

CUSTOMER CONTRACT REQUIREMENTS
Commercial Space-Based Network (Solicitation)
CUSTOMER CONTRACT 40-0168

CUSTOMER CONTRACT REQUIREMENTS

1. The following prime contract special provisions apply to this purchase contract:

A. Inspection

1. Access to Work in Process: On-Site Facilities for Customer's Personnel
(This requirement only applies to Buyer's Major Subcontracts.)

For the purpose of monitoring the progress of the Work being performed, Seller shall provide office facilities at or proximate to Seller's plant for Buyer and up to three (3) resident Customer personnel (and/or Customer's designated consultants and agents). The office facilities to be provided shall include a reasonable amount of office space, office furniture, local telephone service, reasonable long-distance telephone usage, internet access (at the same speed and quality available to Seller personnel), electronic access to Seller's dedicated and secure Customer program development and manufacturing database, access to copy machines, facsimile machines, meeting rooms, car parking facilities and to the extent available, videoconference rooms, to enable Customer personnel to monitor the progress of Work under this Subcontract.

Some of Customer's designated consultants and agents may be non-U.S. parties and will require Buyer's Major Subcontractors to obtain appropriate Technical Assistance Agreements (TAAs) for ITAR-regulated items and other United States Government export licenses.

B. Warranties

1. New Deliverables
Seller represents, warrants, and covenants that all equipment comprising the Deliverable Items shall be new, and neither refurbished nor re-manufactured.
2. Spares
(This requirement only applies to Sellers of ground segment hardware.)

Seller shall provide Buyer with a plan for maintaining Spare Parts, including a list of all mission-critical replacement level parts. Such plan shall take into account delivery times for limited source and long-lead items. During the Initial Operations Period, Seller shall maintain and replenish a Spare Parts inventory in accordance with such plan. At the end of the Initial Operations Period, the Spare Parts inventory shall be fully-replenished by Seller. Any other item, component or part supplied as a Spare Part shall be warranted.

3. Software Warranty
Through TBD years, Seller shall correct all software errors and bugs, and provide any patches and updates to bring the software in conformance with Buyer's Statement of Work and applicable Performance Specifications (collectively, "Software Corrections"), and Seller shall make upgrades, enhancements and releases (collectively, "Software Updates") available to Buyer and/or Customer at a commercially reasonable price. Such Software Corrections and Software Updates shall be tested to contract requirements prior to release. Following TBD years, Seller shall, at Customer's option, and renewable on an annual basis, perform software maintenance and support services.

4. No Virus

Seller represents and warrants that (i) it shall ensure that no Viruses are coded or introduced into the Work; (ii) it shall not introduce into the Work any code that would have the effect of disabling or otherwise shutting down all or any portion of the Work; and (iii) it shall not develop, or seek to gain access to the Work through, any special programming devices or methods, including trapdoors or backdoors, to bypass any Buyer and/or Customer security measures protecting the Work. This warranty shall begin upon Acceptance of the Work embodying the code at issue and continue for the operating life of the Satellites. If a Virus is present in the Ground Segment, Seller shall remove the Virus, assist Buyer and/or Customer in reducing the effects of the Virus, and assist Buyer and/or Customer with mitigating and restoring any such losses of operational efficiency or data that arise as a result of Virus, all at Seller's expense. In no event shall Seller invoke any disabling code at any time, including upon expiration or termination of the contract (in whole or in part) for any reason, without Buyer's prior written consent, which may be delegated to Customer.

- a. In this paragraph and throughout this document, "Work" means all design, development, construction, manufacturing, labor, and services, including tests to be performed, and any and all Deliverable Items, including Space Segment, Ground Segment, Deliverable Data, Mission Operations Support Services, Launch Support Services, Training, and equipment, materials, articles, matters, services, and things to be furnished and rights to be transferred to Customer, or any subcontract entered into hereunder by Buyer.

5. Latent Defects

Seller further warrants the Deliverable Items, except for the Satellites, against latent defects.

6. Intellectual Property. Seller represents and warrants that (i) it is either the owner of, or authorized to use and incorporate, any Intellectual Property utilized or incorporated in any Deliverable Item or the manufacture of any Deliverable Item. Seller is not aware of any claim or potential claim to the contrary by any third party. This warranty shall begin upon acceptance of the Work embodying the subject Intellectual Property and continue for the operating life of the Satellites.

7. Source Code Escrow

Seller shall place the source code of any software licensed to Buyer and/or Customer or used in the operations and maintenance of the program in escrow for release to Buyer and/or Customer or its designee upon the occurrence of certain agreed upon events, including the failure of Seller to maintain and support the software as set forth in the contract, the insolvency or bankruptcy of Seller.

C. Inter-Party Waiver of Liability for a Launch

(This requirement only applies to Buyer's Launch Subcontractors with access to the launch site and/or are providing services related to the launches.)

1. Inter-Party Waiver

Customer and Buyer agree to be bound by the no-fault, no subrogation inter-party waiver of liability and related indemnity provisions required by the Launch Services Agreement with respect to each 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 any Satellite (including non-consumer customers of Customer) to accede to such waiver and indemnity, which in every case shall include claims against the Launch Agency, either Customer and Buyer and their respective contractors and subcontractors at any tier (including suppliers of any kind) that are involved in the performance of this contract.

2. Waiver of Subrogation

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 (including non-consumer customers of Customer) to use best reasonable efforts to obtain from their respective insurers, an express waiver of such insurers' rights of subrogation with respect to any and all claims that have been waived pursuant to this Inter-Party Waiver of Liability for a Launch.

3. Indemnity Related to the Inter-Party Waiver of Liability

Customer and Buyer shall each indemnify against and hold harmless 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 and against any claim made by the Indemnifying Party or any of its contractors and subcontractors (including suppliers of any kind) that are involved in the performance of the contract, or by any person having an interest in any Satellite (including non-consumer customers of Customer), or by insurer(s) identified in this Inter-Party Waiver of Liability for a Launch, resulting from the failure of the Indemnifying Party to waive any liability against, or to cause any other person the Indemnifying Party is obligated to cause to waive any liability against, the Launch Agency, Customer or Buyer or either of their contractors and subcontractors at any tier (including suppliers of any kind) involved in the performance of this contract.

4. Survival of Obligations

The waiver, indemnification and hold harmless obligations provided in this Inter-Party Waiver of Liability for a Launch shall survive and remain in full force and effect, notwithstanding the expiration or termination of this contract.

D. Intellectual Property

1. Buyer's Intellectual Property

- a. All Background Intellectual Property, developed or created by Buyer and all Intellectual Property Rights therein, shall be the sole and exclusive property of Buyer.
- b. All Foreground Intellectual Property, developed or created by Buyer (or its subcontractors), and all Intellectual Property Rights therein, shall be the sole and exclusive property of Buyer.
- c. All Foreground Intellectual Property, developed or created by Seller (or its subcontractors), and all Intellectual Property Rights therein, shall be the sole and exclusive property of Buyer.

2. Seller's Intellectual Property

- a. All Background Intellectual Property, developed or created by Seller (or its subcontractors), and all Intellectual Property Rights therein, shall be the sole and exclusive property of Seller (or its subcontractors).
- b. Seller agrees to and does hereby grant Buyer the right to use any Background Intellectual Property and to practice any Foreground Intellectual Property.

3. License Rights

a. Grant by Seller

Subject to the terms and conditions stated herein, Seller grants to Buyer and/or Customer a fully paid-up, irrevocable, perpetual, worldwide, nonexclusive right and license to use and have used, reproduce, and modify for the sole and exclusive purpose of testing, operating, and/or maintaining any Deliverable Item (including Deliverable Data), all Seller Background Intellectual Property and

Foreground Intellectual Property incorporated into such Deliverable Items, including, to the extent necessary for the limited purpose of this license, those associated Intellectual Property Rights therein, now or hereafter owned by Seller (and/or its subcontractors) for which Seller (and/or its subcontractors) has or may acquire the right to grant such a license. Buyer and/or Customer shall have no rights in Deliverable Data other than as expressly stated in this contract, except that Buyer and/or Customer may provide portions of the Deliverable Data related to operation or performance of the Satellite's payload as is commercially necessary and reasonable to market and sell the Satellite capacity to Customer's customers and potential customers. Title to Deliverable Data shall not pass to Buyer and/or Customer or any other entity pursuant to the terms hereof.

b. Grant by Buyer

Subject to the terms and conditions stated herein, Buyer grants to Seller a fully paid-up, irrevocable, perpetual, worldwide, non-exclusive right and license to use and have used for the sole and exclusive purpose of performing under this contract, all Buyer Background Intellectual Property or Buyer Foreground Intellectual Property including, to the extent necessary for the limited purpose of this license, those associated Intellectual Property Rights therein, owned by Buyer (or others acting on behalf of Buyer) for which Buyer has or obtains the right to grant such a license.

c. Subcontracts

Seller shall, unless otherwise authorized or directed in writing by Buyer, to the extent necessary to fulfill its obligations, use reasonable efforts to include in each subcontract issued hereunder a license rights clause pursuant to which each such subcontractor will grant to Buyer and/or Customer (through Seller) license rights or ownership rights, as applicable, in Intellectual Property incorporated in Deliverable Items hereunder and which Intellectual Property is developed by such subcontractor, and all associated Intellectual Property Rights therein, to the same extent as the license or ownership rights granted by Seller in this License Rights section.

d. Acknowledgement of Third Party Beneficiaries

Seller expressly acknowledges and agrees that Customer's wholly-owned subsidiary is a third party beneficiary under this Agreement in connection with Intellectual Property terms and conditions. Accordingly, Seller expressly acknowledges and agrees that notwithstanding anything in the contract to the contrary, customer's wholly-owned subsidiary shall have the unilateral right to enforce this contract as to Intellectual Property terms and conditions as if it were a party thereto. Disclosure of Customer's wholly-owned subsidiary will be disclosed as necessary.

e. Access to Work Product

Buyer may at any time request, and Seller shall promptly provide, complete and accurate copies of any and all work product created or performed by Seller or its subcontractors under this contract including, but not limited to reports, designs, drawings, tests, results, bills of material, data, software and source code.