

NON-DISCLOSURE AGREEMENT

This NON-DISCLOSURE AGREEMENT (the "Agreement"), is dated as of [REDACTED], 20[REDACTED] and is made and entered into by and between **CUBIC TRANSPORTATION SYSTEMS, INC.** ("Cubic"), a corporation organized and existing under the laws of the State of California having its principal offices at 5650 Kearny Mesa Road, San Diego, California 92111, and [REDACTED], ("[REDACTED]") a company organized and existing under the laws of the State of [REDACTED] and having its principal place of business at [REDACTED].

WHEREAS, each Party desires to disclose to the other on a confidential basis certain information relating to [REDACTED] which information the disclosing Party deems to be proprietary, confidential, and/or business-sensitive for the sole purpose of this effort (the "Purpose"); and

WHEREAS, each Party is willing to provide such information to the other Party subject to the terms of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth below, and other good and valuable consideration, the Parties agree as follows:

1. "Proprietary Information" shall mean: (a) Any written information marked as Proprietary Information; (b) Orally or visually disclosed Proprietary Information promptly reduced to writing and stated by the disclosing Party in writing to be Proprietary Information; (c) Items, documents, or data which are proprietary, but not so identified when disclosed, provided that the disclosing Party provides the receiving Party with copies that are properly marked as Proprietary Information within ten (10) business days after initial disclosure; and (d) Any information in electronic format where the jacket or an accompanying e-mail or other writing identifies the contents as Proprietary Information.

2. Proprietary Information does not include information which: (a) At the time of disclosure, is in the public domain; (b) After disclosure, lawfully enters the public domain other than as a result of the act or omission of the receiving Party; (c) the receiving Party can conclusively demonstrate by written evidence that the same was lawfully known to it without restriction or was developed independently by it without direct or indirect access to the Proprietary Information provided by the disclosing Party; or (d) Is submitted by the disclosing Party on an unrestricted basis in bids or proposals to a customer for evaluation and review, or is submitted to any Government with unlimited or unrestricted rights.

3. Each Party represents that it has instituted policies and procedures which provide adequate protection for Proprietary Information and will treat, use, and protect all Proprietary Information received pursuant to this Agreement using the same standard of care that it uses to treat, use, and protect its own confidential, proprietary, and/or business-sensitive information and, in any event, no less than a reasonable standard of care.

4. Cubic designates **Kevin Harris**, and [REDACTED] designates [REDACTED], as the primary individuals who may receive Proprietary Information on behalf of their respective Parties pursuant to this Agreement. Those designated representatives shall be responsible for further disseminating the Proprietary Information to other employees of his or her organization who have a valid need to know in accordance with Paragraph 5 below.

5. Unless otherwise expressly authorized in writing by the disclosing Party, the receiving Party shall maintain in strict confidence all Proprietary Information, shall use Proprietary Information only for the Purpose, and shall restrict disclosure of Proprietary Information to only those of its directors, officers, employees, consultants, or advisors who require access to the Proprietary Information for carrying out the Purpose, and who are subject to a written agreement having terms and conditions respecting the protection of confidential or proprietary information that are no less restrictive than those of this Agreement and that would extend to the Proprietary Information. If the disclosing Party authorizes the receiving Party to disclose Proprietary Information to any third party, a non-disclosure agreement, with terms no less restrictive than those in this Agreement, shall be executed by the third party with the original disclosing Party as a third party beneficiary. A copy of such third party agreement shall be provided to the original disclosing Party for consent prior to execution.

6. If an expressly stated purpose of this Agreement involves the receiving Party submitting a proposal to the U.S. Government, the receiving Party may disclose Proprietary Information to the U.S. Government on a confidential basis provided that the receiving Party ensures such Proprietary Information contains the restrictive legend stated in the Federal Acquisition Regulation (FAR) § 52.215-1(e). Disclosures of Proprietary Information to the U.S. Government for any purpose other than those contemplated by FAR § 52.215-1(e) shall be subject to further written agreement between the Parties.

7. This Agreement shall become effective upon its execution by both Parties as of the date written above (the "Effective Date") and shall apply to all information exchanged by the Parties during the period of (10) years following the Effective Date ("the Term"). The Term may be extended by mutual written agreement between the Parties. Either Party may terminate this Agreement by providing written notice to the other. Notwithstanding the above, the provisions concerning non-disclosure of Proprietary Information received under this Agreement shall survive the expiration or termination of this Agreement and remain in effect for period of (10) additional years after expiration or termination of this Agreement.

8. Upon expiration or termination of this Agreement, or upon demand of the disclosing Party at any time, the receiving Party shall, at the disclosing Party's option, (a) immediately return all Proprietary Information (including, but not limited to, all copies, extracts, summaries, or digests thereof) to the disclosing Party or (b) destroy all Proprietary Information (including, but not limited to, all copies, extracts, summaries, or digests thereof) and provide the disclosing Party with written certification of such destruction. Notwithstanding the termination or expiration of this Agreement, this Agreement shall be coterminous and expire with any agreement to which it is or becomes appended, and the scope of this Agreement shall be augmented to permit the Parties to perform under the appended agreement.

9. All rights in Proprietary Information are reserved by the disclosing Party. Other than the rights expressly granted herein, neither this Agreement, nor the disclosure of any Proprietary Information, shall be construed as expressing or implying any other rights, including but not limited to any rights of ownership of Proprietary Information, or rights to any invention, patent, copyright or other intellectual property right heretofore or hereafter owned, acquired, developed, or licensable by the disclosing Party. All Proprietary Information shall remain the exclusive property of the disclosing Party or its licensors. The receiving Party shall not reverse engineer, disassemble, or decompile, or allow others to reverse engineer, disassemble, or decompile any Proprietary Information provided to it.

10. The disclosing Party warrants that it has the lawful right to transmit or otherwise furnish the Proprietary Information disclosed pursuant to this Agreement. The disclosing Party makes no representation or warranty as to the adequacy, completeness, accuracy, patentability, fitness for a particular purpose, sufficiency, or freedom from defect of any Proprietary Information. The disclosing Party shall not be liable for damages of whatever kind as a result of the receiving Party's reliance on or use of Proprietary Information.

11. Nothing herein shall restrict the receiving Party from disclosing Proprietary Information on a restricted basis pursuant to a judicial order issued by a court or other tribunal of competent jurisdiction, but only to the extent of such order, provided that the receiving Party furnishes the disclosing Party with immediate notice of such order so that it may contest the order or obtain a protective order. The receiving Party agrees to provide all reasonable assistance, at the disclosing Party's expense and direction, in contesting such order.

12. Unless expressly stated otherwise herein, each Party shall bear its own costs and expenses incurred in complying with this Agreement.

13. Neither Party shall have the right or authority to contract for or in the name of, or otherwise obligate the other Party in any way. This Agreement shall not obligate a Party to enter into any contract or subcontract or to purchase anything from the other Party. This Agreement shall not be construed to recognize or create a teaming agreement, joint venture, partnership, or other formal business or agency relationship.

14. Any notice under or in connection with this Agreement shall be in writing and delivered by reputable overnight mail equivalent carrier, facsimile, or first class mail. Such notice shall be deemed to have been given when received by the Party to which the communication is directed at its address set forth below:

To Cubic:

Cubic Transportation Systems, Inc.
5650 Kearny Mesa Road
San Diego, CA 92111
Attn: Vice President, Contracts
Fax: (858) 292-9987

With a copy to:

Legal Department
Cubic Corporation
9333 Balboa Avenue
San Diego, CA 92123
Fax: (858) 505-1559

To Recipient:

Name:
Address:
City, State & zip
Attn:
Fax:

15. Neither this Agreement, nor any rights or obligations hereunder, may be assigned, delegated, or otherwise transferred by either Party without the express prior written consent of the other Party, except to an entity that succeeds to all or substantially all of the business assets of the assigning Party, and so long as such entity agrees in writing to be bound by the terms and conditions of this Agreement. Any attempted assignment or delegation in contravention of this clause shall be void and unenforceable. The foregoing notwithstanding, either Party may assign or otherwise transfer this Agreement to its parent company or any wholly-owned subsidiary thereof without the other Party's consent.

16. If any material condition or provision contained herein is held to be invalid, void, or unenforceable by a final judgment of any court of competent jurisdiction, then the remaining provisions of this Agreement shall remain in full force and effect and the unenforceable provision shall be deemed modified to the limited extent required to permit its enforcement in a manner most closely representing the intention of the Parties as expressed herein.

17. The failure to exercise any right under this Agreement shall not be deemed to be a waiver of such right, and shall not affect the right to enforce each and every right hereof. The waiver of any breach of any term, provision, covenant, or condition herein contained shall not be deemed to be a waiver of any (a) subsequent breach of such term, provision, covenant, or condition or (b) other term, provision, covenant, or condition.

18. This Agreement shall be subject to and construed in accordance with the laws of the State of California, excluding its conflicts of laws provisions. This Agreement shall be construed as having been prepared by both Parties. The Parties waive California Civil Code Section 1654, which states "in cases of uncertainty not removed by the preceding rules, the language of a contract should be interpreted most strongly against the party who caused the uncertainty to exist."

19. Except as provided in Paragraph 20 below, any controversy, dispute, or claim (collectively, "Disputes") arising out of or under this Agreement which is not timely settled by informal negotiations by the Parties shall be resolved through final and binding arbitration to take place in San Diego, California, utilizing the American Arbitration Association ("AAA") and its Commercial Rules then in effect. Any judgment or order rendered by the arbitrator may be entered in any court of competent jurisdiction. Each Party shall be responsible for its respective costs and attorneys' fees incurred in arbitration, except that costs and fees invoiced by the AAA for the services of the arbitrator(s) and its own fees and expenses shall be borne equally by the Parties.

20. The receiving Party acknowledges that, due to the unique nature of Proprietary Information, there may be no adequate remedy at law for the receiving Party's unauthorized use or disclosure of Proprietary Information in breach of this Agreement and that such breach may cause immediate and irreparable harm to the disclosing Party. Accordingly, notwithstanding the provisions of Paragraph 19 above, upon any such breach or any threat thereof by the receiving Party, the disclosing Party shall be entitled to pursue appropriate equitable relief from any court of competent jurisdiction.

21. The Proprietary Information furnished to the receiving Party may include United States origin technical data. Accordingly, the receiving Party is responsible for complying with, and warrants to the disclosing Party that it will comply with, all U.S. export regulations, including the International Traffic in Arms Regulations (Title 22, C.F.R. Parts 120-130), the Export Administration Regulations (Title 15, C.F.R. Parts 730-774), and any other U.S. Government regulation applicable to the export, re-export, or

disclosure of such controlled technical data (or the products thereof) to Foreign Nationals, whether within or without the U.S., including those employed by, or otherwise associated with, the receiving Party. The receiving Party shall obtain the disclosing Party's written consent prior to submitting any request for authority to export any such technical data.

22. Any U.S. Government classified information provided to the receiving Party shall be handled in accordance with the Department of Defense Industrial Security Manual for Safeguarding Classified Information (DoD 5220.22-M) or the National Industrial Security Program Operating Manual (NISPOM), their supplements, and other applicable U.S. Government security regulations.

23. In the event this Agreement is interpreted into a non-English language, the Parties agree that the English version shall prevail if the two versions are inconsistent.

24. This Agreement may be executed in counterparts and transmitted by facsimile, each of which, when so executed and transmitted, shall be deemed to be an original, and all such counterparts together shall constitute one and the same document.

25. This Agreement contains the complete understanding between the Parties and supersedes all prior contemporaneous communications, agreements, and understandings with respect to the exchange, use, and protection of Proprietary Information. This Agreement may be modified only by a written amendment executed by duly authorized representatives of each Party.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the day and year first above written.

CUBIC TRANSPORTATION SYSTEMS, INC.

By: _____

By: _____

Print Name: Carl R. Adrignola

Print Name: _____

Title: Vice President, Contracts

Title: _____