NATS (SERVICES) LIMITED - STANDARD TERMS AND CONDITIONS FOR THE SALE OF LONDON CITY AIRPORT INSTRUMENT FLIGHT PROCEDURE (IFP) STAGE ONE ASSESSMENT

1. CONTEXT

1.1 Thank you for selecting our Instrument Flight Procedure stage one assessment service ("Services"). The Services are provided to you by NATS (Services) Limited ("NATS"), a company registered in England and Wales with company number 4129270 with registered address at 4000 Parkway, Whiteley, Fareham, PO15 7FL.

1.2 Delivery of NATS' Services are subject to the following terms and conditions.

2. INTERPRETATION

2.1 In this Contract, unless the context otherwise requires, the following definitions will apply:

Applicable Laws	means	all regional, national and international laws, rules, regulations and standards including those imposed by any governmental or regulatory authority and all applicable industry standards and standards determined by any self-regulatory body which apply from time to time to the person or activity in the circumstances in question;
Client	means	the developer as completed in the online application form. In circumstances where the online application form is completed by an agent of the Developer, the developer and the agent together warrant compliance of all Client obligations and authorisations for and on behalf of the developer;
Contract	means	the contract between the Client and NATS for the provision of Services;
Contract Price	means	the price payable by the Client to NATS;
Deliverable	means	A Stage 1 Instrument Flight Procedure (IFP) Safeguarding Assessment will be completed to evaluate the impact of the proposed obstacle at London City Airport. It will be completed by a UK Approved Procedure Designer (UK APD) at NATS. The assessment will be delivered to the Client and London City Airport via a confirmation email from NATS, to verify whether a subsequent Stage 2 Instrument Flight Procedure (IFP) assessment is required.
Dispute	means	any dispute or difference arising out of the Contract;
Force Majeure	means	any act, event, omission or accident beyond the reasonable control of the Parties including without limitation acts of God, governmental act, war, directions of a government authority, fire, flood, explosion, civil commotion, lock-outs, strikes or other labour disputes;
Group	means	in relation to a company, that company, any company of which it is a Subsidiary (its holding company) and any other Subsidiary of such holding company; and each company in a group is a member of the group;

IPR	means	rights in, and in relation to, any patents, petty patents, registered designs, design rights, trade marks, rights in domain names, trade and business names including all goodwill associated with any trademarks or trade or business names), copyrights, moral rights, rights in databases, topography rights and utility models (including the benefit of all registrations of, applications to register and the right to apply for registration of any of the foregoing items and all rights in the nature of any of the foregoing), trade secrets, confidential information and other proprietary rights in data and information, (including rights to know how and other technical information rights in the nature of unfair competition rights and rights to sue for passing off) and all other intellectual or industrial property rights of any nature whatsoever in or relating to the Services or any Deliverables for their full term (including any extensions or renewals thereof) and wherever in the world enforceable;
Personal Data	means	any information relating to an identified or identifiable natural person; an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person;
Services	means	all services and works which NATS is required to supply and/or carry out the deliverable in relation to the Client's proposed obstacle and/or development;
Subsidiary	means	in relation to a company wherever incorporated (a holding company), means a "subsidiary" as defined in section 1159 of the Companies Act 2006 and any other company which is a Subsidiary (as so defined) of a company which is itself a Subsidiary of such holding company; Unless the context requires otherwise: (a) the application of the definition of Subsidiary to any company at any time shall apply to the company as it is at that time; and (b) references to Subsidiary are references to a Subsidiary of the company.
VAT	means	value added tax payable under the Value Added Tax Act 1994 and any substituted or additional tax or duty applicable from time to time to sales or supplies of the Services; and
Working Day	mean	a day (other than Saturday or Sunday) on which banks in the City of London are generally open for business.

2.2 Unless otherwise stated, references to Clauses are to clauses of this Contract.

2.3 References to any party shall, where relevant, be deemed to be references to or to include, as appropriate, their respective lawful successors, assigns or transferees.

2.4 The headings used in the Contract are for convenience only and shall not affect the interpretation of the Clauses.

2.5 References to the plural include the singular, references to the male include female and vice versa where applicable.

2.6 Reference to any enactment, regulation or other statutory instrument shall be construed to include any subsequent amendments or re-enactments of them or their replacements.

2.7 In this Contract (unless the context otherwise requires):

2.7.1 the words "including" and "include" and words of similar effect shall not be deemed to limit the general effect of the words which precede them;

2.7.2 reference to any Contract, contract, document or deed shall be construed as a reference to it as varied, supplemented or novated;

2.7.3 obligations undertaken by a party which comprises more than one person shall be deemed to be made by them jointly and severally; and

2.7.4 words importing persons shall include firms, companies and bodies corporate and vice versa.

3. THE PROVISION OF THE SERVICES

3.1 NATS agrees to provide and the Client agrees to take and pay for the Services in accordance with the terms and conditions of this Contract.

3.2 This Contract shall commence and be effective from the date full payment for the whole of the Contract Price is received by NATS.

4. NATS' OBLIGATIONS

4.1 NATS shall provide the Services to the Client with reasonable skill and care using information supplied and submitted by the Client.

4.2 NATS may supply oral, draft or interim advice but in such circumstances the Deliverable in final form shall take precedence.

4.3 The Deliverable in final form represents an assessment which is accurate on the date of the Deliverable. There is no acceptance required of the Deliverable delivered.

4.4 Due to matters outside of NATS' control (such as cumulative impact of other applications), NATS cannot warrant or guarantee the validity of the assessment beyond 6 months of the date of the Deliverable.

4.5 NATS shall be under no obligation in any circumstances to update the Deliverable for events occurring after the Deliverable has been delivered by NATS to the Client in final form.

5. CLIENT'S OBLIGATIONS

5.1 The Client warrants that it is properly authorised to enter into this Contract on behalf of the Client.

5.2 The Client shall pay the Contract Price to NATS for the Services together with any other amounts that become due under this Contract. If a Stage 2 Assessment is required, NATS will provide a separate proposal with the additional costs

5.3 The Client shall promptly provide such co-operation, assistance, documentation and accurate information as are specified in this Contract, or as NATS reasonably requires, for the provision of the Services. The Client warrants that NATS may use any documentation and information supplied by the Client in performance of its obligations under this Contract.

5.4 The Client shall not, during the term of this Contract and for a period of 12 months after the Services have been completed, directly or indirectly solicit or entice away any employee of NATS who is or has been engaged in providing the Services, whether by making an offer of employment or otherwise.

5.5 Notwithstanding NATS' duties and responsibilities in relation to the Services, the Client shall retain responsibility and accountability for:

5.5.1 management and conduct and operation of its business affairs; and

5.5.2 deciding on its use and implementation of the Deliverables.

6. PAYMENT

6.1 The Client shall pay the Contract Price in full upon entering this Contract by BACS or by credit card payment. The Client shall have sole responsibility for authorising correct payments.

6.2 In the case of payment by BACS, payments should be made to:

NATS (Services) Limited
National Westminster Bank Plc.
Bloomsbury Parr's Branch
PO Box 158, 214 High Holborn, London, WC1V 7BX
Account number: 90103033 Sort code: 60-30-06

6.3 In the case of credit card payments, please note these are processed by World Pay (UK) Limited on behalf of NATS.

6.4 NATS shall (if applicable) add to the price of the Services, and the Client shall pay, an amount equal to any VAT. If the Client is required under any applicable law to withhold or deduct any amount from the payments due to NATS, the Client shall increase the sum it pays to NATS by the amount necessary to yield NATS an amount equal to the sum it would have received if no withholdings or deductions had been made.

6.5 No payment will be deemed to have been received until NATS has received cleared funds. All payments will be made without any withholding, deduction, setoff or counterclaim.

7. CONFIDENTIALITY

7.1 In Clause 7, "Confidential Information" means all information disclosed (whether in writing, orally or by another means and whether directly or indirectly) by NATS to the Client whether before or after the date of the Contract including, but not limited to, information relating to NATS' products, operations, processes, plans or intensions, product information, know-how, design rights, trade secrets, market opportunities and business affairs.

7.2 During the term of the Contract and after termination or expiry of the Contract for any reason neither party shall:

7.2.1 use Confidential Information for a purpose other than the performance of its obligations under the Contract; and

7.2.2 disclose Confidential Information to any person except with the prior written consent of the disclosing party or in accordance with Clauses 7.4 and 7.5.

7.3 During the term of the Contract, the Client may disclose Confidential Information to any of its directors, other officers, employees ("Recipient") to the extent that disclosure is reasonably necessary for the purposes of the Contract.

7.4 Before disclosure of Confidential Information to a Recipient, the Client shall ensure that such Recipient is made aware of and complies with the client obligations of confidentiality under the Contract as if the Recipient was a party to the Contract.

7.5 Clauses 7.2 to 7.4 do not apply to Confidential Information which:

7.5.1 is at the date of the Contract or becomes at any time after that date publicly known other than by the Client or Recipient's breach of the Contract; or

7.5.2 can be shown by the Client to NATS' satisfaction to have been known by the Client before disclosure by NATS to the Client; or

7.5.3 is or becomes available to the Client otherwise than pursuant to the Contract and free of any restrictions as to its use or disclosure; or

7.5.4 is required to be disclosed by law; or

7.5.5 is being disclosed as part of communications between NATS and any respective UK airport as the relevant affected ANSP in connection with this wind farm pre-planning service.

8. INTELLECTUAL PROPERTY

8.1 Subject to full payment of all sums owing under this Contract, NATS shall grant the Client a non-exclusive, non-transferable, royalty-free licence to use, for the Client's own internal business purposes only, the Deliverable.

8.2 All rights, title and interest (including without limitation all IPR) in the Deliverable any and all ideas, concepts, designs, data, information, documentation, materials in any form (including but not limited to electronic form) created, conceived, prepared, made or developed pursuant to this Contract shall belong exclusively and absolutely to NATS.

8.3 For the purposes of delivering the Services to the Client or other clients, NATS shall be entitled to use, develop or share knowledge, experience and skills of general application gained through performing and delivering the Services to the Client.

8.4 This Clause will not affect the IPR in any works, including designs, drawings, written material and software belonging to third parties or existing prior to the date of this Contract.

8.5 The Client shall defend and indemnify NATS, its officers, directors, employees, agents, successors and assigns against all liabilities, claims, damages and expenses (including all reasonable legal fees) in relation to any infringement or alleged infringement of IPR belonging to a third party which they may incur as a result of carrying out the Services in accordance with designs, specifications or materials provided by the Client or using any other of the Client's IPR.

9. LIMITATION OF LIABILITY

9.1 All conditions, warranties and representations, expressed or implied by statute, common law or otherwise, in relation to the supply, non supply or delay in supplying the Services are excluded to the extent permitted by law.

9.2 NATS is not liable to the Client in contract, tort (including negligence or breach of statutory duty) or otherwise for any of the following losses or damages arising out of, or in connection with this Contract:

9.2.1 loss or damage incurred by the Client as a result of third party claims; or

9.2.2 loss of actual or anticipated profits; or loss of business opportunity; or

9.2.3 loss of anticipated savings; loss of goodwill; or injury to reputation; or

9.2.4 any indirect, special or consequential loss or damage howsoever caused even if NATS was advised of the possibility of such loss or damage in advance.

9.3 Subject to Clause 9.4, the entire liability of NATS arising out of or in connection with this Contract, whether in contract, tort (including negligence or breach of statutory duty) under any indemnity or otherwise, is limited to the Contract Price in the aggregate.

9.4 Nothing in this Contract shall operate to exclude or restrict NATS' liability for:

9.4.1 death or personal injury resulting from NATS' negligence as defined in the Unfair Contract Terms Act 1977; and

9.4.2 fraud or other matter if and to the extent that, under English law, liability for it cannot be excluded, restricted or limited as against the Client in the context of this Contract.

10. RIGHT TO CANCELLATION

10.1 The Client has the right to cancel this Contract in writing to NATS within 14 days without giving any reasons from the day of submission of the online application form.

10.2 If this Contract is cancelled pursuant to Clause 10.1, the Client will be reimbursed all payments received from the Client using the same means of payment as the Client has used for the initial transaction.

10.3 If NATS has commenced performance of the Services during the cancellation period, NATS shall withhold an amount which is in proportion to what has been performed until the Client's notice of cancellation is received by NATS.

10.4 For the avoidance of doubt, the whole of the Contract Price will be withheld if the Deliverable has been produced by NATS.

11. ASSIGNMENT & SUBCONTRACT

11.1 Subject to Clause 11.2, neither Party may assign this Contract or any benefits or rights arising under it.

11.2 NATS shall be entitled to subcontract, assign or transfer this Contract in whole or in part to any company in the same Group as NATS.

12 THIRD PARTY RIGHTS

12.1 A person who is not a party to this Contract shall have no rights under The Contracts (Rights of Third Parties) Act 1999 to enforce any provision of this Contract.

13. FORCE MAJEURE

13.1 Neither party shall be liable to the other for any delay or failure to perform any of its obligations hereunder, which delay or failure is due to a Force Majeure Event.

13.2 Each party shall exercise its best efforts to mitigate the extent of the excusable delay or failure described in Clause 13.1 and their adverse consequences and to recommence performance of the affected obligations to the extent reasonably practicable.

14. WAIVER OF RIGHTS AND REMEDIES

14.1 Neither party to the Contract shall be deemed to waive any rights or remedies unless the waiver is in writing and is signed by an authorised officer of that party and neither party's right shall be affected by any delay, failure or omission to enforce or express forbearance granted in respect of any obligation of the other.

14.2 Neither party's rights shall be prejudiced or restricted by any concession, indulgence or forbearance extended to the other.

15. PUBLICITY

15.1 The Client shall not make any press announcements or publicise this Contract or the contents of the same in any way without the prior written consent of NATS except as required by law.

16. SEVERANCE

16.1 If any provision in this Contract is found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability will not affect the other provisions of this Contract which shall remain in full force and effect.

16.2 If any provision of this Contract is so found to be invalid or unenforceable but would cease to be invalid or unenforceable if some part of the provision were deleted, the provision in question shall apply with such modification as may be necessary to make it valid and enforceable.

17. ENTIRE AGREEMENT

17.1 This Contract, together with the documents referred to or attached to it constitutes the entire agreement and understanding between the parties in respect of the matters dealt with in it and supersedes, cancels and nullifies any previous agreement between the parties in relation to such matters.

17.2 Each of the parties acknowledges and agrees that in entering into this Contract it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty or understanding (whether negligently or innocently made) other than as expressly set out in this Contract. The only remedy available to either party in respect of any such statement, representation, warranty or understanding shall be for breach of contract under the terms of this Contract.

18. DATA PROTECTION AND PRIVACY

18.1 Each Party shall comply at all times with all Applicable Laws in respect of the protection and privacy of personal data including without limitation the General Data Protection Regulations (EU) 2016/679 ("DP Laws") and shall not perform its obligations under this Agreement in such a way as to cause the other Party to breach any of its obligations under such DP Laws.

18.2 The Parties acknowledge that Article 28(3) of the General Data Protection Regulations (EU) 2016/679 is hereby incorporated into this Agreement.

19. RIGHTS CUMULATIVE

19.1 The rights of the parties under this Contract are in addition to any other rights which they may have under general law or otherwise.

20. AMENDMENTS

20.1 No amendments to this Contract will be binding on either party unless they are in writing and signed by both Parties.

21. NO PARTNERSHIP

21.1 The relationship between the Parties under this Contract is that of independent contractors and nothing in this Contract shall be deemed to create a relationship of joint venture, partnership, employee/employer, agency or any other fiduciary relationship between the parties and accordingly neither party shall (i) have any authority to incur expenditure in the name of or for the account of the other unless agreed in writing in advance; or (ii) hold itself out or permit itself to be held out as having any authority to do or say anything on behalf or in the name of the other.

22. COSTS

22.1 Each party shall bear its own costs and expenses incurred in relation to the negotiation, preparation, execution and implementation of this Contract and all other documents to be completed in accordance with its provisions.

23. NOTICES

23.1 Any notice to be given under this Contract will be sent to the relevant party's address as is stated in this Contract or to such other address as has been notified in writing to the other party: by first class post, deemed to be received three Working Days later (unless returned through the post); by e-mail, deemed received the next Working Day (unless returned through a delivery failure message after transmission); or by hand, deemed to be received on the Working Day of delivery, and shall in the case of NATS be addressed to:

Aviation and Airline Directorate
Head of Customer Services
NATS (Services) Limited
Corporate and Technical Centre
4000 Parkway, Whiteley, Fareham, Hampshire, PO15 7FL

24. GOVERNING LAW AND JURISDICTION

24.1 This Contract and any matter arising from or in connection with it shall be governed by and construed in accordance with English law.

24.2 Each party irrevocably agrees to submit to the non-exclusive jurisdiction of the English courts over any claim or matter arising from or in connection with this Contract.