



## BILATERAL CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT (ITAR Compliant)

This Confidentiality and Non-Disclosure Agreement is entered into between SkyPort IT, Inc., having its principal place of business located at 900 Jefferson Road P9 Rochester, NY 14623, USA and (hereinafter called “Company”) and \_\_\_\_\_, a contractor/customer/vendor.

1. **PURPOSE:** SkyPort IT wishes to provide computer and IT services to \_\_\_\_\_ (the “Purpose”). The parties hereby confirm that in connection with the Purpose, each party may provide the other with certain information relating to its business which it deems confidential and proprietary. Each party agrees that all such information provided to it (which is defined as “Confidential Information” in the next paragraph) shall be held confidential as provided in this Agreement.
  
2. **DEFINITION:** “Confidential Information” means all confidential and proprietary information relating to the business of a party belonging to or and may include, but is not limited to, information embodied in designs, product descriptions, part descriptions, data, reports, recommendations, plans, proposals, financial information and other documents of every description. Information relating to a party's customers or vendors or its existing or proposed products, research and development, software, services or marketing plans is also “Confidential Information.” “Confidential Information” may include information in both oral and written form, or contained in any other type of storage medium. “Confidential Information” does not, however, include any information which either (a) is independently developed by the recipient without violation of the legal rights of the disclosing party, (b) is legally known to the recipient at the time of receiving it, (c) is or becomes part of the general public or industry knowledge, through no act or failure to act on the recipient, or (d) is lawfully furnished to the recipient by a third party.
  
3. **NON-DISCLOSURE OF CONFIDENTIAL INFORMATION:** Each party agrees that it will not use Confidential Information for any purpose other than (a) to evaluate whether it desires to become engaged with the other party in the Purpose and/or (b) if the parties are presently so engaged or later become so engaged, to further such business relationship. Each party agrees not to disclose Confidential Information to any third party without the prior written consent of the owner. Each party agrees that it will protect the confidentiality of, and take all reasonable steps to prevent the unauthorized disclosure or use of, the Confidential Information. The recipient shall not disclose the Confidential Information to any person or entity other than for the Purpose. If consistent with the Purpose, the Confidential Information may be disclosed to the recipient's employees or consultants who need to know the Confidential Information and who agree to keep such information confidential and to be bound by this Agreement to the same extent as if they were parties thereto. In all events, the recipient shall be responsible for any improper use or disclosure of the Confidential Information by its employees or consultants. Each party agrees and warrants that the Confidential Information shall not be disclosed or made available to non-US citizens. Upon written request by the disclosing party, the recipient shall immediately supply the disclosing party with a list showing the names and addresses of all persons to whom Confidential Information has been given and the details of the

Confidential Information so given. Each party will advise the other party in writing of any misappropriation or misuse by any person of Confidential Information as soon as the recipient becomes aware of such misappropriation or misuse.

4. **MATERIALS:** No right or license in the Confidential Information is granted by the disclosing party to the recipient or its employees or consultants except as expressly stated herein. All documents or other media containing Confidential Information and all reproductions thereof will at all times be and remain the sole property of the disclosing party, and shall be delivered by the recipient to an authorized representative of the disclosing party within fifteen (15) days after the disclosing party's written request for their return.

5. **MISCELLANEOUS:** This Agreement is binding upon the parties and their successors and permitted assigns. The failure of either party to enforce any provision of this Agreement shall not constitute a waiver of that provision or any other provision. This Agreement shall remain in effect for three (3) years from the effective date, or three (3) years from date of last disclosure, whichever date is later, unless earlier terminated by a written agreement executed by both parties hereto. This Agreement constitutes the entire Agreement between the parties with respect to the subject matter of this Agreement, and its interpretation shall be governed by the laws of the State of New York. The parties acknowledge that a breach or threatened breach of this Agreement by the recipient would cause irreparable harm to the disclosing party and that money damages alone would be insufficient to compensate the disclosing party for such harm. Therefore, in the event of a breach or threatened breach of this Agreement, in addition to any other remedies that may be available in equity or at law, the disclosing party shall be entitled to temporary and permanent injunctive relief to enforce the obligations hereunder, without the necessity of proving actual damages or of posting a bond. In any action brought to enforce the terms of this Agreement, or for the breach or threatened breach of this Agreement, in addition to all damages and other remedies, the prevailing party shall be entitled to recover from the party in default or breach all costs and expenses, including court costs, expert witness fees and reasonable legal fees, paid or incurred by reason of such action. Except as expressly provided herein, the rights and obligations of the parties under this Agreement may not be assigned by either party without the prior written consent of the other party. This Agreement shall be binding upon and shall inure to the benefit of the parties and their successors and permitted assigns.

EFFECTIVE DATE: \_\_\_\_\_

SkyPort IT, Inc.

By: \_\_\_\_\_

Date: \_\_\_\_\_

Daniel P. Marcellus

Title: President and CEO

\_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

