

# Mutual Non-Disclosure Agreement

Between

Aero Business Development, LLC, ADS-B Global, LLC and Forrest W. Colliver

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This Non-Disclosure Agreement (“Agreement”) is made between Aero Business Development LLC, a United States of America company with a principal place of business located at 33210 North 12<sup>th</sup> Street, Phoenix, Arizona USA 85085, hereinafter referred to as “AeroBD”; ADS-B Global LLC, a Michigan company with a principal place of business located at 866 Washtenaw Drive NE, Grand Rapids, Michigan USA 49505, hereinafter referred to as “ADS-B Global”, and Forrest Colliver with a principal residence at 2 rue Schweighaeuser, Strasbourg, France 67000, hereinafter referred to as “FWC” and all jointly and separately hereinafter referred to as “Parties” or “Party”.

## 1. **PURPOSE:**

The purpose of this Agreement is to allow each Party to discuss, evaluate and disclose certain Proprietary Information related to the creation of and operation of a proposed entity, The Grey Group, LLC.

## 2. **PROPRIETARY INFORMATION RIGHTS AND OBLIGATIONS:**

During said discussion the Parties desire to disclose to the other information relating to such designs, specifications, ideas and concepts, technical, marketing, operating, performance, cost, business pricing policies, programs, inventions, discoveries, trade secrets, techniques, processes, source code, unlinked object modules, computer programming techniques, and all record bearing media containing or disclosing such information and techniques disclosed pursuant to this Agreement of which are confidential, for the limited purposes provided for herein (“Proprietary Information”)

- a. Proprietary Information that is to be accepted in a confidential relationship and treated as Proprietary Information, shall be disclosed in a tangible form and in storage media, which shall be conspicuously marked as being “Private,” “Proprietary,” or by any other appropriate legend clearly indicating the proprietary nature of the information, either on the Proprietary Information itself, or on the container or media therefore.

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- b. Proprietary Information, if first disclosed in a non-written or other non-tangible form, shall be identified by the disclosing party at the time of disclosure as being disclosed in confidence, shall be reduced to tangible form and marked in accordance with this section, and such tangible form shall be delivered to the Party identified above within twenty (20) working days after the date of first disclosure. During the above the stated 20-day period, such Proprietary Information shall be protected in accordance with the terms of this Agreement.
- c. Proprietary Information that is disclosed pursuant to this Agreement shall not be used other than for the purpose submitted, or disclosed to any third party, unless authorized in writing by the disclosing Party.
- d. Upon receiving Proprietary Information from the disclosing Party, recipient shall use at least the same degree of care that it uses in protecting its own information, but not less than reasonable care. Recipient agrees that each employee having access to Proprietary Information to the other Party to this Agreement, shall be on a "need-to-know" basis.
- e. If the receiving Party makes any copies, extracts, summaries, or digests of the Proprietary Information (including computer entries), the receiving Party shall ensure that appropriate legends are affixed thereto.

### **3. AGREEMENT AND CONFIDENTIALITY TERMS:**

This Agreement shall terminate after the period of time specified below, from the date of last execution of this Agreement by the Parties except that either Party upon thirty (30) days written notice to the other Party, may terminate this Agreement.

The obligations and rights under this Agreement shall continue for a term of seven (7) years from the last date of execution for Confidential Information other than source code and twenty (20) years after termination with regard to any source code that is Confidential Information. The obligation of non-disclosure and non-use hereunder shall continue for the above periods notwithstanding any termination of project or purpose set forth above.

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## **4. PROTECTION LIMITATIONS:**

It is acknowledged by the Parties, that when any portion of such Proprietary Information falls within any of the following provisions, such portion of such Proprietary Information is released from the protection provided under this Agreement from the date such provision becomes effective:

- a. Proprietary Information which is or becomes part of the public domain without breach of this Agreement;
- b. Proprietary Information which is subsequently received from a third party who did not obtain, nor disclose such information in violation of any rights of the disclosing Party;
- c. Proprietary Information which is already known to a Party, which is substantiated by reasonable written evidence;
- d. Proprietary Information which is publicly disclosed with the prior written approval of the Party that owns or controls the information; or
- e. Proprietary Information which was independently developed by an employee of the receiving Party, who did not have access to the disclosed information, and the independent development, is substantiated by reasonable evidence.

## **5. JUDICIAL ORDER:**

Notwithstanding the foregoing, nothing in this Agreement shall restrict the right of either Party to this Agreement, from disclosing such Proprietary Information pursuant to a judicial order issued by a court of competent jurisdiction, or other valid and binding court order for discovery, but only to the extent so ordered, provided, however, that the Party so ordered shall notify the other Party to this Agreement, in writing, of such order in sufficient time to permit adequate time for response by the affected Party. The receiving Party shall provide all reasonable assistance, at the disclosing Party's expense and direction, in opposing such disclosure order.

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## **6. TERMINATION PROVISIONS:**

All such Proprietary Information and copies, extracts, summaries, or digests (including computer retained format) thereof shall remain the property of the disclosing Party. All obligations to maintain confidentiality shall survive termination under this Clause six (6) of the Agreement. All such Proprietary Information shall be returned to the disclosing Party upon the first of the following events to occur:

- a. Within thirty (30) days after termination of this Agreement under this clause;
- b. Upon completion of the purpose(s) for which is was submitted;
- c. Upon the determination by a Party that received information that is no longer desired to possess such Proprietary Information; or
- d. Upon breach of any of the obligations of this Agreement, wherein such Proprietary Information, and all copies thereof, shall be returned to the Party that owns or controls the Proprietary Information within thirty (30) days of written demand by such Party.

## **7. EXPORT COMPLIANCE REGULATIONS:**

The Proprietary Information disclosed by either Party may include United States ("U.S.") origin technical data. Accordingly, the receiving Party is responsible for complying with, and assures the disclosing Party that the receiving Party will comply with all export regulations of the U.S., including the U.S. Department of State International Traffic In Arms Regulations ("ITAR"), the U.S. Department of Commerce Export Administration Regulations ("EAR"), and any other U.S. Government regulation applicable to the export, re-export, whether within, or without, the U.S., including those employed by, or otherwise associated with, the receiving Party. This duty of compliance does not expire with the expiration of the terms of this Agreement, or the period of confidentiality determined above.

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## 8. **GENERAL PROVISIONS:**

- a. No license, right, title, or interest in, or to any patent, trademark, mask, work, copyright, service mark, or any other intellectual property right, is granted or implied by disclosure of, or access to such, Proprietary Information disclosed under this Agreement. Each Party warrants that it has the lawful, unqualified right to transfer, use, or otherwise to disclose information transmitted under this Agreement. No warranties, express, or implied at law or in equity, are intended or deemed to arise by virtue of entering into or performing under the terms of this Agreement.
- b. In the event of breach of the terms of this Agreement, the failure of a Party to enforce any right granted under this Agreement, shall not be deemed a waiver of any right hereunder. The invalidity in whole, or in part, of any provision of this Agreement shall not affect the validity of any other provision contained herein.
- c. At all times, the Parties shall remain independent contractors, with each responsible for its own employees and representatives. This agreement is not intended to be, nor shall it be construed as, a joint venture, partnership or other formal business organization, and neither party shall the right or obligation to share any of the profits, or bear the losses, risks or liabilities of the other Party by virtue of this Agreement. Neither Party to this Agreement is authorized to act for, or on behalf of the other Party, nor to bind or, otherwise commit the other Party to any contract, or other matter.
- d. All transactions contemplated by this Agreement shall be governed by the laws of the State of Arizona, without regard to the principles of choice of law. All disputes arising out of or in connection with this Agreement shall, unless amicably settled between the Parties, be finally settled by arbitration according to the Rules of American Arbitration Association ("Rules") by three arbitrators in accordance with said Rules. The seat of arbitration shall be Phoenix, Arizona. The procedural law of this place shall apply where the Rules are silent. The arbitration proceedings shall be conducted in English.
- e. Neither Party may assign its rights or delegate its duty or obligation under this Agreement without prior written consent of the other Party.

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- e. This Agreement supersedes all previous understanding between the Parties with respect to the subject matter of this Agreement.
- f. Any modification, amendment or supplement of this Agreement shall not be binding unless it is in writing and signed by an authorized representative of the Parties.
- g. This Agreement may be executed in counterparts and transmitted electronically, or by facsimile, and all such counterparts shall together constitute one and the same instrument.

**IN WITNESS WHEREOF**, the Parties hereto have caused this Agreement to be executed by their duly authorized representative, as of the date listed below:

**Aero Business Development, LLC**

**ADS-B Global, LLC**

\_\_\_\_\_  
Signature  
Managing Partner

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**Forrest W. Colliver**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

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