

MUTUAL CONFIDENTIALITY AGREEMENT

This Mutual Confidentiality Agreement (“**Agreement**”) is made and entered into effective as of _____, 20__ by Port of South Louisiana (Port) and _____ and its affiliates (collectively the “**Company**”). Port and Company and may be referred to herein collectively as the “**Parties**” and individually as a “**Party**”.

WITNESSETH:

WHEREAS, the Port of South Louisiana is soliciting competitive proposals to provide procurement, delivery and installation of one (1) small unmanned aircraft system, complete with camera, battery and other associated equipment as detailed in the RFP.

WHEREAS, as part of the process each Party may disclose information (“**Disclosing Party**”) that is Confidential Information (as herein defined) and desires to set forth the terms under which each Party will use and hold (“**Receiving Party**”) such Confidential Information in confidence.

NOW THEREFORE, for and in consideration of the premises and the mutual covenants contained herein, the sufficiency of which is hereby acknowledged, the Parties do hereby agree as follows:

1. Definitions

(a) “**Confidential Information**” means all information (whether or not expressly identified as confidential or proprietary) that is furnished or otherwise disclosed to Receiving Party or its Representatives by Disclosing Party or its Representatives, whether orally, in writing, electronically or in any other form, in the course of negotiations or discussions regarding the Project, including the existence, substance or progress of such negotiations or discussions, the business plans, prospects or other commercial or operational information, technical information (including but not limited to descriptions of technology, technology plans, specifications, designs, drawings, schematics, processes, formulations, operating parameters, or performance or other data) of the Disclosing Party, and all notes, analyses, compilations, summaries and other documents reflecting or containing such information. Notwithstanding the foregoing, however, the term “Confidential Information” shall not apply to information which: (i) is now or becomes generally available to the public other than as a result of a direct or indirect disclosure by Receiving Party; (ii) was already known to Receiving Party on a non-confidential basis prior to being furnished by Disclosing Party; (iii) becomes available to Receiving Party either before or after being furnished by Disclosing Party from a source other than Disclosing Party if Receiving Party reasonably believes that such source was not subject to any prohibition against transmitting the information to Receiving Party and was not bound by a confidentiality agreement with Disclosing Party or (iv) is independently developed by the Receiving Party without use or reference to any Confidential Information of the Disclosing Party.

(b) “**Representatives**” means, with respect to each Party, such Party, such Party’s affiliates and its and their partners, members, directors, officers, investment

committee members, investors, potential investors, attorneys, advisors, consultants, and employees.

2. Use of Confidential Information. Receiving Party will not use the Confidential Information other than for the sole purpose of responding to the RFQ/RFP and will keep the Confidential Information strictly confidential and safeguard the Confidential Information from unauthorized disclosure.

3. Nondisclosure of Confidential Information. Except as may be required by law, without the prior written consent of Disclosing Party (email being sufficient), Receiving Party shall not disclose the Confidential Information to any person or entity.

4. Return of Information. Upon Disclosing Party's request, Receiving Party will promptly return the written Confidential Information to Disclosing Party and/or destroy all copies of such Confidential Information and certify in writing (email being sufficient) as to such return and/or destruction.

5. Ownership of Confidential Information. The Parties acknowledge and agree that the Disclosing Party retains the individual ownership rights to its Confidential Information. Nothing contained in this Agreement shall be construed as granting the Receiving Party or any of its Representatives any license or other rights in the Confidential Information. Nothing contained in this Agreement shall be deemed to convey to Receiving Party or its Representatives any ownership rights or the right to further copy, reproduce, distribute or otherwise share any Confidential Information with any other party or person other than its Representatives.

6. Notwithstanding any other provisions in this agreement, the Parties hereby acknowledge that the Company is a political subdivision of the state of Louisiana and therefore, bound by the Louisiana Public Records Law and any provision in this agreement concerning confidentiality is necessarily limited by the Public Records Law.

7. Remedies. Receiving Party acknowledges and recognizes the competitive and confidential nature of the Confidential Information and that money damages may not be a sufficient remedy for any breach of this Agreement by Receiving Party, and Disclosing Party is entitled to seek specific performance and injunctive relief (without proof of actual damages) as remedies for any such breach. Such remedies will not be deemed to be the exclusive remedies for a breach of this Agreement by Receiving Party but will be in addition to all other remedies available at law or in equity to Disclosing Party within the scope of Paragraph 8 herein.

8. No Representations. Receiving Party understands and acknowledges that Disclosing Party does not make any representation or warranty, express or implied, as to the accuracy or completeness of the Confidential Information; and Disclosing Party expressly disclaims any and all liability to the Receiving Party or any other person that may be based upon or relate to the use of the Confidential Information or any errors in or omissions from such information.

9. Term. This Agreement shall become effective when executed by the Parties and

shall automatically terminate on the earlier of: (i) the date that is one (1) year after the effective date (the “**Term**”) and (ii) the date on which the Parties or their respective Affiliates execute a definitive written agreement with respect to the Project that contains confidentiality provisions that state an intention to supersede this Agreement (whether in the form of a purchase agreement, commitment letter, engagement letter or otherwise); provided that the termination of this Agreement shall not relieve any person from any liability for any breach of this Agreement prior to such termination.

10. Affiliates. Notwithstanding anything to the contrary provided elsewhere herein, none of the provisions of this Agreement shall in any way limit the activities of the affiliates of the Company in their businesses distinct from the business of the Company, provided that the Confidential Information is not made available to Representatives of affiliates of the Company who are not involved in the business of the Company. Should any Confidential Information be made available to a Representative of an affiliate the Company who is not involved in the business of the Company, such Representative shall be bound by this Agreement in accordance with its terms. Should the Confidential Information be made available to an individual at an affiliate of the Company who is not involved in the business of the Company solely for the purpose of assessing and resolving conflicts and or determining the proper allocation of investment opportunities then such individual shall be bound by the confidentiality and use provisions of this Agreement, provided, however, that receipt of Confidential Information by such individual shall not be imputed to the business unit of such individual. For the avoidance of doubt, receipt of Confidential Information shall not be imputed to an affiliate who is not involved in the business of the Company, solely by virtue of the fact that one of the Company’s Representatives is also a director, officer, consultant, agent, advisor or employee of such other affiliate (any such Representative, a “**Dual Representative**”) and has received Confidential Information in his or her capacity in the business of the Company, unless such Dual Representative conveys, shares or communicates Confidential Information to Representatives of such other affiliate who are not also Dual Representatives.

11. Miscellaneous.

(a) This Agreement does not create a partnership, joint venture or relationship of trust or agency among the Parties. Each Party shall be liable for any breach of this Agreement by it or its Representatives.

(b) This Agreement may not be assigned by either Party in whole or in part, and neither Party shall delegate its duties hereunder, without the prior written consent of the other Party. Any attempted assignment in violation of the preceding sentence shall be null and void. All of the terms and provisions contained in this Agreement shall inure to the benefit of and shall be binding upon the Parties and their respective heirs, successors and permitted assigns.

(c) If any term or provision of this Agreement is held by a court or arbitrator of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms and provisions of Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

(d) This Agreement constitutes the entire agreement between the Parties relating to the subject matter hereof, and may not be altered, changed, waived or amended, except by an instrument in writing executed by the Parties stating to be a waiver or amendment to this Agreement.

(e) No failure or delay in exercising any right, power, or privilege under this Agreement will operate as a waiver thereof, nor will any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power, or privilege under this Agreement.

(f) The numbering and heading of any particular paragraph of this Agreement is for the purpose of convenience only, and shall not be construed as having any substantive effect on the terms of this Agreement.

(g) Nothing in this Agreement, express or implied, is intended, or will be construed, to confer upon or give any person or entity other than the named Parties any rights or remedies under, or by reason of, this Agreement or any transaction contemplated by this Agreement.

(h) This Agreement shall be governed by and construed in accordance with the laws of the State of Louisiana, without regard to, or effect of, any choice or conflict of law principles or rules.

If any dispute arises between the Parties with respect to any matters, including breaches of this agreement by either Party, both Parties waive any right to have a jury trial, and the dispute shall be subject to binding arbitration conducted before a single arbitrator in Louisiana in accordance with the rules of the American Arbitration Association and the Federal Arbitration Act, and the decision of the arbitrator shall be final and binding on all Parties; provided that, nothing in this clause shall bar a Party from seeking injunctive relief in emergent circumstances, including but not limited to the unauthorized disclosure of its Confidential Information. Should a Party seek a legal remedy such as an injunctive relief, the Parties agree that the venue and jurisdiction shall be the 40th Judicial District Court, St. John the Baptist Parish, Louisiana. The prevailing party in the arbitration shall be entitled to recover reasonable attorneys' fees from the other party in relation to the arbitration.

(i) This Agreement may be executed in any number of counterparts and by the different Parties hereto on separate counterparts, each of which when so executed and delivered shall be an original, but all of which shall together constitute one and the same instrument. This Agreement may be validly executed and delivered by electronic transmission (including in portable document format (PDF)) and any signed electronic copies of this Agreement shall have the same binding effect as original signed Agreement.

(j) The Parties and their respective Representatives signing below represent that they have requisite power and authority to enter into this Agreement.

[Signature page follows]

In consideration of the foregoing terms and conditions, the undersigned have executed this Agreement effective the date first written above.

_____ -Company Name

By: _____
Name:
Title
Email:

Port of South Louisiana

By: _____
Name:
Title:

Please provide Contact Information if the person receiving correspondence regarding this RFP is different from above.

Name: _____
Title: _____
Email: _____
Phone: _____