risk of loss to Purchaser of all Deliverable Items referred to in Article 21.1(a), and all other partially completed or incomplete Deliverable Items for which Contractor is paid under this Article 21. Purchaser may direct Contractor to undertake to reallocate to other uses, and/or to otherwise assist Purchaser in disposing/selling, items subject to termination under this Article 21 for the purpose of receiving a price refund or

offset against Contractor's termination claim. Upon receipt of such direction, Contractor shall, on a reasonable efforts basis, attempt to reallocate, and/or to otherwise assist Purchaser in disposing/selling, the items and provide a refund (in cases where the amounts generated are greater than Contractor's termination claim) to Purchaser or an offset (in cases where the amounts generated are less than or equal to Contractor's termination claim) against Contractor's termination claim, less any reasonable selling expenses.

ARTICLE 22 - XXX

XXX

ARTICLE 22A -- XXX

XXX

ARTICLE 23 - DEFAULT

23.1 Failure to Perform by Contractor

Subject to Article 23.4 below, if Contractor (i) fails to deliver a Satellite within the time specified therefor plus the maximum number of days for late delivery liquidated damages specified in Article 22 or any other Deliverable Item within the time specified therefor in this Contract (or, in either case, such longer time as may be agreed to in writing by Purchaser), or (ii) fails to perform any other material provision of this Contract, and in each case does not cure such failure, with respect to a Satellite on or before the last day specified for late delivery liquidated damages in Article 22 (or such longer time as may be agreed to in writing by Purchaser), or with respect to any other Deliverable Item within XXX days (or such longer period as may be agreed to in writing by Purchaser) after receipt from Purchaser of written notice of such failure, Purchaser may terminate this Contract in whole or in part by written notice to Contractor.

23.2 Termination Liability

In the event of a termination for default pursuant to Article 23.1, Contractor shall refund all payments made by Purchaser for the terminated work except with respect to items referred to in Article 23.3. Such refund shall be made no later than XXX days after Contractor's receipt of Purchaser's written notice requesting such refund. In addition, Contractor shall pay to Purchaser all excess costs above the prices set forth herein reasonably incurred by Purchaser in reprocurring the work and Deliverables described herein, according to the delivery schedules set forth herein. Such refund and excess reprourement costs shall be Purchaser's sole remedy in case of a termination pursuant to Article 23.1, except in the case of willful misconduct or Gross Negligence by Contractor. In all cases Contractor's liability shall be subject to the limitation of liability set forth in Article 34.

23.3 Partially Completed Items and Work In Process; Contractor's Reimbursement for Terminated Work

In the event of termination pursuant to Article 23.1, upon Purchaser's request, Contractor shall deliver to Purchaser all partially completed items or services and work-in-process.

In the event of termination pursuant to Article 23.1, Contractor shall not be required to refund any amounts, and Purchaser shall remain liable for payment of all amounts, with respect to Deliverable Items for which Acceptance has occurred pursuant to the terms of Article 10 or Article 11, or that are retained by Purchaser whether or not completed, as follows: (i) at the price set forth in this Contract for such items for which an itemized price is set forth herein and (ii) at the cost incurred by Contractor for (a) such items for which no itemized price is set forth herein and (b) partially completed items or services and work-in-progress.

23.4 Invalid Default Termination

If, after termination pursuant to Article 23.1, it is finally determined by arbitration, legal proceeding or mutual agreement that Contractor was not in default, or that the default was excusable, the rights and obligations of the Parties shall be the same as if the termination had occurred under Article 21; except that, Contractor shall also be entitled to recover its additional direct costs that would not have been incurred but for such invalid default termination.

23.5 Contractor Termination

Contractor may terminate this Contract upon Purchaser's failure to comply with any material provision of this Contract by giving written notice to Purchaser of its intention to so terminate. Such notice shall set forth the provision or provisions with which Purchaser has failed to comply and a reasonably detailed description of such failure. Such termination shall become effective upon Purchaser's failure to correct such nonperformance within XXX (or such longer period as may be agreed to in writing by Contractor) after receipt of such notice from Contractor.

In the event of termination pursuant to this Article 23.6, Contractor shall be paid as if the termination were for convenience pursuant to Article 21. Further, and without limiting Contractor's other rights or remedies, Contractor may immediately take over all or part of the Deliverable Items and Contract work-in-process and use them in any manner Contractor may elect. In such case, the fair market value of any Deliverable Items or Contract work-in-progress retained by Contractor shall be off-set against Purchaser's termination liability. If, after termination pursuant to this Article 23.6, it is finally determined by arbitration pursuant to Article 25 that Purchaser did not fail in the performance of its obligations under this Contract, Contractor shall be liable to Purchaser for direct damages resulting from such termination of this Contract (in no event exceeding amounts payable to Purchaser pursuant to Articles 23.2 and 23.3, and subject to the limitation of liability set forth in Article 34).

ARTICLE 24 - INTENTIONALLY DELETED

ARTICLE 25 - ARBITRATION

25.1 Arbitration

Any dispute (except as set forth in Article 25.2) arising between the Parties with respect to the performance of obligations or interpretation of this Contract that cannot be settled by negotiation between the Parties within thirty (30) days of written notice from one Party to the other stating such first Party's intent to resort to arbitration ("Notice of Arbitration"), shall be submitted for settlement by arbitration in accordance with the rules of conciliation and arbitration of the American Arbitration Association. Any such arbitration shall be conducted in Denver, Colorado by a panel of three arbitrators who shall be selected within sixty (60) days of such Notice of Arbitration: one selected by each Party and the third selected by the arbitrators chosen by the Parties. Should no agreement be reached on the third arbitrator within the time specified, the third arbitrator shall be appointed by American Arbitration Association. In resolving any dispute, the arbitrators shall apply the laws of the State of New York (without regard to its conflict of law rules) and shall take into account usages, customs and practices in the performance of contracts for the purchase and sale of commercial communications satellites. Proceedings and documents provided and generated in connection with any arbitration hereunder shall be in the English language. 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, unless otherwise determined in the arbitral award. The arbitrators' decision shall be final and binding on the Parties and enforceable in any court of competent jurisdiction. Any monetary award made by the arbitrators in favor of Purchaser shall be subject to the limitation of liability set forth in Article 34.

25.2 Gross Negligence or Willful Misconduct

If a dispute arises as to whether or not a Party has committed or acted with Gross Negligence or willful misconduct, such dispute shall be resolved by a federal or state court in New York without a jury, and the court shall resolve such dispute by applying the laws of the State of New York without regard to its conflict of law rules. THE PARTIES EXPRESSLY WAIVE THEIR RIGHT TO A JURY IN CONNECTION WITH SUCH DISPUTE.

ARTICLE 26 - INTER-PARTY WAIVER OF LIABILITY FOR A LAUNCH

26.1 Launch Services Agreement Inter-Party Waiver of Liability

The Parties hereby agree to be bound by the no-fault, no-subrogation inter-party waiver of liability and related indemnity provisions provided in the Launch Services Agreement with respect to the Launch of the Satellite and to cause their respective contractors and subcontractors at any tier (including suppliers of any kind) that are involved in the performance of this Contract and any other person having an interest in the Satellite or any Transponder thereon (including customers of Purchaser), as required by the Launch Services Agreement and as specified by Buyer, to accede to such waiver. The Parties shall execute and deliver any instrument that may be required by the Launch Agency to evidence their agreement to be bound by such waiver. Purchaser and Contractor also shall obtain, from their insurers, and shall cause their respective contractors and subcontractors at any tier (including suppliers of any kind) that are involved in the performance of this Contract and any other person having an interest in any Satellite or any Transponder thereon (including customers of Purchaser), as required by the Launches Services Agreement and as specified by Buyer, to obtain from their insurers, an express waiver of such insurers' rights of subrogation, subject to terms and conditions as are then customarily available regarding such waivers, with respect to any and all claims that have been waived pursuant to this Article 26.

26.2 Indemnity Related to the Inter-Party Waiver of Liability

Each Party shall indemnify against and hold the other Party harmless from any claim against the other Party, its contractors and subcontractors at any tier (including suppliers of any kind) that are involved in the performance of this Contract, made by the Launch Agency or any of its contractors and subcontractors (including

suppliers of any kind) that are involved in the performance of the Launch Services Agreement, resulting from the failure of the first Party to waive any liability against, or to cause any other person such Party is obligated to cause to waive any liability against, the Launch Agency or its contractors and subcontractors at any tier (including suppliers of any kind).

26.3 Survival of Obligations

The indemnification and hold harmless obligations provided in this Article 26 shall survive and remain in full force and effect, notwithstanding the expiration or termination of this Contract.

26.4 XXX

ARTICLE 27 - RESERVED

ARTICLE 28 - RESERVED

ARTICLE 29 XXX

XXX

ARTICLE 30 - RESERVED

ARTICLE 31 - RESERVED

ARTICLE 32 - RESERVED

ARTICLE 33 - GROUND STORAGE

33.1 Notification

Purchaser may direct Contractor to store the Satellite after completion of SPSR.

33.2 Storage Location

Ground Storage shall be performed at a Contractor controlled facility and shall be conducted in accordance with the satellite storage plan section(s) of the Statement of Work.

33.3 Storage Prices

There shall be no charge for storage and reverification work if the Contractor's failure to perform is the reason the Satellite is stored, or if the Satellite is stored for less than six months.

The firm fixed price for Ground Storage of the Satellite in all other circumstances shall be \$XXX per month storage cost while the Satellite is in Ground Storage. In addition, Purchaser shall also pay directly or reimburse Contractor for all costs related to re-verification of system flight assurance and re-verification testing (plus XXX) and for all additional costs which Contractor would not have incurred had Purchaser not elected Ground Storage of the Satellite (including taxes, tariffs, duties, transportation, insurance, and Launch preparation service-related expenses).

33.4 Payments

Payments shall be made on the thirtieth day of each month for the prior month's storage, provided an invoice is received at least thirty days prior to the payment date.

33.5 Title and Risk of Loss

Title and risk of loss to a Satellite delivered for Ground Storage shall remain with Contractor at the storage site. Contractor shall assume full responsibility for any loss or damage to the Satellite during Ground Storage.

33.6 Notification of Intention to Launch a Previously Stored Satellite

Purchaser shall notify Contractor in writing that a Satellite in Ground Storage should be removed from Ground Storage and delivered to the Launch Site. This notification must be received by Contractor not less than three (3) months prior to the scheduled date for Delivery to the Launch Site of the Satellite. Failure to notify Contractor in a timely manner will result in an adjustment to the Delivery schedule for such Satellite.

ARTICLE 34 - LIMITATION OF LIABILITY

NEITHER PARTY SHALL BE LIABLE DIRECTLY OR INDIRECTLY TO THE OTHER, OR ITS OFFICERS, DIRECTORS, EMPLOYEES, CONTRACTORS OR SUBCONTRACTORS AT ANY TIER (INCLUDING SUPPLIERS OF ANY KIND), AGENTS OR CUSTOMERS, TO ITS PERMITTED ASSIGNEES OR SUCCESSOR OWNERS OF ANY SATELLITE OR OTHER DELIVERABLE ITEM OR TO ANY OTHER PERSON CLAIMING BY OR THROUGH SUCH PARTY FOR ANY AMOUNTS REPRESENTING LOSS OF PROFITS, LOSS OF BUSINESS, OR INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING WITHOUT LIMITATION LOST PROFITS, LOST REVENUES OR COSTS OF RECOVERING A SATELLITE (EXCEPT WITH RESPECT TO A THIRD PARTY'S DAMAGES FOR WHICH A PARTY HAS AN INDEMNIFICATION OBLIGATION UNDER ARTICLE 19 OR 20), ARISING FROM OR RELATING TO THE PERFORMANCE OR NONPERFORMANCE OF THIS CONTRACT OR ANY ACTS OR OMISSIONS ASSOCIATED THEREWITH OR RELATED TO THE USE OF ANY ITEMS DELIVERED OR SERVICES FURNISHED HEREUNDER, WHETHER THE BASIS OF SUCH LIABILITY IS BREACH OF CONTRACT, TORT, STATUTE OR OTHER LEGAL OR EQUITABLE THEORY, EXCEPT THAT IN THE EVENT OF WILLFUL MISCONDUCT OR GROSS NEGLIGENCE BY CONTRACTOR OR PURCHASER SUCH PARTY MAY BE LIABLE AND RESPONSIBLE FOR AMOUNTS REPRESENTING LOSS OF PROFITS, LOSS OF BUSINESS AND THE OTHER ABOVE-DESCRIBED DAMAGES IN AN AMOUNT NOT TO EXCEED \$XXX.

IN NO EVENT SHALL EITHER PARTY'S TOTAL LIABILITY UNDER OR IN CONNECTION WITH THIS CONTRACT EXCEED THE FIRM FIXED PRICE (PROVIDED REFUNDS UNDER ARTICLE 23.2 WILL NOT COUNT AGAINST THIS FIGURE), EXCEPT FOR LIABILITY ARISING FROM WILLFUL MISCONDUCT OR GROSS NEGLIGENCE BY A PARTY, IN WHICH CASE THE TOTAL LIABILITY OF A PARTY MAY NOT EXCEED THE FIRM FIXED PRICE PLUS \$XXX.

ARTICLE 35 - DISCLOSURE AND HANDLING OF PROPRIETARY INFORMATION

35.1 Definition of Proprietary Information

For the purpose of this Contract, "Proprietary Information" means all information (other than Deliverable Data, which is subject to the provisions of Article 36), in whatever form transmitted, that is disclosed by such Party (hereinafter referred to as the "disclosing party") to the other Party hereto (hereinafter referred to as the "receiving party") relating to the performance by the disclosing party of this Contract 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. Proprietary Information shall not include any information disclosed by a Party that (i) is already known to the receiving party at the time of its disclosure, as evidenced by written records of the receiving party, without an obligation of confidentiality at the time of disclosure; (ii) is or becomes publicly known through no wrongful act of the receiving party; (iii) is independently developed by the receiving party as evidenced by written records of the receiving party; (iv) such Party is legally compelled to disclose; or (v) is obtained from a third party without restriction and without breach of this Contract.

35.2 Terms for Handling and Use of Proprietary Information

For a period of five (5) years after receipt of any Proprietary Information (or until such time as such Proprietary Information becomes publicly known as provided in Article 35.1), the receiving party shall not disclose Proprietary Information that it obtains from the disclosing party to any person or entity except its employees and agents who have a need to know in order to perform under this Contract and who have been informed of and have agreed to abide by the receiving party's obligations under this Article 35. The receiving party shall use not less than 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. Proprietary Information shall be used only for the purpose of performing the obligations under this Contract, or as the disclosing party otherwise authorizes in writing.

IN NO EVENT SHALL EITHER PARTY DISCLOSE OR TRANSFER TECHNICAL INFORMATION OR PROVIDE TECHNICAL SERVICES TO INSURANCE BROKERS, UNDERWRITERS OR OTHER THIRD PERSONS OR ENTITIES WITHOUT THE OTHER PARTY'S PRIOR WRITTEN APPROVAL (WHICH SHALL NOT BE UNREASONABLY WITHHELD OR DELAYED) AND, WHERE REQUIRED, PRIOR APPROVAL OF THE U.S. DEPARTMENT OF STATE.

35.3 Legally Required Disclosures

Notwithstanding the foregoing, in the event that the receiving party becomes legally compelled to disclose Proprietary Information of the disclosing party, including this Contract or other supporting document(s), the receiving party shall, to the extent practicable under the circumstances, provide the disclosing party with written notice thereof so that the disclosing party may seek a protective order or other appropriate remedy, or to allow the disclosing party to redact such portions of the Proprietary Information as the disclosing party deems appropriate. In any such event, the receiving party will disclose only such 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.

35.4 Disclosure of Contract Terms

Notwithstanding anything to the contrary in this Article 35, and subject to applicable export restrictions, the terms and conditions of this Contract may not be disclosed by either Party to any person except with the prior written consent of the other Party, provided, in each case, that the recipient of such information agrees to treat such information as confidential and executes and delivers a confidentiality agreement reasonably acceptable to both Parties or is otherwise subject to confidentiality obligations reasonably satisfactory to both Parties; provided, further, that either Party shall have the right to disclose such information as is required under applicable law or the binding order of a court or government agency.

ARTICLE 36 - RIGHTS IN DATA

36.1 Rights

Contractor shall retain title to all Deliverable Data utilized or developed by Contractor during the performance of this Contract. Subject to U.S. export regulations and applicable export restrictions, Purchaser's officers, directors, employees, consultants and representatives shall have the non-exclusive right to obtain and use the Deliverable Data for any and all purposes related to the testing, operation, use and maintenance of the Satellite. Purchaser's officers, directors, employees, consultants and representatives shall not disclose Deliverable Data to other companies, organizations or persons without the express prior written consent of Contractor, which consent shall not be unreasonably withheld or delayed. Purchaser shall have no rights in Deliverable Data other than as expressly stated in this Contract, and title to Deliverable Data shall not pass to Purchaser or any other entity pursuant to the terms hereof.

36.2 No Additional Obligation

Nothing contained in this Article shall require Contractor to provide any data other than as set forth in the Statement of Work.

ARTICLE 37 - PUBLIC RELEASE OF INFORMATION

Either Party intending to disclose publicly whether through the issuance of news releases, articles, brochures, advertisements, prepared speeches or other information releases concerning this Contract or the transactions contemplated herein shall obtain the prior written approval of the other Party with respect to the content and timing of such issuance. A Party's approval under this Article 37 shall not be unreasonably delayed or denied. Notwithstanding the above, either Party may release information described herein as required by securities laws or other applicable laws.

ARTICLE 38 - NOTICES

38.1 Written Notification

Each notice or correspondence required or permitted to be given or made hereunder shall be in writing (except where oral notice is specifically authorized) to the respective addresses, facsimile and telephone numbers and to the attention of the individuals set forth below, and any such notice shall be deemed given on the earlier to occur of (i) actual receipt, irrespective of whether sent by post, facsimile transmission (followed by mailing of the original copy), overnight courier or other method, and (ii) seven (7) days after mailing by registered or certified mail, return receipt requested, postage prepaid.

In the case of Purchaser:

Echostar Orbital Corporation
5701 South Santa Fe
Littleton, CO 80120
Attn: David Moskowitz, Esq.
Telephone No.: (303) 723-1040
Facsimile No.: (303) 723-1608

With a separately delivered copy to:

Charlie Ergen and Rohan Zaveri
(at the same address)

In the case of Contractor:

Space Systems/Loral, Inc.
3825 Fabian Way, Mailstop G-82
Palo Alto, CA 94303-4697
Attn.: John Dietzel
Telephone No.: (650) 852-7370
Facsimile No.: (650) 852-4087

38.2 Change of Address

Either Party may from time to time change its notice address or the persons to be notified by giving the other Party written notice (as provided above) of such new information and the date upon which such change shall become effective.

ARTICLE 39 - RISK MANAGEMENT

Purchaser shall be responsible to obtain risk insurance, if any, for the Launch of the Satellite.

If Purchaser applies for insurance regarding risks relating to the Launch of the Satellite, Contractor shall furnish Purchaser with such information regarding the Satellite as is reasonably requested by the insurers and will cooperate in any insurance reviews.

ARTICLE 40 - ORDER OF PRECEDENCE

In the event of conflict among the terms of the Preamble and Articles 1 to 42 of this Contract and the Exhibits, the following order of decreasing precedence shall apply:

- o This Contract (Preamble and Articles 1 through 45 and Attachments A and B)
- o Exhibit A Statement of Work
- o Exhibit B Performance Specification
- o Exhibit C Product Assurance Program Plan
- o Exhibit D Test Plan

ARTICLE 41 - GENERAL

41.1 Binding Effect; Assignment

This Contract shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. This Contract may not be assigned, either in whole or in part, by either Party without the express written approval of the other Party. Such approval shall not be unreasonably withheld or delayed. Contractor may require, as a condition of approving an assignment by Purchaser, that the proposed assignee establish irrevocable letters of credit, guarantees or other comparable assurances satisfactory to Contractor prior to such assignment becoming effective and that Purchaser remain primarily or secondarily liable hereunder. Either Party, upon prior written notice to the other Party, may grant security interests in its rights hereunder to lenders that provide financing for the performance by such Party of its obligations under this Contract or for the subject matter hereof. In the event that either Party is sold to or merged into another entity, its responsibilities under this Contract shall not be altered and the successor organization shall be liable for performance of such Party's obligations under this Contract.

41.2 Severability

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

41.3 Captions

The captions contained herein are for purposes of convenience only and shall not affect the construction of this Contract.

41.4 Relationships of the Parties

It is expressly understood that Contractor and Purchaser intend by this Contract to establish the relationship of independent contractors only, and do not intend to undertake the relationship of principal and agent or to create a joint venture or partnership or any other relationship, other than that of independent contractors, between them or their respective successors in interests. Neither Contractor nor Purchaser shall have any authority to create or assume, in the name or on behalf of the other Party, any obligation, expressed or implied, or to act or purport to act as the agent or the legally empowered representative of the other Party, for any purpose whatsoever.

41.5 Entire Agreement

This Contract, including all Exhibits and the Attachments hereto, represents the entire understanding and agreement between the Parties hereto with respect to the subject matter hereof, and supersedes all prior negotiations and agreements with respect to the subject matter hereof. This Contract may not be modified or amended, and the Parties' rights and obligations may not be waived, except by the written agreement of both Parties.

41.6 Standard of Conduct

Both Parties agree that all their actions in carrying out the provisions of this Contract shall be in compliance with applicable laws and regulations and neither Party will pay or accept bribes, kickbacks or other illegal payments, or engage in unlawful conduct.

41.7 Construction

This Contract, the Exhibits and the Attachment hereto have been drafted jointly by the Parties and in the event of any ambiguities in the language hereof, there shall be no inference drawn in favor of or against either Party.

41.8 Counterparts

This Contract may be signed in any number of counterparts with the same effect as if the signature(s) on each counterpart were upon the same instrument.

41.9 Applicable Law

This Contract shall be interpreted, construed and governed, and the rights of the Parties shall be determined, in all respects, according to the laws of the State of New York without regard to its conflict of law rules.

41.10 Survival

Termination or expiration of this Contract for any reason shall not release either Party from any liabilities or obligations set forth in this Contract that (i) the Parties have expressly agreed shall survive any such termination or expiration or (ii) remain to be performed or by their nature would be intended to be applicable following any such termination or expiration.

41.11 U.N. Convention on the International Sales of Goods

The U.N. Convention on the International Sales of Goods shall not apply or otherwise have any legal effect with respect to this Contract.

ARTICLE 42 - ATTACHMENTS

The following Attachments are incorporated in this Contract:

Attachment A Payment Plan

Attachment B Pages 5 through 11 of the EchoStar 5 Insurance Policy

ARTICLE 43 - TERMINATION RIGHT

Notwithstanding anything to the contrary herein, if by the TBD Deadline the Parties are unable to reach final agreement upon (1) the pricing and schedule for the options described in Article 29.5, or (2) the TBD terms of this Contract, the Statement of Work, Satellite Performance Specification, Product Assurance Program Plan, Satellite Program Test Plan and Payment Plan, then Purchaser may immediately terminate this Contract by providing written notice to Contractor. If such termination occurs, then Purchaser shall pay Contractor \$XXX within thirty (30) days of receipt of an invoice. All other liabilities and obligations of the Parties shall be released, waived and terminated, except for those set forth in Articles 20, 35 and 37.

ARTICLE 44 - COOPERATION REGARDING SPOT BEAMS

Until the TBD Deadline, Contractor shall use reasonable commercial efforts to cooperate with Lockheed Martin Corporation ("LMC") regarding the coordination and development of the requirements and footprints for the spot beams for the Satellite and the EchoStar 7 satellite being manufactured by LMC. In addition, upon Purchaser's request, Contractor shall use reasonable commercial efforts to cooperate with LMC as necessary to change the initial requirements and/or footprints of the spot beams for the Satellite and the EchoStar 7 satellite. Finally, Contractor shall use reasonable commercial efforts to cooperate with LMC as necessary to ensure that the spot beams of the Satellite and the EchoStar 7 satellite, as deployed, will operate in accordance with the final approved requirements and footprints. In performing the above obligations, Contractor shall not be required to disclose any of its proprietary information to LMC.

ARTICLE 45 - XXX

XXX

ARTICLE 46 - KEY PERSONNEL

The Contractor will assign properly qualified and experienced personnel to the program contemplated under the Contract. Personnel assigned to the following positions shall be considered "Key Personnel":

- a) the Contractor's Program Manager
- b) the Contractor's Contracts Manager
- c) the Contractor's Product Assurance Manager
- d) the Contractor's Systems Engineering Manager
- e) the Contractor's Vehicle Manager

The Purchaser shall have the right to approve the Contractor's Program Manager which approval shall not be unreasonably withheld or delayed. Key Personnel shall not be assigned to other duties without the Contractor giving prior written notice to and consulting with the Purchaser. The Contractor shall provide a chart to the Purchaser of the program Key Personnel and shall keep such chart current.

Additionally, for so long as Randy Tyner is associated with Contractor as an employee or consultant, Purchaser shall have unrestricted access to Mr. Tyner for purposes of designing the payload and its specifications. Mr. Tyner shall have a key decision-making role on payload-related issues, and shall be a primary interface with the Purchaser on all payload-related technical and performance issues.

IN WITNESS THEREOF, the Parties have executed this Contract by their duly authorized officers as of the date set forth in the Preamble.

SPACE SYSTEMS/LORAL, INC.

ECHOSTAR ORBITAL CORPORATION

By: -----

By: -----

Name: -----

Name: -----

Title: -----

Title: -----

Certain portions of this document have been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934.

CONTRACT BETWEEN
ECHOSTAR ORBITAL CORPORATION
AND
SPACE SYSTEMS/LORAL, INC.
ECHOSTAR 9 SATELLITE PROGRAM
(121(DEGREES) W.L.)

This document contains data and information proprietary to Space Systems/Loral, Inc. and EchoStar Orbital Corporation. This data shall not be disclosed, disseminated or reproduced, in whole or in part, without the express prior written consent of Space Systems/Loral, Inc. and EchoStar Orbital Corporation except as otherwise provided in this Contract.

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PREAMBLE

This Contract is entered into as of February 22, 2000 (the "Effective Date of Contract" or "EDC") between EchoStar Orbital Corporation, organized and existing under the laws of the State of Colorado having an office and place of business at 5701 South Santa Fe, Littleton, Colorado 80120 (hereinafter referred to as "Purchaser") and Space Systems/Loral, Inc., a corporation organized and existing under the laws of the State of Delaware, having an office and place of business at 3825 Fabian Way, Palo Alto, California 94303 (hereinafter referred to as "Contractor").

RECITALS

WHEREAS, Purchaser desires to procure one (1) communications satellite, known as EchoStar 9, to be delivered on-orbit, risk management therefor, all required ground equipment and support and training services, to the extent and subject to the terms and conditions set forth herein, and

WHEREAS, Contractor is willing to furnish such Satellite, Launch Services, risk management, ground equipment and support and training services, to the extent and subject to the terms and conditions set forth herein, in consideration of the Firm Fixed Price and other valid consideration.

NOW, THEREFORE, the Parties hereto agree as follows:

ARTICLE 1 - DEFINITIONS

Capitalized terms used and not otherwise defined herein shall have the following meanings:

- 1.1 "ACCEPTANCE" (i) with respect to a Satellite shall be as provided for in Article 10, and (ii) with respect to any Deliverable Item other than a Satellite shall be as provided for in Article 11.
- 1.2 "AFFILIATE" means, with respect to a Party, any person or entity directly or indirectly controlling, controlled by or under common control with such Party.
- 1.3 "AVAILABLE COMMUNICATIONS CAPACITY" means the cumulative sum of the Expected Transponder Life of all Ku-band and Ka-band Transponders on a Satellite.
- 1.4 "CONTRACT" means the articles of this executed Contract, its Exhibits and its Attachment(s), as may be amended from time to time in accordance with the terms hereof.
- 1.5 "CONTRACTOR" has the meaning set forth in the preamble and any successor or assignee permitted hereunder.
- 1.6 "DELIVERABLE DATA" means the data and documentation required to be delivered to Purchaser as specified in the Statement of Work.
- 1.7 "DELIVERABLE ITEM" means any of the items listed in Article 3.1, and any other items ordered by Purchaser pursuant to Article 29, and, collectively, the "DELIVERABLE ITEMS".
- 1.8 "DELIVERY" (i) with respect to a Satellite shall be as provided for in Article 12.1, and (ii) with respect to any Deliverable Item other than a Satellite shall be as provided for in Article 12.2.

- 1.9 "EFFECTIVE DATE OF CONTRACT" or "EDC" means the effective date of this Contract as specified in the preamble.
- 1.10 "EXPECTED TRANSPONDER LIFE" means, with respect to a particular Transponder, the span of time measured in years (and any portion thereof), calculated from the earlier to occur of: (i) 30 days after Lift-Off or (ii) Purchaser's Acceptance or rejection of the applicable Satellite pursuant to Article 10, until the earlier to occur of: (i) the end of the Satellite Stated Life for such Satellite or (ii) the time when the relevant Transponder experiences or is expected to experience a Transponder Failure.
- 1.11 "FCC" means the Federal Communications Commission or any successor agency or governmental authority.
- 1.12 "FIRM FIXED PRICE" has the meaning set forth in Article 4.1.
- 1.13 "FORCE MAJEURE" has the meaning set forth in Article 17.
- 1.14 "GROSS NEGLIGENCE" means reckless disregard for the rights of others which very closely approaches intentional wrongdoing or other actions (or failures to act) which very closely approach intentional wrongdoing.
- 1.15 "IN-ORBIT TESTING" or "IOT" means the testing of a Satellite on-orbit in accordance with the Program Test Plan.
- 1.16 "INTELLECTUAL PROPERTY CLAIM" has the meaning set forth in Article 19.
- 1.17 "INTENTIONAL IGNITION" means, with respect to a Satellite, the official time designated by the Launch Agency during the launch sequence when the initial motors of the Launch Vehicle are ignited for the purpose of Launch following a planned countdown.
- 1.18 "LAUNCH" means, with respect to a Satellite, Intentional Ignition followed by Lift-Off.

- 1.19 "LAUNCH AGENCY" means the provider responsible for conducting the Launch Services for a Satellite.
- 1.20 "LAUNCH SERVICES" means those services provided by the Launch Agency pursuant to the Launch Services Agreement.
- 1.21 "LAUNCH SERVICES AGREEMENT" or "LSA" means the contract between Contractor and the Launch Agency which provides for Launch Services for a Satellite, as such contract may be amended from time to time in accordance with its terms.
- 1.22 "LAUNCH SITE" means the location that will be used by the Launch Agency for purposes of launching a Satellite.
- 1.23 "LAUNCH SUPPORT" or "LAUNCH SUPPORT SERVICES" means those services specified in the Statement of Work to be provided by Contractor in support of Launch.
- 1.24 "LAUNCH VEHICLE" means the launch vehicle selected by Purchaser and used for Launch of a Satellite.
- 1.25 "LIBOR" means the rate of interest per annum, at any relevant time, at which thirty (30) day U.S. dollar deposits are offered at such time in the London interbank market.
- 1.26 "LIFT-OFF" means, with respect to a Satellite, physical separation of the Launch Vehicle from the ground support equipment following Intentional Ignition due to the Launch Vehicle rising under its own power for the purpose of launching a Satellite.
- 1.27 "MISSION OPERATIONS SUPPORT SERVICES" means the orbit-raising, IOT and related services specified in the Statement of Work to be performed by Contractor for a Satellite.
- 1.28 "NSP" means not separately priced.

- 1.29 "PARTIAL LOSS" means, with respect to any Satellite, that the Available Communications Capacity is less than the Stated Communications Capacity as a result of one or more Ku-Band or Ka-Band Transponder Failures where such reduction does not constitute a Total Loss, and where the event giving rise to such loss has manifested itself at or after Intentional Ignition.
- 1.30 "PARTIAL LOSS AMOUNT" means an amount payable to Purchaser pursuant to Article 10, and calculated pursuant to Article 24, for the purpose of indemnifying Purchaser in the event of a Partial Loss.
- 1.31 "PARTY" or "PARTIES" means Purchaser, Contractor or both, as the context requires.
- 1.32 "PAYMENT PLAN" means the payment plan for the applicable Deliverable Item, attached as Attachment A.
- 1.33 "PERFORMANCE SPECIFICATION" means the Satellite performance specification attached as Exhibit B, as such Exhibit may be amended from time to time in accordance with the terms of this Contract.
- 1.34 "PMO" means the Purchaser's program management office.
- 1.35 "PRODUCT ASSURANCE PROGRAM PLAN" means the product assurance program plan attached as Exhibit C, as such Exhibit may be amended from time to time in accordance with the terms of this Contract.
- 1.36 "PROGRAM TEST PLAN" means the Satellite program test plan attached as Exhibit D, as such Exhibit may be amended from time to time in accordance with the terms of this Contract.
- 1.37 "PROPRIETARY INFORMATION" has the meaning set forth in Article 35.
- 1.38 "PURCHASER" has the meaning set forth in the preamble and any successor or assignee permitted hereunder.

- 1.39 "SATELLITE" means a communications satellite that is to be manufactured by Contractor pursuant to this Contract.
- 1.40 "SATELLITE ACCEPTANCE REVIEW" has the meaning set forth in Article 10.1.
- 1.41 "SATELLITE ANOMALY" means, with respect to any Satellite, any occurrence that occurs at or after Intentional Ignition and has or could have an impact on a Satellite's health or performance of such Satellite.
- 1.42 "SATELLITE PRE-SHIPMENT REVIEW" OR "SPSR" has the meaning set forth in Article 9.
- 1.43 "SATELLITE STATED LIFE" means fifteen (15) years after the earlier to occur of: (i) thirty (30) days after Lift-Off or (ii) Purchaser's Acceptance or rejection of a Satellite pursuant to Article 10.
- 1.44 "SCF" means satellite control facility.
- 1.45 "SKYNET" means and refers to Loral SpaceCom Corporation, a corporation organized and existing under the laws of the State of Delaware, doing business as Loral Skynet(R), and having a place of business at 500 Hills Drive, Bedminster, New Jersey 07921.
- 1.46 "STATEMENT OF WORK" or "SOW" means the statement of work attached as Exhibit A, as such Exhibit may be amended from time to time in accordance with the terms of this Contract.
- 1.47 "STATED COMMUNICATIONS CAPACITY" means, with respect to a Satellite, the product of the Satellite Stated Life multiplied by the number of Ku-Band and Ka-Band Transponders on such Satellite (excluding the C-band Transponders on a Satellite).
- 1.48 "TT&C" means telemetry, tracking and control.

- 1.49 "TOTAL LOSS" means, with respect to any Satellite (i) the complete loss, destruction or failure of such Satellite, (ii) a loss or failure such that the Available Communications Capacity is equal to less than fifty percent (50%) of the Stated Communications Capacity, or (iii) prior to IOT, but in any event no later than one hundred twenty (120) days after Launch, the failure to place such Satellite into its assigned orbital location.
- 1.50 "TRANSPONDER" means individually those sets of equipment within the communications subsystem of a Satellite that provide a discrete path to receive communications signals from earth, translate and amplify such signals and transmit them to earth.
- 1.51 "TRANSPONDER FAILURE" means, at any time at or after Intentional Ignition the physical loss of, or damage to, or permanent failure (including permanently intermittent failures) of a Ku-Band or Ka-Band Transponder to meet the requirements of the Performance Specification, provided that, after all reasonable technical alternatives for correcting such failure are examined: (i) the relevant Transponder cannot be used for its intended commercial communications purposes; or (ii) consistent with telemetry data, IOT or other evidence that manifests itself at or after Intentional Ignition, it is expected that the relevant Transponder will cease to be able to be used for its intended commercial communications purposes before the end of Satellite Stated Life. All available redundant and/or spare components on the Satellite applicable to the Transponder must be used or cease to be available before a Transponder is considered to have experienced a Transponder Failure. For clarification purposes, a Transponder shall be deemed a Transponder Failure if: (i) it cannot be used for its intended commercial communications purposes, or (ii) consistent with telemetry data, IOT or other evidence that manifests itself at or after Intentional Ignition, it is expected that the relevant Transponder will

cease to be able to be used for its intended commercial communications purposes before the end of Satellite Stated Life, in either case due to the failure of the Satellite to meet the requirements of the Performance Specification, including without limitation loss of power or on-board propellant, even if the relevant Transponder itself meets the requirements of the Performance Specification.

ARTICLE 2 - SCOPE OF WORK

2.1 Provision of Services and Materials

Contractor shall provide the necessary personnel, material, services, and facilities to: design, manufacture, test, Launch and deliver on orbit to Purchaser, one (1) Satellite, together with all other Deliverable Items referred to in Article 3.1, in accordance with the following Exhibits, which are attached hereto and made a part hereof:

- 2.1.1 Exhibit A, Statement of Work, dated [TBD] (Document Reference No. [TBD]);
- 2.1.2 Exhibit B, Satellite Performance Specification, dated [TBD] (Document Reference No. [TBD]);
- 2.1.3 Exhibit C, Product Assurance Program Plan, dated [TBD] (Document Reference No. [TBD]);
- 2.1.4 Exhibit D, Satellite Program Test Plan, dated [TBD] (Doc No. [TBD]).

ARTICLE 3 - DELIVERABLE ITEMS AND DELIVERY SCHEDULE

3.1 Deliverable Items

Subject to the other terms and conditions of this Contract, the items to be delivered under this Contract are specified in the table below and the corresponding delivery schedules and locations are as follows:

ITEM -----	DESCRIPTION -----	DELIVERY SCHEDULE -----	DELIVERY LOCATION -----
1.	Satellite (EchoStar 9)	29 months after EDC	To 121 W.L. geostationary orbital location.
2.	Deliverable Data	Per SOW, Exhibit A	PMO
3.	Support and Training	Per SOW, Exhibit A	Contractor's facilities and Purchaser's SCF
4.	Ground Equipment	Per SOW, Exhibit A	Purchaser's SCF

Contractor shall, at its cost, use its reasonable best efforts to obtain all U.S. and foreign Government approvals necessary to export and import the applicable Satellite, all Deliverable Items and Deliverable Data required hereunder, the Launch Vehicle and the individual components of the applicable Satellite, such Deliverable Items and Deliverable Data and the Launch Vehicle.

ARTICLE 4 - PRICE

4.1 Firm Fixed Price

The total price to be paid by Purchaser and Skynet to Contractor for the Deliverable Items 1 through 4 set forth in Article 3.1 within the scope of work detailed in the Statement of Work, shall be a firm fixed price of \$XXX (the "Firm Fixed Price"). The prices for those Deliverable Items subject to an option under this Contract, if any, are described in the particular Articles that set forth those options. The itemization of the Firm Fixed Price is as follows:

Item Description -----	Amount -----
Satellite (EchoStar 9)	\$XXX

The item price for such Satellite includes in-orbit delivery and all design, manufacturing, tests, In Orbit Incentives, Deliverable Data, training, Launch and placement into the assigned orbital location, Launch Vehicle, Launch Services, Launch Support Services, Mission Operations Support Services, risk management insurance, ground equipment and shipment and transportation, all in accordance with the terms and conditions of this Contract, as specified herein. The item price also includes, and Contractor shall indemnify, defend and hold Purchaser, its Affiliates, directors, officers, employees, shareholders and agents harmless from and against, all applicable taxes, duties and similar liabilities whatsoever imposed by any governmental entity in connection with this Contract, except any tax on the sale to Purchaser resulting from Purchaser's election to exercise the Ground Storage option in Article 33.

Purchaser's share of the Firm Fixed Price is One Hundred Twenty Nine Million Dollars (\$129,000,000). The remaining Ninety Three Million Dollars (\$93,000,000) shall be paid by Skynet directly to Contractor (the "Skynet Portion"). Purchaser does not guarantee payment of the Skynet Portion, and Contractor agrees to look solely and exclusively to Skynet for payment of the Skynet Portion. Failure of Skynet to make payment of the Skynet Portion, when due, shall not be considered a breach or default of this Contract and Contractor shall nonetheless still be obligated to fully perform its obligations and duties under this Contract. Contractor acknowledges and agrees that Purchaser shall have no liability to Contractor whatsoever in the event that Skynet fails to make timely payment of the Skynet Portion, and that Contractor shall have no recourse whatsoever against Purchaser in such case.

ARTICLE 5 - PAYMENTS

5.1 Payment Plan

Absent a bona fide dispute, payments by Purchaser to Contractor of its portion of the Firm Fixed Price set forth in Article 4 and of the amounts for options, if any, exercised by Purchaser pursuant to this Contract, shall be in accordance with the Payment Plan applicable thereto.

5.2 Payment Conditions

5.2.1 Payments. Absent a bona fide dispute, all payments due from Purchaser shall be paid no later than the date specified therefor as set forth in the Payment Plan, provided that: (i) Contractor submits to Purchaser an invoice with respect to each such payment no later than thirty (30) days prior to such due date; and (ii) Contractor completes the applicable milestone set forth in Attachment A no later than five (5) business days prior to such due date. Notwithstanding the foregoing, in the event that Contractor does not deliver an invoice to Purchaser at least thirty (30) days prior to such due date and/or does not achieve the relevant milestone, or provide a work-around that does not affect schedule and is otherwise acceptable to Purchaser, at least five (5) business days prior to such due date, Purchaser may suspend all payments until such time as the relevant invoice is received and milestone is completed. Within thirty (30) days following Purchaser's receipt of the relevant invoice or five (5) business days following Contractor's completion of the relevant milestone, whichever occurs later, Purchaser shall pay Contractor for all payments that were required to have been made but were not as a result of the suspension.

- 5.2.2 Milestones. Notwithstanding the milestones set forth in Attachment A, if it becomes reasonably clear that problems with deliverables are reasonably likely to cause schedule delays, then all payments may be suspended, at Purchaser's option, and the date for payment of each subsequent payment delayed, by an amount of time equal to the difference between the originally scheduled delivery date for the Satellite set forth in Article 3 and the revised forecast delivery date. In the event that Contractor subsequently recovers all or a portion of the originally scheduled delivery date for the Satellite, payments will again be revised to reflect that recovery. Further, if, following completion of a milestone, a problem arises which requires rework of elements of the milestone, then payments may be suspended, at Buyer's option, until the milestone is again complete.
- 5.2.3 Non-warranty Payments. Absent a bona fide dispute, all amounts payable to Contractor with respect to non-warranty work performed pursuant to Article 15.3 shall be paid no later than thirty (30) days after submission of an invoice by Contractor certifying that such non-warranty work has been completed.
- 5.2.4 Obligation to Pay. The failure of Contractor to deliver any invoice required hereunder shall not affect Purchaser's obligation hereunder to make any payments to Contractor. If Contractor shall not have delivered any invoice required hereunder within the time specified therefor, subject to the terms and conditions of this Article 5, the relevant payment due from Purchaser shall be payable thirty (30) days after receipt of such invoice.

5.3 Late Payment

Except in the case of a bona fide dispute, in the event that any payment owed by one party to the other party is not made when due hereunder, without prejudice to the second party's other rights and remedies under this Contract, at law or in equity, the first party shall pay the other party interest at the rate of LIBOR + XXX until such time as payment is made. If a payment due to Contractor from Purchaser is not made by the date thirty (30) days after the date due hereunder, without prejudice to Contractor's other rights and remedies under this Contract, at law or in equity, Contractor may elect to cease performance of its obligations under this Contract, without prejudice or penalty. In such case, if Contractor subsequently resumes performance in lieu of termination pursuant to Article 23.5, the schedule, price and other affected provisions of this Contract shall be modified to compensate Contractor for its added reasonable, actual out-of-pocket costs plus a profit of twelve percent (12%) (and otherwise account for the non-economic impacts on Contractor) associated with such work stoppage. Notwithstanding the foregoing, in the event of a bona fide dispute between the Parties regarding a payment due hereunder, such dispute shall be resolved pursuant to Article 25 hereof, and Contractor shall have no right during the pence of such dispute to stop work under this Contract because of such dispute.

5.4 Invoices

Invoices required to be delivered by Contractor hereunder shall be submitted to Purchaser (original plus one (1) copy) at the following address:

EchoStar Orbital Corporation
5701 South Santa Fe
Littleton, CO 80120
ATTN.: Rohan Zaveri
(with copies to David Moskowitz and Charlie Ergen)

or to such other address as Purchaser may specify in writing to Contractor.

5.5 Payment Bank

All payments made to Contractor hereunder shall be in U.S. currency and shall be made by electronic funds transfer to the following account:

BANK OF AMERICA
SPACE SYSTEMS/LORAL, INC.
ACCOUNT NO. 75-69165
CHICAGO, ILLINOIS
ABA #071-000-039

or by check to:

Space Systems/Loral
3825 Fabian Way
Palo Alto, CA 94303
Attn: Ronald Haley

or to such other account or address as Contractor may specify in writing to Purchaser.

ARTICLE 6 - PURCHASER-FURNISHED ITEMS

6.1 Purchaser-Furnished Support

To enable Contractor to perform Launch Support and Mission Operations Support Services, Purchaser shall timely make available to Contractor the Purchaser-furnished equipment, facilities and services described in the Statement of Work. Such equipment, facilities and services shall be in good working condition and adequate for the required purpose and shall be made available free of charge for Contractor's use (including Acceptance inspection pursuant to Article 11) during the period commencing sixty (60) days prior to such Launch and continuing through completion of the Satellite Acceptance Review. Purchaser and Contractor will conduct an interface meeting approximately one hundred eighty (180) days prior to such Launch to confirm the availability and adequacy of Purchaser-furnished equipment, facilities and services.

6.2 Communications Authorizations

Purchaser shall be responsible, at its cost and expense, for preparing, coordinating and filing all applications for licenses with the FCC, if required to do so, for the Launch and operation of the Ku-Band and Ka-Band payloads on a Satellite. Contractor shall timely provide Purchaser with all reasonable assistance, at no additional cost to Purchaser, requested by Purchaser in connection with Purchaser's performance of the above-specified tasks, and in connection with the filing of any technical filings required to be made by Purchaser with the FCC.

6.3 Radio Frequency Coordination

Purchaser shall be responsible for the timely preparation and submission of all filings required by the International Telecommunication Union (or any successor agency thereto) regarding radio frequency and orbital position coordination for the Ku-Band and Ka-Band payloads. Such filings shall be made in accordance with the Radio Regulations of the International Telecommunication Union (or any successor agency). Contractor shall timely provide Purchaser with all reasonable assistance, at no additional cost to Purchaser, requested by Purchaser in connection with Purchaser's performance of the above-specified tasks.

6.4 Licenses and Permits

Except as set forth in Articles 6.2 and 6.3 above, Contractor shall be responsible, at its sole cost and expense, for securing any and all permits and licenses for the construction, transportation and Launch of a Satellite (other than FCC construction permits for the Ku-Band and Ka-Band payloads).

6.5 Satellite Performance Data

In the event of a Satellite Anomaly that occurs during the life of a Satellite, Purchaser shall timely provide Contractor with or give Contractor access to any data Contractor may reasonably require to investigate or correct (if Contractor is able to do so) such Satellite Anomaly or make or settle any insurance claim relating to such Satellite Anomaly.

6.6 Late Delivery of Purchaser-Furnished Items or Services

The late delivery of Purchaser-furnished items, individually or combined, shall be considered an event beyond the reasonable control

of Contractor, and Contractor shall be entitled to a reasonable adjustment in price, schedule, and other affected terms for such late delivery.

ARTICLE 7 - COMPLIANCE WITH U.S. EXPORT LAWS AND DIRECTIVES

7.1 Technical Information, Deliverable Data and Technical Services

7.1.1 Any obligation of either Party hereunder to provide technical information, Deliverable Data or technical services to the other Party or its representatives shall be subject to applicable U.S. Government export control and security laws, regulations, policies and license conditions. The Parties shall work cooperatively and in good faith to implement this Contract consistent with such laws, regulations, policies and license conditions.

7.1.2 If and to the extent required by U.S. law, the Parties and/or their representatives shall enter into U.S. Government-approved agreement(s), separate from this Contract, governing the Party's provision of technical information, Deliverable Data or technical services in connection with this Contract.

7.2 No Retransfer

The Parties shall not transfer to any "foreign person", as defined in the International Traffic in Arms Regulations (22 C.F.R. Section 120.1) technical information, Deliverable Data or technical services furnished hereunder, except as expressly authorized by the U.S. Government in accordance with U.S. export control laws. THE PARTIES UNDERSTAND AND WARRANT THAT THEY SHALL NOT RE-EXPORT, TRANSFER OR DIVERT ANY ITEM EXPORTED UNDER OR IN CONNECTION WITH THIS CONTRACT TO ANY "FOREIGN PERSON" WITH A NATIONALITY OTHER THAN CONTRACTOR'S OR PURCHASER'S, RESPECTIVELY, WITHOUT THE PRIOR WRITTEN APPROVAL OF THE U.S. GOVERNMENT.

ARTICLE 8 - ACCESS TO WORK IN PROGRESS

8.1 Work in Progress at Contractor's Plant

Subject to Article 7 and Article 8.5 and to compliance with Contractor's safety and security regulations, Purchaser's and Skynet's employees (and representatives, consultants or agents, subject to the prior approval of Contractor, which approval shall not be unreasonably withheld or delayed) shall be allowed access to work being performed at Contractor's facility for the Satellite and other Deliverable Items, for the purpose of observing the progress of such work and otherwise confirming Contractor's compliance with this Contract. Notwithstanding anything to the contrary set forth herein, the fact that Purchaser and/or Skynet have observed work performed hereunder shall not be deemed Purchaser's Acceptance or approval of such work.

8.2 Work in Progress at Subcontractors' Plant

Subject to Article 7 and Article 8.5, to the extent permitted by Contractor's subcontractors supplying services or goods in connection with the Satellite and subject to each such subcontractor's safety and security regulations, Contractor shall allow Purchaser's and Skynet's employees (and representatives, consultants or agents, subject to the prior approval of Contractor, which approval shall not be unreasonably withheld or delayed) access to work being performed with respect to the Satellite in each such subcontractor's plants for the purpose of observing the progress of such work and otherwise confirming Contractor's compliance with this Contract, subject to the right of Contractor to accompany Purchaser and/or Skynet on any such visit to a subcontractor's plant; provided, however, that Purchaser and/or Skynet may conduct an unaccompanied observation in the event that Contractor fails to furnish a representative after reasonable written

notice of Purchaser's or Skynet's observation request. Contractor will use reasonable efforts to obtain permission for such access to subcontractor's facilities.

8.3 Remedy for Non-Compliance

Purchaser may inform Contractor in writing of any particulars in which Purchaser observes that work being performed under this Contract is non-compliant, and Contractor shall remedy such non-compliance at Contractor's expense, promptly upon receipt of notice thereof.

8.4 On-Site Facilities for Purchaser's Personnel

Subject to Article 7 and Article 8.5, for the purpose of monitoring the progress of the work to be performed by Contractor hereunder and otherwise confirming Contractor's compliance with this Contract, Contractor shall provide private office facilities at or proximate to Contractor's plant (which private office facilities shall in all cases at least be co-located with Contractor's program management office) for two (2) resident employees of Purchaser (or Purchaser's duly appointed representatives, consultants and agents, subject to the prior approval of Contractor, which approval shall not be unreasonably withheld or delayed) through Acceptance of the last Satellite ordered hereunder (or for a reasonable period of time after the completion of the Satellite Acceptance Review, in the event that Purchaser exercises its option under Article 29.2 to direct Contractor not to provide insurance for a Satellite). The office facilities to be provided shall include a reasonable amount of private office space, office furniture, local and reasonable long distance telephone service, access to copy machines and access to facsimile machines, to the extent necessary to enable such personnel to monitor the progress of work and otherwise confirm Contractor's compliance with this Contract.

8.5 Competition/Foreign Persons as Purchaser Representatives

Purchaser's representatives, consultants and agents shall not be in direct competition with Contractor, meaning they shall not currently be employed by companies or entities that are in the business of manufacturing communication satellites. Purchaser shall notify Contractor in writing of the name, title or function, business relationship, employer and such other information as may be reasonably requested by Contractor, with respect to each of its intended representatives, consultants and agents, and cause each such representative, consultant and agent to execute a confidentiality agreement directly with Contractor in form and substance reasonably satisfactory to Contractor and containing terms substantially the same as those set forth in Article 35. Contractor may deny access to Contractor provided office facilities to any representative, consultant or agent of Purchaser upon Contractor's reasonable determination that such consultant or agent is, by reason of its business or affiliations, in direct competition with Contractor.

Contractor shall apply for and, once issued, maintain all U.S. Government export licenses and approvals needed for Purchaser's employees and representatives, agents and consultants who are citizens of a country other than the U.S., to access Contractor's and its subcontractors' facilities or technical data in connection with the performance of this Contract. Purchaser shall cooperate with Contractor and provide the support necessary for Contractor to apply for and maintain such export licenses and approvals, and shall promptly notify Contractor of any occurrence or change in circumstances of which it becomes aware that is relevant to or affects such export license and approvals. IN NO EVENT SHALL CONTRACTOR BE OBLIGATED UNDER THIS CONTRACT TO PROVIDE ACCESS TO CONTRACTOR FACILITIES, TO TRANSFER

ANY TECHNICAL INFORMATION OR DELIVERABLE DATA OR TO PROVIDE ANY TECHNICAL SERVICES, TO ANY PERSON EXCEPT IN COMPLIANCE WITH APPLICABLE U.S. EXPORT CONTROL LAWS, REGULATIONS, POLICIES AND LICENSE CONDITIONS, AS REASONABLY CONSTRUED BY CONTRACTOR.

8.6 Interference with Operations

Purchaser shall exercise its rights under this Article 8 in a manner that does not unreasonably interfere with Contractor's or its subcontractors' normal business operations or Contractor's performance of its obligations under this Contract or any agreement between Contractor and its subcontractors.

8.7 Notification

Notwithstanding any other provision of this Contract, Contractor shall advise Purchaser immediately by telephone and confirm in writing any event, circumstance or development which materially threatens the quality of, or the delivery schedule for, any Satellite or component part thereof, as well as any other Deliverable Items to be provided hereunder.

ARTICLE 9 - SATELLITE PRE-SHIPMENT REVIEW (SPSR)

9.1 Purchaser to Review

Purchaser shall conduct a review of each Satellite prior to shipment by Contractor to the Launch Site in accordance with the terms of this Article 9 and the Statement of Work (each a "Satellite Pre-Shipment Review" or "SPSR").

9.2 Time, Place and Notice of SPSR; Failure to Conduct

Each SPSR shall take place at Contractor's facility. Contractor shall notify Purchaser in writing at least thirty (30) days prior to the date that each Satellite shall be available for SPSR, which shall be the scheduled date for commencement of such SPSR. If Purchaser cannot commence such SPSR on such scheduled date, Contractor shall make reasonable efforts to accommodate Purchaser's scheduling requirements.

9.3 Conduct and Purpose of SPSR

Each SPSR shall be conducted in accordance with the pertinent Sections of the Statement of Work. The purpose of each SPSR shall be to review test data and analyses for the subject Satellite to determine whether such Satellite meets applicable Performance Specification requirements and is therefore ready for shipment to the Launch Site.

9.4 Waivers or Pending Waivers

At the earliest possible time, but at least ten (10) days before the commencement of the SPSR for the Satellite or the Acceptance inspection for any Deliverable Item pursuant to Article 11, Contractor shall submit to Purchaser any request for a waiver of, or deviation from, provisions(s) of the Performance Specification applicable to the Satellite or Deliverable Item. Each such waiver or deviation approved by Purchaser shall be deemed an amendment to the Performance

Specification permitting such waiver thereof, or deviation therefrom, effective on or after the date of such approval for the Satellite or Deliverable Item. Purchaser shall, in keeping with customary industry practice, consider each waiver or deviation request in good faith and shall not unreasonably withhold or delay its consent to any such request.

9.5 Purchaser's Inspection Agents

Purchaser may, subject to prior written notice to Contractor, cause any representative, consultant or agent designated by Purchaser to observe the SPSR pursuant to this Article 9; provided, however, that the provisions of Article 7 and Article 8.5 shall apply to any such representative, consultant or agent.

9.6 SPSR Results

Within a reasonable time after completion of the SPSR for the Satellite, Purchaser shall notify Contractor in writing of the results of the SPSR pursuant to this Article 9 with respect to the Satellite. Provided Purchaser is in compliance with its contractual obligations hereunder, such Satellite shall be prepared and shipped to the Launch Site for Launch upon successful completion of the SPSR. In the event that such SPSR discloses any non-conformance of the Satellite to the requirements of the Performance Specification not the subject of any waivers or deviations approved by Purchaser pursuant to Article 9.4, Purchaser's notice shall state each such non-conformance (with reference to the applicable requirement of the Performance Specification deemed not met), and Contractor shall correct or repair each such non-conformance and resubmit such Satellite for SPSR in accordance with this Article 9 as to each corrected or repaired element.

9.7 Inspection Equipment and Facilities

Contractor shall make available to Purchaser such equipment and facilities as Purchaser may require to conduct any pre-shipment inspections. All costs and expenses incurred by Purchaser and its agents to dispatch its personnel for pre-shipment inspections, including travel and living expenses, shall be borne solely by Purchaser.

9.8 Correction of Deficiencies after SPSR

If at any time following the SPSR for a Satellite, but prior to Launch, Contractor becomes aware that such Satellite fails to meet the Performance Specification, as may be modified as of such time pursuant to Article 9.4, Contractor shall promptly correct such deficiencies at its own cost and expense.

9.9 Warranty Obligations

In no event shall Contractor be released from any of its warranty obligations as set forth in Article 15 hereof as a result of any Satellite having successfully passed the pre-shipment inspection set forth in this Article 9.

9.10 Repaired or Replaced Satellites

The provisions of this Article 9 shall apply to corrected, repaired or replaced Satellites.

ARTICLE 10 - SATELLITE ACCEPTANCE - PARTIAL AND TOTAL LOSS

10.1 Satellite Acceptance Procedure

Following the successful completion of the SPSR for the relevant Satellite pursuant to Article 9, including without limitation the correction of any non-conforming items pursuant to Article 9.6, Contractor shall transport such Satellite, in accordance with Contractor's standard commercial practices, to the Launch Site and proceed with the Launch of such Satellite. During the period between the successful completion of SPSR and Launch, Purchaser shall have the continuing right to monitor, observe, evaluate and inspect the Satellite. Thirty (30) days prior to the then-scheduled Launch of the Satellite, Contractor shall notify Purchaser of the IOT schedule with respect to the Satellite. Purchaser may observe and participate in such IOT at Purchaser's, Skynet's and/or Contractor's location, at Purchaser's election, subject to applicable U.S. Government and Contractor security and export restrictions.

When, in the reasonable assessment of Contractor, IOT has been completed for a Satellite, Contractor shall submit the IOT results to Purchaser and shall either (i) certify to Purchaser by delivery of a Satellite Acceptance Certificate pursuant to the SOW that such Satellite meets the applicable criteria for Acceptance set forth in Article 10.2 or (ii) certify to Purchaser by means of a written notice that the Satellite is a Total Loss.

Within seventy-two (72) hours after Contractor provides the certified IOT results to Purchaser with respect to the Satellite, Contractor and Purchaser shall hold a Satellite Acceptance Review as defined in the SOW. Within a reasonable period of time after completion of such review, Purchaser shall either accept such Satellite in writing in

accordance with Article 10.2 ("Acceptance" with respect to such Satellite), or reject such Satellite in writing as a Total Loss, in which event the provisions of Article 10.4 shall apply.

If Purchaser shall reject the Satellite as a Total Loss hereunder, and Contractor disputes such rejection, rejection shall be deemed to have occurred with respect to such Satellite pending resolution of such dispute pursuant to Article 25. Should Purchaser's rejection be sustained pursuant to Article 25, the provisions of Article 10.4 shall apply to such Satellite. If such rejection is not sustained, Purchaser shall promptly pay to Contractor all amounts that should have been paid to Contractor if the Satellite was Accepted, plus interest in accordance with Article 5.3 at the rate of LIBOR + 2% per annum.

Contractor may elect to conduct the IOT eclipse test set forth in the Program Test Plan with respect to a Satellite during the first eclipse season after IOT is otherwise completed. In such case, Satellite Acceptance or rejection for such Satellite shall occur on the basis of IOT results excluding the IOT eclipse test. For a Satellite that is accepted pursuant to Article 10.1 on the basis of IOT results excluding the IOT eclipse test, the results of the later IOT eclipse test will be provided to Purchaser for Satellite performance characterization and insurance purposes only and shall in no way affect Acceptance of such Satellite.

10.2 Satellite Acceptance Criteria

Purchaser shall be obligated to accept a Satellite as set forth in Article 10.1 if, as of the completion of the Satellite Acceptance Review with respect to the Satellite, there has not been both: (i) a Total Loss, as determined on the basis of the Ku-Band and Ka-Band Transponders, and (ii) a total loss of the C-Band payload, as determined using the criteria for determining a Total Loss, except that

such determination shall be based solely upon the C-Band Transponders, as opposed to the Ku-Band and Ka-Band Transponders.

10.3 Partial Loss Payment

If a Satellite (focusing solely on Ku-Band and Ka-Band payloads) experiences a Partial Loss at any time during the period starting at Intentional Ignition and ending one (1) year after Launch, Purchaser shall be entitled to payment of a Partial Loss Amount calculated pursuant to Article 24. Such Partial Loss Amount shall be paid by Contractor to Purchaser upon the earlier to occur of: (i) 180 days after the Partial Loss occurs and is known to Contractor, or (ii) ten (10) days after Contractor receives proceeds for the Partial Loss from the carrier that issued the risk management insurance policy described in Article 39 or 29.3, as applicable.

10.4 Total Loss of a Satellite

10.4.1 If, with respect to a Satellite or a Replacement Satellite (as defined below), at any time during the period starting at Intentional Ignition and ending one (1) year after Launch, there shall occur a Total Loss (such Satellite a "Total Loss Satellite"), Contractor shall pay to Purchaser the greater of: (i) total amount paid by Purchaser to Contractor for the Total Loss Satellite, or (ii) the amount of the insurance procured for the Ku-Band and Ka-Band payloads on such Total Loss Satellite by Contractor pursuant to Article 39.1 or 29.3, as applicable, below (less any portion of the Firm Fixed Price due and owing to Contractor from Purchaser hereunder), in either case Purchaser shall have no further obligation to

make any further payments of the Firm Fixed Price to Contractor hereunder.

Any amounts owed by Contractor under the immediately preceding paragraph shall be made by Contractor to Purchaser upon the earlier to occur of: (i) 180 days after the Total Loss occurs and is known by Contractor, or (ii) ten (10) days after Contractor receives proceeds for the Total Loss from the carrier that issued the risk management insurance policy described in Article 39 or 29.3, as applicable.

Notwithstanding anything to the contrary herein, if a bona fide dispute exists as to whether or not the Satellite or Replacement Satellite is a Total Loss, Contractor shall not be obligated to refund any amounts paid until after the dispute is resolved.

- 10.4.2 In lieu of Purchaser receiving payment of the appropriate amount set forth in Article 10.4.1, if, with respect to a Satellite (but not a Replacement Satellite), at any time during the period starting at Intentional Ignition and ending one (1) year after Launch, there has been both (i) a Total Loss, as determined on the basis of the Ku-Band and Ka-Band Transponders, and (ii) a total loss of the C-Band payload, as determined using the criteria for determining a Total Loss, except that such determination shall be based solely upon the C-Band Transponders, as opposed to the Ku-Band and Ka-Band Transponders, and both Purchaser and Skynet direct Contractor in writing to construct and Launch a Replacement Satellite (as defined below), then Contractor shall provide a new Satellite (a "Replacement Satellite") substantially identical to the Total Loss Satellite, which complies in all respects with the Performance

Specification, in accordance with the terms and conditions of this Contract, to be delivered on orbit (provided that Contractor shall not use a Launch Vehicle, the failure of which resulted in the loss of the previous Satellite, without Purchaser's prior written consent, which consent may be withheld in Purchaser's reasonable judgment) to the location specified in Article 3 within 27 months after the later to occur of (i) Purchaser exercising this option or (ii) the parties resolving any dispute as to whether or not a Total Loss has occurred; or

If the option set forth in this Article 10.4.2 is selected by Purchaser, Purchaser shall remain obligated to pay the remaining unpaid portion of the Firm Fixed Price in accordance with the terms of this Contract, except that the timing of such remaining Payments shall be equitably adjusted to accommodate the construction schedule for the Replacement Satellite.

10.4.3 Upon the occurrence of a Total Loss with respect to a Satellite or a Replacement Satellite, and as a condition to Contractor performing as required under this Article 10.4, Purchaser shall:

(i) Promptly refund to Contractor any Partial Loss Amount previously paid by Contractor to Purchaser with respect to such Total Loss Satellite; and

(ii) Cease to operate or use the Ku-Band and Ka-Band payloads on such Satellite or Replacement Satellite that results in a Total Loss promptly upon the occurrence of such Total Loss, and, in the event that Acceptance of such Satellite or Replacement Satellite shall have previously

occurred, Purchaser shall release any right, title and interest it may have in the Ku-Band and Ka-Band payloads and Purchaser's ownership interest in the Common Elements (as defined in the Agreement between Purchaser and Skynet of even date herewith) of such Satellite or Replacement Satellite to Contractor and shall promptly discharge or cause to be discharged, at its expense, any lien, security interest, charge or other claim on the Ku-Band and Ka-Band payloads and Purchaser's ownership interest in the Common Elements of such Satellite or Replacement Satellite or on any part thereof.

10.5 TT&C

If the Satellite experiences a material Anomaly at or prior to handover of the Satellite, Contractor agrees to fly the Satellite until the earlier to occur of: (i) all material anomalies being resolved; (ii) insurance for all material anomalies being paid to Purchaser; or (iii) Purchaser informing Contractor that it desires to use the Satellite for commercial purposes (provided that, in such instance, Contractor shall continue to fly the Satellite until such time as all material anomalies are fully understood by both parties and Contractor has properly trained Purchaser how to fly the Satellite in such anomalous condition).

10.6 Scope of Coverage. For clarification purposes, the Parties acknowledge and agree that Contractor's obligation to make payments for a Total Loss or Partial Loss under this Contract only apply with respect to Ku-Band and Ka-Band transponders. The Parties further acknowledge and Agree that, except as otherwise set forth in Article 10.4.2, Contractor's obligations to Skynet with respect to total loss or partial loss of the C-Band Transponders and/or Skynet's ownership interest in the Common Elements will be dealt with under a separate arrangement between Contractor and Skynet.

Notwithstanding anything to the contrary herein, in the event that the insurance policy procured by Contractor pursuant to Article 39.1 or 29.3 below, if any, provides broader coverage than the Total Loss and Partial Loss coverage provided hereunder, then Purchaser shall be entitled to receive the benefit of such broader coverage.

In addition, if the overall Satellite experiences an Anomaly which will affect the use of one or more Transponders, and a decision must be made as to which Transponder(s) shall be affected, then such decision shall be made in accordance with the terms and conditions of the Agreement between Purchaser and Skynet of even date herewith. If this situation arises, Contractor shall have no obligations under this Article 10 until such decision is communicated to Contractor.

ARTICLE 11 - ACCEPTANCE INSPECTION FOR DELIVERABLE ITEMS OTHER THAN SATELLITES

11.1 Inspection of Deliverable Items of Hardware Other Than Satellites

With respect to each Deliverable Item of hardware other than Satellites, Purchaser shall perform Acceptance inspection within ten (10) business days after Contractor has notified Purchaser that such Deliverable Item has arrived at the location designated for delivery thereof in Article 3.1. Such Acceptance inspection shall be conducted in accordance with the procedures described in the Statement of Work. The purpose of the Acceptance inspection shall be to determine whether each such Deliverable Item meets applicable Performance Specification requirements as of the date of such delivery, as such requirements may have been modified pursuant to Article 11.3.

11.2 Purchaser's Inspection Agents

Purchaser may, upon giving prior written notice to Contractor, cause any representative, consultant or agent designated by Purchaser to conduct the Acceptance inspection pursuant to this Article 11 in whole or in part; provided, however, that the provisions of Article 7 and Article 8.5 shall apply to any such representative, consultant or agent and representative, consultant or such agent shall comply with Contractor's safety and security regulations.

11.3 Pending Waivers

Waivers of or deviations from the Performance Specification applicable to any Deliverable Item subject to Acceptance inspection pursuant to this Article 11 shall be addressed in the same manner as set forth in Article 9.4.

11.4 Acceptance Inspection Results

Within a reasonable time after completion of Acceptance inspection pursuant to this Article 11 for any Deliverable Item, Purchaser shall notify Contractor in writing of the results of such Acceptance inspection. In the event that such Acceptance inspection demonstrates conformity of such Deliverable Item to the applicable requirements of the Performance Specification, such Deliverable Item shall be deemed accepted by the Purchaser for all purposes hereunder ("Acceptance" with respect to each such Deliverable Item other than a Satellite), and Purchaser's notice shall so state. In the event that such Acceptance inspection discloses any non-conformance of such Deliverable Item to the applicable requirements of the Performance Specification, Purchaser's notice shall detail each such non-conformance (with reference to the applicable requirement of the Performance Specification deemed not met), and Contractor shall correct or repair such non-conformance and resubmit such Deliverable Item for Acceptance inspection in accordance with this Article 11 as to each such corrected or repaired element.

11.5 Acceptance Inspection; Equipment and Facilities

Contractor shall make available to Purchaser such equipment and facilities as Purchaser may require to conduct any preshipment inspections. All costs and expenses incurred by Purchaser or its agents to dispatch its personnel for acceptance inspections, including travel and living expenses, shall be borne solely by Purchaser.

11.6 Warranty Obligations

In no event shall Contractor be released from any of its warranty obligations applicable to any Deliverable Item as a result of such Deliverable Item having been Accepted as set forth in this Article 11.

11.7 Repair or Replace Deliverable Items.

The provisions of this Article 11 shall apply to corrected, repaired or replaced Deliverable Items other than Satellites.

11.8 Deliverable Data

Purchaser shall, within ten (10) business days of delivery by Contractor to the location designated in Article 3.1 of Deliverable Data requiring Purchaser approval pursuant to the Statement of Work, notify Contractor in writing that such Deliverable Data has been accepted in accordance with the Statement of Work ("Acceptance" with respect to each such item of Deliverable Data), or advise Contractor in writing that such Deliverable Data does not comply with the applicable requirements of the Statement of Work, identifying each particular of such non-compliance. Contractor shall promptly correct any non-compliant aspect of such Deliverable Data described in such Notice from Purchaser, and re-submit it to Purchaser for inspection pursuant to this Article 11.7.

ARTICLE 12 - DELIVERY, TITLE AND RISK OF LOSS

12.1 Satellites

Delivery of the Satellite shall occur, and risk of loss of, and title to, the Satellite shall pass from Contractor to Purchaser, upon Acceptance of such Satellite pursuant to Article 10.1.

EXCEPT WITH RESPECT TO WILLFUL MISCONDUCT OR GROSS NEGLIGENCE BY CONTRACTOR, UPON AND AFTER LAUNCH OF THE LAUNCH VEHICLE FOR A SATELLITE, CONTRACTOR'S SOLE FINANCIAL RISK, AND THE SOLE AND EXCLUSIVE REMEDIES OF PURCHASER OR ANY PARTY ASSOCIATED WITH PURCHASER, WITH RESPECT TO THE USE OR PERFORMANCE OF SUCH SATELLITE (INCLUDING WITH RESPECT TO ANY ACTUAL OR CLAIMED DEFECT CAUSED OR ALLEGED TO BE CAUSED AT ANY TIME BY CONTRACTOR OR ANY OF ITS SUBCONTRACTORS), SHALL BE AS SET FORTH IN ARTICLES 4.1, 10, 13, 15, 19, 20, AND 24. IN ALL CASES CONTRACTOR'S LIABILITY SHALL BE SUBJECT TO THE LIMITATION OF LIABILITY SET FORTH IN ARTICLE 34. WITHOUT PREJUDICE TO PURCHASER'S RIGHTS UNDER ARTICLES 10 AND 24, CONTRACTOR MAKES NO WARRANTY AS TO THE PERFORMANCE OF ANY LAUNCH VEHICLE.

12.2 Deliverable Items Other Than Satellites

Delivery and risk of loss of, and title to, each Deliverable Item of hardware other than Satellites shall pass from Contractor to Purchaser upon Acceptance of such Deliverable Item pursuant to Article 11.4. Purchaser's rights in Deliverable Data are as set forth in Article 36.

ARTICLE 13 - XXX

XXX

ARTICLE 14 - INTENTIONALLY DELETED

ARTICLE 15 - WARRANTY

15.1 Terms and Period of Warranty

- 15.1.1 Satellites. Contractor warrants that each Satellite delivered under this Contract shall be free from any defects in design, material or workmanship and shall be manufactured and perform in conformity with the Performance Specification (as may be waived pursuant to Article 9.4) applicable to the Satellite in every respect. Prior to Launch, Contractor shall, at its sole cost and expense, correct any defects in design, material and workmanship in compliance with Article 9. After Launch, Contractor's sole obligation and liability in breach of this warranty is to comply with Articles 4.1, 10, 15.2.1 and 24. Contractor makes no warranty regarding the performance of the Satellite from and after the Launch of the Satellite. Nothing in this Article 15.1.1 shall be construed to limit or otherwise affect Contractor's obligations under Articles 19 and 20.
- 15.1.2 Deliverable Items of Hardware Other Than Satellites. Contractor warrants that each Deliverable Item of hardware other than the Satellite delivered under this Contract shall be manufactured and will perform in conformity with the Performance Specification (as may be waived pursuant to Article 11.3) applicable to such Deliverable Item in every respect and will be free from defects in design, materials and workmanship during the period commencing on the date of Acceptance of such Deliverable Item pursuant to Article 11 and ending on the first anniversary thereof.
- 15.1.3 Disclaimer. EXCEPT AND TO THE EXTENT PROVIDED IN ARTICLE 15.1 AND ARTICLE 15.4, CONTRACTOR HAS

NOT MADE NOR DOES IT HEREBY MAKE ANY REPRESENTATION OR WARRANTY, WHETHER WRITTEN OR ORAL, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF DESIGN, OPERATION, CONDITION, QUALITY, SUITABILITY OR MERCHANTABILITY OR FITNESS FOR USE OR FOR A PARTICULAR PURPOSE, ABSENCE OF LATENT OR OTHER DEFECTS, WHETHER OR NOT DISCOVERABLE, WITH REGARD TO ANY SATELLITE OR ANY OTHER DELIVERABLE ITEM.

15.2 Repair or Replacement

15.2.1 Satellite Anomalies.

Contractor shall investigate any Satellite Anomaly in any Satellite arising during the life of the Satellite, and use reasonable best efforts to correct any such Satellite Anomaly that is correctable by Contractor from Purchaser's SCF using the facilities and equipment available at such site.

WITHOUT PREJUDICE TO PURCHASER'S RIGHTS UNDER ARTICLES 19 AND 20, CONTRACTOR SHALL HAVE NO LIABILITY TO PURCHASER OR TO THIRD PARTIES ARISING FROM ANY ADVICE OR ASSISTANCE THAT CONTRACTOR OR ANY SUBCONTRACTOR OR AGENT OF CONTRACTOR MAY PROVIDE IN RESPECT OF A SATELLITE AFTER LAUNCH, REGARDLESS OF CAUSE OR LEGAL THEORY, INCLUDING NEGLIGENCE, EXCEPT WITH RESPECT TO: (1) WILLFUL MISCONDUCT OR GROSS NEGLIGENCE BY CONTRACTOR, AND (2) PURCHASER'S RIGHTS AND CONTRACTOR'S DUTIES AND OBLIGATIONS UNDER ARTICLES 4.1, 10, 13, 15.2.1

AND 24. IN ALL CASES CONTRACTOR'S LIABILITY SHALL BE SUBJECT TO THE LIMITATION OF LIABILITY SET FORTH IN ARTICLE 34.

15.2.2 Deliverable Items of Hardware Other Than Satellites.

Without prejudice to Purchaser's right and Contractor's duties and obligations under Articles 4.1, 19 and 20, during the period specified in Article 15.1.2 for any Deliverable Item of hardware other than a Satellite, as Purchaser's sole and exclusive remedy, any defect in such Deliverable Item discovered by Purchaser shall be remedied by Contractor at Contractor's expense by repair or replacement of the defective component (at Contractor's election). For any such Deliverable Item, Contractor shall determine if repair or replacement is required to be performed at Contractor's plant. If required, Purchaser shall ship to Contractor's designated facility any such Deliverable Item. Contractor shall be responsible for the cost of shipment to such facility in accordance with its standard commercial practice (including any taxes and/or duties) of any such Deliverable Item, and the cost of return shipment, in accordance with its standard commercial practice, of any such Deliverable Item once repaired or replaced to Purchaser at the location designated therefor in Article 3.1. Risk of loss for such Deliverable Item shall transfer to Contractor upon delivery of such Deliverable Item to the shipping carrier by Purchaser, and risk of loss shall transfer to Purchaser for any such Deliverable Item once repaired or replaced pursuant to this Article 15.2.2 upon receipt thereof by Purchaser at the location designated therefor in Article 3.1. When necessary,

Contractor shall provide free of charge temporary equipment to be used while a repair is being performed.

15.3 Use Conditions Not Covered by Warranty

With respect to Deliverable Items of hardware other than Satellites, the warranty under this Article 15 shall not apply if adjustment, repair, or parts replacement is required as a result, directly or indirectly, of accident, unusual physical or electrical stress beyond the unit's designed tolerances, negligence, misuse, failure of environmental control prescribed in operations and maintenance manuals, repair or alterations by any party other than Contractor or its agents, or by causes other than normal and ordinary use. The warranty provided pursuant to this Article 15 is conditioned upon Contractor being given access, if required, to Deliverable Items delivered at Purchaser's facility in order to effect any repair or replacement thereof. If the defect repaired or remedied by Contractor is not covered by the warranty provided pursuant to this Article 15, Purchaser shall pay Contractor the reasonable cost of such repair or replacement, transportation charges, and a twelve percent (12%) profit. Such repair costs shall be invoiced to Purchaser pursuant to the provisions of Article 5.

15.4 Warranty for Training and Services

Contractor warrants that the training and other services it provides to Purchaser pursuant to this Contract will conform to reasonable industry standards at the time such training or other services are provided. In the event Contractor breaches this warranty, as Purchaser's sole remedy, Contractor shall apply reasonable efforts to correct the deficiencies in the provision of such training and other services where it is practicable to do so.

ARTICLE 16 - CHANGES

16.1 Right to Adjustment

Purchaser may from time to time, in writing, request a change within the general scope of this Contract to:

- a) Order work in addition to the work provided for herein; or
- b) Modify the whole or any part of the work provided for herein.

If such change request causes an increase or decrease in the cost, or the time required for completion, of the work to be provided herein, or otherwise affects any other provision of this Contract, an equitable adjustment shall be made in the price, or delivery schedule, or both, and this Contract shall be modified in writing accordingly. Any claim by Contractor for adjustment under this Article 16 shall be deemed waived unless asserted in writing within sixty (60) days from the receipt by Contractor of the relevant change order. If the cost of supplies or materials made obsolete or excess as a result of a change is included in Contractor's claim for adjustment, Purchaser shall have the right to prescribe the manner of disposition of such supplies or materials. Nothing in this Article 16 shall excuse Contractor from promptly proceeding with the Contract as changed.

16.2 Cost Adjustments

If Contractor or Purchaser claims a right to adjustment pursuant to Article 16.1 above, Contractor shall prepare and furnish to Purchaser the evidence reasonably necessary to establish the amount of any increase or decrease in the cost of, or the time required for, the performance of this Contract caused by the relevant change order.

Subject to Article 16.3 below, the amount of any such cost increase or decrease will be calculated in accordance with Contractor's regularly established accounting practices and include a profit margin of twelve percent (12%). If requested by Purchaser, the amount of a particular claim shall be verified, at Contractor's and Purchaser's expense to be shared equally, by the independent certified public accounting firm normally used by Contractor.

16.3 Equitable Adjustment

The Parties shall attempt to reach agreement as to any equitable adjustment that is appropriate pursuant to Article 16.1 above. Without relieving Contractor of the obligation to proceed promptly with the Contract as changed, in the event that the Parties are unable to reach agreement as to an equitable adjustment, the matter shall be determined in accordance with Article 25. During the pendency of such proceedings, Contractor shall proceed with the work required under this Contract as changed and Purchaser shall pay Contractor all amounts not in dispute.

ARTICLE 17 - FORCE MAJEURE

17.1 Contractor and Purchaser shall not be responsible for late Delivery, delay of the final completion date or nonperformance of its contractual obligations due to Force Majeure. Force Majeure shall be any event beyond the reasonable control of a Party or its suppliers and subcontractors and shall include, but not be limited to: (1) acts of God; (2) acts of a public enemy; (3) acts of a government in its sovereign capacity (including any action or inaction affecting the import or export of items); (4) war and warlike events; (5) catastrophic weather conditions such as hurricanes, tornadoes and typhoons; (6) fire, earthquakes, floods, epidemics, quarantine restrictions, strikes, lockouts and other industrial disputes, sabotage, riot and embargoes; (7) non-availability of a Launch Vehicle or Launch Site for any reason beyond a Party's reasonable control; and (8) other unforeseen and extraordinary events, which in every case are beyond the reasonable control and without fault or negligence of a Party or its suppliers and subcontractors ("Force Majeure"). Upon the occurrence of Force Majeure, an equitable adjustment shall be negotiated in the schedule and other portions of this Contract affected by Force Majeure. The Party affected by a Force Majeure event shall provide reasonable notice to the other Party of a Force Majeure event. In the event that a Force Majeure event (other than the non-availability of a Launch Vehicle or Launch Site) occurs that extends for two-hundred and seventy (270) or more days or that the Parties reasonably believe will extend for two-hundred and seventy (270) or more days, either Party shall have the right to terminate this Contract upon delivery of written notice to the other party. In the event of a termination pursuant to the immediately preceding sentence, Contractor shall refund all payments made by Purchaser for Deliverable Items not previously Accepted by Purchaser and Purchaser shall have no further obligation to make any further payments of the Firm Fixed Price to Contractor hereunder.

17.2 Special Provision For Launch Vehicle Unavailability.

As of EDC, Contractor intends to Launch each Satellite using a Zenit 3SL Launch Vehicle provided by the Sea Launch Limited Partnership (a "Sea Launch"). In the event that: (i) during the twelve (12) month period of time prior to the scheduled Launch of a Satellite a Zenit 3SL launch is unsuccessful due to a launch vehicle failure; (ii) at any time prior to the scheduled Launch of a Satellite, a Zenit 3SL launch is unsuccessful due to a launch vehicle failure and such unsuccessful launch is reasonably expected to cause a delay of more than [TBD] days in the Launch of the Satellite; (iii) a Satellite is scheduled to be Launched immediately following an unsuccessful Zenit 3SL launch due to a launch vehicle failure; (iv) or other reasons [TBD], then Purchaser shall have the right to direct Contractor to instead use the launch vehicle listed below that is expected to have the ability to launch the Satellite in the shortest period of time (plus or minus one month) after occurrence of the relevant event described in Subsections (i) through (iv) above, taking into consideration all relevant factors including without limitation integration and the procurement of any and all additional licenses necessary in connection therewith: (a) an Ariane 44L, (b) Delta IV, (c) Atlas V or (d) Proton Breeze M (assuming that the Proton Breeze M can accommodate the Satellite) (such direction a "Launch Vehicle Switch Direction"). Contractor shall be responsible for all additional costs to switch from a Sea Launch to an Atlas V, Delta IV or Proton Breeze M Launch Vehicle. In the event of switch to an Ariane 44L, Purchaser shall be responsible for the increased cost of the launch vehicle only, and Contractor shall be responsible for any and all additional costs to switch from a Sea Launch to an Ariane 44L, including without limitation integration and the procurement of any and all

additional licenses necessary in connection therewith. Upon receiving a Launch Vehicle Switch Direction, Contractor shall procure a new Launch Vehicle in accordance with the procedures set forth in this Article 17.2 and Contractor shall use its reasonable best efforts to ensure that such new Launch Vehicle is available for Launch with the least delay possible. Purchaser understands and acknowledges that in all likelihood Contractor will not be able to Launch the Satellite on the new Launch Vehicle until at least twelve (12) months after Contractor receives a Launch Vehicle Switch Direction. Contractor understands and acknowledges that in all likelihood the launch campaigns for the launch vehicles listed in Subsections (a) through (d) above will be at least one (1) month shorter than the launch campaign for a Zenit 3SL.

ARTICLE 18 - PURCHASER DELAY OF WORK

Except in the case of a Force Majeure event, if the performance of all or any part of the work required of Contractor under this Contract is delayed or interrupted by Purchaser's failure to perform its contractual obligations within the time specified in this Contract or within a reasonable time if no time is specified, or an act by Purchaser that unreasonably interferes with Contractor's performance of its obligations under this Contract, Contractor shall give notice to Purchaser of the failure or act causing such delay or interruption. If Purchaser does not promptly cease such act or correct such failure, this Contract shall be equitably adjusted in the price, performance requirements, Delivery schedule, and any other terms of this Contract affected by such act or failure to act of Purchaser.

ARTICLE 19 - PATENT INDEMNITY

19.1 Indemnification

Purchaser agrees that Contractor has the right to defend and, at Contractor's sole option to settle, and Contractor, at its own expense, hereby agrees to defend or, at Contractor's sole option to settle, and to indemnify and hold harmless Purchaser, and its Affiliates, and their respective officers, directors, employees, shareholders, agents and representatives from and against any and all claims, actions, suits or proceedings based on an allegation that the design or manufacture of any Deliverable Item or part thereof or the normal intended use, lease, sale or other disposition of any Deliverable Item or part thereof infringes any patent or other intellectual property right ("Intellectual Property Claim"), and shall pay any royalties and other liabilities adjudicated to be owing to the claimant (or, in Contractor's sole discretion, provided in settlement of the matter) as well as costs incurred in defending (including court costs and reasonable attorneys' fees) such Intellectual Property Claim; provided that Purchaser promptly notifies Contractor in writing of any such Intellectual Property Claim and gives Contractor the authority and all such assistance and information as may be requested from time to time by Contractor for the defense of such Intellectual Property Claim. Any such assistance or information which is furnished by Purchaser at the request of Contractor shall be at Contractor's expense.

In any proceeding relating to an Intellectual Property Claim, any person or entity entitled to indemnification hereunder (an "Indemnified Party") shall have the right to retain its own counsel at its own expense. Notwithstanding the foregoing, Contractor shall pay the fees and expenses of counsel retained by an Indemnified Party in the event that: (i) Contractor and such Indemnified Party shall have mutually

agreed to retention of such other counsel; or (ii) the named parties to any proceeding (including without limitation any impleaded parties) include both Contractor and such Indemnified Party and representation of both Contractor and such Indemnified Party by the same counsel would be inappropriate due to actual or potential conflict of interest between them.

19.2 Infringing Equipment

If the design or manufacture of any Deliverable Item or the normal intended use, lease, sale or other disposition of any Deliverable Item under this Contract is enjoined as a result of an Intellectual Property Claim or is otherwise prohibited, Contractor shall (i) resolve the matter so that the injunction or prohibition no longer pertains, (ii) procure for Purchaser the right to use the infringing item or (iii) modify the infringing item so that it becomes non-infringing while remaining in compliance with the Performance Specification (as may be waived pursuant to Article 9.4) in all respects. If Contractor is unable to accomplish (i), (ii) or (iii) as stated above, Purchaser shall have right to terminate this Contract with respect to such Deliverable Item, return such Deliverable Item to Contractor (in space, with respect to an in-orbit Satellite), and receive a refund of the price paid for such Deliverable Item (less amounts unpaid for such item plus a reasonable allowance for depreciation).

19.3 Combinations and Modifications

Contractor shall have no liability under this Article 19 for any Intellectual Property Claim arising solely from (i) use of any Deliverable Item in combination with other items, unless Contractor sold them as a combination intended to be so used or (ii) modifications of Deliverable Items after Acceptance, unless Contractor or one of its subcontractors (with the knowledge and consent of Contractor) made or specifically recommended such modifications.

Sole Remedies

Except in the case of willful misconduct or Gross Negligence by Contractor, the remedies set forth in this Article 19 are Purchaser's sole and exclusive remedies for or related to any Intellectual Property Claim, and Contractor's liability under this Article 19 for any Intellectual Property Claim with respect to a Deliverable Item shall in no event exceed the Firm Fixed Price paid by Purchaser hereunder for such Deliverable Item. In all cases Contractor's liability shall be subject to the limitation of liability set forth in Article 34.

ARTICLE 20 - INDEMNITY FOR BODILY INJURY AND PROPERTY DAMAGE

20.1 Contractor's Indemnification of Purchaser

Contractor shall defend, indemnify and hold harmless Purchaser, and its Affiliates, and their respective directors, officers, employees, shareholders, agents and representatives from and against all losses, damages, liabilities, suits and expenses (including, but not limited to, reasonable attorneys' fees) (collectively "Losses") attributable to third party claims for bodily injury or property damage, but only if such Losses were caused by, or resulted from, negligent acts or omissions, Gross Misconduct or willful misconduct by Contractor or its employees, agents, consultants or representatives. For the avoidance of doubt, and except for Losses resulting from the Gross Negligence or willful misconduct of Contractor, Contractor shall have no indemnity obligation under this Article 20.1 for any Losses with respect to the operation or use of a Satellite after Launch, even if such Losses are attributable to an act or omission of Contractor or its employees prior to Launch. In all cases Contractor's liability shall be subject to the limitation of liability set forth in Article 34.

20.2 Purchaser's Indemnification of Contractor

Purchaser shall defend, indemnify and hold harmless Contractor, and its Affiliates, and their respective directors, officers, employees, shareholders, agents and representatives from and against all Losses attributable to third party claims for bodily injury or property damage, but only if such Losses were caused by, or resulted from, negligent acts or omissions, Gross Negligence or willful misconduct by Purchaser or its employees, agents, consultants or representatives.

20.3 Conditions to Indemnification

The right to any indemnity specified in Article 20.1 or 20.2 shall be subject to the following conditions:

- a. The Party seeking indemnification shall promptly advise the other Party in writing of the filing of any suit or of any written or oral claim for indemnification upon receipt thereof and shall provide the other Party, at its request, with such assistance and information available to the indemnified party as is relevant to the defense such suit or claim. Any such assistance or information which is furnished by the indemnified Party at the request of the indemnifying Party shall be at the indemnifying Party's expense.
- b. The Party seeking indemnification shall not make any admission nor shall it reach a compromise or settlement without the prior written approval of the other Party, which approval shall not be unreasonably withheld or delayed.
- c. The indemnifying Party shall assist and shall have the right to assume, when not contrary to the governing rules of procedure, the defense of any claim or suit in settlement thereof and shall satisfy any judgments rendered by a court of competent jurisdiction in such suits and shall make all settlement payments.
- d. The Party seeking indemnification may participate in any defense at its own expense, using counsel reasonably acceptable to the indemnifying Party, provided there is no conflict of interest and that such participation would not adversely affect the conduct of the proceedings.
- e. Notwithstanding the foregoing, the indemnifying party shall pay the fees and expenses of counsel retained by an indemnified party in the event that: (i) the indemnifying party and such indemnified party shall have mutually agreed to retention of such other counsel; or (ii) the named parties to any proceeding (including without limitation any impleaded parties) include both the indemnifying party and such indemnified party and representation of both the indemnifying party and such

indemnified party by the same counsel would be inappropriate due to actual or potential conflicts of interest between them.

ARTICLE 21 - TERMINATION FOR CONVENIENCE

21.1 Reimbursement of Contractor

Purchaser may terminate this Contract without cause, in whole or in part, by giving Contractor written notice thirty (30) days prior to the date of such termination. In the event of such termination, Contractor will immediately cease work as directed in the termination notice and it is agreed that the termination charges shall be negotiated. In no event shall the termination charges pursuant to this Article 21.1 exceed the lesser of: (i) the Firm Fixed Price, as the same may be modified in accordance with the terms of this Contract, less the price of work not terminated if a price has been established for such work; or (ii) the sum of: (x) the amount provided in paragraph (a) below and (y) 112% of the amounts provided in paragraphs (b) through (d) below (less (A) amounts previously paid and (B) amounts representing Contractor's costs of segregable items of inventory for the work terminated hereunder not desired by Purchaser and which Contractor elects to retain for its own use).

- a. The price set forth in Article 4 for Deliverable Items completed prior to such termination and accepted by Purchaser before or after termination for which payment had not been made by Purchaser.
- b. Actual out-of-pocket costs incurred by Contractor in performance of work on Deliverable Items for which this Contract has been terminated pursuant to this Article 21.1, that have not been accepted by Purchaser or for which a price has not been established.
- c. Actual out-of-pocket costs incurred by Contractor in completing the termination process.
- d. Actual out-of-pocket costs incurred by Contractor in settling claims of subcontractors and other suppliers and vendors in

connection with such termination; provided that Contractor shall use reasonable efforts to minimize such costs.

In no event will the aggregate of the amounts previously paid by Purchaser under this Contract and the amounts to be paid by Purchaser under this Article 21.1 exceed the Firm Fixed Price, as the same may be modified in accordance with the terms of this Contract.

21.2 Partial Termination

If the termination by Purchaser is partial, the price for the non-terminated portion of this Contract shall be increased by an amount equal to the reasonable additional actual, out-of-pocket costs, if any, which must be borne by such portion because of the partial termination, plus a XXX profit on such additional costs; however, in no event will the aggregate of the amounts previously paid by Purchaser under this Contract and the amounts to be paid by Purchaser for the non-terminated portion of this Contract, as increased under this Article 21.2, exceed the Firm Fixed Price, as the same may be modified in accordance with the terms of this Contract.

21.3 Title Transfer

In the event of a termination pursuant to this Article 21, a termination settlement meeting shall be held at a mutually agreed time and place no later than sixty (60) days after submission of a claim by Contractor pursuant to Article 21.1. At or prior to the date of such termination settlement meeting, Contractor shall provide Purchaser with such documentation of the costs set forth in Articles 21.1 and 21.2 as Purchaser may reasonably request. Upon mutual agreement of the termination settlement, Contractor may submit an invoice to Purchaser for payment in accordance with the terms of Article 5.2. Upon mutual agreement of the termination settlement, subject to applicable U.S. Government export laws, Contractor shall, at Contractor's or subcontractor's plant, transfer title and risk of loss to Purchaser of all Deliverable Items referred to in Article 21.1(a), and all other partially

completed or incomplete Deliverable Items for which Contractor is entitled to payment under this Article 21 at the time of the termination settlement. Purchaser may direct Contractor to undertake to reallocate to other uses, and/or to otherwise assist Purchaser in disposing/selling, items subject to termination under this Article 21 for the purpose of receiving a price refund or offset against Contractor's termination claim. Upon receipt of such direction, Contractor shall, on a reasonable efforts basis, attempt to reallocate, and/or to otherwise assist Purchaser in disposing/selling, the items and provide a refund (in cases where the amounts generated are greater than Contractor's termination claim) to Purchaser or an offset (in cases where the amounts generated are less than or equal to Contractor's termination claim) against Contractor's termination claim, less any reasonable selling expenses.

21.4 Minimize Termination Costs

In the event of termination pursuant to this Article 21, Contractor shall take all actions necessary to reduce the termination costs due from Purchaser, including but not limited to, the immediate discontinuance of the terminated work under this Contract and the placing of no further orders for labor, materials or services required under the terminated portion of the Contract. Contractor agrees to take such action as may be necessary or as Purchaser may direct for protection of property in Contractor's possession in which Purchaser may have acquired an interest.

21.5 Continued Efforts

Contractor shall continue performance of the portion of this Contract not terminated. Purchaser shall have no obligations to Contractor with respect to the terminated portion of this Contract except as set forth in this Article 21.

21.6 Settlements

Contractor agrees to advise Purchaser in writing of all proposed settlements with vendors in excess of five hundred thousand dollars (\$500,000.00) in the event of termination under this Article 21, and Contractor further agrees not to enter into any binding settlements until Purchaser has approved the proposed settlement or thirty (30) days have elapsed from the date Purchaser was first notified of such proposed settlement.

21.7 Measurement of Costs

Costs shall be determined in accordance with generally accepted accounting principals and verified by an independent certified accounting firm of national reputation mutually acceptable to Purchaser and Contractor with costs therefor shared equally by both parties.

ARTICLE 22 - XXX

XXX

ARTICLE 23 - DEFAULT

23.1 Failure to Perform by Contractor

Subject to Article 23.4 below, if: (i) Acceptance of a Satellite does not occur within the time specified for delivery thereof plus the maximum number of days for late delivery liquidated damages specified in Article 22; (ii) Acceptance of any other Deliverable Item does not occur within the time specified for delivery thereof in this Contract (or, in either case, such longer time as may be agreed to in writing by Purchaser), or (iii) Contractor fails to prosecute the work hereunder or to perform any other material provision of this Contract, thereby endangering performance of this Contract within the time period set forth in Subsection (i) above, and in each case Contractor does not cure such failure within sixty (60) days (or such longer period as may be agreed to in writing by Purchaser) after receipt from Purchaser of written notice of such failure, Purchaser may terminate this Contract in whole or in part by written notice to Contractor.

23.2 Termination Liability

In the event of a termination for default pursuant to Article 23.1, Contractor shall refund all payments made by Purchaser for the terminated work except with respect to items referred to in Article 23.3, plus the maximum amount of liquidated damages payable pursuant to Article 22. Such refund shall be made no later than XXX days after Contractor's receipt of Purchaser's written notice requesting such refund. In addition, Contractor shall pay to Purchaser all excess costs above the prices set forth herein reasonably incurred by Purchaser in reprocurring the work and Deliverables described herein, according to the delivery schedules set forth herein. Such refund, liquidated damages and excess reprourement costs shall be Purchaser's sole remedy in case of a termination pursuant to Article 23.1, except in the case of willful misconduct or Gross Negligence by Contractor. In all

cases Contractor's liability shall be subject to the limitation of liability set forth in Article 34.

23.3 Partially Completed Items and Work In Process; Contractor's Reimbursement for Terminated Work

In the event of termination pursuant to Article 23.1, upon Purchaser's request, Contractor shall deliver to Purchaser all partially completed items or services and work-in-process.

In the event of termination pursuant to Article 23.1, Contractor shall not be required to refund any amounts, and Purchaser shall remain liable for payment of all amounts, with respect to Deliverable Items for which Acceptance has occurred pursuant to the terms of Article 10 or Article 11, or that are retained by Purchaser whether or not completed, as follows: (i) at the price set forth in this Contract for such items for which an itemized price is set forth herein and (ii) at the reasonable out-of-pocket cost incurred by Contractor for (a) such items for which no itemized price is set forth herein and (b) partially completed items or services and work-in-progress.

23.4 Invalid Default Termination

If, after termination pursuant to Article 23.1, it is finally determined by arbitration, legal proceeding or mutual agreement that Contractor was not in default, or that the default was excusable, the rights and obligations of the Parties shall be the same as if the termination had occurred under Article 21; except that, Contractor shall also be entitled to recover its additional reasonable out-of-pocket costs that would not have been incurred but for such invalid default termination.

23.5 Contractor Termination

Contractor may terminate this Contract upon Purchaser's failure to comply with any material provision of this Contract by giving written

notice to Purchaser of its intention to so terminate. Such notice shall set forth the provision or provisions with which Purchaser has failed to comply and a reasonably detailed description of such failure. Such termination shall become effective upon Purchaser's failure to correct such nonperformance within XXX days (or such longer period as may be agreed to in writing by Contractor) after receipt of such notice from Contractor.

In the event of termination pursuant to this Article 23.5, Contractor shall be paid as if the termination were for convenience pursuant to Article 21. Further, and without limiting Contractor's other rights or remedies, Contractor may immediately take over all or part of the Deliverable Items and Contract work-in-process and use them in any manner Contractor may elect. In such case, the fair market value of any Deliverable Items or Contract work-in-progress retained by Contractor shall be off-set against Purchaser's termination liability. If, after termination pursuant to this Article 23.5, it is finally determined by arbitration pursuant to Article 25 that Purchaser did not fail in the performance of its obligations under this Contract, Contractor shall be liable to Purchaser for its reasonable direct damages resulting from such termination of this Contract (in no event exceeding amounts payable to Purchaser pursuant to Articles 23.2 and 23.3, except in the case of Gross Negligence or willful misconduct, and in all cases subject to the limitation of liability set forth in Article 34).

ARTICLE 24 - PARTIAL LOSS AMOUNT

24.1 Partial Loss Amount

In the event any Satellite meets the criteria for Partial Loss pursuant to Article 10.2, Contractor shall pay Purchaser a Partial Loss Amount in accordance with this Article 24. In no event shall the aggregate of Partial Loss Amounts for Partial Loss with respect to a Satellite exceed the maximum sum insured for the Ku-Band and Ka-Band payloads on such Satellite. In the event Purchaser has previously been indemnified for a loss on a Satellite under the insurance policy therefor, the amount of indemnity of Purchaser for a subsequent loss on such Satellite shall be adjusted to eliminate any duplicative recovery for loss. Except as otherwise provided in Articles 4.1, 10, 13 and 15, the foregoing states Purchaser's sole remedy for a Partial Loss of any Satellite, except in the case of Gross Negligence or willful misconduct. In all cases Contractor's liability shall be subject to the limitation of liability set forth in Article 34.

24.2 Calculation of Partial Loss Amount

Calculation of the Partial Loss Amount with respect to any Satellite shall be made pursuant to the following formula:

$$\text{Partial Loss Amount} = A * \left(1 - \frac{\text{Available Communications Capacity}}{\text{Stated Communications Capacity}}\right)$$

"A" equals the amount for which the Ku-Band and Ka-Band payloads on a Satellite are insured by Contractor pursuant to Article 39.1 or 29.3, as applicable (less any portion of the Firm Fixed Price due and owing to Contractor from Purchaser hereunder).

ARTICLE 25 - ARBITRATION

25.1 Arbitration

Any dispute (except as set forth in Article 25.2) arising between the Parties with respect to the performance of obligations under, or interpretation of, this Contract that cannot be settled by negotiation between the Parties within thirty (30) days of written notice from one Party to the other stating such first Party's intent to resort to arbitration ("Notice of Arbitration"), shall be determined by submission to binding arbitration in accordance with the provisions of the "Uniform Arbitration Act of 1975", part 2 of article 22 of title 13, Colorado Revised Statutes, as amended from time to time, and not by a lawsuit or resort to court process except as Colorado law provides for judicial review of arbitration proceedings. Any such arbitration shall be conducted in the City and County of Denver, Colorado by a panel of three arbitrators who shall be selected within sixty (60) days of such Notice of Arbitration, as follows: (i) one arbitrator shall be selected by each Party; and (ii) the third arbitrator shall be selected by the arbitrators chosen by the Parties. In resolving any dispute, the arbitrators shall apply the substantive laws of the State of New York (without regard to its conflict of law rules), but shall apply the Colorado Rules of Civil Procedure and the Colorado Rules of Evidence, and shall take into account usages, customs and practices in the performance of contracts for the purchase and sale of commercial communications satellites. Proceedings and documents provided and generated in connection with any arbitration hereunder shall be in the English language. 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, unless otherwise determined in the arbitral award. The parties agree that, in no event, shall the arbitrators' decision include a recovery under any theory of liability, or award in any amount, not expressly allowed under this Contract. In furtherance and without

limitation of the foregoing, any award made by the arbitrators shall be within the limitations set forth in Article 34.

25.2 Gross Negligence or Willful Misconduct

If a dispute arises as to whether or not a Party has committed or acted with Gross Negligence or willful misconduct, that issue alone shall be resolved by a federal or state court in New York without a jury, and the court shall resolve such issue by applying the laws of the State of New York without regard to its conflict of law rules. THE PARTIES EXPRESSLY WAIVE THEIR RIGHT TO A JURY IN CONNECTION WITH SUCH DISPUTE.

ARTICLE 26 - INTER-PARTY WAIVER OF LIABILITY FOR A LAUNCH

26.1 Launch Services Agreement Inter-Party Waiver of Liability

The Parties hereby agree to be bound by the no-fault, no-subrogation inter-party waiver of liability and related indemnity provisions provided in the Launch Services Agreement with respect to the Launch of the Satellite and to use reasonable commercial efforts to cause their respective contractors and subcontractors at any tier (including suppliers of any kind) that are involved in the performance of this Contract and any other person having an interest in the Satellite or any Transponder thereon (including customers of Purchaser), as required by the Launch Services Agreement and as specified by Buyer, to accede to such waiver. The Parties shall execute and deliver any instrument that may be required by the Launch Agency to evidence their agreement to be bound by such waiver. Purchaser and Contractor also shall use reasonable commercial efforts to obtain, from their insurers, and shall use reasonable commercial efforts to cause their respective contractors and subcontractors at any tier (including suppliers of any kind) that are involved in the performance of this Contract and any other person having an interest in any Satellite or any Transponder thereon (including customers of Purchaser) to obtain from their insurers, as required by the Launches Services Agreement and as specified by Buyer, an express waiver of such insurers' rights of subrogation, subject to terms and conditions as are then customarily available regarding such waivers, with respect to any and all claims that have been waived pursuant to this Article 26.

26.2 Indemnity Related to the Inter-Party Waiver of Liability

Each Party shall indemnify against and hold the other Party harmless from any claim against the other Party, its contractors and subcontractors at any tier (including suppliers of any kind) that are involved in the performance of this Contract, made by the Launch

Agency or any of its contractors and subcontractors (including suppliers of any kind) that are involved in the performance of the Launch Services Agreement, resulting from the failure of the first Party to waive any liability against, or to use reasonable commercial efforts to cause any other person such Party is obligated to use reasonable commercial efforts to cause to waive any liability against, the Launch Agency or its contractors and subcontractors at any tier (including suppliers of any kind).

26.3 Survival of Obligations

The indemnification and hold harmless obligations provided in this Article 26 shall survive and remain in full force and effect, notwithstanding the expiration or termination of this Contract.

26.4 XXX

ARTICLE 27 - CORRECTIVE MEASURES

27.1 Unlaunched Satellites

If the performance data from any launched satellite manufactured by Contractor shows that such launched satellite will not or may not meet the performance specifications for such launched satellite at any time during its mission, then Contractor shall, at its sole cost and expense, if applicable, take appropriate corrective measures in the Satellite before it is Launched so as to eliminate therefrom the deficiencies noted in the launched satellite.

ARTICLE 28 - RESERVED

ARTICLE 29 - XXX

XXX

ARTICLE 30 - XXX

XXX

ARTICLE 31 - RESERVED

ARTICLE 32 - RESERVED

ARTICLE 33 - GROUND STORAGE

33.1 Notification

Purchaser may direct Contractor to store the Satellite after completion of SPSR.

33.2 Storage Location

Ground Storage shall be performed at a Contractor controlled facility and shall be conducted in accordance with the satellite storage plan section(s) of the Statement of Work.

33.3 Storage Prices

There shall be no charge for storage and reverification work if the Contractor's failure to perform is the reason the Satellite is stored, or if the Satellite is stored for less than six months.

The firm fixed price for Ground Storage of the Satellite in all other circumstances shall be \$XXX per month storage cost while the Satellite is in Ground Storage. In addition, Purchaser shall also pay directly or reimburse Contractor for all reasonable costs related to re-verification of system flight assurance and re-verification testing (plus XXX) and for all reasonable additional costs which Contractor would not have incurred had Purchaser not elected Ground Storage of the Satellite (including taxes, tariffs, duties, transportation, insurance, and Launch preparation service-related expenses).

33.4 Payments

Payments shall be made on the thirtieth day of each month for the prior month's storage, provided an invoice is received at least thirty days prior to the payment date.

33.5 Title and Risk of Loss

Title and risk of loss to a Satellite delivered for Ground Storage shall remain with Contractor at the storage site. Contractor shall assume full responsibility for any loss or damage to the Satellite during Ground Storage.

33.6 Notification of Intention to Launch a Previously Stored Satellite

Purchaser shall notify Contractor in writing that a Satellite in Ground Storage should be removed from Ground Storage and delivered to the Launch Site. This notification must be received by Contractor not less than three (3) months prior to the scheduled date for Delivery to the Launch Site of the Satellite. Failure to notify Contractor in a timely manner will result in an adjustment to the Delivery schedule for such Satellite. Contractor shall use its reasonable best efforts to obtain the next available Launch slot, subject to completion of all necessary verification tests.

ARTICLE 34 - LIMITATION OF LIABILITY

NEITHER PARTY SHALL BE LIABLE DIRECTLY OR INDIRECTLY TO THE OTHER PARTY OR ITS AFFILIATES, OR THEIR OFFICERS, DIRECTORS, EMPLOYEES, CONTRACTORS OR SUBCONTRACTORS AT ANY TIER (INCLUDING SUPPLIERS OF ANY KIND), AGENTS OR CUSTOMERS, TO ITS PERMITTED ASSIGNEES OR SUCCESSOR OWNERS OF ANY SATELLITE OR OTHER DELIVERABLE ITEM OR TO ANY OTHER PERSON CLAIMING BY OR THROUGH SUCH PARTY FOR ANY AMOUNTS REPRESENTING LOSS OF PROFITS, LOSS OF BUSINESS, OR INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING WITHOUT LIMITATION LOST PROFITS, LOST REVENUES OR COSTS OF RECOVERING A SATELLITE (EXCEPT WITH RESPECT TO A THIRD PARTY'S DAMAGES FOR WHICH A PARTY HAS AN INDEMNIFICATION OBLIGATION UNDER ARTICLE 19 OR 20), ARISING FROM OR RELATING TO THE PERFORMANCE OR NONPERFORMANCE OF THIS CONTRACT OR ANY ACTS OR OMISSIONS ASSOCIATED THEREWITH OR RELATED TO THE USE OF ANY ITEMS DELIVERED OR SERVICES FURNISHED HEREUNDER, WHETHER THE BASIS OF SUCH LIABILITY IS BREACH OF CONTRACT, TORT, STATUTE OR OTHER LEGAL OR EQUITABLE THEORY, EXCEPT THAT IN THE EVENT OF WILLFUL MISCONDUCT OR GROSS NEGLIGENCE BY CONTRACTOR OR PURCHASER SUCH PARTY MAY BE LIABLE AND RESPONSIBLE FOR AMOUNTS REPRESENTING LOSS OF PROFITS, LOSS OF BUSINESS AND THE OTHER ABOVE-DESCRIBED DAMAGES IN AN AMOUNT NOT TO EXCEED \$XXX.

IN NO EVENT SHALL EITHER PARTY'S TOTAL LIABILITY UNDER OR IN CONNECTION WITH THIS CONTRACT EXCEED \$XXX (PROVIDED REFUNDS UNDER ARTICLE 23.2 AND PAYMENTS FOR PARTIAL AND TOTAL LOSSES UNDER ARTICLES 10 AND 24 WILL NOT COUNT AGAINST THIS FIGURE), EXCEPT FOR LIABILITY ARISING FROM WILLFUL MISCONDUCT OR GROSS NEGLIGENCE BY A PARTY, IN WHICH CASE THE TOTAL LIABILITY OF A PARTY MAY NOT EXCEED \$XXX.

ARTICLE 35 - DISCLOSURE AND HANDLING OF PROPRIETARY INFORMATION

35.1 Definition of Proprietary Information

For the purpose of this Contract, "Proprietary Information" means all information (other than Deliverable Data, which is subject to the provisions of Article 36), in whatever form transmitted, that is disclosed by such Party (hereinafter referred to as the "disclosing party") to the other Party hereto (hereinafter referred to as the "receiving party") relating to the performance by the disclosing party of this Contract 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. Proprietary Information shall not include any information disclosed by a Party that (i) is already known to the receiving party at the time of its disclosure, as evidenced by written records of the receiving party, without an obligation of confidentiality at the time of disclosure; (ii) is or becomes publicly known through no wrongful act of the receiving party; (iii) is independently developed by the receiving party as evidenced by written records of the receiving party; (iv) such Party is legally compelled to disclose; or (v) is obtained from a third party without restriction and without breach of this Contract.

35.2 Terms for Handling and Use of Proprietary Information

For a period of five (5) years after receipt of any Proprietary Information (or until such time as such Proprietary Information becomes publicly known as provided in Article 35.1), the receiving party shall not disclose Proprietary Information that it obtains from the disclosing party to any person or entity except its and Skynet's employees and agents who have a need to know in order to perform under this Contract and who have been informed of and have agreed to abide by the receiving party's obligations under this Article 35. The receiving party shall use not less than 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. Proprietary Information shall be used only for the purpose of performing the obligations under this Contract, or as the disclosing party otherwise authorizes in writing.

IN NO EVENT SHALL EITHER PARTY DISCLOSE OR TRANSFER TECHNICAL INFORMATION OR PROVIDE TECHNICAL SERVICES TO INSURANCE BROKERS, UNDERWRITERS OR OTHER THIRD PERSONS OR ENTITIES WITHOUT THE OTHER PARTY'S PRIOR WRITTEN APPROVAL (WHICH SHALL NOT BE UNREASONABLY WITHHELD OR DELAYED) AND, WHERE REQUIRED, PRIOR APPROVAL OF THE U.S. DEPARTMENT OF STATE.

35.3 Legally Required Disclosures

Notwithstanding the foregoing, in the event that the receiving party becomes legally compelled to disclose Proprietary Information of the disclosing party, including this Contract or other supporting document(s), the receiving party shall, to the extent practicable under the circumstances, provide the disclosing party with written notice thereof so that the disclosing party may seek a protective order or other appropriate remedy, or to allow the disclosing party to redact such portions of the Proprietary Information as the disclosing party deems appropriate. In any such event, the receiving party will disclose only such information as is legally required, and will cooperate with the disclosing party (at the disclosing party's expense) to obtain confidential and proprietary treatment for any Proprietary Information being disclosed.

35.4 Title; Return

All Proprietary Information disclosed under this Contract in tangible form (including without limitation information incorporated in computer software or held in electronic storage means) shall be and remain the property of the disclosing party. All notes, memoranda or other materials created or fabricated by the receiving party, including without limitation evaluations, based upon Proprietary information or prepared by the receiving party which include Proprietary Information shall be considered Proprietary Information for all purposes under this Contract. Upon request of the disclosing party, all such Proprietary Information shall be returned to the disclosing party or shall be destroyed by the receiving party and shall not thereafter be retained in any form by the receiving party. Upon request of the disclosing party, the receiving party shall certify in writing that such party has either returned or destroyed all Proprietary Information previously received from the disclosing party. The rights and obligations of the parties under this Article 35 shall survive any such return or destruction of Proprietary Information.

35.5 Specific Performance

The parties acknowledge and agree that the unauthorized use or disclosure by the receiving party of any Proprietary Information disclosed by the disclosing party would result in irreparable injury to the disclosing party. The parties agree that that the disclosing party shall, in addition to and not in lieu of any other available legal or equitable remedies or damages, be entitled to a temporary injunction

to restrain threatened or actual breaches of the terms of this Article 35 by the receiving party, its agents, employees, representatives and all other persons acting for any of the above-mentioned persons or entities.

35.6 Disclosure of Contract Terms

Notwithstanding anything to the contrary in this Article 35, and subject to applicable export restrictions, the terms and conditions of this Contract may not be disclosed by either Party to any person except with the prior written consent of the other Party, provided, in each case, that the recipient of such information agrees to treat such information as confidential and executes and delivers a confidentiality agreement reasonably acceptable to both Parties or is otherwise subject to confidentiality obligations reasonably satisfactory to both Parties; provided, further, that either Party shall have the right to disclose such information as is required under applicable law or the binding order of a court or government agency; and provided further that Purchaser shall have the right to disclose any or all of the terms and conditions of this Contract to Skynet and to its and Skynet's insurance brokers and underwriters as Purchaser deems necessary in its sole judgment.

ARTICLE 36 - INTELLECTUAL PROPERTY RIGHTS - RIGHTS IN DATA

36.1 Intellectual Property Rights

(a) Contractor hereby grants to Purchaser a fully-paid up, royalty free, irrevocable, and non-exclusive license to practice and have practiced throughout the world exclusively for the purpose of (i) operating, maintaining or using the Deliverable Items, or (ii) developing, operating, maintaining or using ground equipment with such Deliverable Items any inventions (including without limitation software), whether patented or unpatented or otherwise subject to intellectual property protections, now or hereafter owned by Contractor, or to which Contractor has or may acquire rights, which inventions are incorporated in any Deliverable Item or required in order to practice or have practiced any invention incorporated in any Deliverable Item.

36.2 Rights in Data

Contractor shall retain title to all Deliverable Data utilized or developed by Contractor during the performance of this Contract. Subject to U.S. export regulations and applicable export restrictions, Purchaser's officers, directors, employees, consultants and representatives shall have the non-exclusive right to obtain and use the Deliverable Data for any and all purposes related to the testing, operation, use and maintenance of the Satellite. With the sole exception of Skynet, Purchaser's officers, directors, employees, consultants and representatives shall not disclose Deliverable Data to other companies, organizations or persons without the express prior written consent of Contractor, which consent shall not be unreasonably withheld or delayed. Purchaser shall have no rights in Deliverable Data other than as expressly stated in this Contract, and title to

Deliverable Data shall not pass to Purchaser or any other entity pursuant to the terms hereof.

36.3 No Additional Obligation

Nothing contained in this Article shall require Contractor to provide any data other than as set forth in the Statement of Work.

ARTICLE 37 - PUBLIC RELEASE OF INFORMATION

Either Party intending to disclose publicly whether through the issuance of news releases, articles, brochures, advertisements, prepared speeches or other information releases concerning this Contract or the transactions contemplated herein shall obtain the prior written approval of the other Party with respect to the content and timing of such issuance. A Party's approval under this Article 37 shall not be unreasonably delayed or denied. Notwithstanding the above, either Party may release information described herein as required by securities laws or other applicable laws.

ARTICLE 38 - NOTICES

38.1 Written Notification

Each notice or correspondence required or permitted to be given hereunder shall be given in writing (except where oral notice is specifically authorized) to the respective addresses or facsimile numbers and to the attention of the individuals set forth below by post, facsimile transmission, overnight courier or first class registered or certified mail, return receipt requested, postage prepaid. The sending of such notice with confirmation of successful receipt of the complete transmission (in the case of facsimile transmissions) or receipt of such notice (in the case of delivery by first class registered or certified mail or by overnight courier service) shall constitute the giving thereof.

In the case of Purchaser:

Echostar Orbital Corporation
5701 South Santa Fe
Littleton, CO 80120
Attn: David Moskowitz, Esq.
Telephone No.: (303) 723-1040
Facsimile No.: (303) 723-1608

With a separately delivered copy to:

Charlie Ergen and Rohan Zaveri
(at the same address)

In the case of Contractor:

Space Systems/Loral, Inc.
3825 Fabian Way, Mailstop G-82
Palo Alto, CA 94303-4697
Attn.: John Dietzel
Telephone No.: (650) 852-7370
Facsimile No.: (650) 852-4087

38.2 Change of Address

Either Party may from time to time change its notice address or the persons to be notified by giving the other Party written notice (as provided above) of such new information and the date upon which such change shall become effective.

ARTICLE 39 - RISK MANAGEMENT

39.1 Risk Insurance Obligations of Contractor

Unless Purchaser exercises the option in Section 29.2 or 29.3, Contractor shall obtain risk insurance coverage for each Satellite commencing at Intentional Ignition until one (1) year after Launch for the purpose of satisfying its obligations in respect of a Total Loss under Article 10.4, any Partial Loss Amount payable pursuant to Article 10.3 and Article 24 and the procurement of a Replacement Satellite pursuant to Article 10.4.2 (the "Policy"). The sum insured under the Policy is currently expected to be equal to the Firm Fixed Price (\$XXX), allocated \$XXX to the Ku-Band and Ka-Band payloads and \$XXX to the C-Band payload.

At any time during the period starting at EDC and ending six (6) months thereafter but prior to Contractor purchasing the Policy, Purchaser has the option to direct Contractor to increase the sum insured under such Policy. If Purchaser exercises this option, Purchaser shall be charged a firm fixed rate of XXX% of the increased sum insured amount up to \$XXX. If the sum insured under the Policy exceeds \$XXX, then Purchaser shall pay to Contractor (i) the actual amount charged by the underwriters (on a pass-through basis) with no mark-up for the additional coverage above \$XXX, plus (ii) the additional actual amount (on a pass-through basis) with no mark-up, if any, that the underwriters charge for the initial \$XXX of coverage as a result of the sum insured exceeding \$XXX.

At any time after Contractor purchases the Policy or procures insurance pursuant to Article 29.3, Purchaser has the option to direct Contractor to increase the sum insured under such Policy. If

Purchaser exercises this option, Purchaser shall pay to Contractor the actual amount charged by the underwriters (on a pass-through basis) with no mark-up for the additional coverage. Contractor makes no guarantee as to the amount to be charged by the underwriters for such additional coverage.

Contractor shall give Purchaser the full opportunity to participate in the solicitation of proposals for, and the negotiations regarding the placement of, such Policy.

39.2 Limitation of Liability for Insured Claims

Notwithstanding anything to the contrary in this Contract, Contractor shall have no obligation to make payments to Purchaser for a Total Loss or Partial Loss arising from occurrences or circumstances that are excluded from or denied coverage under such insurance policy as set forth in Article 39.9.

39.3 Conditions of Purchaser Rights

The right of Purchaser to a Partial Loss Amount, the amount payable pursuant to Article 10.4 in the event of the Total Loss or correction of any Satellite Anomaly as provided in Article 15.2.1 shall terminate if Purchaser knowingly and intentionally conceals or misrepresents, in writing or otherwise, any material fact or circumstance concerning the operation or use of a Satellite or Transponder thereon which, if not concealed or if correctly represented, would not entitle Purchaser to any such right.

39.4 Waiver of Subrogation and Salvage Value Remedies

Each Party shall use reasonable commercial efforts to obtain a waiver of subrogation and release, subject to terms and conditions as are then customarily available, of any right of recovery against the other

Party and its contractors and subcontractors at any tier (including suppliers of any kind) that are involved in the performance of this Contract, from any insurer providing coverage for risk of loss or noncompliant performance of or damage to a Satellite or any Transponder. Both Parties agree to perform their obligations pursuant to any salvage value remedies included in applicable risk management insurance policies for the Ku-Band and Ka-Band Transponders and Purchaser's ownership interest in the Common Elements.

39.5 Mitigation of Loss; Satellite Information

Purchaser will at all times act with due diligence and will do all things practicable and reasonable to avoid or diminish any loss or degradation of the lifetime or operational capability of a Satellite. Purchaser will provide to Contractor all information regarding operation and control of a Satellite reasonably requested by Contractor. In the event Contractor determines, in its reasonable judgment, that changes to the Performance Specification requested by Purchaser in accordance with the terms of this Contract could adversely affect the risk of loss to a Satellite, Contractor shall have the right to renegotiate the terms of the risk insurance coverage provided for such Satellite hereunder.

39.6 Notice of Loss

In the event Purchaser believes a Total Loss or Partial Loss has occurred, Purchaser shall give written notice of the occurrence to Contractor as soon as possible, but in no event later than thirty (30) days after an officer or director of Purchaser becomes aware of such occurrence. If Purchaser believes such occurrence entitles it to claim payment of any amount for a Total Loss or Partial Loss pursuant to this Contract, Purchaser shall deliver to Contractor a sworn and

notarized proof of loss in such form and including such information as Contractor may reasonably require and request as soon as practicable, but in no event later than ninety (90) days after the delivery of the notice of such occurrence.

39.7 Return of Payment

In the event of payment to Purchaser of any amount for a Total Loss or Partial Loss pursuant to this Contract with respect to a Satellite and it is later determined that the Available Communications Capacity of such Satellite has not been reduced to the extent claimed as the basis for such payment, Purchaser shall return to Contractor, within thirty (30) days after receipt of Contractor's invoice, which shall be issued no earlier than the date of such determination, an amount such that the payment retained by Customer equals the amount that would have been paid had the Available Communications Capacity been calculated as subsequently determined.

39.8 Salvage Value

Subject to Article 39.10 below, In the event that a Total Loss or Partial Loss shall occur that entitles Purchaser to payment of any amount pursuant to this Contract, Contractor shall be entitled to any salvage value of the Ku-Band and Ka-Band Transponders and Purchaser's ownership interest in the Common Elements that are the subject of a Total Loss or any Transponders thereon that are the subject of a Partial Loss.

39.9 Exclusions

Notwithstanding anything in this Contract to the contrary, Contractor shall have no obligation to pay any amount to Purchaser for a Total Loss or a Partial Loss caused by or resulting from any of the following

(provided that the same are reasonably consistent with industry standards and are actually excluded from or denied coverage under the actual insurance policy procured by Contractor):

(i) war, hostile or warlike action in time of peace or war, including action in hindering, combating or defending against an actual, impending or expected attack by any government or sovereign power (de jure or de facto); any authority maintaining or using a military, naval or air force; a military, naval or air force; or any agent of any such government, power, authority or force;

(ii) any anti-satellite device or device employing atomic or nuclear fission and/or fusion, or device employing laser or directed energy beams;

(iii) insurrection, strikes, riots, civil commotion, rebellion, revolution, civil war, usurpation or action taken by a government or governmental authority in hindering, combating or defending against such an occurrence whether there be a declaration of war or not;

(iv) confiscation by order of any government or governmental authority or agency (whether secret or otherwise), or public authority;

(v) nuclear reaction, nuclear radiation or radioactive contamination of any nature, whether such loss or damage be direct or indirect, except for radiation naturally occurring in the space environment;

(vi) electromagnetic or radio frequency interference, except for physical damage to a Satellite directly resulting from such interference;

(vii) willful or intentional acts of Purchaser or its contractors or subcontractors (other than Contractor) designed to cause loss or failure of a Satellite; or

(viii) any exclusions in addition to the foregoing or any modifications thereto as are reasonably consistent with industry standards in first-party launch insurance contracts.

39.10 Right of First Offer/Refusal

Any insurance policy procured pursuant to Article 39.1 or 29.3 above shall contain a provision to the effect that in the event of a Total Loss, Purchaser shall have the right for a period of up to thirty (30) days following the Total Loss to make an offer to the underwriters of such insurance policy to take or retain unencumbered title to Ku-Band and Ka-Band Transponders and Purchaser's ownership interest in the Common Elements that are subject to the Total Loss, In the event that such underwriters are unwilling to accept such offer of Purchaser, the underwriters shall have the right to solicit bona fide offers from third parties to acquire title to such assets. Purchaser shall have the right to meet all such bona fide third-party offers, if any, and in the event that Purchaser makes such matching offer, the underwriters shall be obligated to accept Purchaser's offer promptly.

39.11 Third Party Indemnity Insurance

Contractor shall cause Purchaser to be named as an additional insured under any and all insurance policies procured by the Launch Agency with respect to the Launch of any Satellite.

39.12 Pre-Launch Risk Insurance

Contractor shall obtain and at all times maintain insurance coverage against all risks of loss and damage to a Satellite and its components during the period from EDC until Launch in an amount not less than the Firm Fixed Price of the applicable Satellite and sufficient to provide the Replacement Satellite pursuant to Article 10.4.2.

39.13 Other Insurance Terms

Contractor shall have Purchaser and/or its designees named as an additional insured on the insurance policies referenced in Articles 39.1, 29.3 and 39.12 above. Contractor agrees to furnish to Purchaser certificates of insurance and the underlying policies evidencing that all insurance required pursuant to Articles 39.1, 29.3 and 39.12 is in full force and effect. Contractor covenants and agrees not to change any of the material terms and conditions of said policies of insurance which are relevant to this Contract without first obtaining the written consent of Purchaser (which consent shall not be unreasonable withheld). The certificates of insurance and underlying policies shall contain an endorsement setting forth that the insurer cannot terminate or materially amend the provisions of the insurance without prior written notification to Purchaser at least thirty (30) days before such termination or amendment. Contractor shall use reasonable commercial efforts to cause such insurance policies to contain a waiver of subrogation rights by the insurer against Purchaser, its Affiliates and their owners, officers, directors, employees, agents, subcontractors, and customers.

39.14 Contractor shall, at its own cost and expense, timely provide Purchaser and Skynet with all reasonable assistance requested by Purchaser and/or Skynet in connection with the procurement of insurance for a Satellite, including without limitation providing Purchaser and Skynet with such information regarding a Satellite as is reasonably requested by Purchaser's and Skynet's brokers and underwriters and performing technical presentations to brokers and underwriters. In addition, Contractor shall provide Purchaser and Skynet with such information regarding a Satellite as is reasonably

requested by the insurer(s) of a Satellite and will cooperate in any insurance reviews.

ARTICLE 40 - ORDER OF PRECEDENCE

In the event of conflict among the terms of the Preamble and Articles 1 to 46 of this Contract and the Exhibits, the following order of decreasing precedence shall apply:

- o This Contract (Preamble and Articles 1 through 46 and Attachment A)
- o Exhibit A Statement of Work
- o Exhibit B Performance Specification
- o Exhibit C Product Assurance Program Plan
- o Exhibit D Test Plan

ARTICLE 41 - GENERAL

41.1 Binding Effect; Assignment

This Contract shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. Except as otherwise expressly set forth to the contrary herein, this Contract may not be assigned, either in whole or in part, by either Party without the express written approval of the other Party. Such approval shall not be unreasonably withheld or delayed. Contractor may require, as a condition of approving an assignment by Purchaser, that the proposed assignee establish irrevocable letters of credit, guarantees or other comparable assurances satisfactory to Contractor prior to such assignment becoming effective and that Purchaser remain primarily or secondarily liable hereunder. Either Party, upon prior written notice to the other Party, may grant security interests in its rights hereunder to lenders that provide financing for the performance by such Party of its obligations under this Contract or for the subject matter hereof. In the event that either Party is sold to or merged into another entity that shall be deemed an assignment requiring the other party's approval hereunder. Notwithstanding anything to the contrary herein, Purchaser may assign this Contract, in whole or in part without Contractor's approval and without regard to the conditions set forth in the fourth sentence of this Article 41.1, to a person or entity that directly or indirectly controls, is controlled by or is under common control with Purchaser.

41.2 Severability

If any provision of this Contract is declared or found to be illegal, unenforceable or void, the Parties shall negotiate in good faith to agree upon a substitute provision that is legal and enforceable and is as nearly as possible consistent with the intentions underlying the original

provision. If the remainder of this Contract is not materially affected by such declaration or finding and is capable of substantial performance, then the remainder shall be enforced to the extent permitted by law.

41.3 Captions

The captions contained herein are for purposes of convenience only and shall not affect the construction of this Contract.

41.4 Relationships of the Parties

It is expressly understood that Contractor and Purchaser intend by this Contract to establish the relationship of independent contractors only, and do not intend to undertake the relationship of principal and agent or to create a joint venture or partnership or any other relationship, other than that of independent contractors, between them or their respective successors in interests. Neither Contractor nor Purchaser shall have any authority to create or assume, in the name or on behalf of the other Party, any obligation, expressed or implied, or to act or purport to act as the agent or the legally empowered representative of the other Party, for any purpose whatsoever.

41.5 Entire Agreement

This Contract, including all Exhibits and the Attachments hereto, represents the entire understanding and agreement between the Parties hereto with respect to the subject matter hereof, and supersedes all prior negotiations and agreements with respect to the subject matter hereof. This Contract may not be modified or amended, and the Parties' rights and obligations may not be waived, except by the written agreement of both Parties.

41.6 Standard of Conduct

Both Parties agree that all their actions in carrying out the provisions of this Contract shall be in compliance with applicable laws and

regulations and neither Party will pay or accept bribes, kickbacks or other illegal payments, or engage in unlawful conduct.

41.7 Construction

This Contract, the Exhibits and the Attachment hereto have been drafted jointly by the Parties and in the event of any ambiguities in the language hereof, there shall be no inference drawn in favor of or against either Party.

41.8 Counterparts

This Contract may be signed in any number of counterparts with the same effect as if the signature(s) on each counterpart were upon the same instrument.

41.9 Applicable Law

This Contract shall be interpreted, construed and governed, and the rights of the Parties shall be determined, in all respects, according to the laws of the State of New York without regard to its conflict of law rules.

41.10 Survival

Termination or expiration of this Contract for any reason shall not release either Party from any liabilities or obligations set forth in this Contract that (i) the Parties have expressly agreed shall survive any such termination or expiration or (ii) remain to be performed or by their nature would be intended to be applicable following any such termination or expiration.

41.11 U.N. Convention on the International Sales of Goods

The U.N. Convention on the International Sales of Goods shall not apply or otherwise have any legal effect with respect to this Contract.

41.12 Waiver

No delay or omission by either party to exercise any right or power shall impair any such right or power or be construed to be a waiver thereof. No payment of money by any person or entity shall be construed as a waiver of any right or power under this Contract. A waiver by any party of any of the covenants, conditions or contracts to be performed by the other party or any breach thereof shall not be construed to be a waiver of any succeeding breach thereof or of any other covenant, condition or contract herein contained. No change, waiver or discharge hereof shall be valid unless in writing and signed by a duly authorized representative of the party against which such change, waiver or discharge is sought to be enforced.

ARTICLE 42 - ATTACHMENTS

The following Attachments are incorporated in this Contract:

Attachment A Payment Plan

ARTICLE 43 - TERMINATION RIGHT

Notwithstanding anything to the contrary herein, if by the TBD Deadline the Parties are unable to reach final agreement upon: (1) the pricing and schedule for the options described in Article 29.1; or (2) the TBD terms of this Contract, the Statement of Work, Satellite Performance Specification, Product Assurance Program Plan, Satellite Program Test Plan and the milestones in the Payment Plan, then Purchaser may immediately terminate this Contract by providing written notice to Contractor. If such termination occurs, then Purchaser shall pay Contractor \$XXX within thirty (30) days of receipt of an invoice. All other liabilities and obligations of the Parties shall be released, waived and terminated, except for those set forth in Articles 20, 35 and 37.

ARTICLE 44 - RESERVED

ARTICLE 45 - ANTICIPATED LIFE OF SATELLITE

Contractor hereby represents and warrants to Purchaser that each Satellite will have an orbital maneuver life of at least 15 years after Purchaser's Acceptance or rejection of the applicable Satellite pursuant to Article 10 above, with industry standard margins, assuming that the Satellite is successfully Launched and operates in accordance with the Performance Specification.

ARTICLE 46 - KEY PERSONNEL

The Contractor will assign properly qualified and experienced personnel to the program contemplated under the Contract. Personnel assigned to the following positions shall be considered "Key Personnel":

- a) the Contractor's Program Manager
- b) the Contractor's Contracts Manager
- c) the Contractor's Product Assurance Manager
- d) the Contractor's Systems Engineering Manager
- e) the Contractor's Vehicle Manager

The Purchaser shall have the right to approve the Contractor's Program Manager which approval shall not be unreasonably withheld or delayed. Key Personnel shall not be assigned to other duties without the Contractor giving prior written notice to and consulting with the Purchaser. The Contractor shall provide a chart to the Purchaser of the program Key Personnel and shall keep such chart current.

Additionally, for so long as Randy Tyner is associated with Contractor as an employee or consultant, Purchaser shall have unrestricted access to Mr. Tyner for purposes of designing the payload and its specifications. Mr. Tyner shall have a key decision-making role on payload-related issues, and shall be a primary interface with the Purchaser on all payload-related technical and performance issues.

IN WITNESS THEREOF, the Parties have executed this Contract by their duly authorized officers as of the date set forth in the Preamble.

SPACE SYSTEMS/LORAL, INC.

ECHOSTAR ORBITAL
CORPORATION

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Certain portions of this document have been omitted and filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934.

AGREEMENT

This Agreement (the "Agreement"), is made and effective as of this 22nd day of February, 2000, by and between EchoStar Orbital Corporation, with a place of business at 5701 South Santa Fe Drive, Littleton, Colorado 80120 ("EchoStar") and Loral Skynet, a division of Loral SpaceCom Corporation, with a place of business at 500 Hills Drive, Bedminster, New Jersey 07921 ("Skynet"). EchoStar and Skynet are hereinafter referred to collectively as the "Parties" and individually as a "Party".

WHEREAS, EchoStar is in the business of providing commercial satellite-based broadcast services and is interested in operating such a service in the Ku-Band and Ka-Band frequencies from the 121(Degree) W.L. orbital location;

WHEREAS, Skynet is in the business of providing commercial satellite services and is interested in operating such a service in the C-Band frequencies from the 121(Degree) W.L. orbital location; and

WHEREAS, EchoStar and Skynet are interested in the construction, purchase and operation of a hybrid C/Ku/Ka-Band satellite to be placed in the 121(Degree) W.L. orbital location, with EchoStar owning and operating the Ka-Band and Ku-Band payloads, Skynet owning and operating the C-Band payload, and EchoStar and Skynet jointly owning and operating the elements that are common to and/or shared by the Ka-Band, Ku-Band and C-Band payloads;

NOW THEREFORE, the Parties agree as follows:

1. Purchase of the Satellite. Contemporaneously with the execution of this Agreement, EchoStar shall enter into the contract attached as Exhibit A hereto (the "Satellite Contract") with Space Systems/Loral, Inc. ("SS/L") for the construction and purchase of a hybrid C/Ku/Ka-Band satellite to be delivered in-orbit to the 121(Degree) W.L. orbital location (hereinafter referred to as "EchoStar 9"). Capitalized terms used and not otherwise defined herein shall have the meanings as defined in the Satellite Contract.

2. Ownership, Title, and Operation. EchoStar shall exclusively own and operate the Ka-Band and Ku-Band payloads on the EchoStar 9 satellite. Skynet shall exclusively own and operate the C-Band payload on the EchoStar 9 satellite. EchoStar and Skynet shall jointly own, as tenants in common on a 58.11/41.89 percent basis in favor of EchoStar (the "Ownership Ratio"), the elements of the EchoStar 9 satellite that are common to and/or shared by the Ka-Band, Ku-Band and C-Band payloads (the "Common Elements"). Title to the C-Band payload and to Skynet's ownership interest in the Common Elements shall automatically and immediately pass from EchoStar to Skynet upon transfer of title to the EchoStar 9 satellite from SS/L to EchoStar pursuant to the Satellite

Contract; provided, however, that following such passage of title to Skynet, in the event of a partial or total loss of the C-Band payload and/or Skynet's ownership interest in the Common Elements, Skynet's title shall be subject to release obligations as described in Article 10.4.3 of the Satellite Contract and to any salvage value remedies included in the applicable risk management insurance policies for the EchoStar satellite procured by SS/L pursuant to Article 39 of the Satellite Contract. EchoStar and Skynet shall mutually agree upon all operational decisions affecting the Common Elements. Each Party may grant security interests in and otherwise encumber its payload(s) and its ownership interest in the Common Elements, provided that in the event of foreclosure upon any security interest in or other encumbrance upon a Party's ownership interest in the Common Elements, the foreclosing entity shall take such interest subject to the terms and conditions of this Agreement, and provided further that following such foreclosure the Party whose interest was not foreclosed upon shall have the right to make all operational decisions regarding the Common Elements. In the event that a payload design change made by either Party pursuant to Section 5 of this Agreement results in an adjustment to the Firm Fixed Price, then the Ownership Ratio shall be adjusted accordingly.

3. Payment of the Purchase Price. EchoStar shall be responsible for paying XXX for the EchoStar 9 satellite subject to and upon the terms and conditions set forth in the Satellite Contract. Skynet shall be responsible for paying XXX subject to and upon the terms and conditions of this Agreement and of a separate agreement(s) to be mutually agreed upon between Skynet and SS/L. Design changes made pursuant to Section 5 of this Agreement shall result in an adjustment to the Firm Fixed Price and the Ownership Ratio as and to the extent set forth in Section 5. Notwithstanding the foregoing, the failure of either Party to pay its respective portion of the Firm Fixed Price shall not be deemed to constitute a breach of this Agreement.

4. Insurance.

4.1 Within six (6) months after the date first set forth above or within five (5) days after EchoStar receives notice from SS/L pursuant to Article 29.2 of the Satellite Contract that SS/L intends to purchase the risk insurance described in Article 39.1 of the Satellite Contract following the occurrence of an event (or events) which is reasonably likely to cause the cost of the insurance described in Article 39.1 of the Satellite Contract to increase by more than 3% of the sum insured, whichever occurs earlier, the Parties shall mutually agree upon whether EchoStar should exercise its option pursuant to Article 29.2 of the Satellite Contract to direct SS/L not to procure risk insurance for the EchoStar 9 satellite (the "Insurance Option"). In the event that the Parties mutually agree that EchoStar should exercise the Insurance Option, any Firm Fixed Price reductions received by it as a result of such election shall be shared by the Parties in accordance with the Ownership Ratio.

4.2 In the event that the Parties mutually agree that EchoStar should exercise the Insurance Option, then:

(i) if both Parties desire to insure their payloads, either EchoStar or Skynet, as agreed upon by the Parties, shall solicit bona fide proposals from a reasonable number of market leaders in the space insurance marketplace regarding a single policy for the entire satellite (including both Parties' payloads),

(ii) if both Parties desire to insure their payloads and a policy proposal satisfactory to both Parties, as determined in each Party's sole judgment, has not been procured pursuant to Subsection (i) above within thirty (30) days after completion of all technical presentations made by SS/L in connection with the solicitation of such proposals, the Parties will coordinate to ensure that they proceed to market simultaneously and each Party shall have the right to procure its own insurance for its respective payload(s); or

(iii) if one Party does not desire to insure its payload(s), the other Party shall have the right to procure its own insurance for its Payload(s).

If the Parties procure insurance pursuant to Subsection (i) above or otherwise elect to procure insurance coverage for the entire EchoStar 9 satellite in a single policy, then: (a) the Party procuring the insurance policy shall cause the other Party to be named as an additional insured on such policy, (b) such policy shall provide that the policy may not be changed without written agreement from both Parties or cancelled unless both Parties are given at least thirty (30) days advance notice, (c) such policy will individually insure the respective payload(s) of each Party in amounts to be determined by each Party in its sole judgment, and (d) each party shall bear its proportionate share of the premium.

4.3 In the event that the Parties mutually agree that EchoStar should not exercise the Insurance Option, then in the event of any loss of Skynet's payload or any Common Elements (whether a partial or total loss) during the time period starting at Intentional Ignition and ending one (1) year after Launch, Skynet shall look solely and exclusively to SS/L for the payment of any claims arising out of or relating to any such loss.

4.4 Each Party shall, at its own cost and expense, timely provide the other Party with all reasonable assistance requested by the other Party in connection with the procurement of insurance as contemplated under this Section 4.

5. Payload Design Changes.

5.1 Either Party may at any time and from time to time make changes in the design of its payload(s), provided that such change does not negatively impact: (i) the scheduled launch date for the EchoStar 9 satellite, (ii) the performance of the other Party's payload(s), or (iii) the designed operational life of the other

Party's payload or the designed orbital maneuver life of the EchoStar 9 satellite, unless the other Party has otherwise agreed in writing (which agreement may be withheld in the other Party's sole judgment).

5.2 All design changes to the Party's respective payloads that are not permitted under Section 5.1 above and all changes to the Common Elements necessitated by any design change made to either Party's payload(s), shall be mutually agreed upon by the Parties.

5.3 The Party making a design change to its payload(s) shall be solely responsible for paying any increases to the Firm Fixed Price that result from such change (including changes to the Common Elements necessitated by the design change made to such Party's payload). Similarly, the Party making a design change to its payload(s) shall receive the full benefit of any reductions in the Firm Fixed Price resulting from such change to its payload. In either case, the Ownership Ratio shall be adjusted accordingly.

6. Satellite Management. Skynet shall, XXX, provide EchoStar with support from its staff of Loral Skynet Spacecraft and Launch Engineers for oversight of satellite design, fabrication, testing and integration and for oversight of launch integration, including without limitation supporting EchoStar at the launch site during the launch campaign and providing technical consultation during transfer orbit operations and in orbit testing of the satellite, that is reasonably acceptable to EchoStar and designed to ensure that SS/L manufactures, launches and delivers the EchoStar 9 satellite and any Replacement Satellite (as defined in the Satellite Contract) in accordance with the terms and conditions of the Satellite Contract (the "Satellite Management Services"). In performing the Satellite Management Services, Skynet shall assign at least one person to be dedicated to the EchoStar 9 program and any Replacement Satellite on a full-time basis, who will be stationed on-site at SS/L's facility in Palo Alto, California. Such on-site person shall report solely and exclusively to EchoStar for matters dealing with the Ka-Band and Ku-Band payloads, solely and exclusively to Skynet for matters dealing with the C-Band payload, and jointly to both EchoStar and Skynet for matters dealing with the Common Elements. The Satellite Management Services shall be performed by Skynet under the same terms and conditions XXX as set forth in that certain Agreement between EchoStar Satellite Corporation and AT&T Corp. Concerning Technical Support, dated March 25, 1996, and the Statement of Work attached as Exhibit A thereto, as such Exhibit A was amended on February 12, 1999 (the "Technical Support Agreement"); provided that the license granted to EchoStar with respect to certain Delivered Information pursuant to Section 17.A of the Technical Support Agreement shall be expanded to include defined business purposes of designing, constructing and delivering FSS, DBS and Ka-Band Satellites. EchoStar acknowledges that as of the date of this Agreement SS/L and Skynet are affiliated companies and that, based on its prior experience with Skynet's performance of Satellite Management Services pursuant to the

Technical Support Agreement, EchoStar again desires to engage Skynet to perform Satellite Management Services despite the fact that Skynet's relationship with SS/L might appear to present a conflict of interest.

7. TT&C Services. Skynet shall, XXX, provide telemetry, tracking, and control ("TT&C") services for the EchoStar 9 satellite and for any Replacement Satellite (as defined in the Satellite Contract), but not any replacements thereof, beginning at Acceptance of each satellite and continuing for the actual orbital maneuver life of the EchoStar 9 satellite or until Skynet begins providing TT&C services for a Replacement Satellite (in the case of the EchoStar 9 satellite) and for the actual orbital maneuver life of the Replacement Satellite (in the case of a Replacement Satellite), under the same terms and conditions XXX as set forth in that certain Amended and Restated Tracking, Telemetry and Control Services Agreement between EchoStar Satellite Corporation and AT&T Corp., effective as of March 26, 1996, as amended and assigned to Skynet (the "TT&C Agreement"); provided that the license granted to EchoStar with respect to certain Delivered Information pursuant to Sections 8.A and 8.D of the TT&C Agreement shall be expanded to include the defined business purpose of providing services to Customer's FSS, DBS and Ka-Band satellite(s)). Provided, however: (i) if EchoStar elects to launch a Substitute Satellite as provided in Section 12 of this Agreement, Skynet shall have no obligation to provide TT&C services for the EchoStar 9 satellite or Replacement Satellite after the acceptance by Skynet of the Substitute Satellite, and (ii) if Skynet elects to launch a Substitute Satellite, it shall only be obligated to provide TT&C services for such Substitute Satellite for the remainder of the expected operational life of the EchoStar 9 satellite or Replacement Satellite, whichever is then in service, as measured on the first day following acceptance by EchoStar of the Substitute Satellite. Upon the expiration of Skynet's obligations to provide TT&C services with respect to a particular satellite under this Section 7, if EchoStar desires Skynet to continue providing TT&C services for such satellite, Skynet agrees to do so pursuant to the terms and conditions of the TT&C Agreement XXX. XXX The Parties agree that (a) in-orbit testing ("IOT") for the Ka-Band and Ku-Band payloads will be conducted at EchoStar's uplink facility in Cheyenne, Wyoming or Gilbert, Arizona, at EchoStar's option, with support from Skynet facilities as reasonably needed, (b) IOT for the C-Band payload shall be performed at Skynet's uplink facility in Hawley, Pennsylvania, (c) IOT for the Common Elements shall be performed at a facility to be mutually agreed upon by the Parties after consultation with SS/L, (d) the Satellite Acceptance Review shall be held at a single location to be mutually agreed upon by the Parties after consultation with SS/L, and (e) each Party shall be entitled to have representatives present at each of the events described in Subsections (a) through (d) above.

8. Decision-Making Authority. Each Party shall have final decision-making authority with respect to all matters regarding the construction and operation of the EchoStar 9 satellite that solely and exclusively impact its

respective payload(s). The Parties shall mutually agree upon all matters regarding the launch of the EchoStar 9 satellite and all matters regarding the construction and operation of the EchoStar 9 satellite that involve the Common Elements or otherwise impact the payloads of both Parties. Skynet, as provider of the Satellite Management Services, shall be the sole point of contact with SS/L for technical and design issues; provided, however, that: (i) EchoStar shall have identical rights to information and to attend meetings regarding the EchoStar 9 satellite, and (ii) Skynet shall not make any communications or otherwise convey to SS/L decisions impacting the EchoStar 9 satellite unless such communication or decision was reached in compliance with the decision-making requirements of this Agreement. For the avoidance of doubt, EchoStar shall remain the sole point of contact with SS/L for contractual issues. Neither Party shall be liable to the other as a result of delays in the construction of its respective payload(s) or the Common Elements. Within thirty (30) days after the EchoStar 9 satellite becomes a Total Loss (determined on the basis of all Ku-Band, Ka-Band and C-Band Transponders, as opposed to just the Ku-Band and Ka-Band Transponders), the Parties shall mutually agree upon whether EchoStar should exercise its option for a Replacement Satellite pursuant to Article 10.4 of the Satellite Contract. In the event that the Parties mutually agree that EchoStar should exercise that option, then the terms and conditions of this agreement shall apply mutatis mutandis to the Replacement Satellite.

9. Power Sharing. The following procedure shall be adhered to in the event of a loss of primary power that impacts the payloads of both Parties:

- (i) First, components of the EchoStar 9 satellite will be powered down as necessary to protect the overall health of the EchoStar 9 satellite;
- (ii) Second, bus components of the EchoStar 9 satellite will be powered down to the extent possible without affecting either Party's payload(s) ;
- (iii) Third, the Parties will enter into good faith discussions to determine the next components to be powered down; and
- (iv) In the event that the Parties are unable to mutually agree upon the next components to be powered down within forty-eight (48) hours after the relevant loss of primary power, then the residual amount of primary power required to be shed will be allocated between the payloads of EchoStar and Skynet based on the ratio of the nominal full-power operation of the Parties' respective payloads. Such allocation will initially be computed based on the final design specification for each Parties' respective payload(s), and shall be subject to adjustment when actual saturated power and efficiency data is determined during IOT. Each Party will determine in its sole judgment the appropriate actions to be taken with respect to its payload(s) to shed the power allocated to it pursuant to this Subsection (iv).

10. Cooperation.

10.1 Each Party shall, at its own cost and expense, timely provide the other Party with all reasonable assistance requested by the other Party in connection with: (i) the preparation, coordination and filing of any and all applications required to be filed by the other Party for licenses with the Federal Communications Commission, or any successor agency thereto (the "FCC") and any other governmental agencies in connection with the construction, launch and operation of the EchoStar 9 satellite, the Replacement Satellite, and/or the Substitute Satellite; (ii) the filing of any technical filings required to be made by the other Party with the FCC or any other governmental agency; and (iii) all filings required to be made by the other Party with the International Telecommunication Union (or any successor agency thereto) regarding radio frequency and orbital position coordination.

10.2 Skynet shall give all reasonable assistance requested by EchoStar, at Skynet's cost and expense, necessary for EchoStar to perform under the Satellite Contract with respect to the C-Band payload and Skynet's interest in the Common Elements, including without limitation the timely provision of all purchaser-furnished equipment, facilities and services applicable to the C-Band payload described in the Statement of Work in good working condition and adequate for the required purpose.

11. Taxes. EchoStar shall be responsible for the payment of any and all sales, use, gross receipts, excise and other taxes (collectively "Taxes") assessed solely and exclusively on the construction, use and operation or addition of value to the Ka-Band or Ku-Band payloads on the EchoStar 9 satellite, and EchoStar shall indemnify Skynet from any such Taxes in accordance with the provisions of Section 17 below. Skynet shall be responsible for the payment of any and all Taxes assessed solely and exclusively on the construction, use and operation or addition of value to the C-Band payload on the EchoStar 9 satellite, and Skynet shall indemnify EchoStar from any such Taxes in accordance with the provisions of Section 17 below. The Parties shall share responsibility, in direct proportion to the Ownership Ratio, for any and all Taxes assessed on the construction, use and operation or addition of value to any and all Common Elements, and each Party shall indemnify the other Party from its respective portion of such Taxes in accordance with the provisions of Section 17 below.

12. Sale, Abandonment and Substitute Satellite.

12.1 In the event that either Party (i) is for any reason unable to operate its EchoStar 9 payload(s) as contemplated by this Agreement, (ii) for any reason desires to separate its operations on the EchoStar 9 satellite from those of the other Party, or (iii) desires for any reason to move the EchoStar 9 satellite to any orbital location other than the 121(degree) W.L. orbital location, then such Party may, at its sole discretion:

(a) sell its entire ownership interest in its payload(s) and in the Common Elements to a third party, subject to the limitations set forth in Section 19.3 of this Agreement and the other Party's right of first offer and first refusal described in Section 12.2 below,

(b) turn off its payload and abandon its usage thereof, provided that the other Party shall have the right to continue to operate any and all portions of the first Party's payload(s) and the Common Elements as may be necessary for the other Party to continue to use its payload(s) during any such period of abandonment, or

(c) in cooperation and consultation with the other Party contract with SS/L or any other spacecraft manufacturer reasonably acceptable to the other Party for the construction and delivery on orbit to the 121(Degree) W.L. orbital location of another satellite having payload capabilities and a designed operational life which are the same or better than the payload(s) of the other Party on and the designed operational life of the EchoStar 9 satellite (a "Substitute Satellite").

Upon acceptance of such Substitute Satellite by the other Party and successful completion of the transfer of the other Party's traffic from EchoStar 9 to the Substitute Satellite: (i) the Party providing the Substitute Satellite shall cause the EchoStar 9 satellite to vacate the 121(Degree) W.L. orbital location; (ii) title to the entire EchoStar 9 satellite shall automatically vest in the Party providing the Substitute Satellite; (iii) title to the entire Substitute Satellite shall automatically vest in the other Party; and (iv) this Agreement shall automatically terminate. Each Party agrees to provide, at the cost and expense of the Party providing the Substitute Satellite, all assistance reasonably necessary to ensure that title is transferred pursuant to Subsections (ii) and (iii) above free and clear of any and all liens and encumbrances that do not arise from or relate to the actions of the Party receiving title to the relevant satellite. It is the intention of the Parties that the guiding principle governing any Party's provision to the other Party of a Substitute Satellite shall be that the Party receiving the Substitute Satellite shall be made whole and shall continue the operation of its business uninterrupted and with the minimum possible inconvenience.

12.2 In the event that a Party elects to sell its entire ownership interest in its payload(s) and in the Common Elements to a third party pursuant to Section 12.1 (a) above, then the other Party shall have the right for a period of up to thirty (30) days after such Party receives written notice from the first Party of such election, to make an offer to the first Party to purchase the first Party's entire interest in its payload(s) and in the Common Elements. In the event that the first Party is unwilling to accept the other Party's offer, then the first Party may solicit bona fide offers from third parties to purchase the first Party's entire interest in its payload(s) and in the Common Elements. Thereafter, the other Party shall have a period of fifteen (15) days to meet such bona fide third-party offer, and in the

event that the other Party makes a matching offer, then the first Party shall be obligated to promptly accept such matching offer.

13. Termination

13.1 Unless terminated sooner pursuant to Section 13.2 below, this Agreement shall continue in full force and effect until the later to occur of: (i) the end of the actual orbital maneuver life of the EchoStar 9 satellite; or (ii) the end of the actual orbital maneuver life of the Replacement Satellite, if any.

13.2 Notwithstanding anything to the contrary herein, if the Parties are unable to reach final agreement with SS/L upon: (1) the pricing and schedule for the options described in Article 29.1 of the Satellite Contract, (2) the TBD terms of the Satellite Contract, or (3) Exhibit A (Statement of Work), Exhibit B (Satellite Performance Specification), Exhibit C (Product Assurance Program Plan), Exhibit D (Satellite Program Test Plan) or the milestones set forth in Attachment A (Payment Plan) to the Satellite Contract, within thirty (30) days after the date first set forth above, then either Party may immediately terminate this Agreement by providing written notice to the other Party, and all liabilities and obligations of the Parties shall be released, waived and terminated, except for those set forth in Section 19.11 hereof, which remain in full force and effect as provided therein.

14. Confidentiality.

14.1 Confidential Information. Each Party will treat as confidential the terms of this Agreement, together with all information whether of a technical nature or otherwise relating in any manner to the business, technical, operational, legal or other affairs of the other Party as may be communicated to it hereunder or otherwise in connection with this Agreement, both prior and subsequent to its execution (the "Confidential Information"). Each Party undertakes that except as authorized in writing by the other Party, it will neither disclose any Confidential Information to any person, including the media, nor use the Confidential Information other than for purposes permitted under this Agreement. Each Party shall use all reasonable efforts and shall take every reasonable precaution to protect and maintain the confidentiality of the Confidential Information, which precautions shall be at least equivalent in scope and effect to the measures taken by that Party to protect its own most confidential proprietary information. Each Party hereby agrees to limit disclosure of Confidential Information to those of its employees who need to know such information in the performance of their duties in relation to the EchoStar 9 satellite and to consultants who (i) require access to the information in the performance of their duties in relation to the EchoStar 9 satellite and (ii) have executed a written non-disclosure agreement, the provisions of which are sufficiently wide to protect the confidentiality of the information being disclosed. Each Party shall be liable to the other Party for the acts and omissions of its employees and consultants in breach of the provisions of this Section 14.

Notwithstanding the foregoing, the terms of this Agreement and any amendments thereof may be disclosed to SS/L and to the Parties' respective insurance brokers and underwriters in connection with any and all bona fide attempts to place insurance as contemplated by Section 4 above.

14.2 Exclusions. The provisions of this Section 14 shall not apply to any information that (i) is in the public domain, or which becomes generally known to the public, other than by default of the recipient Party; (ii) was in the lawful possession of the recipient Party prior to the disclosure, and was not obtained either directly or indirectly from the disclosing Party; (iii) is, or had already been, verifiably independently generated by the recipient Party, without reference to the disclosing Party's Confidential Information; (iv) is required to be disclosed by law or the valid order of a court of competent jurisdiction or the request of any governmental or other regulatory authority or agency in which event the Party required to disclose such Confidential Information shall so notify the other Party as promptly as practicable (and if possible prior to making any disclosure) and shall use reasonable commercial efforts to seek confidential treatment of such information.

14.3 Injunctive Relief. The Parties agree that any breach of this Section 14 by the recipient Party will result in the substantial likelihood of irreparable harm and injury to the disclosing Party and that in the event of such a breach, monetary damages alone would not be an adequate remedy and which damages are difficult to accurately measure. Accordingly, in the event of such a breach or threatened breach by the recipient Party, the disclosing Party shall be entitled to injunctive relief in any court of competent jurisdiction, without prejudice to the other remedies available to the disclosing Party at law, in equity or otherwise for such breach or threatened breach.

14.4 No Implied License. Except as expressly set forth to the contrary herein, this Agreement shall not be construed as granting or conferring any interests or rights, by license or otherwise, in any of the Confidential Information, including, without limitation, any patent or patent application or any copyright in which the disclosing Party now has or subsequently may obtain any right, title or interest or any other intellectual property rights. Except as otherwise expressly contemplated herein or agreed by the Parties, all materials created or fabricated by the recipient Party, including without limitation evaluations, based upon the Confidential Information are deemed to be Confidential Information and are owned by and are the exclusive property of the disclosing Party, and shall be returned by the recipient Party to the disclosing Party immediately upon request by the disclosing Party or termination or expiration of this Agreement.

14.5 Prior Agreements. The confidentiality obligations set forth in this Agreement are in addition to, and not in lieu of, any agreements between the Parties and/or any of their Affiliates (as defined in Section 19.3 below) respecting confidentiality that were executed on or before the date first set forth above.

15. Publicity. Neither Party shall issue a press release regarding this Agreement or the transactions contemplated hereby, without the express written consent of the other Party, which consent shall not be unreasonably withheld or delayed; provided that nothing in this Section 15 shall be construed as limiting a Party's right to disclose certain information in accordance with Section 14.2(iv) above.

16. Dispute Resolution.

16.1 Internal Resolution. The following procedure shall be adhered to: (i) in all disputes that arise under this Agreement that the Parties cannot resolve informally; and (ii) in all instances where the Director of Space Programs for EchoStar and the Director of Program Management for Skynet are unable to agree upon the resolution of an issue, which by the express terms of this Agreement is to be determined by the mutual agreement of the Parties, within (5) business days after the issue has been referred to both of them, with the sole exception of the items to be mutually agreed upon in Sections 9(iii) and 4.1 (each, a "Dispute"). Either Party to this Agreement may notify the other Party in writing of the existence of a Dispute. The General Counsel of EchoStar and the General Counsel of Skynet shall meet in person or by telephone within five (5) business days after the other Party receives such written notification. If those individuals are unable to resolve the dispute or agree upon a written plan of corrective action within five (5) business days after such meeting, then the matter shall automatically be referred to the President of EchoStar and the President of Skynet, who shall meet in person or by telephone within five (5) business days after the date of such referral. If mutual agreement still has not been reached within five (5) business days after the initial meeting of the respective Presidents of EchoStar and Skynet, either Party may request arbitration pursuant to Section 16.2 below by delivery of written notice to the other Party ("Notice of Arbitration"). Neither Party shall initiate arbitration unless and until the dispute resolution procedure set forth in this Section 16.1 has been employed or waived by both Parties in writing.

16.2 Arbitration. Any dispute arising between the Parties with respect to the performance of obligations under, or interpretation of, this Contract and all Disputes that cannot be settled by the Parties pursuant to Section 16.1 above, shall be determined by submission to binding arbitration in accordance with the provisions of the "Uniform Arbitration Act of 1975", part 2 of article 22 of title 13, Colorado Revised Statutes, as amended from time to time, and not by a lawsuit or resort to court process except as Colorado law provides for judicial review of arbitration proceedings. Any such arbitration shall be conducted in the City and County of Denver, Colorado by a panel of three arbitrators who shall be selected within thirty (30) days of such Notice of Arbitration, as follows: (i) one arbitrator shall be selected by each Party; and (ii) the third arbitrator shall be selected by the arbitrators chosen by the Parties. In resolving any dispute, the arbitrators shall apply the substantive laws of the State of New York (without regard to its conflict

of law rules), but shall apply the Colorado Rules of Civil Procedure and the Colorado Rules of Evidence, and shall take into account usages, customs and practices in the performance of contracts for the purchase and operation of commercial communications satellites. Notwithstanding anything to the contrary herein, the Arbitrators shall make their decision based on the overriding principle that, unless expressly set forth to the contrary herein: (a) economic disputes impacting the payloads of both Parties shall be resolved such that gains and losses are shared between the Parties in direct proportion to the Ownership Ratio, and (b) non-economic disputes affecting the payloads of both Parties shall be resolved such that impact of gains and losses is shared on a 50/50 percent basis between the Parties. Proceedings and documents provided and generated in connection with any arbitration hereunder shall be in the English language. 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. The parties agree that, in no event, shall the arbitrators' decision include a recovery under any theory of liability, or award in any amount, not expressly allowed under this Contract. In furtherance and without limitation of the foregoing, any award made by the arbitrators shall be within the limitations set forth in Section 18 below.

17. Indemnification.

17.1 Each Party shall defend, indemnify and hold harmless the other Party, and its Affiliates, and their respective directors, officers, employees, shareholders, agents and representatives from and against all losses, damages, liabilities, suits and expenses (including, but not limited to, reasonable attorneys' fees) (collectively "Losses") attributable to third party claims for bodily injury or property damage, but only to the extent that such Losses were caused by, or resulted from, negligent acts or omissions, gross misconduct or willful misconduct by the first Party or its employees, agents, consultants or representatives.

17.2 The right to any indemnity specified in this Section 17 shall be subject to the following conditions:

(i) The Party seeking indemnification shall promptly advise the other Party in writing of the filing of any suit or of any written or oral claim for indemnification upon receipt thereof and shall provide the other Party, at its request, with such assistance and information available to the indemnified party as is relevant to the defense such suit or claim. Any such assistance or information that is furnished by the indemnified Party at the request of the indemnifying Party XXX

(ii) The Party seeking indemnification shall not make any admission nor shall it reach a compromise or settlement without the prior written approval of the other Party, which approval shall not be unreasonably withheld or delayed.

(iii) The indemnifying Party shall assist and shall have the right to assume, when not contrary to the governing rules of procedure, the defense of any claim or suit in XXX

(iv) The Party seeking indemnification may participate XXX, using counsel reasonably acceptable to the indemnifying Party, provided there is no conflict of interest and that such participation would not and does not adversely affect the conduct of the proceedings.

(v) XXX: (i) the indemnifying Party and such indemnified Party shall have mutually agreed to retention of such other counsel; or (ii) the named parties to any proceeding (including without limitation any impleaded parties) include both the indemnifying Party and such indemnified Party and representation of both the indemnifying Party and such indemnified Party by the same counsel would be inappropriate due to actual or potential conflicts of interest between them.

18. LIMITATION OF LIABILITY. THE LIMITATION OF LIABILITY PROVISION OF THE TT&C AGREEMENT SHALL EXCLUSIVELY CONTROL LIABILITIES ARISING OUT OF THE PROVISION OF TT&C SERVICES. THE LIMITATION OF LIABILITY PROVISION OF THE TECHNICAL SUPPORT AGREEMENT SHALL EXCLUSIVELY CONTROL LIABILITIES ARISING OUT OF THE PROVISION OF SATELLITE MANAGEMENT SERVICES. EXCEPT WITH RESPECT TO BREACHES OF SECTION 14 OR 15 OF THIS AGREEMENT, IN NO EVENT SHALL EITHER PARTY BE LIABLE DIRECTLY OR INDIRECTLY TO THE OTHER PARTY, ITS AFFILIATES, OR THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, SHAREHOLDERS, AGENTS, CUSTOMERS, CONTRACTORS OR SUBCONTRACTORS AT ANY TIER (INCLUDING WITHOUT LIMITATION SUPPLIERS OF ANY KIND), OR TO ANY OTHER PERSON OR ENTITY CLAIMING BY OR THROUGH SUCH PARTY FOR ANY AMOUNTS REPRESENTING LOSS OF PROFITS, LOSS OF BUSINESS, OR ANY INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, CONSEQUENTIAL, OR PUNITIVE DAMAGES ARISING FROM OR RELATING TO THE PERFORMANCE OR NONPERFORMANCE OF THIS AGREEMENT OR ANY ACTS OR OMISSIONS ASSOCIATED THEREWITH, WHETHER THE BASIS OF THE LIABILITY IS BREACH OF CONTRACT, TORT, STATUTES OR ANY OTHER LEGAL THEORY. THIS LIMITATION OF LIABILITY SHALL NOT BE CONSTRUED TO LIMIT A PARTY'S INDEMNIFICATION OBLIGATIONS PURSUANT TO SECTIONS 11 AND 17.

19. Miscellaneous.

19.1 Relationship of the Parties. This Agreement defines the cooperative activities of the Parties in the acquisition, manufacture and operation of a C/Ku/Ka-Band hybrid satellite under the terms contained herein. Except for the covenants contained herein, no legal entity or relationship of any kind, including but not limited to a joint venture, pooling arrangement, agency, partnership or

other form of business relationship shall be deemed to arise herefrom between the Parties or between any other individuals, organizations or corporation. Each Party shall act as an independent contractor and not as an agent for the other and no Party shall have any authority to bind the other Party except to the extent specifically provided herein.

19.2 Applicable Law and Construction. This Agreement shall be construed, and the relations between the Parties determined, in accordance with the laws of the state of New York, except for its choice of laws provisions. The descriptive headings contained in this Agreement are included for convenience and reference only and shall not be held to expand, modify, amplify or aid in the interpretation, construction or meaning of this Agreement. Skynet and EchoStar acknowledge and agree that they and their counsel have reviewed, or have been given a reasonable opportunity to review, this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendments or attachments hereto.

19.3 Assignment. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, legal representatives, successors and permitted assigns. Neither this Agreement nor any rights, duties or obligations hereunder may be assigned, delegated or otherwise transferred, in whole or in part, by either Party, nor shall either Party sell its entire ownership interest in its payload(s) and in the Common Elements to a third party pursuant to Section 12.1(a) above, without the prior written consent of the other Party, which consent shall not be unreasonably withheld; provided, however, that, without securing such prior consent, a Party shall have the right to assign this Agreement or sell its entire ownership interest in its payload(s) and in the Common Elements to any person or entity directly or indirectly controlling, controlled by or under common control with such Party (an "Affiliate"), or to any successor of such Party by way of merger or consolidation or the acquisition of substantially all of the assets of such Party relating to the subject matter of this Agreement, provided, however, that such Affiliate or successor, as the case may be, shall expressly assume all of the obligations of such Party under this Agreement. Any attempted assignment, delegation, sale or other transfer in contravention of the above provisions shall be void ab initio.

19.4 Notices. All notices and other communications that may be or are required to be given hereunder shall be in writing and shall be sent via first-class registered or certified mail, return receipt requested and postage prepaid, or via overnight courier service, charges prepaid, to the party to be notified at the following address(es), or sent by facsimile transmission to the party to be notified at the following fax number(s), or to such other persons, address(es) or fax number(s) as such party may have substituted by written notice to the other parties in accordance with the provisions of this Section 19.4:

In the case of EchoStar:

Echostar Orbital Corporation
5701 S. Santa Fe Drive
Littleton, Colorado 80120
Attn: Rohan Zaveri, Director of Space Programs
Fax: (303) 723-1099

With a copy to:

Echostar Orbital Corporation
5701 S. Santa Fe Drive
Littleton, Colorado 80120
Attn: David K. Moskowitz, Senior Vice President and General Counsel
Fax: (303) 723-1699

In the case of Skynet:

Loral Skynet
500 Hills Drive
P.O. Box 7018
Bedminster, NJ 07921
Attn: Robert DeMartini, Director, Supplier Relations
Facsimile Number: (908) 470-2453

With a copy to:

Loral Skynet
500 Hills Drive
P.O. Box 7018
Bedminster, NJ 07921
Attn: Charles Davidson, Director, Program Management
Fax: (908) 470-2467

The sending of such notice with confirmation of successful receipt of the complete transmission (in the case of facsimile transmissions) or receipt of such notice (in the case of delivery by first class registered or certified mail or by overnight courier service) shall constitute the giving thereof.

19.5 Unrestricted Activities. Nothing contained herein shall be deemed to restrict a Party from quoting, offering to sell, selling to, receiving quotes, offering XXX

19.6 Entire Agreement. This Agreement constitutes the entire understanding and agreement between the Parties with respect to the subject matter hereof, and supersedes all such prior representations and agreements, oral or written.

This Agreement shall not be modified or altered, except in a writing executed by a duly authorized representative of each Party.

19.7 Compliance with Export Control and Other Laws and Regulations. The Parties shall comply with all United States Export Control Regulations and all other laws and regulations which apply to this Agreement; and further will not directly or indirectly perform or fail to perform any act which will constitute a violation of such laws or regulations in the performance of the Agreement.

19.8 Waiver. The failure or delay of either Party at any time to exercise or enforce any right or remedy available to it under this Agreement with respect to any breach or default by the other Party shall not be construed to be a waiver of such right or remedy with respect to any other breach or default by the other Party. The delay or failure of either Party to give notice of breach or default shall not be deemed to be a waiver of the right to do so for that or any subsequent breach or default or for the persistence in a breach or default of a continuing nature.

19.9 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original and all of which together shall constitute one and the same agreement.

19.10 Severability. The Parties agree that each provision of this Agreement shall be construed as separable and divisible from every other provisions and that the enforceability of any one provision shall not limit the enforceability, in whole or in part, of any other provision hereof. In the event that a court of competent jurisdiction or a panel of arbitrators selected pursuant to Section 16.2 above determines that any term or provision herein, or the application thereof to any person, entity or circumstance, shall to any extent be invalid or unenforceable, then such term or provision shall be enforced to the maximum extent deemed by such court or panel of arbitrators to be permissible, and the remaining provisions of this Agreement shall be unaffected thereby and shall remain in full force and effect.

19.11 Survival of Obligation. The obligations of the Parties under this Agreement, which by their nature logically would be expected to survive termination, cancellation, or expiration of this Agreement, including without limitation those set forth in Sections 7 (regarding Skynet's obligation to provide TT&C services on a Substitute Satellite), 14, 15, 16, 17, 18, 19.2 and 19.4, shall survive termination, cancellation or expiration of this Agreement for the applicable time period specified in such section or, if no time period is specified, for a reasonable period of time under the circumstances.

19.12 Remedies Cumulative. Except as otherwise expressly set forth herein, it is agreed that the rights and remedies herein provided in case of default or breach of this Agreement are cumulative and shall not affect in any manner any other remedies that any Party may have by reason of such default or breach,

except as expressly limited in this Agreement. Except as otherwise expressly set forth herein, the exercise of any right or remedy herein provided shall be without prejudice to the right to exercise any other right or remedy provided herein, at law, or in equity.

19.13 Order of Precedence. Any conflict between the terms of this Agreement and those of any document attached hereto as an Exhibit shall be resolved by precedence to the provisions of this Agreement.

19.14 Marketing Name. Each Party shall have the right to market and promote its payload under any name to which it has intellectual property rights, without the consent or prior approval of the other Party, provided that such marketing and promotion does not create a likelihood of confusion as to which Party owns the payload at issue. For the avoidance of doubt, the provisions of this Section 19.14 are without any prejudice to any rights that a Party may have to a particular name at law, in equity or otherwise.

IN WITNESS WHEREOF, the Parties have caused their duly authorized representatives to execute this Agreement as of the date first set forth above.

LORAL SPACECOM CORPORATION

By: -----

Name:
Title:

ECHOSTAR ORBITAL CORPORATION

By: -----

Name:
Title:

THIS SCHEDULE CONTAINS SUMMARY FINANCIAL INFORMATION EXTRACTED FROM THE FINANCIAL STATEMENTS OF ECHOSTAR COMMUNICATIONS CORPORATION AS OF AND FOR THE THREE MONTHS ENDED MARCH 31, 2000 AND IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO SUCH FINANCIAL STATEMENTS.

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	DEC-31-2000	
	JAN-01-2000	
	MAR-31-2000	
		679,788
		371,120
		173,735
		16,182
		152,493
	1,530,487	
		1,338,275
		300,222
		3,824,874
	948,738	
		3,048,436
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		17,407
		4,692
		(199,958)
3,824,874		
		551,471
	565,721	
		324,437
		707,738
		43,058
		11,819
	61,513	
	(185,075)	
		(55)
(185,130)		
	0	
	0	
		0
	(185,130)	
	(0.40)	
	(0.40)	

INCLUDES PROGRAMMING REVENUE
INCLUDES COSTS OF PROGRAMMING