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REQUEST FOR CONFIDENTIAL TREATMENT

FILED ELECTRONICALLY

Mr. Anthony Serafini
Chief, Experimental Licensing Branch
Office of Engineering and Technology
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: R2 Space, Inc., Application for Experimental License

Dear Mr. Serafini:

R2 Space, Inc. ("R2 Space"), by counsel, hereby requests that the technical narrative contained in its application for an experimental license filed contemporaneously with this request be held in confidence and not made available for public inspection pursuant to Section 0.459 of the Commission's rules. *See* 47 C.F.R. § 0.459. As detailed herein, confidential treatment of this document is appropriate under Exemption 4 of the Freedom of Information Act ("FOIA"), which applies to information constituting "trade secrets and commercial ... information" that "would not customarily be released to the public." *See* 5 U.S.C. § 552(b)(4); 47 C.F.R. § 0.457(d).

In support of its request for confidential treatment, R2 Space provides the following information, as required under Section 0.459(b) of the Commission's Rules –

- 1. *Specific Information for Which Confidential Treatment is Sought - § 0.459(b)(1):*** R2 Space seeks confidential treatment for the entire technical description submitted with its application. The characteristics, methodologies and technical descriptions contained in the description of the research project are proprietary to R2 Space, its technology partners and customers.
- 2. *Circumstances Giving Rise to the Submission - § 0.459(b)(2):*** The proprietary technical information submitted to the FCC is required in connection with R2 Space's application for an FCC experimental license under Part 5 of the FCC's Rules. *See* 47 C.F.R. § 5.1 *et seq.*



3. Degree to Which the Information Is Commercial or Financial, or Contains A Trade Secret or Is Privileged - § 0.459(b)(3): The technical information for which R2 Space is requesting confidential treatment contains commercially sensitive information “which would customarily be guarded from competitors.” *See, e.g., James A. Kay, Jr.*, 17 FCC Rcd 1834 (2002) (withholding such information from public inspection). This information includes, but is not limited to, detailed information concerning and pictures depicting the experimental equipment to be used, as well as the details of the testing methodology to be employed by R2 Space. The application therefore reveals substantial information concerning the design features of the specific synthetic aperture radar (“SAR”) applications to be used and how the equipment will be tested to gather sensitive information, including data related to national security. Disclosure of this information to competitors of R2 Space would be competitively harmful. Accordingly, public disclosure of the confidential terms of these documents could materially impair the company’s business plan and those of its technology partners.

4. Degree to Which the Information Concerns a Service That Is Subject to Competition - § 0.459(b)(4): There is substantial competition in the emerging field of SAR technology that is the subject of the application. Because new and innovative equipment and services are just now being tested for near-term deployment, competition among equipment vendors and service providers is particularly intense at this time, and service providers and equipment manufacturers alike have a strong interest in protecting from disclosure proprietary information concerning their potential future products and service offerings and the means by which they are testing new equipment and systems.

5. How Disclosure of the Information Could Result In Substantial Competitive Harm - § 0.459(b)(5): Information about the operating characteristics and performance of the equipment to be utilized in R2 Space’s experimental research program could be misused by both current and potential competitors of R2 Space to gain commercially exploitable knowledge, thereby allowing them to reap unfair advantages in formulating their own plans for technical development of competing SAR equipment and/or systems. This is a particularly critical time for a company that is pursuing product development and research methodologies to protect its plans from disclosure to third parties. Release of the details of this experimental program to potential competitors would allow others to benefit from plans and information that R2 Space, its technology partners and customers have spent considerable time and money developing, and to adapt their own plans based on this proprietary information.

6. Measures Taken By the Applicant to Prevent Unauthorized Disclosure - § 0.459(b)(6): R2 Space, its technology partners and potential customers have agreed to strict limitations on the use and sharing of proprietary information under non-disclosure agreements. Information included in the application concerning equipment testing performance methods and goals falls within the category of confidential information under these agreements. In accordance with these terms, R2 Space and the parties with which it has contracted have limited access to the information solely to those employees, contractors and agents who require knowledge of the tests described in the experimental license application in order to perform their



duties and fulfill the companies' obligations to each other under their contracts. Any other disclosure of law requires prior consent of the other party.

7. *The Information Submitted Is Not Available To The Public and Has Not Previously Been Disclosed To Third Parties, Except For Appropriately Limited Circumstances* - § 0.459(b)(7): No part of the R2 Space experimental license application has been publicly disclosed to date. Disclosure has been limited by the parties to employees, counsel, contractors and agents of R2 Space who have a specific need to review and analyze proprietary technical information relating to the equipment under test and the experimental testing program to be executed under the requested FCC license.

8. *Period During Which The Submitted Material Should Not Be Available For Public Disclosure* - § 0.459(b)(8): R2 Space respectfully requests that the technical description included in its experimental license application be kept confidential indefinitely. At the present time, there is no time horizon within which the technical details provided in the application will become significantly less sensitive, and there is no temporal limitation on the non-disclosure obligations that R2 Space and its technology partners have made to each other. Accordingly, R2 Space requests that the Commission maintain confidential treatment of the material submitted at least until it expressly notifies the Commission that confidential treatment is no longer required.

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For all of the foregoing reasons, R2 Space requests that the Commission withhold the technical appendix to its experimental license application from public inspection, according it full confidential treatment. In the event that a request for examination of this document is filed, R2 Space respectfully requests an opportunity to respond and to provide a partially redacted version in lieu of full disclosure.

Respectfully submitted,

By: _____



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