# ANNEX 5

**NON-DISCLOSURE AGREEMENT**

**TEMPLATE**

**NON-DISCLOSURE AGREEMENT**

**………………………….**

Registered office

/place of business: ………………………….

Represented by: …………………………

Company registration number (IČ): ……………………

Registered in: the Register of Companies administered by the Municipal Court in ……….., Section ………, Insert ……………..

(hereinafter referred to as the “…………….“)

and

**Nordic Telecom Systems a.s.**

Registered office: Jihlavská 1558/21, Prague 4 – 140 00

Represented by: Petr Horák, statutory director

Company registration number (IČ): CZ07082835

Registered in: the Register of Companies administered by the Municipal Court in Prague, Section B, Insert 23428

(hereinafter referred to as „NTS“)

**I.**

**PURPOSE OF THE AGREEMENT**

1. When preparing for a future cooperation and in relation to such cooperation regarding the ………………………………………….., if it takes place (hereinafter referred to as “Cooperation”), the Parties will be disclosing to each other information which may have the nature of confidential information. The Parties undertake to disclose and handle such information in accordance with this Agreement.

2. The purpose of this Agreement is to ensure confidentiality of disclosed information. For the avoidance of doubt, if the Cooperation between the Parties takes place, this Agreement shall apply to the full extent also to the disclosure of information during such Cooperation, unless otherwise stipulated by the agreement regulating the Cooperation between the Parties.

**II.**

**CONFIDENTIAL INFORMATION**

1. The Parties undertake to maintain confidentiality in relation to any facts and information relating to the other Party which they receive during the Cooperation between the Parties, as well as in relation to all other facts and information (particularly of business and technical nature), which were disclosed to the Party by the other Party/Parties and which are not publicly known or available and which may be reasonably considered as information the secrecy of which the disclosing Party may be deemed to be justifiably concerned in (hereinafter referred to as the “Confidential Information”).

2. Each Party also undertakes to maintain confidentiality in relation to the facts and information which were expressly designated by the other Party as “*Secret*“, “*Confidential*“, „*Trade Secret*“, or similarly in Czech or English language. Information designated in this manner will also be considered as Confidential Information as per this Agreement. For the avoidance of doubt, Confidential Information does not have to be expressly designated as such, however, in order to avoid any doubt regarding the nature of information, it is advisable to designate the information concerned as Confidential Information, particularly in cases when the nature of the information might not be utterly clear to the other Party.

**III.**

**HANDLING CONFIDENTIAL INFORMATION**

1. Each Party undertakes to prevent any leakage, publishing or dissemination of Confidential Information obtained from the other Party/Parties and to protect the secrecy of Confidential Information at least to the extent to which it protects its own trade secrets and always in the manner which is usually used for the protection of trade secret.

2. Each Party undertakes to exercise the best efforts that can be reasonably expected in order to ensure that the secrecy of the other Party’s Confidential Information is maintained by its employees or persons designated to fulfill the purpose of the Cooperation. If a Party uses a third party to fulfill the purpose of the Cooperation, such Party is entitled to disclose the Confidential Information obtained from the other Party to such third party only with the other Party’s consent and only to the extent necessary for the performance provided by the third party, and it is also obliged to impose on the third party the obligation of confidentiality. The Party which has disclosed the Confidential Information to the third party will be held liable in the case that the third party breaches its obligations.

3. Each Party undertakes to use the Confidential Information obtained from the other Party/Parties exclusively for the purpose for which the Confidential Information was disclosed to it.

4. The Parties agree that based on this Agreement, each of the Parties is entitled to disclose the other Party's Confidential Information to its legal, tax and accounting consultants (hereinafter referred to as the “Consultant”). NTS is entitled to share the Confidential Information based on the purpose of the Cooperation within the Nordic Telecom and Nordic Investors Group, or to its subsidiaries or shareholders (Pursuant to Section 79 et seq. Act No. 90/2012 Coll., On Business Corporations). The Party who disclosed Confidential Information to a third party specified in this article will be held liable for the breach of obligations by such third party.

5. In circumstances where it can be reasonably expected that the confidentiality of the Confidential Information might be jeopardized, the Party on whose part such circumstances exist undertakes to report such a fact to the other Parties. Should any of the Parties reasonably suspect that the other Party is not able to ensure protection of Confidential Information as per this Agreement, any Party may request the other Party to prove that it fulfills its obligations as per this contract. If the other Party satisfies such a request, the reasonable costs related thereto will be borne by the requesting Party.

6. Upon written request of the disclosing Party, the other Parties shall, without undue delay, return to the disclosingParty all media with Confidential Information, particularly any media with PC software, documentation, notes, plans, drafts and their copies.

7. For the avoidance of doubt, all Confidential Information shall remain the property of the disclosing Party and no authorization or other rights related to the information are hereby granted or transferred to the receiving Party/Parties.

**IV.**

**DISCLOSURE OF CONFIDENTIAL INFORMATION**

1. The obligations stipulated herein do not apply to Confidential Information which **(i)** is publicly known at the time of its disclosure or becomes publicly known after being disclosed, rightfully and without a breach of any obligation as per this agreement **(ii)** was independently developed or acquired, without a breach of any of the obligations as per this agreement, by the Party who had originally received such information as confidential **(iii)** the recipient is obliged to disclose according to the applicable legal regulations, or based on a decision of the respective public authority, provided that the Party notifies the other Party of this fact immediately after the obligation of disclosure arises (unless it is prevented from doing so by the applicable legal regulations or a decision issued by the respective public authority) and takes any measures necessary in order to protect confidentiality to the maximum possible extent given by the respective legal regulations and the decision of the public authority.

2. Upon request of the Party whose Confidential Information was disclosed as per article IV (1) hereof, the other Party/Parties shall prove the existence of the reason for disclosing the information.

**V.**

**PENALTIES**

1. In the event of a breach of any of the obligations defined in Article III (1) to (3) hereof (also taking into account Article V (5) hereof), the breaching Party shall be obliged to pay to the each of the Party whose unjustifiably Confidential information was unjustifiably disclosed a contractual penalty of CZK 300 000 for each breach committed.

2. The Parties have agreed that all contractual penalties hereunder shall be due within 15 days following the delivery of a legitimately-issued statement of contractual penalty to the other Party. The agreement on, and the payment of, any contractual penalty hereunder is without prejudice to the right to claim damages.

**VI.**

**FINAL PROVISIONS**

1. This Agreement has been executed in two (2) counterparts, of which each Party shall receive one counterpart. This Agreement shall be governed by the laws of the Czech Republic, without the application of conflict rules.

2. Any and all changes and amendments to this Agreement may only be made in form of written amendments signed by both Parties.

3. Unless otherwise expressly stated by the Parties, this Agreement does not constitute the final offer to contract or an amendment of a contract or acceptance of such offer.

4. This Agreement shall come into force and effect on the date it is signed by both Parties and shall be entered into for a fixed term that shall expire five years following the termination of Parties’ Cooperation. Nevertheless, the Parties expressly agree that the obligation to treat Confidential Information of the other Party in compliance with Article III hereof, as well as the entitlement to damages and contractual penalty hereunder shall persist not only during the term hereof but also following the termination of this Agreement until such information becomes generally known in public in a manner other than as a result of a breach of this Agreement.

5. Any and all disputes which the Parties fail to settle amicably by mutual negotiation shall be submitted for final resolution to the competent Czech court having the subject-matter jurisdiction.

6. The Parties confirm that this Agreement represents their complete and exclusive mutual agreement regarding the subject-matter hereof.

 Prague, ……………….. Prague, .....................

 ...................................................................... ........................................................................

 NTS ………