CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

made and entered into between

AIR TRAFFIC AND NAVIGATION SERVICES COMPANY SOC LTD

Registration Number: 1993/004150/30

Herein represented by **Mr/Mrs** _____, in their capacity as

_____ and duly authorised hereto.

(Hereinafter referred to as the "**ATNS**")

and

_____

Registration Number: _____

Herein represented by **Mr/Mrs** _____, in their capacity as

_____ and duly authorised hereto.

(Hereinafter referred to as the "**Bidder**")

PREAMBLE

WHEREAS Air Traffic and Navigation Services Company SOC Ltd ("**ATNS**") is a South African Schedule 2 Major Public Entity, established in terms of the South African Air Traffic and Navigation Services Company Act No. 45 of 1993, as amended from time to time, reporting to the South African Ministry of Transport;

WHEREAS ATNS provides safe, expeditious and efficient air traffic, navigation, training and associated services within South Africa and a large part of the Southern Indian and Atlantic Ocean, comprising approximately six per cent (6%) of the world's airspace. ATNS operates at 21 aerodromes within South Africa, including O.R Tambo, Cape Town, and King Shaka International Airports. Within the rest of the African Continent and AFI-Region, ATNS also provides Air Traffic Management ("**ATM**") / Communication Navigation Surveillance ("**CNS**") related services, including Aeronautical Satellite Communication and Very Small Aperture Terminal ("**VSAT**") networks;

WHEREAS ATNS and the Bidder (collectively the "**Parties**" and individually a "**Party**") have an interest in participating in structured engagement, information exchange, discussions and negotiations relating to the development of a Runway Occupancy Alerting System ("**ROAST**") using artificial intelligence ("**AI**") and speech recognition at a simulated and operational environment for ATNS' request for proposal ("**RFP**") reference number: ATNS/RFP05/06/2026/27/RDI_ROAST (the "**Project**"), and in contemplation of such engagements, exchanges, discussions and negotiations certain Confidential Information, as defined herein, may be shared by each Party with the other ("**Authorised Purpose**");

WHEREAS each Party shall, in its sole discretion, determine the type and amount of the confidential and proprietary information which it shall provide to the other for the purposes of this Confidentiality and Non-Disclosure Agreement (the "**Agreement**") or the Project;

WHEREAS the Parties agree that the Confidential Information to be disclosed is and shall remain the data, experience, proprietary information, and technical knowledge of the Party making the disclosure, which is of a confidential and secret nature and all of which are regarded by the Party making the disclosure as valuable commercial assets of a highly confidential nature;

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WHEREAS the Parties agree that the disclosure of the Confidential Information may cause irreparable damage, harm, and loss to the Party disclosing the Confidential Information. In the event of any Confidential Information being disclosed or used other than in accordance with this Agreement. Accordingly, in the event of the engagements, exchanges, discussions and negotiations are unsuccessful, the Party receiving the Confidential Information shall not disclose the Confidential Information to any third party for any reason or purpose whatsoever without the prior written consent of the Party disclosing the Confidential Information, save in accordance with the provisions of this Agreement;

NOW THEREFORE THE PARTIES HEREBY AGREE AS FOLLOWS:

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1. INTERPRETATION AND DEFINITION

1.1. INTERPRETATION

In this Agreement, unless the context otherwise indicates or requires:

1.1.1. The headings of clauses of this Agreement are inserted for convenience and reference purposes only and shall not govern or affect the interpretation thereof;

1.1.2. Any annexure to this Agreement shall form an integral part hereof and words and expressions defined in this Agreement shall bear, unless the context otherwise requires, the same meaning in such annexure;

1.1.3. Subject to the provisions of clause 1.2 of this Agreement, words and expressions defined in any statute, regulation or rules referred to in this Agreement shall bear the meaning assigned to them in such statute, regulation or rules, and cognate words and expressions shall bear corresponding meanings;

1.1.4. Where any term is defined within the context of any particular clause in this Agreement, the term so defined shall, unless it is clear from the clause in question that the term so defined has limited application to the relevant clause, bear the meaning ascribed to it for all purposes in terms of this Agreement, notwithstanding that the term has not been defined in clause 1.2 of this Agreement;

1.1.5. Words importing the singular shall include the plural and *vice versa*;

1.1.6. References to any one gender shall include the other gender;

1.1.7. Reference to a natural person shall include a legal persona and *vice versa*;

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1.1.8. If any provision in a definition of this Agreement is a substantive provision conferring rights or imposing obligations on any Party, notwithstanding that it is only in the definition clause, effect shall be given to it as if it were a substantive provision in the body of this Agreement;

1.1.9. The rule of interpretation that where specific words are followed by general words, the general words are limited to things of the same class as the specific ones shall not apply to this Agreement; and the use of the words “include”, “includes” and “including” followed by a specific example shall not be construed as limiting the meaning of the general wording preceding it;

1.1.10. Each of the provisions of this Agreement has been negotiated by the Parties and drafted for the benefit of the Parties, and accordingly the rule of interpretation that a document shall be interpreted against or to the disadvantage of the party responsible for the drafting or preparation of the document (i.e. the *contra proferentem* rule), shall not apply;

1.1.11. Where any number of days is prescribed in this Agreement, these shall be reckoned as calendar days, exclusively of the first day and inclusively of the last day;

1.1.12. Where the day on or by which anything is to be done is not a business day (a “**business day**” being any day other than a Saturday, Sunday or public holiday in South Africa), it shall be done on or by the first business day thereafter;

1.1.13. Where anything is to be done during “**business hours**” it shall be done between 08h00 and 17h00 on a business day;

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1.2. **DEFINITIONS**

Unless the context indicates or requires otherwise, the following words and expressions shall bear the meanings assigned to them and cognate words and expressions shall bear corresponding meanings:

1.2.1. "**Agreement**" means this Confidentiality and Non-Disclosure Agreement and all the annexures to this Agreement;

1.2.2. "**Agreement Period**" means the period of five (5) years commencing on the Effective Date and ending at the end of the Termination Date, as more fully set out in clause 2;

1.2.3. "**ATNS**" means Air Traffic and Navigation Services Company SOC Limited, with registration number 1993/004150/30, duly registered and incorporated in terms of the laws of the Republic of South Africa;

1.2.4. "**Bidder**" means _____ , with registration number _____ , duly registered and incorporated in terms of the laws of _____;

1.2.5. "**Confidential Information**" means all information of whatsoever nature relating to the Disclosing Party, which is disclosed at any time (whether before, on or after the date of signature of this Agreement) in writing, visual, or machine readable form or orally by the Disclosing Party or any of its agents, contractor, sub-contractors, employees, officers or representatives to the Receiving Party or any of its agents, contractor, sub-contractors, employees, officers or representatives, or any Third Party acting on behalf of the Receiving Party, and includes, without limiting the generality of the aforesaid, the following:

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1.2.5.1. All information relating to the assets, business, finances, marketing and sales plans and strategies, research and development projects, technology and systems, trading practices, transactions, and relationships with clients and suppliers of the Disclosing Party;

1.2.5.2. The contents of this Agreement and any other documents made available to the Receiving Party in relation to the Authorised Purpose and/or the disposal process;

1.2.5.3. Any analysis, compilations, computer disks, data, diagrams, documents, information, memoranda, notes, plans, proposals, reports, studies, summaries, tapes, or other materials (in whatsoever form, format or medium) which contains or reflects, or is derived or generated in whole or in part from such information;

1.2.5.4. Customers, potential customers, and business associates;

1.2.5.5. Marketing or business plans and strategies;

1.2.5.6. Confidential intellectual property including but not limited to computer software, copyrights (including rights in computer software, confidential and proprietary knowledge and information, and any rights protecting same), databases, designs, discoveries, domain names, inventions, know-how, processes, rights (registered or unregistered and applications for same), trade or business names, and works of authorship;

1.2.5.7. Trade secrets including but not limited to contractual arrangements between each Party and its business associates, and financial details between each Party and

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its business associates; and

1.2.5.8. Information of matters which relate to the business of either Party and which information is not readily available in the ordinary course of business to a competitor of the Parties, and which may be made or become available to the other Party or any of its agents, contractors, sub-contractors, employees, officers or representatives pursuant to this Agreement;

1.2.6. "**Data Subject**" means any individual or person who can be identified, directly or indirectly, via an identifier including but not limited to a name, an ID number, or location data;

1.2.7. "**Disclosing Party**" means the Party disclosing the Confidential Information to the Receiving Party;

1.2.8. "**Effective Date**" means the Signature Date;

1.2.9. "**Parties**" means ATNS and the Bidder; and "**Party**" means each of them;

1.2.10. "**Personal Information**" means data that can be used to identify a person, including but not limited to biometrics;

1.2.11. "**POPIA**" means the Protection of Personal Information Act, 2013 (Act No. 4 of 2013), as amended and replaced from time to time, including any regulations and/or codes made thereunder;

1.2.12. "**Receiving Party**" means the Party receiving the Confidential Information from the Disclosing Party;

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1.2.13. "**Responsible Party**" means a private or public body, or any other person which determines the means through which and purpose for which Personal Information shall be processed;

1.2.14. "**Signature Date**" means the date on which this Agreement is signed by the last Party to do so, whether in counterpart or not;

1.2.15. "**South Africa**" means the Republic of South Africa;

1.2.16. "**Termination Date**" means date on which the operation of this Agreement expires through the effluxion of time, being the last day of the Agreement Period; and

1.2.17. "**Third Party**" means any person other than ATNS or the Bidder.

2. COMMENCEMENT AND DURATION

2.1. This Agreement shall commence on the Effective Date and shall endure for a period of five (5) years whereafter it shall expire on the end of the Termination Date, unless terminated earlier in terms of clause 9.1.

2.2. Notwithstanding the expiry or early termination of this Agreement for any reason whatsoever, the Receiving Party's obligations in respect of the confidentiality, protection, non-disclosure and non-use of the Confidential Information shall survive such expiry or early termination and shall remain binding on the Receiving Party for an indefinite period. Should a court of competent jurisdiction determine that the indefinite duration of the confidentiality, protection, non-disclosure and non-use obligations of the Receiving Party is invalid, unenforceable or unreasonable, then such confidentiality, protection, non-disclosure and non-use obligations shall remain in full force and effect for as long as the Disclosing Party has any protectable interest in the Confidential Information, or for such other period as the court of competent jurisdiction may order to be reasonable and enforceable in the circumstances.

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3. OBLIGATION OF CONFIDENTIALITY

3.1. The Receiving Party acknowledges that the Confidential Information is a special, valuable and unique asset belonging to the Disclosing Party, and shall maintain the Confidential Information in confidence.

3.2. The Receiving Party shall not disclose the Confidential Information to any Third Party for any reason or purpose whatsoever without the prior written consent of the Disclosing Party, save in accordance with the provisions of this Agreement.

3.3. The Receiving Party shall use the Confidential Information solely for the Authorised Purpose and in accordance with the provisions of this Agreement, and expressly undertakes not to use, commercially exploit, disclose or otherwise deal with the Confidential Information, or any extract or part thereof, for its own benefit or the benefit of any Third Party.

3.4. The Receiving Party shall not copy, disclose, or reproduce the Confidential Information of the Disclosing Party, without the Disclosing Party's express prior written consent, to any person except to its agents, employees, officers or representatives who strictly need to know the Confidential Information solely for the purpose set out in clause 3.3 above, provided that the Receiving Party shall always take all the necessary actions to procure that all of its agents, employees, officers or representatives keep the Confidential Information secret and do not copy, commercially exploit, disclose, reproduce or use the same, whether alone or with or through others. To this end, the Receiving Party shall, *inter alia*, ensure that such persons to whom the Confidential Information is disclosed complete such undertakings as are the same as the Receiving Party's obligations under this Agreement and that such persons remain bound by such undertakings even after the termination of their relationship with the Receiving Party, prior to any disclosure of the Confidential Information.

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3.5. In order to secure the confidentiality attaching to the Confidential Information, the Receiving Party shall:

3.5.1. keep all Confidential Information and all information generated by the Receiving Party based on the Confidential Information, separate from all other documents and records of the Receiving Party;

3.5.2. keep all documents and other material, whether in hard or soft copy, bearing or incorporating any Confidential Information at the usual place of business of the Receiving Party;

3.5.3. securely store all data; documents; data images, messages, sounds, texts or voice message; papers; or other materials furnished by the Disclosing Party to the Receiving Party in connection with, or which constitutes or comprises of the Confidential Information in such a manner so as to ensure that only individuals entitled to access the Confidential Information and who have complied with the confidentiality undertakings contemplated in clause 3.4 above shall have access thereto;

3.5.4. not reproduce, store, transform or use any of the Confidential Information in an externally accessible computer or electronic information retrievable system, or transmit it in any form or by any means whatsoever outside its usual place of business;

3.5.5. not directly or indirectly at any time after the Signature Date and irrespective of the termination of this Agreement for any cause whatsoever, at any time:

3.5.5.1. do, or purport to do anything, or assist any Third Party in doing anything which may impair, or tend to impair, or prejudice or interfere with any part of the Disclosing Party's rights, title or interest in and to the Confidential

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Information;

3.5.5.2. represent that the Receiving Party has any right, title or interest in and to any part of the Confidential Information; and

3.5.5.3. save as expressly permitted in terms of this undertaking, exercise, or purport to endeavour to exercise, any part of the right in the Confidential Information without the express prior written consent of the Disclosing Party.

3.6. In the event of the Receiving Party being compelled in law to disclose the Confidential Information to any Third Party, it shall immediately notify the Disclosing Party thereof in order to enable the Disclosing Party to seek an appropriate protective order or to waive compliance with such provisions of this Agreement as would prevent compliance in law, or give its consent thereto. If requested by the Disclosing Party, the Receiving Party and its representatives shall, as soon as reasonably possible but in any event within seven (7) days, provide the Disclosing Party with details of the copies retained and demonstrate, to the reasonable satisfaction of the Disclosing Party, that applicable law or regulation requires the retention thereof.

3.7. The Receiving Party shall maintain, and provide to the Disclosing Party on request, a list of all representatives to whom the Confidential Information has been disclosed.

3.8. Each acknowledgement and undertaking made or given by the Receiving Party pursuant to the provisions of this Agreement:

3.8.1. shall endure for a period of five (5) years after the last Confidential Information is disclosed by the Disclosing Party to the Receiving Party, or such longer period as the Disclosing Party has proprietary rights in the Confidential Information, and shall survive the return of the Confidential Information to the Disclosing Party pursuant to the

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provisions of this Agreement; and

3.8.2. is a separate acknowledgement and undertaking which is,

3.8.2.1. Made separate from every other acknowledgement and undertaking;

3.8.2.2. Made separately in respect of each proprietary right of the Disclosing Party, and in respect of each element of the Confidential Information;

3.8.2.3. Severable from every other acknowledgment and undertaking, and the validity or invalidity of any one of these separate acknowledgements and undertakings shall not affect the validity or invalidity of any other acknowledgements or undertakings; and

3.8.2.4. In no way limited or restricted by reference to or a lack of reference from the terms of any other acknowledgment or undertaking.

4. RIGHTS AND LICENSES

4.1. This Agreement and the furnishing of any Confidential Information by the Disclosing Party to the Receiving Party shall not be construed as establishing, either expressly or by implication, any contract or implied contract, or the granting of rights or licenses by the Disclosing Party to the Receiving Party, or any other relationship between the Parties.

5. OWNERSHIP OF CONFIDENTIAL INFORMATION

5.1. The Confidential Information shall remain the property of the Disclosing Party and its disclosure shall not confer on the Receiving Party or any Third Party any rights of any nature whatsoever, including but not limited to any

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intellectual property rights, over the Confidential Information.

5.2. The Receiving Party understands and agrees that the Disclosing Party owns all rights, title and interest in and to the Confidential Information and in and to any modifications, compilations or derivative works therefrom (collectively "**Modified Confidential Information**"), and also owns all intellectual property rights and other proprietary interest in and to the Modified Confidential Information.

5.3. Unless otherwise agreed to in writing between the Parties, any documentation or records relating to the Confidential Information which comes into the possession of the Receiving Party pursuant to this Agreement:

5.3.1. shall remain the property of the Disclosing Party;

5.3.2. shall not be circulated, published or otherwise disclosed by the Receiving Party;

5.3.3. shall not be copied or reproduced by the Receiving Party other than strictly in accordance with the provisions of this Agreement;

5.4. All Confidential Information and all documents and media containing such Confidential Information, including any copies or reproductions thereof, shall immediately be returned to the Disclosing Party upon the occurrence of the first of the following events:

5.4.1. The completion of the Authorised Purpose;

5.4.2. The reasonable request of the Disclosing Party; or

5.4.3. The termination of this Agreement.

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5.5. Where any Confidential Information, or any document and media containing such Confidential Information, is incapable of being returned to the Disclosing Party it shall be deleted, destroyed or erased, where applicable.

5.6. Disclosure of Confidential Information shall not constitute any assurance, guarantee, inducement, representation, or warranty by the Disclosing Party with regard to the infringement of patents or other rights of Third Parties. No representations or warranties as to the accuracy, completeness, or technical or scientific quality of any Confidential Information is provided herein.

6. PROTECTION OF CONFIDENTIAL INFORMATION

6.1. The Receiving Party shall exercise in relation to the Confidential Information no lesser security measures and degree of care than those which the Receiving Party applies to its own confidential information, which the Receiving Party warrants as providing adequate protection against unauthorised disclosure, copying or use.

6.2. The Disclosing Party shall permit the Receiving Party to have access to the Confidential Information solely to the extent that the Receiving Party requires access to such Confidential Information for the Project in accordance with the terms of this Agreement.

6.3. The Receiving Party shall not modify the Confidential Information, merge it with other data, commercially exploit it or engage in any other practice or activity that may in any manner adversely affects the integrity, security or confidentiality of such Confidential Information, other than as specifically permitted herein or as directed by Disclosing Party in writing.

6.4. The Receiving Party warrants and undertakes that it shall secure and protect the Confidential Information and any other data or information of the Disclosing Party against unauthorised access, damage, destruction, disclosure, loss or processing.

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6.5. The Receiving Party hereby warrants and undertakes to and in favour of the Receiving Party that it shall not at any time copy, compile, collect, collate, process, mine, store, transfer, alter, delete, interfere with or in any other manner use the Disclosing Party's data for any purpose other than with the express prior written consent of the Disclosing Party, and to the extent necessary in respect of the Project.

6.6. The Receiving Party further warrants that it shall ensure that all its systems and operations which it uses in respect of the Project shall at all times be of a minimum standard required under legislation and further be of a standard no less than the standards which are in compliance with the international best practice for the protection, control and use of such data.

7. EXCLUSIONS

7.1. Confidential Information does not include any information which:

7.1.1. is or becomes generally available to the public at the time of its disclosure by the Disclosing Party other than through the negligence or default of the Receiving Party or any of its representatives;

7.1.2. was already and independently known to the Receiving Party at the time of its disclosure by the Disclosing Party;

7.1.3. the Disclosing Party confirms in writing is disclosed on a non-confidential basis;

7.1.4. has lawfully became known by or came into the possession of the Receiving Party or any of its agents, employees, officers or representatives on a non-confidential basis; or

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7.1.5. is independently developed by the Receiving Party without reference to or incorporating any of the Confidential Information or by breach of this Agreement.

8. INDEMNIFICATION

8.1. To the fullest extent permitted by law, the Receiving Party shall indemnify, defend and hold the Disclosing Party harmless from and against any and all actions, claims, costs, damages or losses, expenses which may be incurred by or for which liability may be asserted against the Disclosing Party in connection with or arising from this Agreement or as a result of any acts or omissions by the Receiving Party in the use, misuse, dissemination or publication of the Confidential Information. Such obligation shall not be construed to abridge or negate any other obligation of indemnification which would otherwise exist in favour of the Disclosing Party.

9. BREACH

9.1. The Receiving Party recognises and acknowledges that the Confidential Information is of an extraordinary, special, and unique character to the Disclosing Party and any breach by the Receiving Party of this Agreement cannot be fully compensated, and further that any disclosure, misappropriation or unauthorised use of the Confidential Information shall cause irreparable injury to the Disclosing Party. The Receiving Party expressly agrees, therefore, that the Disclosing Party shall, in addition to any rights and remedies it may have at law, be entitled to immediately cancel this Agreement and seek injunctive and other equitable relief to prevent the breach, or the further breach, of any of the provisions of this Agreement. The Receiving Party agrees to reimburse the Disclosing Party for any costs, damages, liabilities, losses, opportunity costs, direct or indirect expenses including but not limited to reasonable attorney's fees, profit opportunity returns foregone, and any court costs incurred by the Disclosing Party as a result of *any prima facie* breach of this Agreement by the Receiving Party.

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9.2. The Parties agree that any costs awarded shall be recoverable on an attorney-and-own-client scale unless the Court specifically determines that such scale shall not apply, in which event the costs shall be recoverable in accordance with the High Court tariff, determined on an attorney-and-client scale.

9.3. The Aggrieved Party's remedies and rights in terms of this clause 9 are without prejudice to any other remedies and rights which the Aggrieved Party may be entitled to in law.

10. DISPUTE RESOLUTION

10.1. Without detracting from either Party's right to institute action or motion proceedings in any court of competent jurisdiction in respect of any claim or dispute that may arise out of or in connection with this Agreement, the Parties consent to the jurisdiction of the High Court of South Africa, Gauteng Division, Johannesburg for any claim or dispute arising out of or in connection with this Agreement.

10.2. Notwithstanding anything to the contrary contained in this Agreement or any other documentation, either Party **may** approach any court of competent jurisdiction without first exhausting the Negotiation and/or Arbitration procedure referred to in this Agreement.

10.3. **Negotiation**

10.3.1. Should any claim, disagreement, or dispute arise between the Parties concerning this Agreement, the Parties shall try to resolve such claim, disagreement, or dispute by negotiation. This entails that one Party invites the other Party in writing to meet and attempt to resolve the claim, disagreement, or dispute within five (5) days from the date of the written invitation.

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10.3.2. The Parties undertake to extensively consult with each other in the event of a claim, disagreement, or dispute and to use their best endeavours to resolve such claim, disagreement, or dispute amongst themselves without recourse to arbitration or litigation.

10.3.3. In the event of the Parties failing to resolve any claim, disagreement, or dispute arising between them through negotiation in terms of this clause 10.3, then either Party may declare such claim, disagreement, or dispute to be a formal claim, disagreement, or dispute by notice to the other Party ("**Dispute**").

10.4. **Arbitration**

10.4.1. In the event of the Parties failing to resolve the Dispute through Negotiation in terms of clause 10.3 of this Agreement, and subject to clause 10.2 of this Agreement, then either Party **may** refer the Dispute to arbitration. The arbitrator shall, at the written request of either Party, be appointed by the secretary of the Arbitration Foundation of Southern Africa ("**AFSA**"). The arbitration shall be conducted in accordance with the AFSA Domestic Rules for Expedited Arbitration or any superseding rules thereto ("**AFSA Rules**"), and shall be administered by AFSA.

10.4.2. Should AFSA, as an institution, not be operating at that time or not be accepting requests for arbitration for any reason, then the arbitration shall be conducted in accordance with the AFSA Rules (as last applied by AFSA) before an arbitrator appointed by agreement between the Parties. Should the Parties fail to agree on the identity of the arbitrator within ten (10) business days of the demand and/or referral for arbitration, then either Party shall be entitled to forthwith call upon the chairperson of the Johannesburg Bar Council to nominate the arbitrator, provided that the person so nominated shall be an advocate of not less than ten (10) years' standing as such. The person so nominated shall be the duly

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appointed arbitrator in respect of the arbitration. In the event of the attorneys of the Parties to the arbitration failing to agree on any matter relating to the administration of the arbitration, such matter shall be referred to and decided by the arbitrator whose decision shall be final and binding on the Parties.

10.4.3. Any Party to the arbitration may appeal the decision of the arbitrator in terms of AFSA Rules.

10.4.4. Nothing herein contained shall be deemed to prevent or prohibit a Party to the arbitration from applying to the appropriate court for urgent relief.

10.4.5. Any arbitration in terms of this clause 10.4 (including any appeal proceedings) shall be conducted *in camera,* and the Parties shall treat as confidential the details of the Dispute submitted to arbitration, the conduct of the arbitration proceedings and the outcome of the arbitration.

10.4.6. The Parties agree that the written demand by either Party in terms of clause 10.4.1 of this Agreement that the Dispute be submitted to arbitration is to be deemed to be a legal process for the purpose of interrupting extinctive prescription in terms of the Prescription Act No. 68 of 1969.

10.4.7. The costs of the arbitration shall be determined by AFSA or the arbitrator and shall be borne equally by the Parties, unless otherwise agreed upon in writing by the Parties or ordered by the arbitrator, and shall be due and payable to AFSA or the arbitrator on presentation to the Parties of a written account.

10.4.8. In the event of either Party failing to pay its share of any administration fee, cost, or expense when requested by the AFSA secretariat, such Party shall automatically be excluded from

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participating in the arbitration process for so long as such Party is in default of payment. Where one Party is excluded by reason of default of the payment of any administration fee, cost, or expense, the AFSA secretariat shall revise the amounts payable by the remaining Party to cover all administration fees, costs and expenses, subject to the right of the paying Party to recover such additional administration fees, costs or expenses from the non-paying Party, unless otherwise ordered by the arbitrator.

10.5. This clause 10 shall continue to be binding on the Parties notwithstanding any early termination or expiry of this Agreement.

11. DOMICILIA AND NOTICES

11.1. The Parties hereby choose as their respective *domicilium citandi et executandi* ("***domicilium***") for all purposes arising from or in connection with this Agreement whether, in respect or court process, notices or other documents of communications of whatsoever nature, the following addresses:

11.1.1. **ATNS**

Physical Address
Eastgate Office Park
Block C, South Boulevard Road
Bruma
2198

Email Address
JoeD@atns.co.za / rdi@atns.co.za

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11.1.2. **Bidder**

Physical Address

_____

_____

_____

_____

Email Address

_____

11.2. Either Party may change its *domicilium* or its address for the purposes of notices to any other physical address or email address by written notice to the other Party to that effect, provided that such physical *domicilium* must be a physical address within South Africa which is not a post office box or *poste restante*. Such change of address shall be effective seven (7) business days after delivery or transmission of the notice to the Party to whom the notice is addressed ("**Addressee**").

11.3. All notices to be given in terms of this Agreement shall be given in writing and shall be delivered by hand or sent by email to a Party's chosen *domicilium.*

11.4. If any notice is delivered by hand to the Addressee during business hours, it shall be presumed and deemed, unless the contrary is proven by the Addressee, to have been received by the Addressee on the date of delivery. Any notice delivered after business hours or on a day which is not a business day shall be presumed and deemed, unless the contrary is proven by the Addressee, to have been received by the Addressee on the following business day.

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11.5. If any notice is sent by email to the Addressee during business hours, it shall be presumed and deemed, unless the contrary is proven by the Addressee, to have been received by the Addressee on the date of successful transmission of the email. Any email sent after business hours or on a day which is not a business day shall be presumed and deemed, unless the contrary is proven by the Addressee, to have been received by the Addressee on the following business day.

11.6. If any notice is sent by prepaid registered post to the Addressee, it shall be presumed and deemed, unless the contrary is proven by the Addressee, to have been received by the Addressee seven (7) days after the date of proven posting.

11.7. Notwithstanding the provisions of this clause 11, any notice given in writing and actually received by the Addressee shall be deemed to have been properly given and received, notwithstanding that such notice has not been given in accordance with this clause 11.

11.8. The provisions of this clause 11 shall continue to be binding on the Parties notwithstanding any early termination or expiry of this Agreement

12. GOVERNING LAW

12.1. This Agreement and all claims, disagreements or disputes of whatsoever nature arising between the Parties from or in connection with this Agreement, including but not limited to any questions relating to its existence, enforceability, interpretation, validity or termination, shall be construed in accordance with and governed by the applicable laws of South Africa.

13. ANTI-BRIBERY AND ANTI-CORRUPTION

13.1. The Parties represents that neither Party or its subsidiary, nor any of their respective directors, officers, agents, or employees acting on behalf of either

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party or any Subsidiary, has taken any action that shall or would be in breach of any applicable laws for the prevention of fraud, bribery, corruption, racketeering, money laundering or terrorism, including but not limited to the Constitution of the Republic of South Africa (1996), the Competition Act (1998), the Prevention and Combatting of Corrupt Activities Act (2004), the Protected Disclosures Act (2000), the Public Finance Management Act (1999) and Regulations, the Companies Act (2008) and Regulations and, including international anti-corruption treaties and regional conventions that set out obligations to fight corruption, such as the United Nations Convention Against Corruption, the African Union Convention Against Corruption, the SADC Protocol against Corruption and the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions ("**Anti-Bribery Laws**").

13.2. Each Party represents that performance under this Agreement shall be made in compliance with the Anti-Bribery Laws.

13.3. Each Party warrants that it and its Affiliates have not made, offered, solicited or accepted an advantage or authorised and will not make, offer, or authorise with respect to the matters which are the subject of this Agreement, any payment, gift, promise or other advantage, whether directly or through any other person or entity, to or for the use or benefit of any officer or employee of the other Party or any public official (i.e. any person holding a legislative, administrative or judicial office, including any person employed by or acting on behalf of a public agency, a public enterprise or a public international organisation) or any political party or political party official or candidate for office, where such payment, gift, promise or advantage would violate the applicable Anti-Bribery Laws.

13.4. Neither Party shall make any unofficial payment to an employee of the other Party to speed up an administrative process where the outcome is already pre-determined (facilitation payment) in the performance of its obligations in terms of this Agreement.

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13.5. Each Party agrees to maintain adequate internal controls and to keep accurate and complete records that support the payments due and all transactions under this Agreement.

13.6. Each Party represents that, to the best of its knowledge and belief, and save as disclosed to the other Party, neither it nor any of its personnel have been investigated (or is being investigated or is subject to a pending or threatened investigation) or is involved in an investigation (as a witness or suspect) in relation to any breach of the Anti-Bribery Laws by any law enforcement, regulatory or other governmental agency or any customer or supplier; or has admitted to; or been found by a court in any jurisdiction to have engaged in, any breach of the Anti-Bribery Laws, or been debarred from bidding for any contract or business; or are public officials or persons who might otherwise reasonably be considered likely to assert a corrupt or illegal influence on behalf of the company. Each Party agrees that if, at any time, it becomes aware that any of the representations set out in this clause are no longer correct, it shall notify the other Party of this immediately in writing.

13.7. Each Party (the "**Indemnifying Party**") shall be liable for and shall indemnify, defend and hold the other (the "**Indemnified Party**") harmless to the maximum extent provided in law from and against any claims, losses, costs, fees, payment of interest, fines or other liabilities incurred in connection with or arising from the investigation of, or defence against, any litigation or other judicial, administrative, or other legal proceedings brought against the Indemnified Party by a regulator or governmental enforcement agency as a result of acts or omissions by the Indemnifying Party or its Affiliates, subcontractors or agents in violation of, or alleged to be in violation of, the Anti-Bribery Laws.

13.8. Any breach of, or failure to comply with, the provisions of this clause shall be deemed material and shall entitle the non-breaching Party to terminate the Agreement forthwith.

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13.9. The indemnity contained in this clause shall survive the termination of the Agreement.

13.10. Unless otherwise provided for in this Agreement, no Party shall have the right to represent or make decisions on behalf of the other Party.

13.11. Unless otherwise provided for in the Agreement, no Party shall have the right to interact with government officials with respect to the matters which are the subject of this Agreement without the written consent of the other Party.

13.12. Each Party may request that the other Party provide a certification to the effect that neither it nor any of its Affiliates, directors, officers, agents or other representatives acting on its behalf in connection with the performance under the Agreement have engaged in any transaction or activity in violation of these Anti-Bribery Laws. Upon request a Party shall deliver such certification within ten (10) business days.

13.13. Each Party agrees to perform its obligations under this Agreement in accordance with the applicable anti-bribery and anti-corruption laws of the territory in which such Party conducts business with the other Party as set forth herein. Each Party shall be entitled to exercise its termination right, under and in accordance with the terms of this Agreement, to terminate this Agreement immediately on written notice to the other Party, if the other Party fails to perform its material obligations.

13.14. Each Party agrees that, in connection with this Agreement and the Projects, they shall each, and shall procure that their respective officers, employees, agents and any other persons who perform services for them or on their behalf in connection with this Agreement shall:

13.14.1. Not commit any act or omission which causes or could cause the other Party to breach, or commit an offence under, any laws relating to anti-bribery and/or anti-corruption;

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13.14.2. Keep accurate and up to date records showing all payments made and received and all other advantages given and received in connection with this Agreement and the steps taken to comply with this clause 13, and permit the other Party to inspect those records as reasonably required; and

13.14.3. Promptly report to the other Party any request or demand for any undue financial or other advantage of any kind received in connection with the performance of this Agreement.

13.15. Each Party shall be solely responsible for the observance and performance of the relevant requirements by each of its Affiliates or sub-contractor and shall be directly liable to the other Party for any breach by its Affiliates or sub-contractor. Notwithstanding the foregoing, each Affiliate and subcontractor shall be required to comply with the relevant requirements to the extent applicable to their respective performance of activities under this Agreement, including the place of such performance, and/or if required by the relevant requirements.

14. PROTECTION OF PERSONAL INFORMATION

14.1. The Parties agree, at all times, to comply, and ensure that its agents, employees, officers or representatives comply, with the provisions of POPIA and all other applicable data protection laws.

14.2. The Receiving Party shall ensure that no Personal Information is transferred or processed outside of South Africa, unless the Disclosing Party provides its prior written consent thereto.

14.3. Each Parties and its agents, employees, officers or representatives must only process the Personal Information of the other Party or the Personal Information of any Third Party supplied by or on behalf of the other Party, with the other Party's knowledge or authorisation, and shall treat such information which comes to its/their knowledge as confidential and must not

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disclose it unless required by law or in the course of the proper exercise or performance of the receiving Party's rights or obligations in terms of this Agreement.

14.4. Where a Party or its agents, employees, officers, representatives or shareholders has/have access to any Personal Information held by the other Party for any reason in connection with this Agreement, or is/are supplied with or otherwise provided with any Personal Information by or on behalf of the other Party for any purpose, or are supplied with or otherwise acquires any Personal Information relating to this Agreement, the former Party and its agents, employees, officers or representatives shall:

14.4.1. Process such Personal Information only for purposes of performing its/their obligations under this Agreement and shall not otherwise alter, amend or modify the contents of such Personal Information, or disclose or permit the disclosure of such Personal Information to any Third Party, unless specifically authorised to do so by the other Party or as required by law or any regulatory authority, and shall take all such steps as may be necessary to protect and safeguard such Personal Information;

14.4.2. Without limiting the generality of the foregoing, ensure that appropriate, reasonable technical and organisational measures shall be taken by it/them to prevent –

14.4.2.1. The unauthorised or unlawful processing of such Personal Information; and

14.4.2.2. The accidental loss or destruction of, or damage to, such Personal Information; and

14.4.2.3. Promptly notify the other Party when it becomes aware of any unauthorised, unlawful or dishonest activities or conduct, or any breach of the terms of this Agreement

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relating to any Personal Information.

14.5. Each of the Parties must immediately notify the other Party where there are reasonable grounds to believe that any Personal Information has been accessed or acquired by any unauthorised person ("**Data Breach**"), and must assist the other Party:

14.5.1. With any investigation or notice to the Information Regulator or Data Subject that the other Party may make in relation to a Data Breach; and

14.5.2. In responding to any directions by the Information Regulator to publicise the Data Breach, including assisting the Disclosing Party to make public announcements, if required.

15. MISCELLANEOUS MATTERS

15.1. **Whole Agreement**

15.1.1. This Agreement constitutes the whole of the agreement between the Parties relating to the matters dealt with herein and, save to the extent otherwise provided herein, no representation, undertaking, term or condition relating to the subject matter of this Agreement not incorporated in this Agreement shall be binding on either of the Parties.

15.1.2. This Agreement supersedes and replaces any and all agreements between the Parties (and other persons, as may be applicable) and undertakings given to or on behalf of the Parties (and other persons, as may be applicable) in relation to the subject matter hereof.

15.2. **Variations to be in Writing**

15.2.1. No addition to, or alteration, cancellation, deletion or variation of all

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or any clauses or provisions of this Agreement shall be of any force or effect unless in writing and signed by a duly authorised representative of the Parties. The amendment of this Agreement shall be recorded as an addendum to this Agreement.

15.3. **No Indulgences**

15.3.1. No latitude, extension of time or other indulgence which may be given or allowed by either Party to the other in respect of the performance of any obligation hereunder, and no delay or forbearance in the enforcement of any right of either Party arising from this Agreement and no single or partial exercise of any right by either Party under this Agreement, shall in any circumstances be construed to be an implied consent or election by such Party or operate as a novation or waiver of, or otherwise affect any of its rights in terms of or arising from this Agreement, or estop or preclude it from enforcing at any time and without notice, strict and punctual compliance with each and every provision or term hereof.

15.4. **No Waiver or Suspension of Rights**

15.4.1. Failure or delay on the part of either Party in exercising any right, power or privilege under this Agreement shall not constitute or be deemed to be a waiver thereof, nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

15.4.2. No waiver, postponement, or suspension by either Party of any right arising out of or in connection with this Agreement shall be of any force or effect unless in writing and signed by a duly authorised representative of such Party. Any such waiver, postponement, or suspension shall be effective only in the specific instance and for the purpose given.

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15.5. **Provisions Severable**

15.5.1. All provisions and the various clauses of this Agreement are, notwithstanding the manner in which they have been grouped together or linked grammatically, severable from each other. Any provision or clause of this Agreement which is or becomes unenforceable in any jurisdiction, whether due to illegality, invalidity, unlawfulness, voidness or for any other reason whatsoever, shall, in such jurisdiction only and only to the extent that it is so unenforceable, be treated as *pro non scripto* and the remaining provisions and clauses of this Agreement shall remain of full force and effect. The Parties declare that it is their intention that this Agreement would have been executed without such unenforceable provision if they were aware of such unenforceability at the time of execution hereof.

15.6. **Continuing Effectiveness of Certain Provisions**

15.6.1. The early termination or expiration of this Agreement shall not affect such of the clauses or provisions of this Agreement which expressly provide that they shall operate after any such early termination or expiration, or which of necessity must continue to have effect after such early termination or expiration, notwithstanding that the clauses or provisions themselves do not expressly provide for this.

15.7. **Assignment**

15.7.1. Neither Party shall cede, assign or delegate any of its rights and/or obligations in terms of this Agreement to any Third Party without the prior written consent of the other Party.

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15.8. **Undertaking and Warranties**

15.8.1. Both Parties undertake to refrain from acting in a manner which circumvents compliance with any of the conditions and requirements of this Agreement.

15.9. **General Warranties**

15.9.1. Each of the Parties hereby warrants to and in favour of the other that:

15.9.1.1. It has the legal capacity and has taken all necessary action required to empower and authorise it to enter into this Agreement;

15.9.1.2. This Agreement constitutes an agreement valid and binding on it and enforceable against it in accordance with its terms;

15.9.1.3. The execution of this Agreement and the performance of its obligations hereunder do not, and shall not:

a) Contravene any law, policy and procedure manual or regulation to which such Party is subject;

b) Contravene any provision of such Party's constitutional documents; or

c) Conflict with, or constitute a breach of any of the provisions of any other agreement, obligation, restriction or undertaking which is binding on it;

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15.9.1.4. To the best of its knowledge and belief, it is not aware of the existence of any fact or circumstance that may impair its ability to comply with all of its obligations in terms of this Agreement;

15.9.1.5. It is entering into this Agreement as principal, and not as agent or in any other capacity;

15.9.1.6. The natural person who signs and executes this Agreement on its behalf is validly and duly authorised to do so;

15.9.1.7. No other party is acting as a fiduciary for it; and

15.9.1.8. It is not relying upon any representation or statement made by or on behalf of the other Party or any Third Party, except those expressly set forth in this Agreement.

15.9.2. Each of the representations and warranties given by the Parties in terms of clause 15.9.1 of this Agreement shall:

15.9.2.1. Be a separate warranty and shall in no way be limited or restricted by inference from the terms of any other warranty or by any other words in this Agreement; and

15.9.2.2. Continue and remain in full force and effect notwithstanding the completion of all or any of the actions contemplated in this Agreement.

15.9.3. A Party must, if requested by the other Party, furnish the requesting Party with sufficient evidence of the authority of a person who takes any action or executes any documents under this Agreement on behalf of the requested Party.

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15.9.4. Each Party shall be liable for all damages, losses or expenses, excluding consequential damages, losses or expenses, in connection with or arising from any breach by it, or its agents, employees, officers or representatives, of any of the obligations or warranties provided for in this clause 15.9.

AIR TRAFFIC & NAVIGATION SERVICES
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IN WITNESS WHEREOF, the Parties have duly executed this document as of the date first written below.

THUS DONE and **SIGNED** at _____ on the _____day of _____ **2026.**

AS WITNESSES:

1. _____

_____

For and on behalf of **ATNS**:
Mr/Mrs_____,
in their capacity as _____
_____.

THUS DONE and **SIGNED** at _____ on the _____day of _____ **2026.**

AS WITNESSES:

1. _____

_____

For and on behalf of the **Bidder**:
Mr/Mrs_____,
in their capacity as _____
_____.

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