

ATTESTATION (Nondisclosure) (Amended)

Application for FCC STA
AVIATION PROTECTION SYSTEMS, INC.
FRN: 0011780178

Applicant AVIATION PROTECTION SYSTEMS, INC. respectfully requests non-disclosure of Company Confidential proprietary information submitted to the FCC in this request for special temporary authorization (STA) in accordance with FCC Rule Section 0.459 (b) (1 thru 9). Applicant seeks non-disclosure of materials contained, herewith, respectfully, in EXHIBIT 3, "Description of the Operation to be Conducted and Its Purpose," and EXHIBIT 7, "Equipment to be Used, Including Name of Manufacturer and Number of Units." Also, include non-disclosure for EXHIBIT 6 (Amended), EXHIBIT 8 (Amended), EXHIBIT 9, 10, 11S, and EXHIBIT 12.

Pursuant to §0.459 "Requests that materials or information submitted to the Commission be withheld from public inspection" paragraph (b) "Each such request shall contain a statement of the reasons for withholding the materials from inspection (see §0.457) and the facts upon which those records are based, including:

- (1) Identification of the specific information for which confidential treatment is sought; EXHIBIT 3 – all materials relating to the description of the operations to be executed, including, the fact of the existence of demonstrations of Flight Guard system capabilities, configuration of the demonstrations, and the participants for whom the demonstrations are conducted, Confidentiality must be maintained in order to ensure effective prevention of disclosure to potential terrorists and competing system proponents; EXHIBIT 7 – all materials describing the number of units and the equipment model to be employed for the Flight Guard system testing and demonstrations. Additionally, EXHIBIT 6 (Amended) – location, EXHIBIT 8 (Amended) – frequencies, EXHIBIT 9, 10, 11S – Form NTIA 33 transmitter pulse characteristics, and EXHIBIT 12 – flight altitude and methods of frequency selection are included.
- (2) Identification of the Commission proceeding in which the information was submitted or a description of the circumstances giving rise to the submission; EXHIBIT 3 – these data are presented to the Commission in the form of a request for special temporary authority (STA) under FCC Rule Part 5, which as a practical means is employed by Applicant as a short-term authorizing vehicle for demonstrating the full capabilities of the Flight Guard system; EXHIBIT 7 – all materials describe to the Commission the necessary listing of the Flight Guard system equipment manufacturer in connection with Applicant's request for STA to conduct system demonstrations.
- (3) Explanation of the degree to which the information is commercial or financial, or contains a trade secret or is privileged; EXHIBIT 3 – all materials here are commercial in nature and include planning steps showing Company Proprietary privileged information that must be controlled and prevented from unwanted

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- dissemination to the public; EXHIBIT 7 – all references to the quantity and specific model number of the equipment employed during these tests are deemed to be commercial in nature and are Company Proprietary privileged in nature and must not be revealed to the public.
- (4) Explanation of the degree to which the information concerns a service that is subject to competition; EXHIBIT 3 – all system descriptions addressing the Flight Guard system refer here to a potential Aeronautical Radiolocation Mobile station configured for the Aeronautical Radiodetermination Service, for which there are competitors already vying for US Government clearance and acceptance for their competing systems performing similar aircraft protection functions, by other means; EXHIBIT 7 – the designated equipment used for the Flight Guard system is available to US Government service and passenger airlines, because it is now flying in numerous other countries and functioning in full-time commercial airliner protection service on a competitive basis.
- (5) Explanation of how disclosure of the information could result in substantial competitive harm; EXHIBIT 3 – any disclosure of the information contained in this exhibit could result in substantial competitive harm as competitor's knowledge of the demonstrations and tests given to US Government and airline entities could spur their competitive government funded testing activities in order to gain advantage over Applicant's private funded efforts; EXHIBIT 7 – the competitor's US Government supported and funded activities could be speeded up to gain an advantage over Applicant, and could benefit from the basic confidentiality afforded such US Government contracts, while Applicant must otherwise find private sources to advance its system demonstrations.
- (6) Identification of any measures taken by the submitting party to prevent unauthorized disclosure; EXHIBIT 3 – Applicant has taken many individual steps to maintain confidentiality of the Flight Guard system first developed overseas and placed in service with the confidentiality of participating countries, keeping its records and communications secure from unwanted disclosure through lock-box practices and limited intra-Company communications; EXHIBIT 7 – Applicant continues to maintain close scrutiny and Company Confidentiality of all planning and scheduling for its proprietary Flight Guard system testing and demonstrations to be given to interested US Government and commercial airline entities, thereby, minimizing the number of demonstrations and their length to specifically suit the special needs of each interested party.
- (7) Identification of whether the information is available to the public and the extent of any previous disclosure of the information to third parties; EXHIBIT 3 – Applicant has diligently maintained confidentiality, as trade secrets, the specific parties and entities who will be viewing any particular demonstration and advance knowledge of the location, date, or time of such demonstrations is not available to

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the public; EXHIBIT 7 – Applicant has diligently maintained confidentiality, as trade secrets, the Flight Guard system's Company proprietary specifications, equipment model, and manufacturer information, thus, has not revealed this information to the public.

- (8) Justification of the period during which the submitting party asserts that material should not be available for public disclosure; EXHIBIT 3 – Applicant will be demonstrating the Flight Guard system on numerous occasions, under various flight configurations, weather, and operating interference conditions during the entire six-month period of the STA license, therefore, Confidentiality protection from public disclosure will be required for the entire STA time period; EXHIBIT 7 – Applicant will be demonstrating the Flight Guard system on numerous occasions, under various flight configuration, weather, and operating interference conditions, during the entire six-month period of the STA license, therefore, Confidentiality protection from public disclosure will be required for the entire STA time period.
- (9) Any other information that the party seeking confidential treatment believes may be useful in assessing whether its request for confidentiality should be granted; EXHIBIT 3 – and EXHIBIT 7 – Applicant respectfully requests non-disclosure for all Company proprietary Confidential information relating to its Flight Guard system identified in these Exhibits, which are associated with Applicant's request for STA. If the material contained in these Exhibits were to be acquired by the terrorists espousing terrorism toward the United States, they could learn of ways and means to hamper the system's effectiveness, to the ultimate harm of the American public.

Also, by exposing this Flight Guard system product information to the public before Applicant has had the opportunity to effectively demonstrate its full capabilities to appropriate interested Government Agencies and interested commercial airlines operators, such anti-competitive early disclosure of Applicant's trade secrets would harm Applicant's chances for a fair Flight Guard system review by each Government Agency and interested commercial airline operators.

Signed: Robert A. Heber Date: November 12, 2004

Robert A Heber, Vice President of Operations
AVIATION PROTECTION SYSTEMS, INC.