



# CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

entered into by and between

## Babcock Africa Services (Pty) Ltd ("the Disclosing Party")

Description and Registration Number	a private company registered in accordance with the laws of South Africa with registration number 1968/008464/07
Physical Address	Riley Road Office Park, 15E Riley Road, Bedfordview 2007
Fax No.	n/a

and

[ IT ALLOCATION ]  
("the Receiving Party")

Description and Registration Number	a private company registered in accordance with the laws of South Africa with registration number <u>BW00000459115</u>
Physical Address	<u>PLOT 32347, PHAKAZANI</u>
Fax No.	<u>—</u>

IN TERMS OF WHICH THE PARTIES AGREE AS FOLLOWS:

Disclosing Purpose	
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## 1 INTERPRETATION

In this Agreement the following expressions bear the meanings assigned to them below and cognate expressions bear corresponding meanings:-

- 1.1 "**Affiliate**" means the holding company of a Party and all subsidiaries of such holding company or the Party, as defined in the Companies Act, 71 of 2008 (as amended);
- 1.2 "**Confidential Information**" means information or data, whether disclosed orally or in writing, past, present or future, including, without limitation, any information relating to a Party's (or a Party's Affiliate's):
  - 1.2.1 business, business policies, business plans, pricing models and other business, financial and commercial information;
  - 1.2.2 names, trademarks and logos;
  - 1.2.3 know-how, trade secrets, specifications, drawings, sketches, models, samples, data, diagrams, photographs and flow charts;
  - 1.2.4 business relationships, products, services, suppliers, customers and clients (both existing and potential) sales and sales figures;
  - 1.2.5 technical information, including use of technology, systems, hardware, software (and the incidence of any faults therein), architectural information, demonstrations, processes and machinery and related material and documentation;
  - 1.2.6 past, present and future research and development;
  - 1.2.7 strategic objectives and planning;
  - 1.2.8 claims and litigation (actual or potential);
  - 1.2.9 plans, designs, drawings, calculations, functional and technical requirements and specifications;

and includes information prepared by the Receiving Party or its advisers or representatives which contains or otherwise reflects or is generated from such information of the Disclosing Party and includes also the existence of the possibility of the transactions contemplated by the Disclosing Purpose and of the discussions and negotiations between the Disclosing Party and the Receiving Party and the Disclosing Party's willingness to enter into such discussions and negotiations with the Receiving Party but excluding information or data which:-

- 1.2.10 is at the time of disclosure to the Receiving Party or thereafter comes without breach of any confidentiality obligations by the Receiving Party, within the public domain;
- 1.2.11 is, at the time of such disclosure, already within the possession of the Receiving Party free from any obligation of confidence, or it has been or is subsequently independently developed by the Receiving Party without reference to the Disclosing Party's Confidential Information; or
- 1.2.12 after such disclosure to the Receiving Party is lawfully received by the Receiving Party from a third party free from any obligation of confidence to the Disclosing Party in respect of that information;

provided that the onus shall at all times rest on the Receiving Party to establish that such information falls within the exceptions contained in clauses 1.2.10 to 1.2.12 inclusive and provided further that information disclosed in terms of this Agreement will not be deemed to be within the foregoing exceptions merely because such information is embraced by more general information in a Party's possession;

- 1.3 "**Disclosing Purpose**" means the purpose or reason for which the Parties have entered or will enter into discussions resulting in the disclosure of Confidential Information to each other, as specified on the cover page of this Agreement; and
- 1.4 "**Parties**" means the Parties to this Agreement, and "**Party**" means either one of the Parties (as the context may require).

## 2 **RECITALS**

- 2.1 The Parties wish to hold discussions for the Disclosing Purpose, during the course of which certain confidential and proprietary information will be disclosed.
- 2.2 The Parties wish to record the basis on which the Receiving Party will honour and protect the Disclosing Party's Confidential Information.

## 3 **RESTRICTIONS ON DISCLOSURE AND USE**

The Receiving Party hereby agrees, insofar as it may be the Receiving Party:-

- 3.1 that it shall only be entitled to use the Confidential Information of the Disclosing Party for the specific purposes set out in the Disclosing Purpose, and it shall not utilize, employ, exploit or in any other manner use the Confidential Information of the Disclosing Party for any purpose other than the Disclosing Purpose;

- 3.2 subject to clauses 3.3 and 4.2, not to disclose the Confidential Information of the Disclosing Party to any third party or publish such information in any manner, for any reason or purpose whatsoever without the prior written consent of the Disclosing Party, which consent may be withheld in the sole discretion of the Disclosing Party;
- 3.3 it will restrict the dissemination of the Confidential Information of the Disclosing Party to only those of its or its Affiliates' personnel and professional advisers of good repute, who are under a duty as employees or under a professional duty of confidence as advisers as regards information parted to them and who are actively involved in the 'Disclosing Purpose and then only on a "need to know" basis, and will take all practical steps to impress upon those personnel and advisers who need to be given access to Confidential Information the terms of this Agreement and the secret and confidential nature of the Confidential Information and secure their agreement to treat such information as confidential consistently with the terms of this Agreement;
- 3.4 that its Affiliates shall comply with the terms of this Agreement as if they were parties hereto in place of the Receiving Party;
- 3.5 that any unauthorized use, publication or other disclosure of the Confidential Information of the Disclosing Party may cause irreparable loss, harm and damage to the Disclosing Party. Accordingly, the Receiving Party hereby indemnifies and holds the Disclosing Party harmless against any loss, action, expense, claim, harm or damage of whatsoever nature suffered or sustained by the Disclosing Party pursuant to :
- 3.5.1 a breach by the Receiving Party of the provisions of this Agreement; or
- 3.5.2 any unauthorized use, publication or disclosure of any Confidential Information by any of the Receiving Party's personnel; and
- 3.6 the Receiving Party shall acquire no right, title or interest in any information disclosed to it by the Disclosing Party pursuant to this Agreement.

#### 4 **STANDARD OF CARE**

- 4.1 ***Standard of Care.*** The Receiving Party shall protect the Confidential Information of the Disclosing Party in the same manner it protects its own Confidential Information of equivalent value and in any event with not less than the same endeavour which a reasonable man would use to protect his own Confidential Information. Should the Receiving Party become aware of any unauthorised copying, disclosure or use of the Disclosing Party's Confidential Information, it shall immediately notify the Disclosing Party thereof in writing and, without in any way detracting

from the Disclosing Party's rights and remedies in terms of this Agreement, take such steps as may be necessary to prevent a recurrence thereof.

4.2 **Forced Disclosure.** To the extent that the Receiving Party is ordered to disclose any of the Disclosing Party's Confidential Information pursuant to a judicial or government request, requirement or order or the rules of any applicable stock or securities exchange or other applicable regulatory organisation (hereafter called the "**Forced Disclosure**"), the Receiving Party shall promptly notify the Disclosing Party thereof and take any and all reasonable steps to assist the Disclosing Party in contesting such a request, requirement or order, or otherwise take all reasonable steps to protect the Disclosing Party's rights prior to Forced Disclosure and if such disclosure must be made then to take all such steps as may be reasonable, practicable and legally permitted in the circumstances to agree the timing and contents of such announcement or disclosure with the Disclosing Party before making the same.

## 5 **DISCLAIMER**

The Disclosing Party makes no warranties regarding the accuracy or completeness of its Confidential Information.

## 6 **RETURN OF INFORMATION**

6.1 **Return on Request.** The Disclosing Party may at any time request the Receiving Party to return any material containing, pertaining to, or relating to the Confidential Information of the Disclosing Party and may, in addition, request the Receiving Party to furnish a written statement signed by a director of the Receiving Party to the effect that upon such return, the Receiving Party has not retained in its possession, or under its control, either directly or indirectly, any such material.

6.2 **Destruction.** Alternatively to clause 6.1, the Receiving Party shall, at the instance of the Disclosing Party, destroy such material and furnish the Disclosing Party with a written statement signed by a director of the Receiving Party to the effect that such material has been destroyed.

6.3 **Compliance with request.** The Receiving Party shall comply with a request in terms of this clause 6 within 3 (three) days of receipt of such request, or such shorter period as the Disclosing Party may demand, so long as this allows the Receiving Party adequate time to comply.

## 7 **DURATION**

The obligations imposed by this Agreement shall remain in effect and shall continue to bind the Receiving Party for a period not greater than 5 (five) years and notwithstanding the fact that this Agreement may terminate or expire.

## 8 BREACH AND REMEDIES

- 8.1 **Breach and Remedies.** Without prejudice to any other rights or remedies which the Disclosing Party may have, if the Receiving Party is in breach or threatens to breach any of its obligations under this Agreement, the Disclosing Party may, without having to set security for costs, apply to any High Court with jurisdiction for an interdict, specific performance and any other relief as may be appropriate in the circumstances, including a claim for damages and an order compelling the Receiving Party to comply with its obligations.
- 8.2 **Costs.** If a court awards costs in favour of the Disclosing Party in respect of the remedies taken as contemplated in this clause 8, the Receiving Party shall pay such costs on an attorney and own client basis.

## 9 DOMICILIA AND NOTICES

- 9.1 **Addresses.** The Parties hereby choose domicilium citandi et executandi ("**domicilium**") for all purposes under this Agreement the physical addresses set out on the cover page of this Agreement.
- 9.2 **Change of Address.** Either Party may give written notice to the other, change its domicilium to any other address or number in the Republic of South Africa, provided that such change shall take effect fourteen 14 (fourteen) days after delivery of such written notice.
- 9.3 **Deemed Receipt.** Any notice to be given by either Party to the other shall be deemed to have been duly received by the other Party:
- 9.3.1 if delivered to the addressee's domicilium by hand during business hours on a business day, on the date of delivery thereof, or
- 9.3.2 if sent by fax to the addressee on the first business day following the date of sending thereof.
- 9.4 **Use of email.** The Parties record that whilst they may correspond via email during the currency of this Agreement for operational reasons, no formal notice required in terms of this Agreement, nor any amendment or variation to this Agreement may be given or concluded via email.

## 10 INTERPRETATION

This Agreement shall be subject to the following rules of interpretation.

- 10.1 **Headings.** Headings and sub-headings are inserted for information purposes only and shall not be used in the interpretation of this Agreement.


- 10.2 **References.** Unless otherwise stated, references to clauses, sub-clauses, schedules or paragraphs are to be construed as references to clauses, sub-clauses, schedules or paragraphs of this Agreement.
- 10.3 **References to persons.** References to:-
- 10.3.1 persons shall include companies, corporations and partnerships;
- 10.3.2 any party shall, where relevant, be deemed to be references to, or to include, as appropriate, their respective successors or permitted assigns;
- 10.3.3 the singular shall include the plural and vice versa;
- 10.3.4 any one gender shall include a reference to all other genders.
- 10.4 **Calculation of days.** When any number of days is prescribed in this Agreement, same shall be reckoned exclusively of the first and inclusively of the last day, unless the last day falls on a day which is not a business day, in which case the last day shall be the next business day.
- 10.5 **Neutral construction.** The rule of construction that the Agreement shall be interpreted against the party responsible for the drafting or preparation of the Agreement, shall not apply.
- 10.6 **The term "including".** The words "include", "includes", and "including" means "include without limitation", "includes without limitation", and "including without limitation". The use of the word "including" followed by a specific examples shall not be construed as limiting the meaning of the general wording preceding it.

## 11 GENERAL


- 11.1 **Entire agreement.** This Agreement, together with the schedules hereto and the documents, records or attachments referred to herein or therein, constitutes the entire agreement between the Parties in respect of the subject matter hereof.
- 11.2 **Variation.** No amendment or modification to this Agreement shall be effective unless in writing and signed by authorised signatories of the Parties.
- 11.3 **Waiver.** No granting of time or forbearance shall be or be deemed to be a waiver of any term or condition of this Agreement and no waiver of any breach shall operate as a waiver of any continuing or subsequent breach.
- 11.4 **Applicable Law.** This Agreement shall be governed and construed according to the laws of the Republic of South Africa.

11.5 **Costs.** Each Party shall be responsible for its own legal and other costs relating to the negotiation of this Agreement.

Signed at			Date	
For and on behalf of	Babcock Africa Services (Pty) Ltd			
Name	Roger O'Callaghan	who warrants that they are duly authorised to sign		
Designation	Group Chief Executive Officer			

Signed at		FURKANE	Date	22/11/2021
For and on behalf of	IT REVOLUTION			
Name	MICHAEL FENTON	who warrants that they are duly authorised to sign		
Designation	DIRECTOR			



	<b>BABCOCK INTERNATIONAL GROUP – AFRICA DIVISION</b>		
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### NDA INTERNAL CONTROL SHEET

<i>Select and complete appropriate option; delete remaining options</i>
[Disclosing Party] and Babcock Africa Services (Babcock receiving)
Babcock Africa Services and [Receiving Party] (Babcock disclosing)
Babcock Africa Services and [Other Party] (Reciprocal agreement)

Name	Designation	Signature	Date
	Reviewer		
	MD		
	Company Secretary		