

## RECIPROCAL CONFIDENTIALITY AGREEMENT

This Confidentiality Agreement ("Agreement") is made and entered into as of the ....<sup>th</sup> day of....., ....., by and between "OPTIMUM TELECOM ALGERIE –SPA", a limited liability company incorporated in Algeria with a principal office at "Route de Wilaya Lot N°37/04, Dar El Beida-Algiers" and "....., a company incorporated in ..... with a principal office at "....."

WHEREAS, the parties hereto intend to enter into discussions to determine the feasibility of one or more possible transactions between them; and

WHEREAS, in order to conduct such discussions and any subsequent negotiations between the parties, each party ("receiving party") may have need of information from the other party ("disclosing party") that is regarded as confidential to the disclosing party.

NOW, THEREFORE, for and in consideration of the foregoing premises, and the mutual promises and undertakings contained herein, the parties hereto agree as follows:

1. **Definitions.**

(a) "Confidential Information," as used herein, shall mean information of, entrusted to or in the possession of the disclosing party or any of its affiliates and disclosed to the receiving party by or on behalf of the disclosing party or any of its affiliates, orally or in writing, electronically or otherwise, and which is not generally made available to the public at large, including but not limited to financial data, products, services and methodologies, software, computer programming, client lists, sources of supply, information concerning employees, any advertising, promotion, product or program concepts, plans or proposals, or any other information of a proprietary or non-public nature.

(b) "Reasonable Care," as used herein, shall mean the same degree of care exercised by the receiving party with respect to its own confidential information which is of the same nature and sensitivity as Confidential Information provided by the disclosing party.

2. **Obligations of Receiving Party.** The parties agree that the receiving party (of Confidential Information) shall upon receipt and after:

(a) Use Reasonable Care to maintain the confidentiality of such Confidential Information and limit its disclosure to such of its directors, officers, employees or representatives, as have a need to know such Confidential Information in order to perform the activities contemplated by this Agreement;

(b) Be responsible for the compliance by its directors, officers, employees and representatives with the provisions of this Agreement;

(c) Not copy Confidential Information for any purpose other than to perform the activities contemplated by this Agreement;

(d) Not use any Confidential Information for any purpose other than to perform the activities contemplated by this Agreement; and

(e) Not discuss or disclose Confidential Information except as authorized by this Agreement, except as expressly authorized by the disclosing party.

(f) Expressly prohibit any sale, transfer or disclosure of Customer Data to third parties, subsidiaries or related companies without the prior authorization of the other party.

(g) Ensure the compliance with this obligation by its staff and any subcontractors.

(h) Having the technical and human means to keep such data confidential and commit for the same on behalf of its sub-contractors.

(i) Comply with the laws and regulations relating to the storage, processing and use of personal data and protection of privacy

3. **Term of Agreement.** This Agreement shall be effective as of the date executed by both parties, as set forth above, and shall remain in effect as to all Confidential Information disclosed by or on behalf of either party before the first to occur of: (i) the termination of all discussions between the parties; or (ii) notice by one party to the other that such party considers all discussions between the parties to have terminated; or (iii) written agreement that this Agreement has terminated. The obligations of Paragraph 2, above, shall survive termination of this Agreement.

4. **Exceptions to Receiving Party's Obligations.** The obligations of a receiving party under this Agreement shall not apply to Confidential Information of the disclosing party to the extent it is:

(a) information that is available or becomes available to the general public without restriction through no wrongful act or omission of the receiving party;

(b) information received from a third party having the right to transfer said information, without restriction;

(c) information known to the receiving party before the time of disclosure, without limitation on use or disclosure;

(d) information that is independently developed by the receiving party without reference to Confidential Information;

(e) information which is ascertainable from a visual inspection of the disclosing party's public premises, products, services, news releases, advertising or promotional literature/material disseminated by the disclosing party without restriction; or

(f) required to be disclosed pursuant to a subpoena or order of a court, agency or government authority of competent jurisdiction which is binding on the receiving party, provided that receiving party shall immediately notify disclosing party of and permit disclosing party to contest any such subpoena or order.

5. **Ownership/Return of Information.** No licenses or rights under any patent, copyright, trademark, or trade secret are granted or are to be implied by this Agreement. All Confidential Information disclosed under this Agreement (including information in computer software or held in electronic storage media) shall be and remain the property of the disclosing party. All such information in tangible form shall be returned to the disclosing party promptly upon written request or the termination or cancellation of this Agreement, and shall not thereafter be retained. No Confidential Information shall thereafter be disclosed or used in any form by receiving party, its affiliates, or any employees or independent contractors of receiving party or its affiliates. Each party agrees to notify the other of any impermissible disclosure or use of Confidential Information hereunder. All

work owned and/or produced by the disclosing party and any related rights shall be protected by the Copyright Laws of the disclosing party. Any infringement of any of the moral or economic rights of the disclosing party will entitle the disclosing party to initiate court action and seek damages for the breach/infringement.

6. **Warranties.** The disclosing party warrants that it has the right to disclose to the receiving party Confidential Information under the terms and conditions of this Agreement and that to do so does not violate any obligations to any third party. ALL OTHER WARRANTIES ARE DISCLAIMED, INCLUDING THAT ANY INFORMATION IS FIT FOR A PARTICULAR PURPOSE OR MERCHANTABILITY. Without limiting the preceding sentence, neither party makes any warranty as to the accuracy or completeness of any information which may be provided to the other party. Each party shall rely solely on its own analysis and expertise in determining whether to proceed with any transaction to which such information may pertain.

7. **Limitation of Liabilities.** Neither party is obligated under this Agreement to purchase from or provide to the other Party any service or product. Neither party shall be liable to the other for loss or damage based on a breach of this Agreement, except to the extent such loss or damage is a direct result thereof and provided that neither party shall at any time be responsible for indirect, speculative or consequential loss or damage, lost profits, lost income or lost business opportunities. The disclosing party shall not provide the receiving party with the disclosing party's only copy of the Confidential Information. In the event Confidential Information is lost, damaged, stolen or destroyed while in the possession or control of the receiving party, the receiving party shall not be responsible for the costs of re-creating such Confidential Information.

8. **Incorporation of Confidential Information in Other Documents.** In the event that Confidential Information shall be incorporated into other documents, whether separately or jointly generated by the parties, such other documents shall to the extent of such Confidential Information be deemed Confidential Information subject to the terms of this Agreement.

9. **Equitable Relief.** The receiving party acknowledges that the Confidential Information has been developed by the disclosing party with substantial effort and at substantial cost and, therefore, has value to the disclosing party; and that breach of any of the provisions of this Agreement could cause the disclosing party irreparable injury for which no adequate remedy at law exists. Accordingly, the disclosing party shall have the right, in addition to any other rights it may have and, by executing this Agreement, the receiving party hereby consents, to the entry in any court having jurisdiction of a temporary or permanent restraining order or injunction restraining or enjoining the receiving party from any violation of this Agreement. The receiving party further agrees to waive, and to use its best efforts to cause its directors, officers, employees and agents to waive, any requirement for the securing or posting of any bond in connection with such remedy.

10. **Disclosing Party's Right on Breach.** If the receiving party breaches this Agreement, the disclosing party shall have the right, in addition to all other rights available hereunder and by law, to prevent the receiving party from continuing such breach. If any part of this Agreement is declared invalid, then the receiving party agrees to be bound by a

covenant as near to the original as lawfully possible. This paragraph shall survive the term and termination of this Agreement. The receiving party shall further be liable for all costs of enforcement.

11. **Indemnity.** The receiving party agrees to indemnify and keep the disclosing party indemnified from and against any and all loss suffered by the disclosing party as a result of any breach of this Agreement by the receiving party or its employees, including any use of the Confidential Information by or on behalf of the receiving party otherwise than as permitted under this Agreement. Without prejudice to any other right or remedy of the disclosing party, the receiving party will account to the disclosing party for all profits of the receiving party obtained from any use of the Confidential Information by or on behalf of the receiving party otherwise than as permitted under this Agreement.

12. **Governing Law and Venue.** This Agreement will be governed by and construed in accordance with the Algerian Law. All disputes, claims or conflicts arising from this Agreement shall be settled in Algerian Courts.

IN WITNESS WHEREOF, this instrument has been signed by or on behalf of the parties hereto as of the date first set forth above.

**Company Name**

**Company Name**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

Mr Vincenzo NESCI \_\_\_\_\_  
Name

\_\_\_\_\_  
Name

Exécutif\_\_Chairman \_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date