



Mutual Proprietary Information Agreement

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This Mutual Proprietary Information Agreement ("**Agreement**"), effective as of the date of last signature (**Effective Date**), is by and between **Antenna Research Associates, Inc.** ("**ARA**"), a Texas corporation having its principal place of business at 8880 Gorman Road, Laurel, MD 20723 and ("**Insert Company Name Here**"), having its principal place of business at _____, and both parties' affiliates and subsidiaries. Hereinafter, ARA and _____ may be collectively referred to as the "**Parties**" or individually referred to as "**Party**".

WHEREAS, each Party desires to disclose to the other Party certain Proprietary Information for the sole purpose of including but not limited to, systems and applications software design and programming; systems analysis and design; and related hardware, software and mechanical services, relating to _____ and such information may not be used or disclosed for any other purpose including, but not limited to, through any joint proposal or subsequent contractual relationship. (hereinafter, "**Purpose**"); and

WHEREAS, the Parties agree to receive and exchange Proprietary Information in the form of discussions will be protected from unauthorized use and disclosure of the other subject to the terms of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth below, the Parties agree as follows:

1. Definitions

1.1. **Affiliates** mean: Any current or future subsidiary of a party, or any other entity that is controlled by a party or which controls a party. The term "control" shall mean direct or indirect ownership of at least fifty percent (50%) of the voting equity of another entity (or other comparable interest for an entity other than a corporation), or the power to direct or cause the direction of the management or policies of an entity whether through ownership of securities, by contract or otherwise.

1.2. **Proprietary Information** means: all intellectual property, inventions, technology, applications, and activities, Each related to or arising from **devices, designs, material and manufacturing, including, without limitation:** properties, processes, systems, formulations, compositions, techniques, methodologies, discoveries, inventions, ideas, concepts, specifications, drawings, blueprints, tracings, diagrams, models, prototypes, samples, flow charts, equipment, materials, data, computer programs, software, designs, intellectual property and all information related thereto such as intellectual property strategies, patents, patent positioning, trademarks, trade secrets, know-how, and licensing arrangements, business plans and all information related thereto such as financial information, marketing plans, feasibility studies, partnering arrangements, business relationships, projects, products, supplier lists, actual and potential customer lists, and marketing/research and development activities, Each Party represents that it possesses competitively valuable proprietary and confidential information which is not generally available to the public, and which the Party desires to protect against disclosure or competitive use. Notwithstanding the foregoing, the Parties agree that any suggestions, comments or feedback provided by one Party to the other regarding the receiving Party's products and services, even if designated as Proprietary Information, shall not, absent a separate written agreement entered into by the Parties, impose any obligation or limitation on use or disclosure by the Party receiving such suggestions, comments or feedback.



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- 1.3. **Sensitive Information** means any information that is collected, processed, maintained, used, shared or disseminated in connection with the Agreement that warrants protection to ensure its confidentiality, integrity and availability, including but not limited to, Covered Defense information as defined in DFARS 252.204-7012, and Controlled Unclassified Information (CUI) defined in the National Archives and Records Administration (NARA) Registry. CUI is information the Government creates or possesses, or that an entity creates or possesses for or on behalf of the Government, that a law, regulation, or Government-wide policy requires a Party to handle using safeguarding or dissemination controls.
- 1.4. **Use of the Term “Confidential”** in this Agreement is not to be misconstrued as referring to classified information. Information classified pursuant to E.O. 12958 by an original classification authority and designated and marked as TOP SECRET, SECRET or CONFIDENTIAL is to be handled in accordance with the National Industrial Security Program Operating Manual (NISPOM). The Parties will handle, disclose, mark and use classified information in accordance with the NISPOM and any other applicable security laws or regulations.
2. **Form and Markings of Proprietary Information.** The furnishing party shall identify Proprietary Information disclosed hereunder as follows: (a) documents and other tangible materials shall be marked “Proprietary” or with a similar restrictive legend. Any oral or visual disclosure of Proprietary Information shall be identified as such by the disclosing Party at the time of disclosure, reduced to writing in summary form, marked as “Proprietary” or with an equivalent legend, and delivered to the receiving Party within fifteen (15) days thereafter following the original disclosure.
3. **Basic Safeguarding Controls.** The Parties shall apply reasonable and appropriate administrative, technical, physical, organizational and operational safeguards and operations to protect Sensitive Information (including Covered Defense Information and Controlled Unclassified Information) against accidental and unlawful destruction, alteration and unauthorized or improper disclosure or access regardless of whether such Sensitive Information is on a Party’s internal systems or a cloud environment, in accordance with Basic Safeguarding Controls from FAR 52.204-21 or DFARS 252.204-7012.
4. The receiving Party may disclose Proprietary Information only to those of its employees, representatives, contractors or advisors who have a definable need to know such Proprietary Information and who are under similar obligation of confidentiality at least as restrictive as recited in this Agreement. The primary points of contact for the Parties to exchange Proprietary Information are as follows:

Antenna Research Associates, Inc.

INSERT COMPANY NAME HERE

Name:

Name:

Title:

Title:

Phone:

Phone:

Email:

Email:

Each Party may change its designation by written notice to the other.



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5. During the term of this Agreement, the Parties agree to not reverse engineer, decompile, disassemble, modify, adapt, translate or otherwise alter in any way, any prototype, product, sample, software, schematic, flowchart or other tangible objects which embody the Proprietary Information nor to analyze chemically, electronically, electromagnetically or mechanically, permit another to analyze, or in any way attempt to determine the composition or structure of any samples unless such analysis is expressly authorized in writing by the disclosing Party; and not to provide third Parties with samples belonging to the disclosing Party or any Party thereof (Affiliates not to be treated as third parties). In relation to any samples provided by the disclosing Party to the receiving Party, the receiving Party agrees to store the same in a secure place clearly marked as the property of disclosing Party.
6. **Use and Disclosure of Proprietary Information.** The receiving Party agrees any Proprietary Information disclosed hereunder:
 - (i) shall be used by the receiving Party solely for the Purpose of this Agreement,
 - (ii) shall not be distributed, disclosed or disseminated to any third party (except as provided for in this Agreement),
 - (iii) shall only be disclosed to the receiving Party's employees, contract workers and Affiliates on a need-to-know basis for the Purpose of this Agreement, and
 - (iv) shall only be disclosed to third parties with the consent of the disclosing Party and second, provided that (a) such third party has executed a proprietary information agreement with the disclosing Party or (b) such third party executes a proprietary information agreement with the receiving Party containing terms consistent with the requirements herein prior to receiving such information and also containing a provision making the disclosing Party a third party beneficiary to such agreement or (c) if to the U.S. Government or other government, any such disclosure shall require that the Proprietary Information be indicated as such with its original markings to the extent practical and with any other restrictive legends necessary to preserve its confidentiality specified in U.S. Government regulation or the regulations or procedures of any other government.
7. **Exceptions to the Non-Use & Non-Disclosure Obligations.** This Agreement imposes no obligations on Proprietary Information disclosed where the receiving Party can establish that such Proprietary Information (a) is already in possession of the receiving Party at the time of the disclosure by the disclosing Party; (b) is rightly obtained without restriction by the receiving Party from a third party that is not under any obligation of confidentiality or non-use in connection therewith; (c) is generally available to the public or becomes publicly known other than through the fault or negligence of the receiving party; (d) is released without restriction by the disclosing party to anyone, including the United States Government; or (e) is independently developed by the receiving Party without reference to or reliance on the Proprietary Information.
8. **Ownership of Proprietary Information.** Nothing in this Agreement shall be construed as granting, expressly or by implication, to the receiving Party any right or license to any inventions, patent rights, copyrights, trademarks or other intellectual property rights of the disclosing Party. Nothing in this Agreement grants the disclosing Party the right to retain, distribute or commercialize any Proprietary Information.



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9. **Protection Period.** Any Proprietary Information disclosed shall be protected by the receiving Party for a period of five (5) years from the expiration or termination date of this Agreement by using the same degree of care, but not less than a reasonable degree of care, to prevent the unauthorized use, dissemination or publication of such Proprietary Information as the receiving Party uses to protect its own proprietary information of a like nature from unauthorized use, dissemination, or publication.
10. **Unauthorized Release.** The receiving Party acknowledges and agrees that due to the unique nature of the disclosing Party's Proprietary Information, there can be no adequate remedy at law for any breach of its obligations hereunder, that any such breach may result in irreparable harm to the disclosing Party, and, therefore, that upon any such breach or any threat thereof, the disclosing Party shall be entitled to seek appropriate equitable relief in addition to remedies it might have at law. The receiving Party shall notify the disclosing Party in writing immediately upon the occurrence of any unauthorized release of Proprietary Information, whether inadvertent or otherwise, and shall use reasonable efforts to prevent or limit any further dissemination of such Information. Each Party shall bear all costs and expenses incurred by it under or in connection with this Agreement, including any attorney's fees. Notwithstanding the above, if unauthorized disclosure is caused by the willful, wanton or reckless manner of the receiving Party, or in otherwise bad faith with treatment of the disclosing Party's proprietary information, the disclosing Party is entitled to damages and recovery of attorney's fees, and the limitation of liability does not apply.
11. **Legal Disclosure.** In the event a receiving Party is required by judicial process to disclose Proprietary Information, the receiving Party shall notify the disclosing Party with prompt written notice of such request or requirement, to the extent legally permissible. The receiving Party will only disclose the minimum information required to be disclosed, whether or not the disclosing Party seeks or obtains such protective order or other relief and shall use commercially reasonable efforts to obtain confidential treatment for any Proprietary Information that is legally required to be disclosed to the extent permitted under applicable law.
12. **Export Control.** The Parties hereby acknowledge receipt of notice that some or all of the information, data, or other material provided or exchanged pursuant to this Agreement may be technical data within meaning of the International Traffic in Arms (ITAR) regulations, 22 CFR sections 120 – 130, or the Export Administration Regulations (EAR), 15 CFR sections 768 – 774. Accordingly, the Parties shall not disclose, provide or export such information to any foreign person or entity, whether within the U.S. or abroad, without obtaining appropriate export authorization in advance. Each Party acknowledges that an intentional violation of such export requirements may constitute a crime and therefore agrees to indemnify the other Party for any and all damages that may result from such a violation. Each Party agrees that it will not bring export-controlled materials, as defined in this Section, onto the other Party's premises or pass such materials to any of the other Party's personnel without first informing the receiving Party and receiving its written consent and agreeing to specific procedures relating thereto.
13. **Return of Proprietary Information.** (a) Upon written request by disclosing Party, receiving Party will promptly return to disclosing Party (with written confirmation of such destruction) or destroy at the disclosing Party's expense, disclosing Party's Proprietary Information and all copies and extracts of it and shall discontinue any further use of the disclosing Party's Proprietary Information Notwithstanding the foregoing: (i) receiving Party may retain one (1) copy of disclosing Party's Proprietary Information in its confidential files solely for record purposes to ensure compliance with receiving Party's continuing



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obligations hereunder, and provided that such copy will remain confidential pursuant to the terms of this Agreement; and (ii) receiving Party will not be required to return to disclosing Party or destroy those copies of disclosing Party's Proprietary Information that were stored on receiving Party's backup, disaster recovery or business continuity systems in the ordinary course of receiving Party's business. (b) If proprietary information is included in the submission of a proposal by one of the Parties, the receiving Party may retain copies of the proposal for its internal use, including the Proprietary Information of the disclosing Party. Information shared under this Agreement may be used in a proposal and submission of the proposal will not constitute sharing Proprietary Information with a third party. The Parties understand that copies of such proposals may be retained by customers to whom they were submitted.

14. **Term and Termination.** Unless terminated earlier, this Agreement shall expire three (3) years from the Effective Date of this Agreement. This Agreement may be terminated earlier by any Party upon thirty (30) days' written notice to the other Party. However, expiration or termination shall not affect the rights and obligations of the Parties hereunder with respect to Proprietary Information disclosed prior to the effective expiration or termination date.
15. **No Partnership.** The Parties do not intend that any agency, joint venture, or partnership relationship be created between them by this Agreement. Nothing herein shall be construed as an obligation or commitment by either Party to share in the profits or losses arising out of the efforts of either Party.
16. **Assignment.** Neither Party may assign or transfer its rights or obligations contained herein without prior written consent of the other Party, which consent shall not be unreasonably withheld. This Agreement shall benefit and be binding upon the successors and assigns of the Parties hereto.
17. **No Warranty.** Each Party warrants that it has the right to disclose Proprietary Information under this Agreement. ALL PROPRIETARY INFORMATION IS PROVIDED "AS IS, WHERE IS." NEITHER PARTY MAKES ANY WARRANTIES, EITHER EXPRESS OR IMPLIED, REGARDING THE ACCURACY, COMPLETENESS, OR PERFORMANCE OF ITS PROPRIETARY INFORMATION, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NONINFRINGEMENT.
18. **Governing Law.** This Agreement is made under and shall be governed by and construed and enforced according to the laws of the State of Maryland, excluding from such law the rules regarding choice of law or other principles that would cause the application of the laws of any jurisdiction other than the laws of Maryland. Both Parties hereby submit to the jurisdiction and venue of any state or federal court located in the state of Maryland.
19. **Use of Name.** A Party will not refer to this Agreement, or to any related activity or relationship contemplated hereunder with the other Party, nor use the name of the other Party for any promotional purpose or in any news release, on any website, or in any public announcement without the prior written approval of the other Party.
20. **Communications.** All additions or modifications to this Agreement must be made in writing and must be signed by both Parties. All notices, requests, claims, demands and other communications under this Agreement shall be in writing and shall be given or made by delivery in person, by overnight courier service, by electronic transmission with receipt confirmed, or by registered or certified mail (postage prepaid, return receipt requested) to the respective Party at the following addresses:



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Antenna Research Associates, Inc.

Insert Company Name Here

Noel Marie Burgoa

267 Boston Road

N. Billerica, MA 01862

Phone: 978-495-5302 Fax: 978-495-5310

Phone:

Email: nburgoa@ara-inc.com

Email:

21. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement. Counterparts may be delivered via e-mail delivery of a portable document format (.pdf), including electronic signature complying with the U.S. E-Sign Act of 2000 (e.g., www.docusign.com). Additionally, the parties agree that email copies of this Agreement are considered to be a legal original, and signatures thereon shall be legal and binding Agreement.
22. **Entire Agreement.** This Agreement supersedes all prior discussions and writings with respect to the subject matter hereof and constitutes the entire agreement between the Parties with respect to the subject matter hereof. This Agreement cannot be changed in any respect except as agreed in a writing of subsequent date that is duly executed by authorized representatives of all Parties.

(SIGNATURE PAGE FOLLOWS)



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IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as set forth below.

Antenna Research Associates, Inc.

INSERT COMPANY NAME:

Name: Noel Marie Burgoa

Name:

Title: Director, Contracts and Security

Title:

Signature: _____

Signature: _____

Date: _____

Date: _____