

## Non-Disclosure Agreement

Made effective as of \_\_\_\_\_ (“Effective Date”) between

**VAT Romania S.R.L.**, Str. 1, Zona Industrială de Vest, Nr.9 Ap. 5/10 RO – 310491 Arad, Romania (“VAT”) and  
\_\_\_\_\_  
\_\_\_\_\_  
collectively “Parties”)

The above Parties agree on the following terms

### 1. Terms and Definitions

- 1.1. On the terms set forth herein, each Party is willing to disclose (as “**Discloser**”) certain information as specified under sections 1.2 to the other (“**Recipient**”) for reasons specified under section 1.4 and on the condition that Recipient does not disclose the same to any third party nor make use of it in any manner except as set out herein.
- 1.2. In this Agreement references to Recipient and Discloser shall be deemed to include respectively any Affiliate. For this purpose “**Affiliate**” shall mean any company controlling, controlled by or under common control with the relevant Party where control means direct or indirect ownership of at least 50% of the voting stock or interest in a company or control of the composition of the board of directors. Recipient and Discloser each agrees to be responsible for any breach by its Affiliates of the obligations under this Agreement.
- 1.3. “**Confidential Information**” shall mean information, knowledge, experience and data concerning a Party’s business, technologies, products, customers, markets, suppliers and partners, furnished or made available to Recipient by or on behalf of Discloser, and is (i) designated as confidential, or (ii) if disclosed orally or visually, reduced to writing and further disclosed to Recipient within thirty (30) days of disclosure; or (iii) is commonly regarded as confidential given the nature of the information and the circumstances of the disclosure.
- 1.4. The Parties intend to engage in an exchange of Confidential Information in connection with discussions about a possible business relation, particularly \_\_\_\_\_ (“**Purpose**”).

### 2. Non-disclosure and non-use

- 2.1. Recipient shall not publish or disclose to any third party Confidential Information received from Discloser or its representatives hereunder, nor use it other than for the Purpose. Recipient shall not disassemble, decompile, reverse engineer, copy, modify or make any reproduction of products or objects of Discloser.
- 2.2. Recipient shall deal with Confidential Information so as to protect it from disclosure with a degree of care not less than that used by it in dealing with its own trade secrets and shall take reasonable steps to minimize the risk of disclosure of Confidential Information.
- 2.3. Recipient shall restrict disclosure of Confidential Information only to those of its employees and consultants who need to know for the Purpose and who are bound by equivalent obligations as to confidentiality. Recipient shall assume full responsibility and liability to Discloser for any unauthorized disclosure by its employees and such consultants.

2.4. Information shall cease to qualify as Confidential Information, if Recipient can demonstrate by competent proof that information

- (i) is generally known to the public at the time of disclosure or becomes generally known other than through any act or omission on the part of Recipient; or
- (ii) is in the lawful possession of the Recipient at the time of disclosure; or
- (iii) is acquired from a third party who has the lawful right to make such disclosure; or
- (iv) is independently developed by Recipient without use or reference to the materials comprising the Confidential Information disclosed under this Agreement.

2.5. The restrictions hereunder do not apply to the extent that any Confidential Information is required to be disclosed pursuant to any judicial or governmental request or order, provided that Recipient has given Discloser advanced written notice thereof and has taken all reasonable steps to minimize the disclosure required and where possible to ensure the continued confidentiality of all information so disclosed.

### **3. Term**

3.1. This Agreement shall be in force for **24 months** after the Effective Date, unless terminated in advance by either Party with thirty (30) days' written notice. However, the obligation of confidentiality and non-use shall survive the termination or expiration of this Agreement for five (5) years, with exception of trade secrets, which shall be confidential for an unlimited period of time.

### **4. Return and Destruction of Confidential Information**

4.1. Recipient will at the written request of Discloser promptly return or destroy all the Confidential Information and copies (save for one copy for record purposes and securely stored Confidential Information that is created during automatic system back-up) to Discloser and immediately cease using the same. Recipient shall provide a written certification to Discloser regarding such destruction of Confidential Information.

### **5. Warranties**

5.1. Each Party warrants that it has the right to make the disclosures under this Agreement.

5.2. Each Party acknowledges that Confidential Information is provided "as is" and without any representation or warranty, express or implied, as to the accuracy or completeness of Confidential Information, including, without limitation, any implied warranty of merchantability or fitness for a particular purpose, or any warranty that the use of Confidential Information will not infringe or violate any patent or other proprietary rights of any third party.

### **6. Rights and Licences**

6.1. Recipient acknowledges that Discloser is and will remain the exclusive owner of Discloser's Confidential Information and all patent, copyright, trademark and other intellectual property rights in such Confidential Information. Except for the right to use Discloser's Confidential Information for the Purpose, no other right or license is granted to Recipient by this Agreement and the disclosure of Confidential Information does not result in any obligation by Discloser to grant Recipient any right in or to such Confidential Information.



## 7. Miscellaneous

- 7.1. This Agreement shall be governed by, and construed and enforced in accordance with the laws of Romania, excluding its conflict of law rules and the Parties consent to the exclusive jurisdiction of Romania only, with the competent courts of the city of Arad, Romania.
- 7.2. Recipient acknowledges that Discloser may be irreparably injured by Recipient's breach of this Agreement and that money damages would not be an adequate remedy for any such breach. Accordingly, Recipient agrees that Discloser will, in addition to any other remedies available to it at law or equity, be entitled to seek equitable relief, including injunctive relief and specific performance to enforce the terms hereof.
- 7.3. The terms and conditions herein constitute the entire agreement and understanding of the Parties and shall supersede all communications, negotiations, arrangements and agreements, either oral or written, with respect to the subject matter hereof. No amendments to or modifications of this Agreement shall be effective unless reduced to writing and executed by the Parties hereto.
- 7.4. The failure of either Party to enforce any term hereof shall not be deemed a waiver of any rights contained herein.
- 7.5. This Agreement shall not be assignable by either Party without the prior written consent of the other Party, except to Affiliates or in connection with a sale of the business or substantially all of the assets of the business to which the Confidential Information relates.
- 7.6. If one or more provisions of this Agreement are or become invalid, in whole or in part, this shall not affect the remaining provisions of this Agreement and each remaining term of this Agreement shall be valid and enforced to the full extent permitted by law. The Parties shall negotiate in a faithful manner on a ruling to be used instead of the invalid provision and which, as closely as possible, reflects the economic intentions of the Parties concluding this Agreement.
- 7.7. This Agreement may be executed in one or more counterparts, each of which will be deemed an original, and all of which together will be deemed to be one and the same instrument. A facsimile or portable document format (".pdf") copy of this Agreement, including the signature pages, will be deemed an original.

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered as of the Effective Date.

VAT Romania S.R.L.

By:  
Name:  
Title:

By:  
Name:  
Title:

By:  
Name:  
Title:

By:  
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Title: