

# NON DISCLOSURE AGREEMENT

[REDACTED]

THIS AGREEMENT IS ENTERED INTO

BETWEEN

[REDACTED]

represented by the signatory of this Agreement, acting in the name and on behalf of said company;

Hereinafter referred to as [REDACTED]

AND

Výzkumný a zkušební letecký ústav, a.s., a company organized and existing under the laws of Czech Republic, having its principal offices located Beranových 130, 199 05 Prague - Letňany, Czech Republic, inscribed in the Register for Legal Persons under the number B446, acting for itself and on its own behalf and for and on behalf of its Affiliated Companies;

represented by the signatory of this Agreement, acting in the name and on behalf of said company;

Hereinafter referred to as "VZLÚ";

Hereinafter referred to individually as "the Party" and jointly "the Parties".

WHEREAS

The Parties wish to enter into negotiations in order to engage in general [REDACTED]

These negotiations may lead to the disclosure of confidential information, as defined hereunder, by one Party to the other.

The disclosing of such confidential information shall be governed by the conditions of confidentiality set out in this Agreement.

[REDACTED]

**NOW THEREFORE, THE PARTIES HAVE AGREED AS FOLLOWS:**

**Article 1 Confidential Information**

1.1 For the purposes of this Agreement Confidential Information shall mean any information of a confidential and/or proprietary nature which is disclosed by a Party (the "Disclosing Party") to the other Party (the "Receiving Party") or which either Party otherwise obtains knowledge of through or as a result of its relationship with the Disclosing Party, access to the Disclosing Party's premises, or communication with the Disclosing Party's employees or independent contractors, whether in written, oral, graphic, electromagnetic, digital, or other form and in any form relating to the Disclosing Party's business or technology, products, services, marketing, research and/or activities.

1.2 Without being limited thereto Confidential Information shall include the following information:

[REDACTED]

**Article 2 Confidentiality Obligation**

2.1 The Receiving Party undertakes with respect to all Confidential Information to:

- (a) maintain strictly confidential and not to disclose or reveal to any third party, the Confidential Information received hereunder from the Disclosing Party without the clear and express prior written consent of a duly authorised representative of such Disclosing Party;
- (b) solely use the Confidential Information for its own purposes within its business relationship with the Disclosing Party, and where applicable, for the following specific objectives:
  - all information related with [REDACTED]

The Receiving Party shall not make any use, directly or indirectly, of the Confidential Information in a manner inconsistent with its business relationship with the Disclosing Party. The Receiving Party shall only copy or reproduce any part of the Confidential Information to the extent necessary for such purposes.

- (c) use the same degree of care and means that it utilizes to protect its own information of a similar nature, but in any event not less than reasonable care and means, to ensure the confidentiality of such Confidential Information and avoid a third party to use or have access to the Confidential Information;
- (d) not to alter, modify, disassemble, reverse engineer or decompile any Confidential Information without the prior written consent of the Disclosing Party;
- (e) disclose the Confidential Information only to those of its employees, directors, subcontractors and consultants, and those of its affiliated companies, who have a direct need to know such Confidential Information for the sole purposes related to the relationship with the Disclosing Party, provided that these persons have been instructed as to the confidential nature of such Confidential Information and have been informed of their obligations of confidentiality;
- (f) to return or, at the direction of the Disclosing Party, destroy, any and Confidential Information, together with any copies that may have been made, promptly;

[REDACTED]



- (i) upon completion or abandonment of the services to which they relate;
- (ii) upon termination of the Parties' business relation;
- (iii) in any event, upon the request of the Disclosing Party.

#### Exceptions to the obligation of confidentiality

2.2 The restrictions on the use or disclosure of Confidential Information set out in Article 2 hereinabove shall not apply to any Confidential Information which:

- (a) is or falls into the public domain (other than in breach of this Agreement); or
- (b) is disclosed to the Receiving Party by a third party who is not in breach of any obligation of confidentiality; or
- (c) was known to the Receiving Party before such Confidential Information was imparted by the Disclosing Party as can be evidenced by its records; or
- (d) is required to be disclosed pursuant to any applicable statute, law, rule or regulation of any governmental authority or pursuant to any order of any court of competent jurisdiction, provided that confidential treatment is requested and the Receiving Party shall advise the Disclosing Party of the request for disclosure in sufficient time to apply for such legal protection as may be available with respect to the confidentiality of the Confidential Information.

#### Article 3. Indemnity

3.1 The Receiving Party acknowledges that the Confidential Information has been developed or obtained by the investment of significant time, effort and expense, and that such Confidential Information provides the Disclosing Party with a significant competitive advantage in its business. The Receiving Party understands that the Disclosing Party will thus suffer significant harm in the event that the Receiving Party fails to comply with any of its obligations set forth herein.

3.2 Accordingly, the Receiving Party hereby acknowledges that, in the event of any breach of this Agreement the Disclosing party shall be entitled to the just and fair amount of liquidated damages in the amount [REDACTED]. These liquidated damages are without prejudice to the rights of the Disclosing Party to seek equitable relief, including injunction, and to claim additional damages if the Disclosing Party's harm is not completely compensated by the liquidated damages, in addition to the right to terminate all existing agreements with the Receiving Party.

#### Article 4. Survival of Undertakings

4.1 The contract will enter into force on the date of its signing by both parties and into efficiency on the date of publication in the register of contracts and shall remain in force until the end of the fifth year following the end of any contractual relations between the Parties, regardless of the cause. VZLU will therefore without undue delay after its signing by both parties submit the contract to register of contracts for publication.

#### Article 5. Scope of the Agreement

5.1 No Party has the right to assign or otherwise transfer all of its rights and obligations under this Agreement to any third party without the prior written agreement of the other.

5.2 All of the terms and provisions contained herein shall inure to the benefit of and shall be binding upon the Parties hereto and their respective heirs, successors and permitted assigns.

5.3 Nothing in this Agreement shall be construed as creating any obligation on the part of one or the other Party to disclose any Confidential Information whatsoever.

- 5.4 All Confidential Information is, and shall remain, the property of the Disclosing Party. Nothing in this Agreement shall be construed as granting one or the other Party any license or any other rights with respect to their respective proprietary rights or Confidential Information.
- 5.5 No representation or warranty is or will be made, express or implied, of any kind and especially as to or in relation to the accuracy or completeness of the Confidential Information disclosed under this Agreement, except for any Confidential Information disclosed by the Disclosing Party in response to any request for quotation or except as otherwise expressly provided for herein.
- 5.6 Nothing contained in this Agreement shall be construed as creating any obligation or an exception on the part of either Party to enter into a business relationship with the other Party, or an obligation to refrain from entering into a business relationship with any third party. Nothing contained in the Agreement shall be construed as creating a joint venture, partnership or employment relationship between the Parties, it being understood that the Parties are independent contractors vis-à-vis one another. Except as specified herein, no Party shall have the right, power or implied authority to create any obligation or duty express or implied, on behalf of any other Party hereto.

**Article 6. Entire Undertaking – Amendments**

- 6.1 This Agreement sets forth the entire understanding and agreement of the Parties with respect to the subject matter hereof and supersedes all other oral or written representations and understandings.
- 6.2 No provision of this Agreement shall be amended, modified or waived except by an instrument in writing signed by the Parties hereto.

**Article 7. Severability**

- 7.1 If any provision of this Agreement is held invalid, unenforceable or illegal for any reason, this Agreement shall remain otherwise in full force apart from such provision which shall be deemed deleted, or be amended.

**Article 8. Waiver**

- 8.1 The fact that one of the parties does not demand the strict execution by the other party of any provision or condition of the present Agreement at any time will not be considered as a final waiver of the exercise of this right.

**Article 9. Governing Law and Jurisdiction**

- 9.1 All issues, questions and disputes concerning the validity, interpretation, enforcement, performance and termination of this Agreement shall be governed by and construed in accordance with [REDACTED] law, and no effect shall be given to any other choice-of-law or conflict-of-laws rules or provisions [REDACTED] that would cause the laws of any other jurisdiction to be applicable. This Agreement shall thus be governed by and construed according to [REDACTED] law.
- 9.2 Any claim, controversy or dispute of any kind or nature whatsoever arising between the Parties relating to this Agreement ("Dispute") shall be submitted to the exclusive jurisdiction of the Brussels courts. The proceedings will be conducted exclusively in the [REDACTED] language.



Executed in Charleroi on 16<sup>th</sup> September 2016, in two original copies, each party acknowledging receipt of one.

