



SMARTSKY
NETWORKS®

SMARTSKY NETWORKS, LLC

MUTUAL NONDISCLOSURE AGREEMENT

This MUTUAL NONDISCLOSURE AGREEMENT (the "Agreement") is made the _____ day of _____, 2020, between SmartSky Networks, LLC ("SSN"), located at 430 Davis Drive, Suite 350, Morrisville, NC 27560 and _____, located at _____.

1. Purpose. The parties hereto wish to explore a business possibility under which each may disclose its Confidential Information to the other.

2. Definition. "Confidential Information" means any information, technical data, or know-how, that relates to the business of the parties hereto including, but not limited to business contacts, respective product candidates, study results, research, product plans, products, services, customers, markets, software, developments, inventions, processes, designs, drawings, marketing or finances, which Confidential Information is designated in writing to be confidential or proprietary, or if given orally, is confirmed promptly in writing as having been disclosed as confidential or proprietary. Confidential Information does not include information, technical data or know-how that (i) is in the possession of the receiving party at the time of disclosure as shown by the receiving party's files and records immediately prior to the time of disclosure, or (ii) prior or after the time of disclosure becomes part of the public knowledge or literature, not as a result of any inaction or action of the receiving party, or (iii) is approved by the disclosing party, in writing, for release; or (iv) the receiving party is required to disclose pursuant to a valid order of a court or other governmental body; provided, however, that the receiving party shall first have given notice to the disclosing party and shall give the disclosing party a reasonable opportunity to interpose an objection or obtain a protective order requiring that the Confidential Information so disclosed be used only for the purposes for which the order was issued. Without limiting the generality of the foregoing, Confidential Information includes any reports or documents created by the receiving party that include, summarize or refer to the disclosing party's Confidential Information disclosed hereunder ("Reports"). Notwithstanding the failure to mark information as confidential, it is expressly agreed between the parties that the following information will be deemed to be Confidential Information, whether or not marked as such: the capabilities, technical descriptions, results and other information relating to either party's product candidates or efficacy studies; the marketing and promotion plans of each party's products or services; either party's financial information and business practices or policies; and each party's customer lists and customer information.

3. Nondisclosure of Confidential Information. The parties hereto agree not to use the Confidential Information disclosed to it by the other party (or Confidential Information disclosed to it by a third party) for its own use or for any purpose except to carry out discussions concerning and the undertaking of any business relationship between the two. Neither will disclose the Confidential Information of the other to third parties or to the receiving party's employees except (a) employees and contractors ("Contractors") who are required to have the information in order to carry out the contemplated business and are subject to a non-disclosure agreement with the receiving party and (b) potential financing sources for SSN who are subject to a non-disclosure agreement with SSN. Each has had or will have employees and contractors to whom Confidential Information of the other is disclosed, or who will have access to Confidential Information of the other. The receiving party will inform its employees and contractors of the terms of this Agreement and will instruct its respective employees and contractors to comply with the requirements of this Agreement. The receiving party shall be responsible for any breach of this Agreement by its employees or contractors. Notwithstanding the foregoing, persons or entities who are engaged in a business that competes with SSN (including, without limitation, any business engaged in designing, constructing, operating, or servicing an air to surface, surface to air, or air to air broadband communications network (for purposes of this Agreement, "surface" shall include both land and sea) or providing products or services related to such broadband communications network) and affiliates of such persons including, without limitation, Gogo, Inc., Inmarsat PLLC, ViaSat, Inc., Iridium Communications Inc., Global Eagle Entertainment Inc., Panasonic Corporation, Panasonic Avionics

Corporation, Thales SA, and any of their affiliates (collectively “SSN Competitors”) are not included in the definition of Contractors”) and no disclosure of Confidential Information will be made to any such SSN Competitors. Each agrees that it will take all reasonable measures to protect the secrecy of and avoid disclosure or use of Confidential Information of the other in order to prevent it from falling into the public domain or the possession of persons other than those persons authorized hereunder to have any such information, which measures shall include the highest degree of care that the receiving party utilizes to protect its own Confidential Information of a similar nature. Each party agrees to notify the other in writing of any misuse or misappropriation of Confidential Information of the other that may come to its attention.

4. Export Control. Each receiving party understands that no technical data and/or technology which would require U.S. export licensing shall be furnished to it by the disclosing party unless the disclosing party has obtained the necessary export licenses issued by the applicable United States Government agency, prior to making the disclosure. Furthermore, each receiving party represents and warrants that, to the extent that licensed technical data, and/or technology is furnished by the disclosing party, it shall not be disclosed by receiving party to any third party not covered under the terms of the U.S. Government export license. Each receiving party shall indemnify and hold the disclosing party harmless for all claims, demands, damages, costs, fines, penalties, attorney’s fees, and all other expenses arising from failure of the receiving party to comply with applicable U.S. export control laws and regulations as stipulated by the disclosing party. Specifically, the disclosing party shall provide the receiving party with all relevant information including but not limited to the export control classification and jurisdiction of all technical data and/or technology exchanged and shall appropriately mark all technology and technical data prior to exchange. Nothing herein shall compel disclosing party to furnish any technical data and/or technology. Under no circumstance shall any party disclose, “release” or “export” as these terms are defined under the Export Administration Regulations (“EAR”) and the International Traffic in Arms Regulations (“ITAR”) controlled Technical Data and/or Technology to those designated under U.S. law as denied parties or to individuals who are solely the nationals of a country that is embargoed or sanctioned under U.S. law. Under no circumstances will U.S. classified technical data and/or technology be exchanged under this NDA.

5. Return of Materials. All Confidential Information furnished by one party to the other, and all Reports regarding such, will be promptly provided to the disclosing party, accompanied by all copies, after the business possibility has been rejected or concluded, except that the receiving party may keep a copy of its Reports and any written or electronic materials or documents containing Confidential Information in its files solely for the purpose of ensuring its compliance with this Agreement if it so notifies the disclosing party in writing.

6. No License. Nothing in this Agreement is intended to grant any rights under any patent or copyright of either party, nor shall this Agreement grant either party any rights in or to the other party's Confidential Information, except the limited right to review such Confidential Information solely for the purposes of determining whether to enter into the proposed business relationship between the parties.

7. Term. This Agreement may be terminated by either party at any time upon notice to the other party. The receiving party's obligations hereunder shall survive the termination of this Agreement and continue in full force and effect for three (3) years from the last date of disclosure of Confidential Information, except for information designated as a “trade secret”, for which the foregoing commitments shall remain in place as long as the applicable Confidential Information retains its status as a trade secret.

8. Miscellaneous. This Agreement shall be binding upon and for the benefit of the undersigned parties, their successors and assigns, provided that Confidential Information may not be assigned without the prior written consent of the disclosing party. Failure to enforce any provision of this Agreement shall not constitute a waiver of any term hereof.

9. Governing Law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of North Carolina, excluding that body of law known as choice of law, and shall be binding upon the parties hereto in the United States and worldwide. All disputes with respect to this Agreement shall be brought and heard either in the North Carolina state courts located in Wake County, North Carolina, or the Federal District Court for the Eastern District of North Carolina located in Wake County, North Carolina. The parties to this Agreement each consent to the *in personam* jurisdiction and venue of such courts. The parties agree

that service of process upon them in any such action may be made if delivered in person, by courier service, by telefacsimile or by first class mail, and shall be deemed effectively given upon receipt.

10. Remedies. Each party agrees that its obligations hereunder are necessary and reasonable in order to protect the other party and the other party's business, and expressly agrees that monetary damages would be inadequate to compensate the other party for any breach of any covenant or agreement set forth herein. Accordingly, each party agrees and acknowledges that any such violation or threatened violation will cause irreparable injury to the other party and that, in addition to any other remedies that may be available, in law, in equity or otherwise, the other party shall be entitled to obtain injunctive relief against the threatened breach of this Agreement or the continuation of any such breach, without the necessity of proving actual damages.

SMARTSKY NETWORKS, LLC

By: _____

Name: Richard C. Rowlenson

Title: Vice President

By: _____

Name: _____

Title: _____