

## NON-DISCLOSURE AGREEMENT

### **PARTIES:**

**This Agreement is made between:**

(1) **Roam Communication Limited**, a company with its principal address at \_71-75 Shelton Street, Covent Garden, London WC2H 9JQ -Registered in England number 16116903

(2) \_\_\_\_\_ a company with its principal address at \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ **(the Partner)**.

Each referred to as a Party or jointly referred to as Parties.

### **1. BACKGROUND**

WHEREAS, the Parties are or will be evaluating, discussing and negotiating business opportunities and prospects between the Parties, (the "Project/-s");

WHEREAS, the Parties may in connection with these evaluations, discussions and negotiations disclose to each other certain Confidential Information (as defined below); and

WHEREAS, the Parties have agreed that disclosure and use of Confidential Information shall be made on the terms and conditions of this Agreement.

NOW, THEREFORE, the Parties agree as follows;

### **2. DEFINITIONS**

Wherever used in this Agreement the following terms shall have the meanings set forth below:

**Affiliate:** means any legal entity which, at the time of disclosure to it of any Confidential Information, is directly or indirectly controlling, controlled by or under common control with any of the Parties.

**Agreement:** means this Non-Disclosure Agreement.

**Confidential Information:** means any information disclosed in any form whatsoever (including, but not limited to, disclosure made in writing, orally or in the form of samples, models, computer programs or otherwise) by the Disclosing Party to the Receiving Party under this Agreement, provided that (i) such information is, at the time of disclosure,

designated as “confidential” or is marked with the name, sign, trade name or trade mark of the Disclosing Party or (ii) the nature of the information makes it obvious that it is confidential. However, the term Confidential Information shall not include any information disclosed by the Disclosing Party to the Receiving Party which;

- a) is in the public domain at the time of signing this Agreement or which later comes into the public domain other than by a breach of this Agreement;
- b) is received by the recipient without restriction from a third party who had the right to disclose it without restrictions;
- c) is demonstrably developed independently by the Receiving Party, provided that the physical person or persons that have developed the information have not had knowledge about the information disclosed by the Disclosing party;
- d) is known to the Receiving Party prior to disclosure or otherwise is in the Receiving Party’s possession prior to disclosure; and
- e) The Receiving Party is required to disclose by mandatory law or by a governmental or administrative agency or body or by a decision by a court of law or stock exchange rules.

**Disclosing Party:** means the Party disclosing Confidential Information to the Receiving Party under this Agreement.

**Effective Date:** means the day this Agreement becomes effective as set out in Article 9.1.

**Project:** means the project defined under the Article 1 above.

**Receiving Party:** means the Party receiving Confidential Information from the Disclosing Party under this Agreement.

**Term:** means the term set out in Article 9.1 and 9.2.

### **3. NON-DISCLOSURE OF CONFIDENTIAL INFORMATION**

3.1 The Receiving Party shall during the term of this Agreement (as specified in Article 9.1 and 9.2) not disclose to any third party Confidential Information received from the Disclosing Party.

3.2 In addition to the responsibility not to disclose Confidential Information to any third party as set out in Article 3.1, the Receiving Party shall during the Term of this Agreement be liable for:

Any loss, theft or other inadvertent disclosure of Confidential Information,  
and

Any unauthorized disclosure of Confidential Information by persons  
(including, but not limited to, present and former employees) to whom the  
Receiving Party under this Agreement has the right to disclose  
Confidential Information received from the Disclosing Party.

3.3 The Receiving Party shall not be liable for such inadvertent or unauthorized disclosure if it has used the same degree of care in safeguarding such Confidential Information as it uses for its own confidential information of similar importance. However, the Receiving Party must in any case have used not less than a reasonable degree of care and, upon becoming aware of such inadvertent or unauthorized disclosure, notified the Disclosing Party thereof and take reasonable measures to mitigate the effects of such disclosure and to prevent any further disclosure.

### **4. USE OF CONFIDENTIAL INFORMATION**

4.1 During the Term the Receiving Party is entitled to use Confidential Information only to the extent necessary for the Project.

4.2 In this Agreement, neither party grants to the other party any license under any patents, copyrights, trademarks, or mask works, either expressly, by implication, inducement, estoppel, or otherwise. Any license of intellectual property rights must be in writing under a separate contract.

## **5. PERMITTED DISCLOSURE OF CONFIDENTIAL INFORMATION**

5.1 The Receiving Party may disclose Confidential Information to any of its Affiliates and the Affiliate shall, at its own discretion, be entitled to use or disclose the Confidential Information, however only to the same extent the Receiving Party is permitted to disclose and/or use Confidential Information under this Agreement. For the avoidance of doubt, both parties may disclose Confidential Information to its consultants. The Receiving Party hereby warrants that any Affiliate and or consultant to which Confidential Information is disclosed will be bound by and will obey the terms of the Agreement.

5.2 The Receiving Party shall limit the dissemination of Confidential Information received from the Disclosing Party to its employees, Affiliates and consultants, having a need to receive such information for the purpose of this Agreement.

5.3 Except as provided in Article 5.1, the Parties acknowledge that the Receiving Party may only disclose Confidential Information received from the Disclosing Party to its contractors, subcontractors, agents or similar entities upon the prior written consent of the Disclosing Party. In the event the Disclosing Party gives such consent, the Receiving Party warrants that any of its contractors, subcontractors, agents or such other similar entities to which Confidential Information is disclosed will be bound by and will comply with the terms of this Agreement.

## **6. COPYING AND RETURN OF FURNISHED INSTRUMENTS**

6.1 The Receiving Party shall not be entitled to copy any material containing Confidential Information provided by the Disclosing Party, unless and to the extent it is necessary for the Project.

6.2 All material containing Confidential Information shall remain the Disclosing Party's property. The Receiving Party shall promptly return all Confidential Information to the Disclosing Party upon its written request or (at the Disclosing Party's option) destroy all such Confidential Information and provide to the Disclosing Party a certificate of such destruction signed by a duly authorized officer of the Receiving Party.

6.3 Notwithstanding the aforementioned, the Receiving party shall not be required to destroy computer records or files containing the Confidential Information which have been created pursuant to automatic archiving or back-up procedures on secured central storage servers and which cannot reasonably be deleted.

6.4 In the event that any such Confidential Information is retained pursuant to Article 6.3, the terms and conditions of this Agreement shall remain in force as described in Article 9.2 of this Agreement.

## **7. NO REPRESENTATIONS OR WARRANTIES**

The Confidential Information is delivered "as is" and all representations and warranties, expressed or implied, are hereby disclaimed.

**8. NON DISCLOSURE OF NEGOTIATIONS**

Except as provided in Article 5, each Party agrees that it will not without the other Party’s prior written consent disclose to any third party the fact that the Parties are discussing the Project. The Parties acknowledge that the provisions of this Agreement shall apply in respect of the content of any such discussions.

**9. TERM AND TERMINATION**

9.1 This Agreement shall become effective on the day it has been duly signed by both Parties. The provisions of this Agreement shall however apply retroactively to any Confidential Information which may have been disclosed in connection with discussions and negotiations regarding the Project/- prior to the Effective Date if applicable.

9.2 Either Party may terminate the Agreement, with or without cause, with immediate effect. However, the confidentiality obligation and restrictions of use laid down in this Agreement shall remain in force and effect until three (3) years have passed from the date of disclosure.

**10. GOVERNING LAW AND ARBITRATION**

10.1 This Agreement and any dispute or claim arising out of, or in connections with, it (whether contractual or non-contractual in nature) shall be governed by, and construed in accordance with, the laws of the Province of Ontario, Canada.

10.2 The Parties agree that the any court of competent jurisdiction in the Province of Ontario, Canada shall have non-exclusive jurisdiction in relation to any claim, dispute or difference concerning this Agreement and any matter arising from it. Each Party irrevocably waives any right that it may have to object to an action being brought in any court of competent jurisdiction in the Province of Ontario, Canada, to claim that the action has been brought in an inconvenient forum, or to claim that that court does not have jurisdiction.

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This Agreement has been signed by the Parties in two (2) identical copies of which the Parties have taken one (1) each.

Place:  
Date:

Place:  
Date:

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\_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

Name:  
Title:

Name:  
Title: