

**ATTACHMENT E**  
**NON-DISCLOSURE AGREEMENT**

# NON-DISCLOSURE AGREEMENT

Between the Roanoke Regional Airport Commission ("RRAC") and

\_\_\_\_\_  
("Recipient")

\_\_\_\_\_  
(Mailing Address)

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Effective Date of Agreement: \_\_\_\_\_

THIS CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT (this "Agreement") is made and entered into as of the Effective Date of Agreement set forth above by and between RRAC and Recipient.

## WITNESSETH:

**WHEREAS**, the parties hereto desire to have discussions related to, and may enter into, one or more business transactions (the "Subject Matter");

**WHEREAS**, it is contemplated that such discussions and any business transactions entered into in connection therewith requires the disclosure by RRAC to Recipient of Confidential Information (as hereinafter defined) as requested by Recipient;

**WHEREAS**, both parties recognize the value of the Confidential Information and that it is in their mutual best interests to maintain the confidential, proprietary and secret nature of the Confidential Information.

**NOW, THEREFORE**, for and in consideration of the above premises, and in further consideration of the mutual covenants and promises contained herein and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **CONFIDENTIAL INFORMATION.** Confidential Information shall include, but not be limited to the following: the 2023 Draft Master Plan of the RRAC, produced to Recipient pursuant to a written request as part of Request for Proposal No. 24-006 Development, Management and Operation of Full-Service Fixed Based Operator dated September 29, 2023 and Addendum No.2 dated November 22, 2023 question No.1.

Recipient acknowledges that no representation or warranty, express or implied, has been or is made by or on behalf of RRAC as to the accuracy or completeness of any of the Confidential information furnished to the Recipient.

2. **FORM OF DISCLOSURE.** Confidential Information may be oral, visual, or by demonstration, or in some other form not permanently recorded, and shall be considered Confidential

Information regardless of whether such Confidential Information has been expressly designated as confidential or proprietary.

**3. PERIOD OF CONFIDENTIALITY AND NON-USE.** Recipient (including its affiliates, employees, agents and consultants) shall maintain in strict confidence for a period of five (5) years from the Effective Date and not disclose any Confidential Information it receives from RRAC to any third party or use the Confidential Information for its own or any other party's benefit, except in furtherance of its obligations to RRAC pursuant to any business transaction it may enter into with RRAC. Recipient shall use, as a minimum, the same degree of care to avoid disclosure or use of the Confidential Information as it employs with respect to its own confidential, proprietary and secret information of like importance, but in any case using no less than a reasonable degree of care. Recipient shall limit access to all Confidential Information to only those of Recipient's personnel, agents and representatives who need to know such information for carrying out Recipient's obligations to RRAC pursuant to any business transaction it may enter into with RRAC and the Confidential Information will be used only for carrying out Recipient's obligations to RRAC pursuant to any business transaction it may enter into with RRAC. Recipient shall insure that its affiliates, employees, officers, directors, owners, agents, consultants, and representatives who are given access to the Confidential Information by or on behalf of Recipient shall be bound by and shall comply with the terms of this Agreement.

**4. DISCLOSURES REQUIRED BY LAW.** In the event Recipient is requested or required by a government or court order, or similar process, to disclose any Confidential Information supplied to it by RRAC, Recipient shall provide RRAC with prompt notice of such request so that RRAC may seek an appropriate protective order and/or waive Recipient's compliance with the provisions of this Agreement.

**6. NO PUBLIC COMMENT.** Recipient shall not directly or indirectly make any public comment, statement, or communication with respect to, or otherwise disclose or permit the disclosure to any third party of any Confidential Information or of any matter relating to the Subject Matter or purpose or any transactions contemplated by the parties in connection therewith, without the prior written consent of RRAC.

**7. NOTICE OF UNAUTHORIZED USE OR DISCLOSURE.** Recipient shall notify RRAC immediately upon discovery of any unauthorized use or disclosure of Confidential Information or any other breach of this Agreement by Recipient or any third party, and will cooperate with RRAC in every reasonable way to help RRAC regain possession of the Confidential Information and prevent its further unauthorized use or disclosure.

**8. OWNERSHIP AND RETURN OF CONFIDENTIAL INFORMATION.** All Confidential Information disclosed to Recipient shall be and remain the property of RRAC. Upon RRAC's written request, Recipient shall promptly return all Confidential Information (including all originals, copies, reproductions and summaries of such Confidential Information), or certify its destruction in writing, and keep the same confidential and secret in accordance with this Agreement.

**9. SURVIVAL.** Recipient's obligations of non-disclosure pursuant to the terms of this Agreement shall survive until all Confidential Information has been returned to RRAC or the destruction thereof has been certified to RRAC in writing.

10. **RELATIONSHIP.** Nothing contained in this Agreement shall be construed as granting or conferring to Recipient any rights or license or otherwise, either expressly or by implication, in or to any Confidential Information disclosed by RRAC to Recipient as a result of this Agreement, including, without limitation, rights or license under any present or future patent, patent application, copyright, trademark, service mark, trade secret or other proprietary information owned, licensed or controlled by RRAC.

This Agreement shall not be construed as a joint venture, pooling arrangement, partnership, teaming effort or agency arrangement. The Recipient, unless otherwise stated in a separate agreement, shall have no ownership interest whatsoever in the Confidential Information being handed over to them.

11. **BINDING AGREEMENT.** This Agreement shall be binding upon Recipient and its subsidiaries, successors, assigns, legal representatives, and all corporations controlling Recipient or controlled by Recipient and shall inure to the benefit of RRAC and its subsidiaries, successors, assigns, legal representatives, and all corporations controlling RRAC or controlled by RRAC.

This Agreement may not be assigned by Recipient without the prior written consent of RRAC.

12. **INJUNCTIVE RELIEF.** Recipient understands and agrees that any use or dissemination of Confidential Information in violation of this Agreement will cause RRAC irreparable harm, and that monetary damages may not be a sufficient remedy for unauthorized use or disclosure of Confidential Information, and that RRAC may be left with no adequate remedy at law; therefore, RRAC shall be entitled, without waiving any other rights or remedies, to such injunctive or equitable relief as may be deemed proper by a court of competent jurisdiction. Such remedies shall not be deemed to be the exclusive remedy for any breach of this Agreement but shall be in addition to all other remedies available at law or in equity.

13. **PREVAILING PARTY.** If either party employs attorneys to enforce any rights arising out of or relating to this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and expenses.

14. **GOVERNING LAW.** This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia without regard to principles of conflict or choice of laws, and Recipient consents to venue and jurisdiction in and by the state and federal courts of Virginia.

15. **ENTIRE AGREEMENT.** This Agreement contains the entire understanding between the parties relative to the protection of Confidential Information and supersedes all prior and collateral communications, reports, and understanding between the parties in respect thereto. No change, modification, alteration or addition to any provision shall be binding unless it is in writing and signed by an authorized representative of both parties.

16. **SEVERABILITY.** If a court of competent jurisdiction makes a final determination that any provision of this Agreement (or any portion thereof) is invalid, illegal or unenforceable for any reason whatsoever, and all rights to appeal the determination have been exhausted or the period of time during which any appeal of the determination may be perfected has been exhausted, (i) the validity, legality, and enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired thereby; and (ii) to the fullest extent

possible, the provisions of this Agreement shall be construed so as to give effect to the intent manifested by the provisions held invalid, illegal or unenforceable.

17. **HEADINGS.** The headings in this Agreement are for reference purposes only and shall not limit or otherwise affect the meaning of the provisions.

18. **COUNTERPARTS.** This Agreement may be executed in one or more counterparts including signing a facsimile copy. Each counterpart shall be deemed an original and all counterparts together shall constitute one and the same instrument.

**IN WITNESS WHEREOF**, the parties hereto have caused their duly authorized representatives to execute this Agreement as of the dates written below.

RECIPIENT:

**Recipient's Signature** \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

RRAC:

**Representative's Signature** \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_