

**CONFIDENTIALITY
AND NON-DISCLOSURE AGREEMENT**

between

AIRPORTS COMPANY SOUTH AFRICA SOC LIMITED
(Registration No. 1993/004149/30)
("Airports Company")

AND

(Registration No. _____ / _____ / _____)

1. **INTERPRETATION**

In this agreement -

- 1.1 **"confidential Information"** – is information which is confidential to the disclosing party, and includes whether in written, graphic, oral, proprietary, tangible, intangible, electronic or other form, and, -
- 1.1.1 the fact of and content of any discussions between the disclosing party and the receiving party as well as the existence and content of any agreement, which may be concluded between the disclosing party and the receiving party;
 - 1.1.2 all other matters of a confidential nature which relate to the disclosing party's business;
 - 1.1.3 generally, information which is disclosed in circumstances of confidence or would be understood by the parties, exercising reasonable business judgement, to be confidential;
 - 1.1.4 all information of whatsoever nature relating to the disclosing party as contemplated in 2.1 below but does not include information which -
 - 1.1.4.1 is or hereafter becomes part of the public domain, otherwise than as a result of a breach or default of the receiving party or of a representative or affiliate of the receiving party;
 - 1.1.4.2 can be shown to have been lawfully in the possession of the receiving party or its affiliates or consultants prior to its disclosure and is not subject to an existing agreement between the disclosing party and the receiving party;
 - 1.1.4.3 is acquired by the receiving party independently from a third party who lawfully acquired such information without restriction and who had not previously obtained the

confidential information directly or indirectly under a confidentiality obligation from the disclosing party;

1.1.4.4 is acquired or developed by the receiving party independently of the disclosing party and in circumstances which do not amount to a breach of the provisions of this agreement;

1.1.4.5 is disclosed or released by the receiving party to satisfy an order of a court of competent jurisdiction or to otherwise comply with the provisions of any law or regulation in force at the time or the requirements of any recognised stock exchange; provided that, in these circumstances, the receiving party shall promptly inform the disclosing party of the requirement to disclose prior to making the disclosure and provided further that the receiving party will disclose only that portion of the confidential information which it is legally required to so disclose; and the receiving party will use its reasonable endeavours to protect the confidentiality of such information to the widest extent lawfully possible in the circumstances (and shall co-operate to the extent reasonably practicable with the disclosing party if it elects to contest any such disclosure);

1.2 For the purposes of this agreement the party, which discloses confidential information, shall be referred to as “the disclosing party” and the party, which receives the confidential information, shall be referred to as “the receiving party”.

1.3 “**disclosing party**” – the party disclosing confidential information in terms of this agreement;

1.4 “**receiving party**” – the party receiving confidential information in terms of this agreement;

1.5 “**the parties**” – the Airports Company and _____

2. **INTRODUCTION**

- 2.1 The parties intend to provide each other with certain information pertaining to an **ACSA Request for Proposals with reference number CTIA7371/2023/RFP** (the **“Purpose” REQUEST FOR PROPOSAL (RFP) FOR THE APPOINTMENT OF AN OPERATOR TO PERFORM JET A1 RECIEPT, STORAGE OPERATIONS AND MAINTENANCE, INCLUDING INTO-PLANE SERVICES FOR A PERIOD OF 10 YEARS AT ACSA’S CAPE TOWN INTERNATIONAL AIRPORT.**
- 2.2 Each Party acknowledges the importance of the Confidential Information to the other and recognises that the disclosing party and/or its affiliates may suffer irreparable harm or loss in the event of such Confidential Information being disclosed or used otherwise than in accordance with the objects of this agreement.
- 2.3 In the circumstances, each Party hereto is willing to provide the other with an undertaking in regard to maintaining the confidentiality of any Confidential Information (and not disclosing it unless permitted by the terms of this agreement) and in regard to matters related thereto, on the terms and conditions set out herein.

3. **USE OF CONFIDENTIAL INFORMATION**

Any confidential information disclosed by the disclosing party shall be received and used by the receiving party solely in relation to the Purpose described in 2.1 above and for no other purpose.

4. **NON-DISCLOSURE**

- 4.1 The receiving party undertakes that -
- 4.1.1 it will treat the disclosing party’s confidential information as confidential and safeguard it accordingly;
- 4.1.2 it will not use (except as permitted in 3 above) or disclose or release or copy or reproduce or publish or circulate or reverse or engineer and/or decompile or otherwise transfer, whether directly or indirectly, the confidential information of the disclosing party to any other person or entity;

and the receiving party shall take all such steps as may be reasonably necessary to prevent the disclosing party's confidential information falling into the hands of unauthorised persons or entities;

4.1.3 it shall not disclose the confidential information of the disclosing party to any person, nor shall they be given access thereto by the receiving party -

4.1.3.1 unless it is strictly necessary for the purposes referred to in 2.1 above; and

4.2 The receiving party will return or destroy all tangible materials embodying confidential information (in any form and including, without limitation, all summaries, copies and excerpts of confidential information) promptly following the disclosing party's written request.

4.3 The receiving party may submit a written request to the disclosing party, to authorize disclosure of confidential information. Such authorization must be in writing.

5. **COPIES**

5.1 The receiving party may only make such copies of the disclosing party's confidential information as are strictly necessary for the Purpose and the disclosures which are not in breach of this agreement and authorised in terms of this agreement.

6. **DURATION**

6.1 Subject to Clause 2.3 this agreement shall commence or shall be deemed to have commenced on the date of signature of this agreement by the last party to sign the agreement.

6.2 This agreement shall remain in force for a period of one (1) year ("the term"), provided, however, that the obligations with respect to the confidential information will survive for three (3) years following termination of the term. Nothing in this agreement limits the parties' rights and obligations arising at law in respect of the confidential information following termination of this agreement.

7. **TITLE**

7.1 All confidential information disclosed by the disclosing party to the receiving party is acknowledged by the receiving party:

7.1.1 to be proprietary to the disclosing party; and

7.1.2 not to confer any rights to the receiving party of whatever nature in the confidential information.

8. **ENFORCEMENT, GOVERNING LAWS AND JURISDICTION**

This agreement shall be governed by and construed in accordance with the Laws of the Republic of South Africa and all disputes, actions and other matters relating thereto shall be determined in accordance with such law. Each party irrevocably agrees that the courts of the Republic of South Africa are to have exclusive jurisdiction to settle any disputes which may arise out of, or in connection with, this agreement.

9. **NOTICES**

Airports Company

Western Precinct, Aviation Park
OR Tambo International Airport
1 Jones Road
Kempton Park
1619

Company Name

Company Address

Any notice required or permitted to be given in terms of this agreement shall be valid and effective only if in writing.

10. **GENERAL**

- 10.1 No party shall be bound by any representation, warranty, undertaking, promise or the like not recorded in this agreement.
- 10.2 No addition to, variation or agreed cancellation of this agreement shall be of any force or effect unless in writing and signed by or on behalf of the parties.
- 10.3 Any indulgence which either party may show to the other in terms of or pursuant to the provisions contained in this agreement shall not constitute a waiver of any of the rights of the party which granted such indulgence.
- 10.4 The parties acknowledge that this agreement and the undertakings given by it in terms hereof are fair and reasonable in regard to their nature, extent and period and go no further than is reasonably necessary to protect the interests of the parties.
- 10.5 The parties hereby confirm that they have entered into this agreement with full and clear understanding of the nature, significance and effect thereof and freely and voluntarily and without duress.
- 10.6 Neither party shall have the right to assign or otherwise transfer any of its rights or obligations under this agreement.
- 10.7 This agreement may be executed in several counterparts that together shall constitute one and the same instrument.
- 10.8 In this agreement, clause headings are for convenience and shall not be used in its interpretation.

10.9 For the avoidance of doubt, this agreement shall expire in accordance with Clause 6 above or on the date the parties enter into a binding agreement relating to the Purpose which replaces and supersedes this agreement.

**AIRPORTS COMPANY SOUTH
AFRICA SOC LIMITED**

the signatory warranting that he is duly
authorised thereto.

Name: _____

Designation: _____

Date: _____

Company Name:

the signatory warranting that s/he is
duly authorised thereto.

Name: _____

Designation: _____

Date: _____