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| **CONFIDENTIALITY AGREEMENT** |
| **TELE−FONIKA KABLE S.A.** with the seat in Myślenice (code: 32−400) at ul. Hipolita Cegielskiego 1, entered into the Commercial Register of the National Court Registry conducted by the District Court for Krakow − Śródmieście in Krakow, XII Commercial Department of the National Court Registry under the number KRS 0000491666, REGON [Industry ID]: 270543582, NIP [Taxpayer Identification Number]: 626-000-43-86, BDO No. 000011698, being a large entrepreneur under the Act of 8th March 2013 on counteracting excessive payment delays in commercial transactions (consolidated text, Journal of Laws of 2020, pos. 935 item as amended) with the share capital amounting to PLN 759.000.000,00 PLN - fully paid, represented by:  1. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,  2. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,  3. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,  hereinafter referred to as the “**Disclosing Party**”,  and  **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**, with its registered seat at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, identification number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, registered in the \_\_\_\_\_\_\_\_\_\_\_\_ maintained by\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, represented by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, represented by:  1. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,  2. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,  3. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,  hereinafter referred to as “**Receiving Party**”,  hereinafter collectively referred to as the “**Parties**” and individually as the “**Party**”.  ***WHEREAS:***   * *the Disclosing Party intends to enter into discussion with the Receiving Party in relation to potential cooperation in relation to the Disclosing Party’s project \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_;* * *the Disclosing Party shall disclose to the Receiving Party information related to the above mentioned project - constituting a trade secret of the Disclosing Party and other information of a special type and of exceptional value for the Disclosing Party - and wishes to ensure the confidentiality of such information provided;* * *such information will be provided only in order to discuss and explore business opportunities regarding the considered future cooperation of the Parties in the field of above mentioned project (hereinafter the “****Purpose of disclosure****”);*   *the Parties – on \_\_\_\_\_\_\_\_ 2023 - have concluded this Confidentiality Agreement (hereinafter the “****Agreement****”):*  **§ 1. DEFINITION OF CONFIDENTIAL INFORMATION**   1. The term “**Confidential Information**” shall include any and all data and information (whether of a commercial, technical or other nature, including but not limited to proprietary information, trade secrets and know-how, specifications, processes, documents, information, data, know-how, formulae, drawings, designs, charts, sketches, photographs, graphs, models (including 3D models), computer software, business studies, samples, apparatuses, contractual documents, business strategies or plans, customer lists, pricing information, ideas), personal data, disclosed to Receiving Party by Disclosing Party (whether in writing, orally, visually, electronically or by any other means and whether the information has been marked with the "confidential" clause or any other clause) in connection to the Purpose of disclosure. In particular, the Confidential Information includes any technical, operational data, engineering solutions in form of letters, e-mails, reports, records, photos, figures, oral or visual presentations, software or any other form, whether in hard or soft copy. 2. Confidential Information shall not include information which is: 3. in the public domain or which becomes part of the public domain through no fault of Receiving Party; 4. in the Receiving Party’s possession at the time of disclosure and was not acquired directly or indirectly from the Disclosing Party or from a third party under an obligation to confidentiality; 5. lawfully made available to Receiving Party by a third party without an obligation to confidentiality, provided that such third party – to the knowledge of Receiving Party – is not in breach of any obligation to confidentiality in relation to such information; or 6. developed by Receiving Party independently of any Confidential Information or under the exceptions set out in this Paragraph 1(2). 7. If Receiving Party seeks the benefit of any of the exceptions set out in Paragraph 1(2), it shall bear the burden of proving its existence. 8. Confidential Information shall not be deemed to be in the public domain merely because any part of said information is embodied in general disclosures, or because individual features, components, or combinations thereof are now known to the public. 9. The term “Confidential Information” shall also include:    1. any copies or abstracts made thereof;    2. all reports, analyses, notes or records taken about the Confidential Information or other information that are based on, contain or reflect any Confidential Information; and    3. any apparatus, modules, samples, prototypes or parts thereof. 10. Furthermore, the Confidential Information include of all data concerning Disclosing Party or third parties having the character of personal data pursuant to: (i) Regulation (EU) No. 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC; and (ii) Act of 10 May 2018 (Journal of Laws of 2018, item 1000) on the protection of personal data; in so far as Receiving Party come into contact with such data. 11. If any doubt arises, as to the nature of given information, Receiving Party shall either treat the information as Confidential Information or request in writing from the Disclosing Party a written explanation of the nature of the information in question. The Disclosing Party’s response regarding the confidential or non-confidential nature of the information shall be binding on the Receiving Party.   **§ 2. SUBJECT OF THE AGREEMENT**   1. Receiving Party shall be obliged to: 2. keep the Confidential Information in strict secrecy, 3. implement and maintain reasonable safeguards with respect to the handling and management of all Confidential Information (with high degree of care as is reasonably used in relation to important confidential information, at least with the care of prudent business man) so as to ensure the confidentiality and secrecy thereof, 4. not copy or reproduce any Confidential Information (or any part thereof) by any means whatsoever, except as may be reasonably necessary to carry out the Purpose of disclosure; 5. unless otherwise is stipulated in this Agreement, refrain from distributing, using, disclosing, processing, delivering the Confidential Information to any third parties except for cases when prior written consent of Disclosing Party is received, 6. use the Confidential Information exclusively for the Purpose of disclosure, 7. grant access to the Confidential Information to such its employees and/or members of statutory bodies and only to such extent and in case as it is reasonably required for the Purpose of disclosure and on condition that before disclosure such employees and/or members of statutory bodies are informed about confidential nature of information. Receiving Party shall be liable for any violation hereof by its employee and/or member of statutory bodies. At the same time dismissal (termination of employment contract or function) with such person shall not be a relief of Receiving Party from liability for actions (omissions) of such person, 8. destroy all the Confidential Information provided by Disclosing Party within 5 (five) business days after the respective request from Disclosing Party, which shall be certified in writing by Receiving Party. However, the receiving Party may retain a copy of the Confidential Information required to be retained by law or by normal business practice and may retain electronic copies of the Confidential Information created by automatic computer-generated backup systems, 9. promptly notify Disclosing Party if it suspects or becomes aware of any unauthorized use, storage, copying or disclosure of the Confidential Information, and 10. immediately return all the Confidential Information after the respective request from Disclosing Party is received. 11. Receiving Party is not authorized to disclose Confidential Information to its affiliates, legal advisors, insurance companies, insurance brokers, auditors, consultants, subcontractors or otherwise involved in connection with the Purpose of disclosure without the Disclosing Party’s consent. In the event that Receiving Party requires cooperation of a third party - listed above - for the Purpose of disclosure, it may disclose Confidential Information to that person only on need-to-know basis and provided a third party undertakes in writing to protect the Confidential Information disclosed to it or has a duty of non-disclosure imposed by applicable legislation or professional standards. 12. Receiving Party may disclose the Confidential Information, if it is required to be disclosed by law, or any court, governmental or regulatory authority, provided (i) Disclosing Party is given advance written notice of such requirement of disclosure so that Disclosing Party has the opportunity to defend, limit or protect against such disclosure, and (ii) Receiving Party uses reasonable efforts to obtain assurance that the Confidential Information will be treated confidentially. Confidential Information - which is disclosed pursuant to this clause - must be marked “Confidential” or “Restricted”. 13. The Confidential Information remains the property of Disclosing Party. Hereunder Receiving Party shall not receive any property rights or any other rights for use of the Confidential Information. 14. The exchange of Confidential Information contemplated herein may be subject to export control laws or regulations. Each Party agrees to comply with all laws and regulations applicable to the use and distribution of the Confidential Information defined herein, including, but not limited to, anti-terrorism and trade regulations.   **§ 3. LIABILITY**   1. In case of any violation of any terms and conditions of this Agreement, including but not limited to (i) disclosure of the Confidential Information by Receiving Party in contradiction with conditions of this Agreement or/and (ii) use of Confidential information by Receiving Party for any purpose other than the Purpose of disclosure, Receiving Party shall: 2. pay the Disclosing Party a contractual penalty in the amount of PLN 500,000.00 (in words: five hundred thousand zlotys 00/100) for each breach; 3. reimburse damages suffered by Disclosing Party directly due to such breach of Receiving Party‘s obligations stipulated by this Agreement, including any and all judicial and legal costs and expenses; 4. The above clause does not exclude or limit the Disclosing Party’s right to claim supplementary compensation to the full amount of the damage suffered.   **§ 4. DISPUTES SETTLEMENT**   1. Any disputes arising out of or in connection with this Agreement shall be settled by the court of Poland, competent for the place of residence of the Disclosing Party. 2. The Agreement shall be governed by and interpreted in accordance with the laws of Poland.   **§ 5. GENERAL PROVISIONS**   1. The Agreement has been drawn up in two copies and in English language. 2. The Parties have appointed the following individuals to generally coordinate the disclosure and receipt of Confidential Information:  |  |  | | --- | --- | | **DISCLOSING PARTY** | **RECEIVING PARTY:** | | Name: | Name: | | Position: | Position: | | Email: | Email: | | Telephone number: | Telephone number: |  1. Correspondence shall be addressed to the above mentioned e-mail addresses and/or by post to the following mailing addresses:    * 1. Disclosing Party: **Tele-Fonika Kable S.A., ul. Hipolita Cegielskiego 1, 32-400 Myślenice (Poland)**;      2. Receiving Party: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. 2. Any change of the: (i) representative and/or (ii) correspondence address of the Party, shall not require written consent of the other Party, but only its prior written notice. 3. The Parties declare that: (i) the Agreement does not obligate either Party to conclude further agreements, or further cooperation between the Parties; (ii) the Disclosing Party reserves all rights in the Confidential Information and no further rights or obligations other than those expressly referred to in Agreement are granted or to be deduced from, in particular, the conclusion of the Agreement does not result in the transfer or granting of licenses to any intellectual property right of the Disclosing Party; (iii) the Agreement and any rights and obligation thereunder shall not be assigned or otherwise transferred in whole or in part by Receiving Party without the prior written consent of the Disclosing Party; (iv) except Paragraph 5(4) - Agreement may be modified only with the prior, mutual and written consent of the Parties, under pain of nullity; (v) the content and existence of the Agreement is confidential and shall not be disclosed by either Party. 4. In cases where the Agreement requires a written form such written form requirement shall be satisfied by a hand-written signature, a scan thereof or by electronic signature.   **§ 6. TERM OF VALIDITY OF THE AGREEMENT**   1. The Agreement shall be valid for a period of **3 years** from the date of its conclusion. 2. However, the obligation to keep the Confidential Information in strict secrecy, shall bind the Receiving Party for an **indefinite period of time, perpetually**, including in the event of termination of the Agreement by either Party.   **§ 7. SIGNATURES OF THE PARTIES**   |  |  | | --- | --- | | **DISCLOSING PARTY** | **RECEIVING PARTY:** | | Name: | Name: | | Position: | Position: | | Signature: | Signature: | | Name: | Name: | | Position: | Position: | | Signature: | Signature: | | Name: | Name: | | Position: | Position: | | Signature: | Signature: | |