

MUTUAL CONFIDENTIAL NONDISCLOSURE AND NON-USE AGREEMENT



THIS MUTUAL CONFIDENTIAL NONDISCLOSURE AND NON-USE AGREEMENT (this "Agreement") is made as of (month)_____(day)_____, (year)_____ (the "Effective Date"), between CalAmp Wireless Networks Corporation, a Delaware, U.S.A. corporation with its headquarters located at 1401 N. Rice Avenue, Oxnard, California 93030 ("CalAmp") and (company name)_____, Inc., a (state of origin)_____ corporation with its principal address at (company address)_____ ("Company").

I. RECITALS

A. Each party has developed, acquired, or otherwise has the rights to certain non-public technical, confidential, and proprietary information, including, but not limited to, patentable and non-patentable inventions, innovations, discoveries, research, algorithms, intellectual property, software (whether human-readable or machine-readable), know-how, product or services architecture, trade secrets, drawings, designs, processes, specifications, technical data, analyses, studies, developments, processes, methodologies, present and future products, product roadmaps, business and marketing plans, business development plans and strategies, strategic business plans, competitive analyses, financial information, financial analyses and forecasts, cost and pricing data, employee or contractor information, customer or partner information, procurement requirements, vendor and supplier information, third-party manufacturer information, licensing and distribution arrangements, or other documents, information, and materials which contain or reflect such information, whether in oral, written, electronic, graphic, photographic, recorded, prototype, sample or in any other form, relating to such party's proprietary technologies, research programs, business, compounds and materials, third-party information that the Disclosing Party (defined below) is under an obligation to keep confidential; and any information that the Receiving Party (defined below) knew, or should have known, was considered confidential or proprietary by the Disclosing Party, shall be considered Confidential Information of the Disclosing Party under this Agreement (collectively, the "**Confidential Information**" of such party).

B. Each party is interested in examining the Confidential Information of the other party for the limited purpose of evaluating a possible business relationship between the parties (the "**Evaluation**").

C. Each party is willing to make available to the other party certain Confidential Information as, in the Disclosing Party's opinion, would be useful to the other party in connection with the Evaluation on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the promises and mutual covenants contained in this Agreement, the parties agree as follows:

II. AGREEMENT

1. **INCORPORATION OF RECITALS.** The Recitals above are an integral part of this Agreement and have the same contractual and legal significance as any other language in this Agreement.

2. **CONFIDENTIAL INFORMATION DESCRIBED.** Each party will disclose and transmit certain of its Confidential Information, as such party determines in its sole discretion, to the other party solely for the purpose of the Evaluation. In this Agreement, the party making the disclosure of the Confidential Information is referred to as the "**Disclosing Party**" and the party receiving the Confidential Information is referred to as the "**Receiving Party**." Confidential Information may be supplied in oral, audible, written, graphic, photographic, electronic, presentation-medium, or other tangible form. Any Confidential Information which is disclosed in oral or audible form will also be protected as Confidential Information if such information is reasonably understood to be confidential, based on the nature of the information and the circumstances of disclosure.

3. **NON-DISCLOSURE AND NON-USE OBLIGATIONS.** The Receiving Party acknowledges, agrees, and covenants with the Disclosing Party that the Confidential Information of the Disclosing Party is confidential and secret to the Disclosing Party and is, and will at all times remain, the exclusive property of the Disclosing Party. The Receiving Party acknowledges, agrees, and covenants with the Disclosing Party that the Receiving Party will maintain the Confidential Information of the Disclosing Party as secret and confidential as though it was the Confidential Information of the Receiving Party and that the Confidential Information will be kept secure by the Receiving Party, and the Receiving Party will take all steps reasonably necessary to secure that Confidential Information against unauthorized loss, use, or disclosure. The Confidential Information of the Disclosing Party will be used by the Receiving Party for the sole purpose of the Evaluation. The Receiving Party will not, either directly or indirectly: (a) use any Confidential Information of the Disclosing Party for any other purpose or for the benefit of any other person or entity; (b) disclose, reveal, report, publish, or give any Confidential Information of the Disclosing Party to any other person or entity; (c) modify, adapt, decode, translate, reverse engineer, decompile, or disassemble any products, services, samples, models, pre-production samples, prototypes, or software (or create derivative works based in whole or in part on the Disclosing Party's Confidential Information, or otherwise attempt to discover the source code or structure, sequence, and organization of any software) at any time or under any circumstances. The Receiving Party will promptly notify the Disclosing Party if it becomes aware of any unauthorized use or disclosure of Confidential Information or any other breach of this Agreement by the Receiving Party and each of the Receiving Party's Representatives (defined below) and will cooperate in every reasonable way to help the Disclosing Party regain possession and exclusive control of such Confidential Information and prevent further unauthorized use and disclosure.

4. **USE BY RECEIVING PARTY'S REPRESENTATIVES.** The Receiving Party will limit the use of, and access to, the Confidential Information of the Disclosing Party to those authorized directors, officers, employees, representatives, consultants, scientific,

and engineering advisors, and other advisors (including legal counsel and auditors) of the Receiving Party (collectively, the **"Receiving Party's Representatives"**) who: (a) have a "need to know" the Confidential Information of the Disclosing Party to carry out the Evaluation; and (b) have been advised of the confidential nature of the Confidential Information of the Disclosing Party and are bound in writing to uphold their obligations with respect to such Confidential Information of the Disclosing Party. The Disclosing Party may, in its absolute discretion, at any time require the Receiving Party to arrange for any or all of the Receiving Party's Representatives to give a written undertaking to the Disclosing Party that they have been advised of the confidential nature of the Confidential Information, their obligations with respect to such Confidential Information, and that they will comply with such obligations. The Receiving Party will direct such of the Receiving Party's Representatives not to disclose to any person or entity except as permitted in this Agreement, and the Receiving Party will be responsible for any breach by any of the Receiving Party's Representatives of the obligations under this Agreement relating to Confidential Information of the Disclosing Party. In addition, the Receiving Party agrees to notify the Disclosing Party in writing, upon request, as to the identity of all Receiving Party's Representatives receiving Confidential Information of the Disclosing Party the content and nature of the Confidential Information (or part thereof) that has been disclosed to the Receiving Party's Representatives.

5. **RELATIONSHIP OF PARTIES.** Neither party has an obligation under this Agreement to enter into any other agreement or relationship with the other party regarding the Evaluation, and nothing in this Agreement should be construed as constituting such relationship between the parties. This Agreement does not create any agency, joint venture, or partnership relationship between the parties.

6. **OTHER DEVELOPMENT.** Each party acknowledges that the other party may have been, may currently, or may in the future be, developing information internally or receiving information from other parties that is similar to the Confidential Information of the Disclosing Party. Accordingly, nothing in this Agreement will be construed as a representation or agreement that the Receiving Party will not develop, or have developed for its benefit, products, services, concepts, systems or techniques that are similar to, or compete with the products, services, concepts, systems or techniques contemplated by or embodied in the Confidential Information of the Disclosing Party, provided that the Receiving Party does not violate any of its obligations under this Agreement in connection with such development.

7. **EXCEPTIONS TO OBLIGATIONS.** The obligations of the Receiving Party under **Sections 3 and 4** will not extend to Confidential Information of the Disclosing Party:

- (a) that can be demonstrated to have been in the possession of the Receiving Party from another source which has the right to disclose such information free of any obligation to the Disclosing Party prior to the Disclosing Party's disclosure of such Confidential Information to the Receiving Party; or
- (b) that becomes part of the public domain or publicly known, by publications or otherwise, not due to any unauthorized act or omission by the Receiving Party or any other person; or
- (c) that can be demonstrated as independently developed by the Receiving Party without reference to or reliance upon such Confidential Information, as evidenced by the Receiving Party's written records; or
- (d) that is required to be disclosed by law, provided that the Receiving Party takes reasonable and lawful actions to avoid or minimize such disclosure and promptly notifies the Disclosing Party so that the Disclosing Party may take lawful actions to avoid or minimize such disclosure.

8. **DESTRUCTION OF INFORMATION.** The Receiving Party acknowledges and agrees that to the extent Confidential Information of the Disclosing Party is included in any reports, drawings, designs, data, notes, and other documents and records, whether printed, typed, handwritten, videotaped, transmitted or transcribed on data files or on any other type of media, made or compiled by the Receiving Party, such inclusion will not relieve Receiving Party from its obligation to maintain the confidentiality of the Disclosing Party's Confidential Information. Upon request by the Disclosing Party, the Receiving Party will promptly destroy, and an authorized officer of the Receiving Party will promptly certify in writing the destruction of, all Confidential Information (except for that Confidential Information contained on backup tapes, provided that such backups are secured in accordance with **Sections 3 and 4** above) along with all copies, summaries and extracts thereof (including, but not limited to, any printed form, disk, drive, products, samples, models, prototypes, photographs, schematics and notes, memoranda, notebooks, drawings, records, reports, files, documented source and object codes, and other documents and all copies or reproductions of such materials relating, directly or indirectly, to Confidential Information) in the Receiving Party's possession or under the Receiving Party's control, whether prepared by the Receiving Party or others.

9. **INFORMATION "AS IS".** Confidential Information disclosed under this Agreement is provided on an "AS IS" basis. Neither Party makes any warranty, express or implied, as to the value, accuracy, or completeness of the Confidential Information disclosed hereunder. Neither Party, nor any of its representatives, shall be liable to the other for any expenses, losses, use, or actions howsoever incurred or undertaken by the Receiving Party in reliance on the Confidential Information disclosed under this Agreement. The Disclosing Party does not guarantee the accuracy or completeness of the Confidential Information and will not be held responsible for any errors or omissions or misstatements it may contain.

10. **INTELLECTUAL PROPERTY.** No license to the Receiving Party of any trademark, patent, patent application, copyright, mask work protection right, trademark, or any other intellectual property right or interest is either granted or implied by this Agreement or any disclosure hereunder, including, but not limited to, any license to make, use, import, or sell any product or service embodying any Confidential Information. No representation, warranty, or assurance is made by the Disclosing Party with respect to the non-infringement of trademarks, patents, copyrights, mask protection rights, or any other intellectual property rights or other rights of third persons.

11. **REMEDIES.** It is further understood and agreed that money damages may not be a sufficient remedy for any breach of this Agreement and the Disclosing Party will be entitled to seek an injunction restraining the threatened use or disclosure, or further use or disclosure of the Confidential Information in breach of this Agreement or specific performance as a remedy for any such breach of this Agreement. Such remedies will be in addition to all other remedies available at law or equity.

12. **ASSIGNMENT.** This Agreement is personal to the Receiving Party and may not be assigned or novated by the Receiving Party without the prior written consent of the Disclosing Party.

13. **SEVERABILITY.** The illegality or invalidity of any provision of this Agreement will not impair, affect, or invalidate the other provisions of this Agreement, and any such invalid or unenforceable provision will be reformed so as to be valid and enforceable to the fullest extent permitted by law.

14. **EXPORT COMPLIANCE ASSURANCE.** The Receiving Party acknowledges that all Confidential Information, hardware, software, source code, or technology (collectively, "**Products**") obtained from the Disclosing Party are subject to the United States ("**US**") government export control and economic sanctions laws. The Receiving Party represents, warrants, covenants, and assures that it, its parent and subsidiaries will not directly or indirectly export, re-export, transfer or release (collectively, "**Export**") any Products or direct product thereof to any destination, person, entity or end-use prohibited or restricted under US laws without prior US government authorization to the extent required by applicable regulation. The US government maintains embargoes and sanctions against certain countries, currently Cuba, Iran, Libya, North Korea, Sudan and Syria, but any amendment to the countries under a US embargo or sanction will apply. The Receiving Party acknowledges that other countries may have trade laws pertaining to import, use, Export or distribution of Products, and that compliance with the same is the responsibility of the Receiving Party. This requirement will survive any termination or expiration of this Agreement.

15. **NOTICES.** Except as otherwise provided herein, all notices or other communications to be given or that may be given by either party to the other will be deemed to have been duly given when made in writing and delivered in person, one (1) business day after being sent by recognized overnight courier or five (5) days after deposit in the United States mail, certified, postage prepaid, return receipt requested to the addresses in the preamble of this Agreement.

16. **GOVERNING LAW.** The construction, validity, performance, enforcement, and effect of this Agreement will be governed by the laws of the State of California, U.S.A. without regard to conflict of law principles. All suits and claims will be made only in courts located in the State of California, U.S.A.

17. **TERM.** The obligations of each party under the terms of this Agreement will continue in full force and effect for five (5) years after the Effective Date, unless either (a) a longer period is prescribed elsewhere in this Agreement, or (b) the parties embark on a commercial relationship that is not reduced to a separate written agreement, in which case, this Agreement will continue in full force and effect for as long as the parties are engaged in such commercial relationship and for a period of three (3) years after the termination of any such relationship.

18. **COUNTERPARTS.** This Agreement may be executed in counterparts, each of which will be deemed an original, but both of which together will constitute one and the same instrument. A signature delivered by facsimile, e-mail, or other means of electronic transmission (including pdf), is deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

19. **CONTRACT INTERPRETATION.** No rule of contract interpretation will be applied in the interpretation of this Agreement to the disadvantage of one party on the basis that it prepared or put forward this Agreement or any document comprising part of this Agreement.

20. **ENTIRE AGREEMENT AND AMENDMENTS.** This Agreement constitutes the entire and exclusive agreement between the parties with respect to the subject matter hereof and supersedes and cancels all previous negotiations, agreements, commitments and writings in respect thereof. This Agreement may not be changed, modified, released, discharged, abandoned, or otherwise terminated in whole or in part, except by an instrument in writing, agreed to and signed by a duly authorized officer of each party.

IN WITNESS WHEREOF, the parties have caused this Mutual Confidential Nondisclosure and Non-Use Agreement to be executed as of the date set forth above.

CALAMP WIRELESS NETWORKS CORPORATION: **Company Name:** _____

By: (Signature) 

Printed Name: Justin Schmid

Title: SVP, GM - Telematics Solutions

Date: _____

By: (Signature) _____

Printed Name: _____

Title: _____

Date: _____