

Agreement No: 202X-0XXX  
Disclosure Period: 3 Year  
Proprietary Period: 10 Years

## NON-DISCLOSURE AGREEMENT

**THIS PROPRIETARY INFORMATION EXCHANGE AGREEMENT** (this “Agreement”) is made by and between **Kaney, Inc. (d.b.a Kaney Aerospace, Inc. BVR Technologies Co.; Ardekin Precision; Kaney Aerospace Repair Station)**, an Illinois corporation having an office and principal place of business at **1300 Capital Drive Rockford, IL 61109, USA (“Kaney”)**, and **Insert Name of Company** having an office and place of business at **(Insert Address)**. **Kaney** and **(Insert “Name”)** are referred hereafter in this Agreement individually as a “Party” and together as the “Parties”.

### RECITALS

- A. The Parties wish to explore a business opportunity of mutual interest and in connection with this opportunity, the Parties may disclose to each other certain confidential technical and business information, which each Party requires the other Party to treat as confidential.
- B. This Agreement is intended to formalize the protection of Proprietary Information exchanged by the Parties.
- C. The Parties recognize that the Proprietary Information is a valuable asset of the disclosing Party, and that misuse or unauthorized disclosure will substantially impair the value of the Proprietary Information.

NOW THEREFORE, the Parties agree as follows:

### 1. DEFINITION OF PROPRIETARY INFORMATION

“Proprietary Information” means any nonpublic information, technical data or know-how, whether in tangible or electronic form or conveyed orally. This includes but is not limited to, documented information, machine readable or interpreted information, information contained in physical components, and artwork. This applies whether or not such information is designated proprietary at the time of disclosure and all notes, analyses, summaries, and other materials prepared by the Parties or their representatives that contain, are based on, or otherwise reflect the Disclosing Party’s nonpublic proprietary or confidential information. The terms of this Agreement shall extend to recognize and protect any proprietary information disclosed prior to the execution date of this Agreement, in support of all transfer of confidential information between both Parties.

NOTE: The contents of this document are proprietary to Kaney, Inc. and shall not be disclosed, disseminated, copied, duplicated, or used except for purposes authorized by contract or otherwise expressly authorized in writing by Kaney, Inc. In addition, the recipient of this data agrees to abide by the United States Export Control of Technical Data and Equipment under the International Traffic in Arms Regulations (ITAR) and Export Administration Regulations (EAR). The recipient agrees to abide by these laws and their regulations not only for export and re-export, but for disclosure to non-U.S. person.

## **2. INFORMATION NOT CONSIDERED PROPRIETARY**

Proprietary Information does not include information which the receiving Party can establish by documentary evidence was: (a) developed by the receiving Party independently of the disclosing Party as supported by the receiving Party's written records; (b) rightfully obtained without restriction by the receiving Party from a third party; (c) publicly available other than through the fault or negligence of the receiving Party; (d) released without restriction by the disclosing Party to anyone including the U.S. Government as supported by the receiving Party's written records; or (e) known to the receiving Party at the time of its disclosure.

## **3. MARKING OF PROPRIETARY INFORMATION**

Any Proprietary Information exchanged by the Parties and entitled to protection hereunder shall be identified as such by an appropriate stamp or marking on each document exchanged designating that the Proprietary Information is "Proprietary" or "Highly Proprietary". Documents will be appropriately marked as "Controlled Unclassified Information" when necessary.

## **4. PROTECTION**

The receiving Party shall hold each item of Proprietary Information so received in confidence during and until ten (10) years after the expiration of this Agreement (the "Proprietary Period").

## **5. ALLOWABLE USES**

During the Proprietary Period, the receiving Party shall use the Proprietary Information for the purposes only with respect to the Program.

## **6. IMPERMISSIBLE USES, NO RIGHTS GRANTED**

A. Neither Party hereto shall, without the prior written consent of the other, (i) disclose such Proprietary Information during the Proprietary Period in whole or in part; or (ii) use in whole or in part, Proprietary Information disclosed by the other to manufacture or enable manufacture by itself or third parties of the disclosing Party's products, products similar thereto, or products derived therefrom.

B. Without limiting the generality of the foregoing, the receiving Party may not use the

Proprietary Information of the other Party for any purpose not expressly permitted, including, and without limitation, to design, manufacture, service or repair parts for any Party's products or equipment, to compare a part to other part(s) or to design(s) other part(s), to seek or obtain FAA Parts Manufacturer Approval (PMA), or Designated Engineering Representative (DER) approval, Supplemental Type Certificate (STC) approval or other governmental or regulatory approval to manufacture, repair or sell any part, product or service, or to decompile, disassemble, decode, reproduce or reverse engineer any information or software, of the disclosing Party.

- C. Proprietary Information shall remain the property of the disclosing Party. Nothing in this Agreement shall be construed as granting or conferring any rights on the part of any Party by license or otherwise, expressly or implied, to any invention or discovery or to any patent covering such invention or discovery.

## **7. PERMITTED DISCLOSURES**

- A. The receiving Party shall make the Proprietary Information available only to its employees, contract employees, and other parties working on the Program and having a "need to know" with respect to said purpose. In connection therewith, the Parties shall advise each such employee, contract employee, or other Party of its obligations under this Agreement.
- B. If previously authorized in writing by the disclosing Party, the receiving Party may disclose Proprietary Information of the disclosing Party to a third party; provided that the receiving Party require the third party to enter into a proprietary information exchange agreement with similar terms and conditions to this Agreement and such agreement is provided to the disclosing Party within fifteen (15) days after the date on which it was entered into.

## **8. RETURN OR DESTRUCTION OF PROPRIETARY INFORMATION**

All Proprietary Information shall remain the property of the Disclosing Party. Upon expiration or termination of this Agreement, unless otherwise promptly requested by the Disclosing Party in advance of such expiration or termination, the Receiving Party shall return or destroy (and, in the case of destruction, promptly provide a certification of such destruction to the Disclosing Party) all Proprietary Information in its possession, including, without limitation, any copies, summaries, and/or compilations made of or from Proprietary Information, and shall make no further use of Proprietary Information. Notwithstanding the immediately preceding sentence, the Receiving Party is not obligated to return or destroy (a) any Proprietary Information stored on back-up media for purposes of disaster recovery in the ordinary course of business that may be subject to destruction in due course, provided that the Receiving Party is precluded from accessing such Proprietary Information after expiration or termination but prior to its destruction, and (b) residual or latent data such as resulting from deleted files, automatically created temporary files, printer spool files, and metadata that can only be retrieved by computer forensics experts and is generally considered inaccessible without the use of specialized tools and techniques.

NOTE: The contents of this document are proprietary to Kaney, Inc. and shall not be disclosed, disseminated, copied, duplicated, or used except for purposes authorized by contract or otherwise expressly authorized in writing by Kaney, Inc. In addition, the recipient of this data agrees to abide by the United States Export Control of Technical Data and Equipment under the International Traffic in Arms Regulations (ITAR) and Export Administration Regulations (EAR). The recipient agrees to abide by these laws and their regulations not only for export and re-export, but for disclosure to non-U.S. person.

## **9. LEGAL ACTIONS AND GOVERNMENT REGULATIONS**

Should the receiving Party be faced with legal action or a requirement under U.S. or foreign government regulations to disclose Proprietary Information received hereunder, the receiving Party shall forthwith notify the disclosing Party, and upon the request of the latter, the receiving Party shall cooperate in contesting such disclosure.

Except in connection with a failure to discharge the responsibilities set forth in the preceding sentence, neither Party shall be liable in any way for any disclosures made pursuant to judicial action or U.S. or foreign government regulations.

In addition, neither Party shall be liable in any way for any inadvertent disclosure or use where the customary degree of care has been exercised by the receiving Party as it normally uses to protect its own Proprietary Information; provided that in no event shall less than a reasonable standard of care be used by a Party, and upon discovery of such inadvertent disclosure or use, the receiving Party shall notify the original disclosing Party immediately, and shall endeavor to prevent any further inadvertent disclosure or use.

## **10. RELATIONSHIP BETWEEN THE PARTIES**

- A. This Agreement does not create a teaming agreement, joint venture, partnership or other such arrangement; rather, the Parties expressly agree that this Agreement is solely for the purpose of disclosing and protecting Proprietary Information.
- B. Neither Party promises to provide the other Party with Proprietary Information. The decision to provide any Proprietary Information is within the sole discretion of the Party originally possessing the Proprietary Information.
- C. Nothing herein shall obligate the Company or Recipient to proceed with any transaction between them.
- D. Nothing in this Agreement shall grant a Party the right to make commitments of any kind for or on behalf of the other Party and nothing in this Agreement shall be construed as an obligation by a Party to enter into a contract, subcontract, or other business relationship with the other Party in connection with the Program or otherwise.
- E. Except as provided in Section 13 herein, each Party shall bear its own costs and expenses incurred under or in connection with this Agreement.

## **11. EXCLUSIVE CONTACTS**

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The following persons will, on behalf of the respective Parties, be the sole individuals authorized to receive and or transmit written Proprietary Information:

**COMPANY NAME:** \_\_\_\_\_  
**NAME, TITLE:** \_\_\_\_\_  
**PHONE NUMBER:** \_\_\_\_\_  
**E-mail:** \_\_\_\_\_

**Kaney, Inc**

**NAME, TITLE:** SCOTT MOREHEAD, DIRECTOR OF CONTRACTS  
**PHONE NUMBER:** 815-986-4359, ext. 210  
**E-mail:** scott.morehead@kaney.us

Either Party may change the exclusive contact by written notice.

**12. TERM OF AGREEMENT**

The term of this Agreement shall begin on the date it becomes fully executed by all Parties (“effective date”) and shall expire three (3) years (the “Disclosure Period”) after the effective date except that it may be terminated earlier by thirty (30) days prior written notification by either Party to the other or extended by mutual written agreement. However, the terms of this Agreement shall extend to recognize and protect any proprietary information disclosed prior to the execution date of this Agreement in support of this Program.

The provisions of Sections 4, 5, 6, 7, 8 and 13 shall survive such expiration or termination.

**13. DISPUTE RESOLUTION**

- A. Before the Parties resort to litigation to solve any dispute, the Parties agree to schedule a mandatory meeting at a mutually agreeable location, which meeting will be attended by at least one senior manager from each Party. At that meeting, each side will present its dispute and the senior managers will enter into good faith negotiations in an attempt to resolve the dispute.
- B. In the event the dispute is not resolved, the Parties retain all applicable remedies available in law or equity.
- C. This Agreement shall be governed by and interpreted in accordance with the laws of

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Illinois, with the exception of its conflict of laws provision.

- D. Notwithstanding any other rights of either Party, either Party may seek injunctive relief in any court of competent jurisdiction against improper use or disclosure of Proprietary Information.

#### 14. EXPORT OF PROPRIETARY INFORMATION

Proprietary Information disclosed pursuant to this Agreement may be subject to U.S. export control regulations, including but not limited to the (i.e.: **International Traffic in Arms**

**Regulations (ITAR) and/or Export Administration Regulations (EAR)).** This Agreement is expressly made subject to all laws, regulations, orders, and other restrictions on the export from the United States of America of Proprietary Information which may be imposed from time to time by the government of the United States of America. Notwithstanding anything in this Agreement to the contrary, no Party shall export or re-export, directly or indirectly, any Proprietary Information of the other Party to any country for which the United States Government or any agency thereof requires an export license or other governmental approval at the time of export or re-export without first obtaining the disclosing Party's written consent and the required license or approval. **It will be the disclosing Party's responsibility to annotate all Proprietary Information that is subject to U.S. export control regulations, with the proper ITAR or EAR destination control statement.** The receiving Party will indemnify the disclosing Party and hold it harmless from direct damages resulting from the receiving Party's violation of this provision or applicable export laws or regulations, excepting lost profits, consequential and special damages.

#### 15. MISCELLANEOUS

- A. Except as to a sale or transfer of the business to which this Agreement relates, the rights of the Parties under this Agreement may not be assigned to or transferred to any person, firm or corporation without the express prior written consent of the other Party, which consent will not be unreasonably withheld.
- B. This Agreement may be signed in one or more counterparts (including facsimile, e-mail or other means of electronic transmission), each of which shall be deemed one and the same original.
- C. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof. The terms of this Agreement may not be superseded by any specific legends or statements associated with any Proprietary Information and may not be amended except by written document signed by duly authorized representatives of each of the Parties.

**IN WITNESS WHEREOF, the Parties have entered into this Agreement by their duly authorized representative as of the date of the last signature below.**

**Kaney, Inc.**

**Insert Company Name**

**Signature:** \_\_\_\_\_

**Signature:** \_\_\_\_\_

**Printed Name:** Scott Morehead

**Printed Name:** \_\_\_\_\_

**Title:** Director of Contracts

**Title:** \_\_\_\_\_

**Date :** \_\_\_\_\_

**Date :** \_\_\_\_\_

**Non-Modified Version (Indicate with X) Yes**

**Modified Version (Indicate with X) Yes**