

CONFIDENTIAL INFORMATION AND INVENTIONS AGREEMENT

THIS CONFIDENTIAL INFORMATION AND INVENTIONS AGREEMENT (“*Agreement*”) is made and entered into as of [Enter Date], by and between SMARTSKY NETWORKS, LLC, a Delaware limited liability company (the “*Company*”), and [Enter Name] (“*Service Provider*”).

WHEREAS, the Company and its Subsidiaries (the “*Company Group*”) has a legitimate business interest in protecting its Confidential Information and goodwill; and

WHEREAS, the Company desires to engage, or continue to engage, Service Provider as an employee of the Company subject to Service Provider agreeing to become bound by the terms and conditions of this Agreement; and

WHEREAS, Service Provider will receive, and have access to, Confidential Information (as defined below) in connection with the provision of services for the benefit of the Company;

NOW, THEREFORE, as a condition to Service Provider’s service with the Company and in consideration of the mutual covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Definitions.

“*Confidential Information*” is defined as all information of any sort (whether merely remembered or embodied in a tangible or intangible form) that (i) is related to the Company Group’s prior, current or potential business, and (ii) is not generally known by the public. Confidential Information includes, without limitation, the information, observations and data of the Company Group including designs, drawings, photographs and reports; flow charts, manuals, documentation and databases; inventions, devices, new developments, methods and processes, whether patentable or non-patentable and whether or not reduced to practice; all technology and trade secrets; information concerning acquisition opportunities in or reasonably related to the Company Group’s current or planned business or industry of which Service Provider is aware or becomes aware during Service Provider’s service to the Company Group or the Persons or entities that are current, former or prospective suppliers or customers of the Company Group; development, transition and transformation plans, methodologies and methods of doing business; strategic, marketing and expansion plans, including plans regarding planned and potential sales; financial and business plans; employee lists and telephone numbers, locations of sales representatives, customer lists, new and existing programs and services, prices and terms, customer service, integration processes, requirements and costs of providing service, support and equipment; and all similar and related information in whatever form.

(a) “*Person*” shall mean any individual, corporation, company, body corporate, association, partnership, limited liability company, firm, joint venture, trust or governmental authority;

(b) “*Subsidiary*” or “*Subsidiaries*” means (a) any corporation or other entity (including a limited liability company) a majority of the capital stock or equity ownership of

which having ordinary voting power to elect a majority of the board of directors or other Persons performing similar functions is at the time owned, directly or indirectly, with power to vote, by the Company or any direct or indirect Subsidiary of the Company or (b) a partnership in which the Company or any direct or indirect Subsidiary is a general partner; and

(c) **“Termination of Relationship”** means the Service Provider’s ceasing to be an employee of, or service provider to the Company for any reason, including without limitation death, disability, resignation, retirement or termination, with or without cause, at any time. Any question as to whether and when there has been Termination of Relationship, and the cause of such Termination of Relationship, shall be determined by the Board of Directors of the Company and its determination shall be final.

2. **Confidentiality and Protection of Information.**

(a) **Acknowledgment.** Service Provider acknowledges and recognizes the highly competitive nature of the business of the Company Group, the amount of sensitive, proprietary and confidential information and trade secrets necessarily involved in the discharge of Service Provider’s position with the Company Group, and the harm to the Company Group that could result if such Confidential Information was disclosed or otherwise made available to any other Person. Service Provider further acknowledges that (i) Service Provider will receive, and have access to, Confidential Information, (ii) the Company Group has a legitimate business interest in protecting its Confidential Information and goodwill, and (iii) Service Provider’s service to the Company is conditioned upon Service Provider’s entering into this Agreement.

(b) **Obligation to Maintain Confidentiality.** Service Provider acknowledges that the continued success of the Company Group depends upon the use and protection of a large body of Confidential Information, including all such information now existing or to be developed in the future. During the term of Service Provider’s service to the Company Group, the Service Provider will have access to Confidential Information of Company Group as is reasonably necessary for Service Provider to perform Service Provider’s duties. Service Provider agrees that, without prior written consent of the Board of Directors of the Company, Service Provider shall not disclose, access, or use any Confidential Information, except as reasonably necessary for the performance of Service Provider’s duties, unless and to the extent that any Confidential Information (i) becomes generally known to the public other than as a result of Service Provider’s violation of this Agreement or other improper acts or omissions to act, (ii) was developed independent of the Company Group without use of, or reference to, Confidential Information or was acquired outside of Service Provider’s affiliation with any member of the Company Group from a third party in rightful possession thereof and who was entitled to disclose such information free of restrictions or (iii) is required to be disclosed pursuant to any applicable law, regulatory action or court order; *provided, however*, that Service Provider must give the Company Group prompt written notice of any such legal requirement, disclose no more information than is so required and cooperate fully with all efforts by the Company Group (at the Company Group’s sole expense) to obtain a protective order or similar confidential treatment for such information.

(c) **Duration of Obligations Regarding Confidential Information.** Service Provider understands and acknowledges that Service Provider’s obligations under this Agreement with regard to any particular Confidential Information shall commence immediately

upon Service Provider first having access to such Confidential Information (whether before or after beginning service with the Company) and shall continue during and after Service Provider's relationship with the Company until such time as such Confidential Information has become public knowledge other than as a result of Service Provider's breach of this Agreement or breach by those acting in concert with the Service Provider.

(d) Notice Under the Economic Espionage Act of 1996, as amended by the Defend Trade Secrets Act of 2016 ("DTSA"). Service Provider is hereby notified that notwithstanding any other provision of this Agreement:

(i) Service Provider will not be held criminally or civilly liable under any federal or state trade secret law for any disclosure of a trade secret that: (A) is made: (1) in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney; and (2) solely for the purpose of reporting or investigating a suspected violation of law; or (B) is made in a complaint or other document that is filed under seal in a lawsuit or other proceeding.

(ii) if Service Provider files a lawsuit for retaliation by the Company for reporting a suspected violation of law, Service Provider may disclose the Company's trade secrets to Service Provider's attorney and use the trade secret information in the court proceeding if Service Provider (A) files any document containing the trade secret under seal; and (B) does not disclose the trade secret, except pursuant to court order.

(e) Ownership of Intellectual Property. If Service Provider authors, conceives, creates, invents, designs, develops, contributes to or improves any works of authorship, inventions, materials, documents or other work product or other intellectual property, either alone or in conjunction with third parties, at any time during Service Provider's service to the Company Group (collectively, "**Works**"), to the extent that such Works relate in any way to the Company Group or its business, were created, invented, designed, developed, contributed to or improved with the use of any Company Group resources, and/or come within the scope of Service Provider's service (collectively, the "**Company Works**"), Service Provider shall disclose such Company Works to the Company Group promptly. Any copyrightable work falling within the definition of Company Works shall be deemed a "work made for hire" as such term is defined in 17 U.S.C. § 101. Service Provider hereby (i) irrevocably assigns, transfers and conveys, to the extent permitted by applicable law, all right, title and interest in and to the Company Works and all proprietary rights thereto on a worldwide basis (including all rights relating to Company Works under patent, copyright, trademark, trade secret, unfair competition and related laws) to the Company Group or such other entity as the Company Group shall designate, to the extent ownership of any such rights does not automatically vest in the Company Group under applicable law and (ii) waives any moral rights to all Company Works to the fullest extent permitted under applicable law. Service Provider agrees that Service Provider will not use any Company Works for Service Provider's personal benefit, the benefit of a competitor or for the benefit of any Person or entity other than the Company Group. Service Provider agrees to execute any further documents and take any further reasonable actions requested by the Company Group to assist it in validating, effectuating, maintaining, protecting, enforcing, perfecting, recording, patenting or registering any of its rights hereunder, all at the Company Group's sole expense.

Upon Service Provider's Termination of Relationship, Service Provider shall deliver to the Company Group all originals and all duplicates and copies of all media, memoranda, notes, plans, reports, documents, records, notebooks and similar repositories of or containing Confidential Information or any other information concerning the business, operations or plans of the Company then in Service Provider's possession, whether prepared by Service Provider or not; and at any time thereafter, if any such materials are brought to Service Provider's attention or Service Provider discovers them in Service Provider's possession, Service Provider shall deliver such materials to the Company Group immediately upon such notice or discovery.

(f) Third-Party Information. Service Provider understands that the Company Group will receive from third parties confidential or proprietary information ("**Third-Party Information**") subject to a duty on the Company Group's part to maintain the confidentiality of such information and to use it only for certain limited purposes. During Service Provider's service to the Company Group and at all times thereafter, and without in any way limiting any provision of this Agreement, Service Provider will hold information that Service Provider knows, or reasonably should know, to be Third-Party Information in the strictest confidence and will not disclose to anyone (other than personnel, consultants or contractors of the Company Group who need to know such information in connection with their work for the Company Group) or use, except in connection with Service Provider's work for the Company Group, Third-Party Information unless expressly authorized in writing by the Board of Directors of the Company or the information is required to be disclosed pursuant to any applicable law, regulatory action, or court order.

2. Miscellaneous

(a) Not a Contract of Employment. This Agreement does not create a contract of employment, or a contract for benefits. Absent a separate written agreement with the Company to the contrary, Service Provider's relationship and engagement with the Company is at-will and at either Service Provider's option or the Company's option, Service Provider may be terminated at any time, with or without cause or notice.

(b) Remedies. Service Provider acknowledges that in the event of a breach of any of the provisions of this Agreement, the Company Group (or its successors) would sustain irreparable harm and damages that would be extremely difficult if not impossible to calculate, and, therefore, Service Provider agrees that in addition to any other remedies that the Company may have under this Agreement or otherwise at law or in equity, the Company shall be entitled to obtain (i) an ex parte seizure order, to the extent permitted by applicable law, or (ii) equitable relief, including specific performance and injunctions restraining Service Provider from committing or continuing any such violation of this Agreement, without any requirement that the Company post a bond. The existence of any claim, demand, action or cause of action of Service Provider against the Company shall not constitute a defense to the enforcement by the Company of any of the covenants or agreements herein.

(c) Severability. The parties agree that each of the provisions included in this Agreement is separate, distinct, and severable from the other and remaining provisions of this Agreement, and that the invalidity or unenforceability of any provision or provisions of this Agreement shall in no way affect the validity or enforceability of any other provision. Further, if any provision of this Agreement is ruled invalid or unenforceable by a court of competent jurisdiction because of a conflict between such provision and any applicable law or public

policy, such provision shall be valid and enforceable to the extent such provision is consistent with such law or public policy.

(d) Governing Law. The validity, interpretation and performance of this Agreement shall be governed by, and construed in accordance with, the internal laws of **North Carolina**, without giving effect to conflict of law principles. Service Provider agrees that the venue for any action, demand, claim or counterclaim relating to the terms and provisions of this Agreement, or to their breach, shall be appropriate in the state or federal courts located in the State of North Carolina and that such courts shall have personal jurisdiction over the parties to this Agreement.

(e) Arbitration. Except as otherwise provided by Section 2 (b), in the event of any dispute, difference, or question arising between the Company and Service Provider in connection with this Agreement or the discussion, negotiation, drafting, or making hereof, or any clause or the construction thereof, or the rights, duties, or liabilities of either party, then and in every such case, unless the parties agree on the appointment of a single arbitrator, the matter of difference shall be referred to one arbitrator appointed by the American Arbitration Association, and the arbitration of such dispute shall be administered in accordance with the employment rules of the American Arbitration Association. The arbitrator shall determine the place or places in Charlotte, NC, where meetings are to be held. The arbitrator must base the arbitrator's decision, with respect to the difference before him, on the contents of this Agreement and the relevant facts, and the decision of the arbitrator shall be binding on both parties. The costs of the arbitrator along with other arbitration-specific fees shall be paid in a manner determined by the arbitrator.

(f) Counterparts; Further Instruments. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The parties hereto agree to execute such further instruments and to take such further action as may be reasonably necessary to carry out the purposes and intent of this Agreement.

(g) Titles and Subtitles. The titles and subtitles used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement.

(h) Notices. All notices and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given: (a) upon personal delivery to the party to be notified, (b) when sent by confirmed facsimile if sent during normal business hours of the recipient, and if not so confirmed, then on the next business day, (c) five days after having been sent by registered or certified mail, return receipt requested, postage prepaid or (d) one day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt. All communications shall be sent (i) to the Company at 4690 First Flight Drive, Charlotte, NC 28208 Attention: General Counsel and (ii) to Service Provider, at his or her address as set forth in the Company's records; or to such address or facsimile number as subsequently modified by written notice given in accordance with this Section.

(i) Delays or Omissions. No delay or omission to exercise any right, power or remedy accruing to any party under this Agreement, upon any breach or default of any other

party under this Agreement, shall impair any such right, power or remedy of such non-breaching or non-defaulting party nor shall it be construed to be a waiver of any such breach or default, or an acquiescence therein, or of or in any similar breach or default thereafter occurring; nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default theretofore or thereafter occurring. Any waiver, permit, consent or approval of any kind or character on the part of any party of any breach or default under this Agreement, or any waiver on the part of any party of any provisions or conditions of this Agreement, must be in writing and shall be effective only to the extent specifically set forth in such writing. All remedies, either under this Agreement or by law or otherwise afforded to any party, shall be cumulative and not alternative.

(j) Entire Agreement. This Agreement constitutes the full and entire understanding and agreement between the parties with respect to the subject matter hereof, and any other written or oral agreement relating to the subject matter hereof existing between the parties are expressly superseded and canceled. Notwithstanding the foregoing, the terms and conditions of this Agreement shall apply in addition to and not in lieu of the terms of any confidentiality, noncompetition, non-hire, non-solicitation, employment, consulting or any other similar agreement between the Service Provider and the Company. No modification of or amendment to this Agreement, nor any waiver of any rights under this Agreement, will be effective unless in writing and signed by the party to be charged.

(k) Third Party Beneficiaries. Each member of the Company Group not otherwise a party to this Agreement is an intended third-party beneficiary of this Agreement.

(l) No Assignment. Neither this Agreement nor any of the rights or obligations hereunder may be assigned by the Service Provider without the prior written consent of the Company. Any purported assignment without such consent shall be void and unenforceable. The Company may assign this Agreement without the consent of the Service Provider.

(m) Interpretation. The parties intend that each word, phrase, sentence and other part hereof be given its plain meaning. Any rule of construction or interpretation requiring or proving that this Agreement be construed or interpreted against the drafter shall not apply. In this Agreement, unless the context otherwise requires:

- (i) references to Sections are references to sections of this Agreement;
- (ii) references to any party to this Agreement shall include references to its respective successors and permitted assigns;
- (iii) the terms “hereof,” “herein,” “hereby” and derivative or similar words will refer to this entire Agreement;
- (iv) the term “or” means and/or;
- (v) references to any document (including this Agreement) are references to that document as amended, consolidated, supplemented, novated or replaced by the parties from time to time;

(vi) the word “including” shall mean including without limitation; and

(vii) the gender of all words herein include the masculine, feminine and neuter, and the number of all words include the singular and the plural.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

SMARTSKY NETWORKS, LLC

By: _____

Name: Richard C. Rowleson

Title: Vice President

SERVICE PROVIDER:

Name: