

Compromis

1. The Republic of Samara is a developed nation credited for leading the technological revolution in the world today. The Cloud Computing Industry in the Republic of Samara has experienced exponential growth in the last five years and is increasingly paving the path for providing data and software management solutions to companies all over the world.

2. Nebulus Inc. is a company incorporated under the laws of Astex, a state in the Republic of Samara and is a cloud computing service provider which provides cloud storage facilities to Medium and Large Sized enterprises. Established in the year 2007, Nebulus Inc. is a pioneer in the field of cloud computing and has been at the forefront of the developments in the field. Nebulus Inc. offers a variety of services including processing power, storage, software hosting and software delivery. Nebulus Inc. has storage servers in Hedli, a city in the State of Iptan as well as servers used as back up storage systems/ servers in Rubin, a city in the State of Alpania. Nebulus Inc. claims to be the safest cloud computing service, and heavily advertises the security measures adopted by it for ensuring the safety and protection of data. However, ever since its inception, Nebulus' claims regarding security have been vociferously disputed by several entities including former customers and competitors in the field of cloud technology. In view of the same, Nebulus recruited an independent research agency for conducting research into the security measures adopted by Nebulus. The results of the research revealed that the measures were satisfactory.

3. Iptan is a developing country located in South East Asia having a population of over 1 billion. Of the 1 billion, 60% of the population is below the poverty line, and there exists a huge disparity between the income of the rich and the poor. Due to the poor sanitary conditions prevalent in large parts of the country, Iptan is frequented with epidemics, which claim lives of millions of people.

4. Innovadus Inc. is a company incorporated under the Companies Act, 1956 and is involved in the innovation and development of drugs, and has been the innovator of several life – saving drugs. Since its inception in the year 2000, Innovadus has dedicated itself to the cause of developing new drugs for curing the various diseases which plague Iptan frequently. Innovadus not only innovates and develops life – saving drugs, but also spends millions of dollars in predicting the diseases likely to become epidemics in the near future. Accordingly, Innovadus has been instrumental in helping the people of Iptan to cope with the frequent epidemics which plague the country. In view of the relatively weaker protection offered to patents in Iptan, Innovadus Inc. protects its proprietary information in the form of trade secrets or confidential information. Innovadus Inc. employs a strict confidentiality regime, wherein each of its employees is required to enter into a Non –

Disclosure Agreement, obliging the employee not to disclose the Company's proprietary information to any third party. Innovadus' employees were contractually bound not to disclose such proprietary information even after their term of employment with Innovadus.

5. Copiagato Inc., is a company incorporated under the Companies Act, 1956 having a registered office in Nizamabad, a city in Iptan. Copiagato is a generic company, involved in the manufacture and marketing of drugs and vaccines. Copiagato Inc. does not invest in innovation and development of drugs, and taking advantage of the relatively weak patent protection available to drugs in Iptan, launches generic versions of pharmaceutical preparations developed by other innovator companies. Copiagato Inc., however, has often been praised for marketing drugs at a price which is affordable to all sections of the society.

6. In the year 2009, research was being conducted at Innovadus at a frantic pace, with several gigabytes of data being generated every hour. In view of the same, the storage servers at Innovadus were insufficient to cope with the sheer volume of data being generated, leading to server breakdown and loss of critical data. Further, Innovadus' employees were constantly facing problems of accessing the data on the move, since they were unable to access the Company's hardware storage facilities from remote locations. In order to overcome these limitations, Innovadus had decided to transfer its data to a cloud server. Accordingly, Innovadus had entered into a Data Transfer, Storage and Preservation Agreement dated October 8, 2010 with Nebulus Inc. (hereinafter referred to as "Agreement"). The following are the relevant clauses of the Agreement:

Clause 3: Duration of the Agreement

This Agreement shall remain in effect for a period of 2 years unless terminated earlier by either Party in accordance with Clause 9.

Clause 4: Ownership of Data

Innovadus reserves all right, title and interest (including all intellectual property and proprietary rights) in and to the data stored on the servers / systems provided by Nebulus Inc.

Clause 5: Measures regarding security of data

5.1. Nebulus Inc. agrees to take appropriate measures to protect against the misuse of and/or unauthorized access to the Innovadus' data stored on Nebulus Inc. servers/ systems

5.2. Nebulus Inc. shall establish and maintain reasonable safeguards against the destruction, loss, alteration of, or unauthorized access to data stored on Nebulus Inc. servers/ systems

Clause 6: Obligation to maintain confidentiality

Nebulus Inc. undertakes to take all reasonable steps to ensure that all Innovadus' data stored on Nebulus Inc.'s servers/ systems is kept confidential and is not disclosed to any party without express authorization by Innovadus.

Clause 7: Back up storage server

Nebulus Inc. shall use a backup storage server reasonably acceptable to Innovadus that shall be in full compliance with all confidentiality provisions of this Agreement. Nebulus Inc. shall provide access to data stored on such backup storage server on specific request by Innovadus.

Clause 8: Obligation not to provide service to competitors

Nebulus Inc. shall not provide service to any entity engaging in or carrying on any competitive business activity with Innovadus

Clause 9: Termination

This Agreement may be terminated by either party on the failure of the other party to fulfil their obligations under this Agreement after giving notice of 2 months to the other party.

Clause 10: Removal of data

Upon the termination of this Agreement, Innovadus' rights to access or use the data stored on Nebulus Inc.'s systems/ servers immediately cease, and Innovadus must promptly remove from Nebulus Inc.'s systems/ servers any data, software programs or services (if any) used in connection with Innovadus' access to or use of the Nebulus Inc.'s systems/ servers. If Innovadus does not remove such data, software programs or services from Nebulus Inc.'s servers/ systems, Nebulus Inc. reserves the right to remove them in accordance with standard business practices.

Clause 11: Disclaimer of liability

Nebulus Inc. is not liable for any loss or damage that Innovadus may suffer because of any act of God, power cut, trade or labour dispute or shortage, terrorist attack, act, failure or omission of any government or authority, failure of telecommunication services, or any other delay or failure caused by a third party.

Clause 12: Applicable law

The law applicable to this Agreement shall be the laws of the State of Iptan.

7. Innovadus expressed concerns about the security of their data emphasizing on the significance of the data remaining confidential. Nebulus addressed these concerns by citing the studies of the independent agency and their flawless track record, thus far. Nebulus also assured Innovadus that their data would be afforded further protection by storage of

their data in encrypted form, rather than in clear text. While the standard encryption key was a 128 – bit encryption key, Nebulus employed a 64 – bit encryption key for encrypting Innovadus’ data, and gave Innovadus the complete details of the encryption mechanism employed by it. Further, Nebulus Inc. made multiple copies of Innovadus’ data which were stored in the back up storage servers in Albania.

8. In the year 2010, Innovadus’ scientists, after exhaustive research involving expenditure of over RSD 10 million, assessed that Iptan would fall victim to another epidemic of “Spattergoitus” likely to have staggering magnitude afflicting over 50 million people in Iptan alone. Spattergoitus, according to Innovadus, would be caused by a mutant strain of bacteria, *Straptum baccicocculos*, which resides in the small intestine of hens and chicken. Further, the research revealed that none of the existing anti – bacterial vaccine would be effective against this mutant strain of bacteria. These findings of Innovadus’ scientists were published in *Scrubs Medical Journal*, 2010 Vol. 2, page 201. Accordingly, the scientists at Innovadus started conducting research for developing a vaccine against *Straptum baccicocculos*. Innovadus was successful in developing the said vaccine against *Straptum baccicocculos*, and sought approval of the drug regulatory authority of Iptan for commercially marketing the same. The development of the vaccine involved a unique and new process of extraction of a pure form of the *Straptum baccicocculos* bacteria, with the process being critical to the effectiveness of the vaccine. Innovadus opted to keep this process confidential, with the process being known to only 10 employees of the company, who were bound by the terms of their respective Non – disclosure Agreements.

9. As predicted by Innovadus, in January 2011, Iptan was struck by an epidemic caused by *Straptum baccicocculos*, with thousands of cases being reported everyday. Within a month of the outbreak of the epidemic, Innovadus had secured the approval of the drug regulatory authority of Iptan and launched the said vaccine under the trade mark REMENDIUM® (hereinafter “Remendium vaccine”). In view of its effectiveness and minimal side effects, REMENDIUM® was widely hailed as a wonder drug, and was an immediate commercial success. Due to the confidential process of manufacture employed by Innovadus for the manufacture of the REMENDIUM® vaccine, Innovadus was the only entity distributing a vaccine for preventing Spattergoitus. However, due to the huge expenditure incurred by Innovadus in developing the REMENDIUM® vaccine, Innovadus was unable to price the drug at a price affordable to all sections of the society, and was thus subject to criticism. In response, Innovadus introduced a programme for distribution of the vaccine at a highly subsidized rate for approximately 1 million patients below the poverty line.

10. Pursuant to its Agreement with Nebulus, Innovadus had transferred all its data including the data pertaining to the formulation and unique process of manufacture of the

REMENDIUM® vaccine to the servers/ systems of Nebulus Inc. Innovadus' data stored on Nebulus' servers/ systems was maintained in an encrypted form as opposed to in a clear text form.

11. In March 2011, Innovadus learnt that Nebulus Inc. was increasingly becoming subject of reports of data breaches being caused due to its allegedly inadequate security practices. In view of these security deficiencies, Innovadus terminated the Agreement with Nebulus Inc. and removed all its data from Nebulus' main server in fear of a third party accessing their data and misappropriating it. However, Innovadus did not specifically request for access to the data maintained on the back up servers, which remained on Nebulus's systems/ servers even after the termination of the Agreement. The termination of the Agreement by Innovadus was widely publicized and added fuel to the concerns regarding cloud computing being voiced by companies all over the world. As a result of reports of Innovadus' fallout with Nebulus Inc. over security concerns, a number of Nebulus Inc.'s customers decided to terminate their respective contracts with Nebulus Inc., causing huge losses to Nebulus Inc. to the tune of RSD 20 million.

12. Sanket Nadia, a resident of Hedli, a city in Iptan, is a student of National School of Computing, and has developed a high degree of skill in hacking computer codes, keys etc. Sanket also claims to be a social activist, and is actively involved in furthering the cause of greater access to medical aid for all sections of society. During the Spattergoitus epidemic, Sanket is greatly disturbed by the high price at which the REMENDIUM® vaccine is being offered by Innovadus. On hearing the news of termination of the Agreement by Innovadus, and being well aware of the alleged vulnerability of the security measures adopted by Nebulus Inc., Sanket decrypted the encryption key employed by Nebulus Inc. and gained access to their servers/ systems. In the process, Sanket chanced upon Innovadus' data stored in Nebulus Inc.'s back up storage servers. This data included the formulation and process of manufacture of the REMENDIUM® vaccine.

13. Sanket immediately approached Innovadus and offered to keep all its data secret provided that Innovadus undertook to reduce the prices of the REMENDIUM® vaccine. Viewing Sanket's offer as blackmail, Innovadus refused to accept the terms of his offer. Subsequently, Sanket approached Copiagato Inc., and informed them of his negotiations with Innovadus. Copiagato Inc., offered to pay Sanket RSD 1 million in exchange for the data relating to the process of manufacture of the REMENDIUM® vaccine. Copiagato further promised Sanket that it would distribute their own version of the said vaccine at a rate affordable to all sections of society.

14. Within months of obtaining the data from Sanket, Copiagato Inc. developed a vaccine against *Straptum baccicoccus*. Copiagato launched their vaccine and priced the

same at half the price of Innovadus's REMENDIUM® vaccine. The launch of the vaccine by Copiagato Inc. caused huge losses to Innovadus which are to the tune of RSD 1 billion. In view of the foregoing, Innovadus institutes a civil suit in the High Court of Hedli (being CS (OS) No. 5555 of 2011) against Nebulus Inc. and Copiagato Inc. claiming breach of confidentiality, misappropriation of confidential information, breach of contract, damages etc.. Nebulus Inc. filed a counter claim (being CC No. 1101 of 2011 in CS (OS) No. 5555 of 2011) claiming, *inter alia*, breach of the Agreement by Innovadus in view of the unilateral termination of the Agreement by Innovadus.

The laws of Iptan are in *pari materia* to the laws of India, while the Hedli High Court Rules are in *pari materia* with the Delhi High Court, 1967.

The laws of Alpania are in *pari materia* to the laws of United Kingdom

The laws of Astex are in *pari materia* to the laws of the State of Texas in the United States.
The laws of Republic of Samara are in *pari materia* to the laws of the United States of America.

The currency RSD is equivalent to USD i.e. 1 RSD = 1 USD

Participants appearing as Plaintiffs will represent Innovadus.

Participants appearing as Defendants will represent Nebulus Inc. and Copiagato Inc..

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