

AGREEMENT BETWEEN THE GOVERNMENT OF MALTA and abcSat Malta, Ltd. FOR THE ESTABLISHMENT OF A SATELLITE VENTURE DENOMINATED abcSat.

The present Agreement made in Malta on _____ between the Government of Malta (hereinafter referred to as “the Government”) of the one part represented herein by _____ duly authorized for the purpose of this Agreement and abcSat, Malta, Ltd. (hereinafter referred to as “abcSat”) of the other part represented herein by _____ duly authorized for the purpose of this Agreement.

By these Presents the Government and abcSat agree as follows:

1. On the signing of this Agreement, abcSat shall set up a company called abcSat Malta, Ltd. (hereinafter referred to as “the Company”), a corporation constituted in Malta and registered under the laws of Malta, to own, operate, maintain and manage a satellite system denominated “abcSat” located in the orbit positions named in clause 3 hereof and in sub-section 2.1 of Schedule 1 hereto, as well as a Ground-Station comprising of (a) a TT & C (Telemetry, Tracking and Control) facility for the sole use with abcSat satellites (ii) uplinks for abcSat-1 and abcSat-2 and (iii) ancillary installations in Malta, hereinafter referred to as the “System” and further defined in Appendix I to Schedule 1.
2. On the coming into force of this Agreement, a license (hereinafter referred to as “the license”) in the terms set out in Schedule 1 hereto shall be issued to the Company to launch abcSat-1 and abcSat-2 in the geostationary satellite orbit positions at 15.5 degrees East and 22.0 degrees East respectively and to operate, maintain and manage the System.
3. The orbital positions of abcSat-1 and abcSat-2 shall be identified by the name “abcSat-1” and “abcSat-2”.
4. The Government shall grant to the Company the right to use Malta’s Geostationary Satellite Orbit positions referred to in clause 3 above and associated frequency assignments in the Fixed Satellite Service (FSS) subject to such resources being successfully registered with the International Telecommunications Union (hereinafter referred to as the “ITU”).
5. The Company shall present abcSat-1 and abcSat-2 internationally as a space structure born from the collaboration between abcSat and the Government.
6. The Company shall launch, supply, install and operate the satellite system denominated abcSat using the natural orbit and frequency resources mentioned in clause 4 of this Agreement.
7. The Government shall, for the purpose of the erection and operation of the Ground Station mentioned in clause 1 above, grant to the Company irrevocable title to the site in Malta known as _____ in the limits of _____

comprising an area of _____. Furthermore, the Government shall irrevocably grant to the Company title to the building over the said site.

8. The Company shall operate, maintain and manage the System, (including the lands, buildings, electrical and other services) and at all times at its exclusive cost.
9. The Government shall allow the Company to transfer at 95% exchange rates the payments necessary for the operation, maintenance and management of the System,.
10. The Company undertakes to provide the Government with advance information on any initiative it intends to carry out in the field of Space Radio Communications .
11. The Government shall have the right to appoint one Director in the Company mentioned in clause I above.
12. The terms defined in Section 1 of Schedule 1 hereto shall equally apply to this Agreement.

This Agreement shall come into force on the date hereof.

Signed in duplicate the _____ day of _____ two thousand and one.

The Government of Malta

SCHEDULE 1

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SECTION 1 - DEFINED TERMS

Unless the context clearly indicates that a different meaning is intended:

- 1.1 “Agreement” means the agreement entered into between the Government and abcSat on _____.
- 1.2 “Broadcasting Authority” or “Authority” means the Broadcasting Authority as established by Section 118 of the Constitution of Malta.
- 1.3 “Broadcasting Law” means such legislation as may from time to time be in force to regulate broadcasting.
- 1.4 “CIWT” means the Chief Inspector of Wireless Telegraphy or his successor as head of the branch, division, department or agency responsible in the Government for Wireless Telegraphy.
- 1.5 “Commercial Operation” means transmission of the Programming Services by the company via abcSat-1, abcSat-2 OR the Defined Satellites.
- 1.6 “Company” means the company called registered in Malta under number _____ or its lawful successor, should there be any.
- 1.7 “Coverage Area” shall mean the area on the surface of the Earth covered by the respective satellite footprint.
- 1.8 “Defined Satellites” shall mean THOSE registered with, or notified to, the ITU prior to the date of the Agreement.
- 1.9 “Geostationary Satellite Orbit” shall have the same meaning as defined in the Radio Regulations.
- 1.10 “Government” means the Government of Malta represented by the Ministry responsible for Wireless Telegraphy which at the time of grant of this license is the Office of the Prime Minister.
- 1.11 “Gross Revenue” means any revenue earned by the Company from the lease of satellite transponders, programming services and advertising or from any of its operations in or from Malta.
- 1.12 “Ground Station” means the installations located in Malta providing TT&C facilities for abcSat-1 and abcSat-2 and includes the uplinks to abcSat-1, abcSat-2 and to the Defined Satellites, as well as related ancillary installations.
- 1.13 “IFBR” means International Frequency Registration Board of the International Telecommunication Union.
- 1.15 “ITU” means the International Telecommunication Union whose seat is in Geneva, Switzerland.

- 1.16 “license” means the initial authorization, or renewal thereof, issued by the Government, whether such authorization is designated as a permit, license, resolution, contract, agreement or otherwise.
- 1.17 “Malta” has the same meaning as is assigned to it in section 126 of the Constitution.
- 1.18 “abcSat” shall include the satellites named abcSat-1 and abcSat-2.
- 1.19 “Minister” means the Minister responsible for Wireless Telegraphy.
- 1.20 “Necessary Bandwidth” or “Bandwidth” shall have the same meaning as defined in the Radio Regulations.
- 1.21 “Orbit” shall have the same meaning as defined in the Radio Regulations.
- 1.22 “Orbit Position” is a position on the Geostationary Satellite Orbit.
- 1.23 “Person” means an individual, partnership, association, limited liability company, corporation or governmental entity.
- 1.24 “Programming Services” means any type of programming broadcast by the Company from Malta over the System or over any one of the Defined Satellites.
- 1.25 “Radio Regulations ” means the Radio Regulations of the International Telecommunication Union in force as of the effective date of this contract.
- 1.26 “Resources” means the Geostationary Satellite Orbit positions and associated radio frequencies as defined in the license.
- 1.27 “Service” means any service, whether or not originated by the Company, which is uplinked from the Ground Station to abcSat-1 and abcSat-2 or to any one of the Defined Satellites.
- 1.28 “Space Radio Communications” shall have the same meaning as defined in the Radio Regulations.
- 1.29 “System” means abcSat-1 and abcSat-2 and the Ground Station.
- 1.30 “Transponder” means a repeater installed on abcSat-1 and abcSat-2 or on anyone of the Defined Satellites capable of receiving and re-transmitting within a given bandwidth.
- 1.31 “TT&C” means ground communication equipment for telemetry, tracking and control of abcSat-1 and abcSat-2.
- 1.32 “Uplink” means the circuit, circuits or channels between the Ground Station and abcSat-1 and abcSat-2, or anyone of the Defined Satellites.

- 1.33 “Wireless Telegraphy” means the branch, division, department, or agency headed by the Chief Inspector of Wireless Telegraphy.

SECTION 2 - GRANT OF LICENSE

- 2.1 Grant.** The grant of this License authorizes and permits the Company to place in the Geostationary Satellite Orbit positions registered with the ITU, under the name of “ abcSat 1” and “ abcSat 2” at 15.5 and 22.0 degrees East respectively. Each Satellite will be comprised of 100 active transponder channels switched into 100 independently switched receive/transmit beams selected out of a total of 300 beams covering the general coverage area of 14 degrees East to 89 degrees East longitude and 8 degrees to 63 degrees North latitude that includes, but is not limited to, the following land masses: Europe, Central Asia, North Africa, THE Arabian Peninsula, and THE Indian Subcontinent.

2.1.01. For the purpose of sub-Section 2.1 above, subject to the findings of the ITU, the Government shall permanently and irrevocably deed and grant title to the Company the Geostationary Satellite Orbit positions and necessary frequency resources as provided for in Appendix 2 for use by the Company subject to the terms and conditions of the License.

- 2.2 Ground Station License.** This License also authorizes and permits the Company to import, install, operate, maintain and manage the Ground Station comprised of the Network Operations Center (NOC), telemetry, tracking & command (TT&C) in Malta to uplink/downlink Audio, Video and Data (broad band multi-media) to abcSat-1 and abcSat 2 subject to compliance with the provisions of sub-section 4.2 hereof.

2.2.01 This License authorizes and permits the Company to operate the said Ground Station solely in connection with abcSat. Use of the said Ground Station in connection with any other satellite shall require the consent in writing of the Government.

- 2.3 Term.** The License shall be permanent and irrevocable and shall continue in perpetuity, ad infinitum, unless otherwise lawfully terminated in accordance with the provisions of this License.

- 2.4 Termination.** The termination of this License shall occur , if at all, in accordance with the termination rights as provided in this License. The termination of this license shall not operate as a waiver or release of any obligation arising prior to such termination, or of any obligation which this License expressly provides will survive such termination.

- 2.5 License to Retransmit.** The Company is hereby authorized to retransmit all programs through the Ground Station

- 2.6 Broadcasting Licenses.** The Company is hereby granted for its own exclusive use broadcasting licenses per transponder to allow it to broadcast through the Ground Station, abcSat 1 and abcSat 2.

SECTION 3 - PERMITS and EXEMPTIONS

- 3.1 Permits.** The Company shall have sole responsibility for diligently obtaining, at its own cost and expense, all permits, licenses, or other forms of approval necessary to construct operate, maintain or repair the System or any part thereof prior to commencement of such activity.
- 3.1.01 The Government shall grant the Company within one calendar month OF the appropriate application any authorization, license, or permit the Company may be required to hold under the provisions of any law in order that it may exercise its rights and perform its obligations throughout the continuance of this License provided that the Company makes an application to the appropriate authorities, against payment of the normal fees as the case may be.
- 3.2 Customs Duty.** The Company shall be exempted from the payment of customs duty on equipment required for the construction, operation, maintenance and management of the Ground Station, and on all equipment required for the fulfillment by the Company of its obligations under this License.
- 3.3 Construction of the Ground Station.** Construction, installation and maintenance of the Ground Station shall be performed in an orderly and workmanlike manner. All such work shall be performed in accordance with all applicable regulations including regulations regarding safety and aesthetics.

SECTION 5 - OVERSIGHT and REGULATION

- 5.2 Maintenance of the System.** The company shall perform all necessary tests to ensure that all property and equipment covered by this License are maintained in good order and condition at all times during the term of this License.
- 5.2.01 The Company shall be solely and completely responsible for all acts and omissions of any contractor or sub-contractor in the construction, maintenance or operation of the Ground Station and ancillary installations.
- 5.4 Books and Records/Audit.** Throughout the term of this License, the Company shall maintain, in accordance with standard accounting practice, complete and accurate books of accounts and records of the business, Ownership and operations of its business with respect to the System,

SECTION 6 - COMPENSATION and OTHER PAYMENTS

- 6.1 License Fee.** This License shall be issued against a payment of a once only fee of eighty thousands (80,000) European Currency Units on the signing of the Agreement.
- 6.2 Ground Station Annual Fee.** The Company shall pay the Government with respect to the Ground Station an annual fee of eighty thousands 80,000 European Currency

Units on the signing of the Agreement and on every yearly anniversary thereafter until the activation of abcSat, following which, this annual fee shall be stepped up to one hundred and sixty thousands (160,000) European Currency Units and shall, subject to 6.4 below, remain at that level throughout the continuance of this License. The fee shall be paid quarterly in advance.

6.3 Operating Fee. The Company shall, subject to subsection 6.4 below, pay the Government with respect to the natural resources as provided for in paragraph 2.1.01 an annual operating fee of eight hundred thousands (800,000) European Currency Units or three (3) per cent of Gross Revenue of the Company whichever is the higher. The Company shall start paying this operating fee on the First of January of the second calendar year of commercial Operation of abcSat and on every yearly anniversary thereafter throughout the continuance of this License.

6.3.01 The fee defined in this subsection shall, subject to subsection 6.4 below, be paid in four quarterly installments of two hundred thousands (200,000) European Currency Units and any adjustments shall be paid to the Government by not later than six months from the date on which the payment of the fee falls due.

6.4 Increase of Fees. The fees defined in subsections 6.2 and 6.3 and paragraph 6.3.01 shall be increased by twenty (20) per cent every five years.

6.5 Verification. Payment of the fees according to this subsection shall not necessarily be interpreted to mean that the amount paid is correct. The Government may require to inspect the books of accounts of the Company, as provided for in paragraphs 5.4.01 and 5.5.01 hereof, so as to verify that the said amount is correct. If the Government finds that after verification, an additional amount is owed to the Government, then the Government shall notify the Company in writing and such amount shall be payable within one hundred twenty (120) days from the receipt of such notice by the Company.

SECTION 8 - RIGHTS AND REMEDIES

8.1 Notice. If either party to this contract has reason to believe that the other party is not complying with the terms of the license, said party shall immediately notify the other party in writing of the alleged non-compliance.

8.2 Right to Cure or Respond. The ALLEGEDLY NON-COMPLYING PARTY shall have fifteen (15) days from the date of the notice as provided in sub-section 8.1 hereof to (i) respond in writing to the OTHER PARTY contesting the assertion of non-compliance; or (ii) to comply with the provisions of this license; or (iii) in the event that by the nature of the non-compliance, the ALLEGEDLY NON-COMPLYING PARTY cannot comply within the fifteen (15) day period, initiate reasonable steps to comply with the provisions of this license and notify the OTHER PARTY in writing of the steps being taken and projected date by which they will be completed.

8.3 Enforcement. In the event that a dispute arises as to whether there is a non-compliance or not or, after having allowed the Company enough time to respond to,

or to remedy an alleged non-compliance according to subsection 18 hereof, IF EITHER PARTY STILL BELIEVES that the OTHER PARTY is STILL not complying with any provision of the license, then THAT PARTY shall invoke the arbitration procedures in terms of subsection 18 below.

- 8.4 Results of Arbitration.** If Arbitration determines that the ALLEGEDLY NON-COMPLYING PARTY has not complied with the provisions of this AGREEMENT THEN the arbitrators shall; (i) order the ALLEGEDLY NON-COMPLYING PARTY to comply with this AGREEMENT within a reasonable time to be fixed by arbitrators and/or to order that in the event that the ALLEGEDLY NON-COMPLYING PARTY fails to remedy its default in the time specified in (i) above, APPROPRIATE DAMAGES MAY BE AWARDED.

SECTION 10 - FORECLOSURE

- 10.1 Foreclosure.** Upon the occurrence of any event which is reasonably likely to lead to the foreclosure or other judicial sale of all or a substantial part of the System, or the termination of any lease or mortgage covering all or a substantial part of the System, the Company shall immediately notify the Government of such occurrence.

SECTION 11 - NOTIFICATION

- 11.1 Notification.** The Company shall notify the Government in the following events: (i) prior to the filing of a voluntary declaration of bankruptcy; (ii) prior to the filing of AN answer admitting the material allegations of a demand by any creditor for a declaration of bankruptcy; (iii) prior to instituting dissolution or liquidation proceedings with respect to its business; (iv) prior to approving a demand for the dissolution or liquidation of the Company or effecting a plan or other arrangement with creditors for the Company of any part, or all of the System: and (v) on being subject to an executive warrant of seizure or any other similar process that may materially affect the operation of the system.

SECTION 13 - MISCELLANEOUS

- 13.1 Descriptive Headings.** The headings contained in this License are for reference purposes and do not form a part of this License. They shall not in any way effect the meaning or interpretation herein .
- 13.2 Severability.** If any Section, sentence, paragraph, term or provision hereof is determined to be illegal, invalid or unconstitutional by any court, such determination shall have no effect on the validity of any other Section, sentence, paragraph, term or provision hereof, all of which will remain in full force and effect for the term of the License or any amendment or renewal thereof.
- 13.3 Limitations of License.** The Company shall comply with (i) all laws, rules, regulations, and all orders or other directives of the Government or of the Authority

pursuant to this license and (ii) comply with all provisions hereof and all amendments or other modifications which are mutually agreeable hereto.

13.5.01 Subject to such laws for the time being in force and such considerations of security as may be applicable, all foreign personnel of the company as well as their dependents, shall be allowed unhindered passage to and from Malta and permitted to reside there, and such foreign personnel shall be granted the necessary work permits.

- 13.6. **Professional and Other Staff.** The Company shall engage as may Maltese as possible and shall build the professional and other staff from citizens of Malta subject to skills, qualifications, aptitude and suitability.
- 13.7. **Notices.** Wherever notice is given it shall be by registered mail with regard to the Company at the address of the Company as it appears in the Registry of partnerships at the time and with regard to the Government represented by the Chief Inspector of Wireless Telegraphy or his legal successor at the Wireless Telegraphy Branch. Office of the Prime Minister.
- 13.8. **Arbitration.** Any dispute regarding the interpretation of this License and any other matter which in terms of this License is to be referred by either party to arbitration, shall be referred to the International Chamber of Commerce whose present address is at Paris, France.

SECTION 14 – RELEASE OF LIABILITY

- 14.1 THE GOVERNMENT releases THE COMPANY from all claims now existing or hereafter related to this agreement and/or the performance thereof, including, but not limited to, those claims arising from implied warranty, tort, strict liability, breach of statutory duty, and direct and vicarious negligence and for any other cause.
- 14.2 THE COMPANY is not liable TO THE GOVERNMENT OR ANY THIRD PARTY for lost profits, punitive damages, multiplied actual damages, incidental or consequential damages, under any theory of law, including but not limited to breach of contract, breach of implied warranty, tort, strict liability, breach of statutory duty, and direct and vicarious negligence. All such damages are hereby released and waived.
- 14.3 THE COMPANY and its employees shall not be liable for any damage or expenses resulting from actions or omissions of THE COMPANY or its employees, undertaken in good faith, in reliance upon THE GOVERNMENT'S instructions or directions.
- 14.4 Under no circumstances shall any of THE COMPANY'S employees be personally liable for any claim arising out of or related to this Agreement.

SECTION 15 – Jurisdiction

15.1 The parties hereby stipulate and agree that jurisdiction for the resolution of any dispute arising from this Agreement, subject to the arbitration provisions set forth BELOW, is proper in _____.

SECTION 16 – Venue

16.1 The parties hereby stipulate and agree that the venue for the resolution of any dispute arising from this Agreement, subject to the arbitration provisions set forth above, is proper in _____.

SECTION 17 – Choice of Law

17.1 This Agreement is made and entered into in _____, and shall in all respects be interpreted, enforced and governed by and under the laws of _____. In the event that any statute, judicial precedent or other laws of _____ shall require or otherwise dictate that the laws of another COUNTRY, State or jurisdiction be applied in any such action or proceeding, they shall be superseded by this paragraph and the remaining laws of _____ shall nonetheless be applied in such action or proceeding.

SECTION 18 - Disputes to be Arbitrated Rather Than Heard by Court or Jury

18.1 Agreement to Arbitrate

In exchange for the benefits of the speedy, economical and impartial dispute resolution procedure of arbitration, THE PARTIES HERETO mutually forego their right to resolution of disputes in a court of law by a judge or jury, pursuant to the UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW (“UNCITRAL”), AS CODIFIED IN UNITED NATION RESOLUTION 31/98

18.2 Disputes Covered by Arbitration

Any controversy or claim arising out of or in any way related to this Agreement or its termination, and otherwise cognizable in a court of law, shall be submitted to final and binding arbitration. This obligation includes, but is not limited to any contractual, common law, tort or statutory claims, and claims against individual officers, directors, managers, supervisors, employees and agents of the COMPANY, in their capacity as such, as well as claims against THE COMPANY ITSELF.

18.3 LANGUAGE TO BE USED IN Arbitration

THE LANGUAGE TO BE USED IN THE COURSE OF RESOLVING and ADMINISTERING SUCH AN ARBITRATION AS IS CONCEIVED OF IN THIS AGREEMENT SHALL BE ENGLISH.

18.4 Right to Injunctive Relief

Without waiving the arbitration rights and duties under this Agreement, THE GOVERNMENT agrees that any breach of this Agreement by it would subject THE COMPANY to damages which may not be readily calculated, and for which a remedy at law is inadequate. Accordingly, THE GOVERNMENT agrees that THE COMPANY has the right to seek preliminary injunctive relief (including temporary restraining orders) or other provisional relief from a Court OR THE UNCITRAL without the need to show anything further than the fact that THE GOVERNMENT either already has breached this Agreement or has threatened to do so.

18.5 Statutes of Limitations, Scope of Remedies, and Substantial Law

Statutes of limitations, scope of remedies, and substantial law (including any requirement for prior exhaustion of administrative agency relief) shall be the same as would be applicable were any action to be brought in Court. In the event that regular litigation is filed, any claim or demand for arbitration must be served upon the responding party within ninety (90) days of the completion of the filing of all initial pleadings and responses thereto, and must fairly put the opposing parties on notice as to the factual and legal basis for the claim(s) as adjudged IN interpreting notice pleading requirements.

18.6 Administration of Arbitration

The arbitration shall be held in _____, and administered by THE UNCITRAL the then-existing UNCITRAL Rules and Procedures.

18.7 Selection of Arbitrator

The arbitrator shall be selected by mutual agreement of the parties, or pursuant to the appointment procedures of THE UNCITRAL.

18.8 Authority of Arbitrator

The arbitrator shall have exclusive authority to resolve any dispute relating to the arbitrability of any claim or matter, including any dispute regarding the applicability, formation or enforcement of this Agreement, to hear and rule upon pre-hearing disputes, and shall entertain and rule upon ALL SUMMARY motions. in doing so THE ARBITRATOR shall apply the LAW OF _____ applicable to such motions.

18.9 Right to Discovery

Each party shall have the right to engage in reasonable, limited pre-hearing discovery, subject to the supervision of the Arbitrator, IN ACCORDANCE WITH THE PROVISIONS OF THE UNCITRAL.

18.10 Right to Representation and Confidentiality

Each party may, but is not required to, be represented by licensed counsel of its choice. The hearing and all filings and other proceedings shall be treated in a private and confidential manner by the arbitrator and all parties and representatives, and shall not be disclosed except as necessary for any related judicial proceedings.

18.11 Arbitration Costs

In the event either party institutes arbitration under this Agreement, the party adjudged by the arbitrator to be at fault or in breach shall be responsible for all costs of the arbitration services, including the fees and costs of the arbitrator and court reporter fees. In the event that both parties are adjudged to be at fault or in breach in some relative proportion, then the parties shall BE responsible for all costs of the arbitration services, including the fees and costs of the arbitrator and court reporter, in proportion to their relative fault or breach.

SECTION 19 – Liability and Indemnity

19.1 THE GOVERNMENT agrees to indemnify and hold THE COMPANY harmless for any liability incurred by THE GOVERNMENT as a result of any cause of action, breach of contract, negligence or other tort of the GOVERNMENT arising from, related or pertaining to the performance or attempted performance by THE COMPANY of the terms and provisions of this document. THE GOVERNMENT agrees to pay for all attorneys' fees and cost of suit incurred by THE COMPANY in defending any suits arising from, related or pertaining to, the performance by THE COMPANY of the provisions of this document.

19.2 THE GOVERNMENT further agrees to indemnify and hold THE COMPANY harmless for any lawsuits brought by third parties arising from, related or pertaining to the SUBSTANCE OF THIS AGREEMENT. THE GOVERNMENT agrees to pay for all attorneys' fees and cost of suit incurred by THE COMPANY in such a lawsuit.

SECTION 20 – Title TO INTELLECTUAL PROPERTY

20.1 The original and all copies of any computer program, modification, correction, or enhancement to any computer program, documentation relating thereto, and all inventions, systems, processes, improvements and patentable ideas, which were or are later conceived by THE COMPANY alone or with others in whole or in part are the sole property of THE COMPANY. All work performed by THE COMPANY now or hereafter under this document or otherwise will not be considered a work for hire, and THE COMPANY will own all copyrights.

SECTION 21 – Attorney's Fees and Costs

21.1 The parties hereby stipulate and agree that in resolving any dispute arising from this Agreement, the party adjudged to be in breach or at fault shall pay the other party's

attorneys' fees and all costs related thereto, subject to the arbitration provisions set forth above. In the event that both parties are adjudged to be in breach, each party shall bear its own attorney's fees and any costs related thereto.

SECTION 22 – Entire Agreement

22.1 This writing is intended by the parties as a final expression of their agreement and as a complete and exclusive statement of its terms. It replaces all prior and simultaneous oral or written agreements. No course or prior dealings between the parties is relevant to supplement or explain any term used in this agreement. Acceptance or acquiescence in a course of performance rendered under or in connection with this document is not to be relevant to determine the meaning of this agreement even though the accepting or acquiescing party has the knowledge of the nature of the performance and opportunity for objection. This agreement may be amended or modified only by written agreement signed by duly authorized representatives of all of the parties hereto. However, Customer bears total responsibility for any legal fees Seller incurs in making any amendments or modifications to this agreement.

SECTION 23 – Hiring of THE COMPANY'S Employees

23.1 THE GOVERNMENT acknowledges that THE COMPANY provides a valuable service by identifying and assigning personnel TO ACCOMPLISH THE SUBSTANCE OF THIS AGREEMENT. THE GOVERNMENT further acknowledges that Customer THE GOVERNMENT receive substantial additional value, and THE COMPANY would be deprived of the benefits of its work force, if THE GOVERNMENT were to directly hire THE COMPANY'S employees.

23.2 Without the prior written consent of THE COMPANY, THE GOVERNMENT shall not, directly or indirectly, solicit, recruit or hire any employee(s) of THE COMPANY until one (1) year after SAID EMPLOYEE HAS INDEPENDANTLY LEFT THE COMPANY'S EMPLOY. In the event of a breach of this section, THE COMPANY, in addition to all its other rights and remedies under this Agreement and at law and equity, shall be entitled to, and THE GOVERNMENT shall pay to THE COMPANY, without defense or counterclaim, two (2) times the annual salary of the employee(s) wrongfully hired.

SECTION 24 – Waiver or Modification

24.1 Neither this Agreement, nor any provision thereof, can be modified or waived in any way, except by an agreement in writing signed by each of the parties affected thereby, expressly consenting to such modification or waiver.

SECTION 25 – Severability

25.1 The parties and signatories HERETO, and each of them, agree and acknowledge that if any portion of this Agreement is declared invalid or unenforceable by a final judgment of any Court of competent jurisdiction, such determination shall not affect

the balance of this Agreement, which shall remain in full force and effect, as such invalid portion shall be deemed severable.

SECTION 26 – Confidential Information

26.1 Definition

THE GOVERNMENT understands and agrees that, during the course of this Agreement, THE GOVERNMENT has received and/or will continue to receive information or material of THE COMPANY, or information or material received in confidence from third parties by THE COMPANY, which is deemed by THE COMPANY in its sole discretion to be confidential, including proprietary information and/or information of a “trade secret” nature. All of such information and material will be referred to herein as the “Confidential Information.” Such Confidential Information can exist in any form, including oral or written statements, information remembered, information stored electronically and information embodied in objects or processes. Such Confidential Information includes any information or material which has not been made available generally to the public and was or is: (i) generated or collected by or utilized in the operations of THE COMPANY and which relates to the actual or anticipated business or research and development of THE COMPANY; or (ii) suggested by or resulting from any task assigned to me or work performed by either THE COMPANY or THE GOVERNMENT during the term of this Agreement or with which THE GOVERNMENT becomes or became familiar during the term of this Agreement. Examples of Confidential Information include, but are not limited to the following:

- 26.1.1 Information about THE COMPANY’S programs, plans and strategies, including THE COMPANY’S business, development, technological, capital investment, marketing, advertising, sales and financial programs, plans and strategies;
- 26.1.2 Information about existing, planned, proposed or developing COMPANY methods, programs, resources, products or services, including design, development, engineering, technology, features, suppliers, systems, combinations, applications, packaging, fees, rates, prices, charges, or internal costs;
- 26.1.3 CUSTOMER or prospect lists, CUSTOMER requirements or preferences or other CUSTOMER data developed or collected by THE COMPANY;
- 26.1.4 Information about contract negotiations or contractual agreements with CUSTOMERS, investors, lenders, producers, suppliers or contractors, including bids, proposals, packages, strategies, plans, costs, prices, profit margins, financing or terms;
- 26.1.5 Financial, account, trading or cost information and projections concerning THE COMPANY WHICH IT has agreed or determined to keep confidential;

- 26.1.6 Information obtained from producers, CUSTOMERS, suppliers or others which THE COMPANY has agreed or determined to keep confidential;
- 26.1.7 Information about COMPANY transactions, including proposed transactions such as projects, purchases, mergers, joint ventures, partnerships, acquisitions or disposition of properties, equipment, assets or stock;
- 26.1.8 Information about other companies, particularly where the value of the securities of other companies is likely to be influenced by actions of THE COMPANY;
- 26.1.9 Information relating to personnel, management changes, human resources and payroll matters, including salary/compensation data.
- 26.1.10 Information relating to any of the terms defined hereinabove.

26.2 Non-Dissemination

THE GOVERNMENT shall not, without THE COMPANY'S prior written permission, disclose to anyone any such Confidential Information, either during or at any time after the term of this Agreement. THE GOVERNMENT shall also guard against inadvertent disclosures, as by discussing such matters where they may be overheard by others, or by mentioning them in casual conversations with others.

26.3 Legal Action

THE GOVERNMENT understands and agrees that THE COMPANY is entitled to legal relief to prevent THE GOVERNMENT from using or disclosing such Confidential Information, and THE GOVERNMENT understands that THE GOVERNMENT may be subject to other civil and/or criminal sanctions.

26.4 Anti-Solicitation

Because of the inseparability of the Confidential Information from this Agreement, THE GOVERNMENT understands and agrees that for a period of at least one year following the termination (for any reason) of this Agreement THE GOVERNMENT shall not (whether acting alone or in concert with others) solicit any of THE COMPANY'S other CUSTOMERS to direct any business or prospective business or income from THE COMPANY or to stop or alter the manner in which such other CUSTOMERS are doing business with THE COMPANY. After the one-year period, THE GOVERNMENT shall remain bound by the other limitations of this Agreement, including those related to disclosure and use of Confidential Information.

26.5 Maintenance of Trade Secrets

THE GOVERNMENT understands and agrees that THE GOVERNMENT has a duty to respect the proprietary information and trade secrets of others. THE GOVERNMENT shall not disclose or cause to be disclosed to THE COMPANY any

trade secrets or other information which THE GOVERNMENT knows to be confidential and proprietary to others.

SECTION 27 – Returning THE COMPANY’S Information Upon Early Termination of Agreement

27.1 THE GOVERNMENT agrees that, should this Agreement be terminated for any reason, THE GOVERNMENT shall deliver to THE COMPANY (and will not keep in THE GOVERNMENT’S possession, recreate or deliver to anyone else) any Confidential Information and any and all devices, records, data, notes, reports, proposals, lists, correspondence, specifications, drawings, blueprints, sketches, materials, equipment, other documents or property, or reproductions of any of the aforementioned items in any form belonging to THE COMPANY, its affiliates, successors or assigns.

SECTION 28 – Liquidated Damages and Injunctive Relief

28.1 THE GOVERNMENT agrees that violation of any of the terms of this Agreement will damage THE COMPANY in such a manner and to such a degree that (a) the amount of damages may be difficult, if not impossible, to ascertain and (b) monetary damages at law may be insufficient to adequately compensate THE COMPANY for the harm done by a breach.

28.2 In the event of a breach of this Agreement by THE GOVERNMENT, THE COMPANY is entitled to require, at its’ sole discretion and election, liquidated damages from THE GOVERNMENT in the amount of _____. This provision is not intended by either party to be punitive in nature, but is rather merely an effort by the parties to fix damages at some readily ascertainable amount. Furthermore, the election by THE COMPANY of these liquidated damages shall not act as a bar to proceeding forward with any other claim for damages, nor shall this election (or an award resulting therefrom) be used or interpreted as a waiver or setoff of any other measure of damages which THE COMPANY, in its’ sole and exclusive discretion, may choose to pursue.

28.3 In the event of a breach of this Agreement by THE GOVERNMENT, THE COMPANY is further entitled to any form of injunctive relief it may seek, including, but not limited to, temporary restraining orders and/or preliminary injunctions. In seeking such injunctive relief, THE COMPANY is not required to produce any evidence of actual or potential damage or harm, as such damages are stipulated to herein by THE GOVERNMENT. Similarly, In seeking such injunctive relief, THE COMPANY is not required to produce any evidence of actual or potential breach beyond a claim for said breach unto itself.

SECTION 29 – Narrowing of Overbroad Clauses

29.1 If any provision of this Agreement shall be determined, under applicable law, to be overly broad in duration, substance, scope, or otherwise, such provision shall be deemed narrowed to the broadest term permitted by applicable law and shall be enforced as so narrowed.

SECTION 30 – Warrantees and Representations

30.1 Sole Authority to Execute

Each party hereto expressly warrants and represents that as of the date of this Agreement, they have the sole right and authority to execute this Agreement on their own behalf and on behalf of their representatives or those they represent, and that they have not sold, assigned, transferred, conveyed, or otherwise disposed of any claim or demand relating to any rights surrendered by virtue of this Agreement.

30.2 Legal Competence

Each party hereto expressly warrants and represents that the person executing this Agreement on his, her or its behalf is legally competent to and is authorized to enter into this Agreement and to bind said party to his, her or its representations, terms, conditions and covenants as set forth herein.

30.3 Transfer or Assignment

The Parties represent and warrant that they have not sold, assigned or otherwise transferred any claims or rights settled or released pursuant to this Agreement. The Parties further represent and warrant that they shall not, at any time in the future, attempt to sell, assign or otherwise transfer any claims or rights settled or released pursuant to this Agreement. The Parties further agree that any such sale, assignment or other transfer constitutes a modification of this Agreement, which modification is void without the written assent of both Parties.

SECTION 31 - Assumption of Risk

31.1 In entering into this Agreement, each party assumes the risk of any misrepresentation, concealment, or mistake except for the representations and statements expressly made in this Agreement. If any party should subsequently discover that any fact relied upon by him, her or it in entering into this Agreement is untrue, or that any fact or facts were concealed from him, her or it, or that his, her or its understanding of the facts or of the law was incorrect, or that the law presently in effect has changed in a manner which would otherwise affect such party's rights, such party shall not be entitled to any relief whatsoever in such connection or otherwise, including, without limitation on the intended generality of the foregoing, any alleged right or claim to set aside or rescind this Agreement. This Agreement is intended to be and is final and binding between the parties, regardless of any claims of fraud, misrepresentation, promise made without the intention of performing, concealment of fact, mistake of fact or law, change of law, or of any other circumstance.

SECTION 32 – Sufficiency, Mutuality and Receipt of Consideration Acknowledged

32.1 The parties hereby stipulate, acknowledge and agree that the consideration had and received for this Agreement is sufficient, mutual, and has been received by the parties.

SECTION 33 – Due Diligence

33.1 Each party to this Agreement represents and warrants to all other parties to this Agreement that he, she or it has investigated the facts pertaining to the dismissal set forth herein, and of all matters pertaining thereto, as he, she or it deems necessary.

SECTION 34 – Cooperation in Drafting

34.1 Each party has cooperated in the drafting and preparation of this Agreement. Hence, in any construction of this Agreement, it shall not be construed against any party.

SECTION 35 – Binding on Successors and Assigns

35.1 This agreement and the promises and covenants herein shall be binding on, inure to the benefit of, and be enforceable by any and all predecessors, heirs, beneficiaries, successors, assigns and transferees of each of the Parties hereto.

SECTION 36 – Excusable Delays

36.1 Neither party shall be considered to be in default hereof or liable for any delay, failure in performance, or interruption of service resulting directly or indirectly from acts of God, civil or military authority, civil disturbance, declared or undeclared war, strikes, labor unrest, fires, catastrophes, delays in transportation, inability to obtain labor, materials, failures of suppliers, or any event beyond its reasonable control.

APPENDIX I TO SCHEDULE I

PAGE I

abcSat SYSTEM and GROUND STATION SERVICES

Control Facility includes the systems necessary to:

manage the spacecraft and telecommunication system of abcSat;

sustain the up and down link communication carriers of abcSat .

For the former requirement, the following systems are necessary:

Ground station for Tracking, Telemetry and Command (TT&C));

Network Operations Center (NOC)

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SAMPLE