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VAIOT Limited
Cornerstone Business Centre
Suite 1, Level 2
16th September Square
Mosta MST 1180
Malta
(the “Addressee”, “Issuer” or “Company”)

14 April 2020

Dear Sirs

Re: VAI Token

We have been requested by the Addressee to provide an opinion (the “**Opinion**”) with regards to the classification of the VAI Token as issued by VAIOT Limited (the Issuer), a company incorporated in Malta on 6 December 2018 with registration number C 89746 whose registered office is situated at Cornerstone Business Centre, Suite 1, Level 2, 16th September Square, Mosta MST 1180, Malta in terms of the Virtual Financial Assets’ framework in force in Malta.

1. Document verification

For the purposes of preparing this Opinion, the following documents were reviewed and, where applicable, verified with the Malta Business Registry for authenticity, namely:

- a. The Company’s organisational documents;
- b. The information available at the Malta Business Registry;
- c. The Virtual Financial Assets Act (“VFAA”), Chapter 590 of the Laws of Malta;
- d. The Virtual Financial Assets Regulations (the “Regulations”), S.L. 590.01 of the Laws of Malta;
- e. The Virtual Financial Assets Rulebook (the “Rulebook”) as issued by the Malta Financial Services Authority (“MFSA”);
- f. The Investment Services Act (“ISA”), Chapter 370 of the laws of Malta;
- g. The Financial Institutions Act (“FIA”), Chapter 376 of the laws of Malta;
- h. The Issuer’s website www.vaiot.ai;
- i. The Issuer’s Whitepaper;
- j. The Memorandum and Articles of Organization as filed on 6 December 2018 of the Issuer
- k. The Financial Instrument Test issued by the MFSA as at 07.01.2020;

(together the “**Documents**”).

2. Assumptions

The following assumptions are being upheld in consideration of the opinion being issued:

- 2.1 The genuineness of all signatures on all documents, and the completeness of and conformity to the original documents of all copies submitted to us;
- 2.2 That the officials of the Issuer are not interdicted and are free to contract;
- 2.3 That the Documents are duly authorised, executed and delivered by each of the parties thereto;
- 2.4 That the Issuer has always followed company policy, as communicated to us as at the date of this Opinion, in relation to the sale, purchase, issuance and/or redemption of VAI Tokens;
- 2.5 That any and all rules, policies, procedures and similar documents have been duly authorised, approved, endorsed and/or issued by the appropriate body within the governance structure of the Issuer;
- 2.6 That there exist no agreements, documents or arrangements other than the documents expressly referred to herein as having been examined by us which materially affect, amend, vary or restrict the sale, purchase, issuance and/or redemption of the VAI Token in any way;
- 2.7 The genuineness of all information and documents provided to us by the Issuer and all signatures (if any) on such documents and the completeness, and the conformity to original documents, of all copies submitted to us;
- 2.8 When a discrepancy was noted between any of the documents provided to us by the Issuer or information sourced online, the most recent variant of any such document or information was taken to be true, superseding the other document or information.

3. Opinion

The Financial Instrument Test

The Financial Instrument Test ("FIT") is applicable to:

- i. issuers offering DLT Assets to the public in or from within Malta; and
- ii. persons providing any service and/or performing any activity, within the context of either the VFAA or traditional financial services legislation.

While the Issuer is currently not offering DLT Assets to the public in or from within Malta nor does it provide any service or activity within the context of either the VFAA or traditional financial services legislation from within Malta, the Issuer is currently in discussions to offer DLT Assets to the public in or from within Malta as well as their admission to trading on a DLT Exchange, as the term is defined in the VFAA.

The purpose of the FIT is to determine whether a DLT asset qualifies as:

- i. Electronic Money ("E-money"), as defined under the Third Schedule to the FIA;
- ii. a Financial Instrument, as defined under the Second Schedule to the ISA, whether issued in Malta or otherwise;
- iii. a Virtual Financial Asset, as defined under the VFAA; or
- iv. a Virtual Token, as defined under the VFAA.

The VFAA defines:

- i. A DLT Asset as:
 - a. a virtual token;
 - b. a VFA;
 - c. electronic money; or
 - d. a financial instrument

that is intrinsically dependent on, or utilises, DLT;

- ii. A VFA as any form of digital medium recordation that is used as a digital medium of exchange, unit of account, or store of value and that is not:
 - a. E-money;
 - b. a financial instrument;
 - c. a virtual token;
- iii. A virtual token as a form of digital medium recordation whose utility, value or application is restricted solely to the acquisition of goods or services, either solely within the DLT platform on or in relation to which it was issued or within a limited network of DLT platforms:

Provided that, the term "DLT platform" referred to in this definition shall exclude DLT exchanges;

Provided further that, a virtual token which is or may be converted into another DLT Asset type shall be treated as the DLT Asset type into which it is or may be converted;

- iv. A Financial Instrument is defined, by reference to the Investment Services Act, as any of the following:
 - a. transferable securities;
 - b. money-market instruments;
 - c. units in collective investment undertakings;
 - d. options, futures, swaps, forward rate agreements and any other derivative contracts relating to securities, currencies, interest rates or yields, emission allowances or other derivatives instruments, financial indices or financial measures which may be settled physically or in cash;
 - e. options, futures, swaps, forwards and any other derivative contracts relating to commodities that must be settled in cash or may be settled in cash at the option of one of the parties other than by reason of default or other termination event;

- f. options, futures, swaps, and any other derivative contract relating to commodities that can be physically settled provided that they are traded on a regulated market, a MTF, or an OTF, except for wholesale energy products traded on an OTF that must be physically settled;
 - g. options, futures, swaps, forwards and any other derivative contracts relating to commodities, that can be physically settled not otherwise mentioned in point 6 of this Section and not being for commercial purposes, which have the characteristics of other derivative financial instruments;
 - h. derivative instruments for the transfer of credit risk;
 - i. financial contracts for differences;
 - j. options, futures, swaps, forward rate agreements and any other derivative contracts relating to climatic variables, freight rates or inflation rates or other official economic statistics that must be settled in cash or may be settled in cash at the option of one of the parties other than by reason of default or other termination event, as well as any other derivative contracts relating to assets, rights, obligations, indices and measures not otherwise mentioned in this Section, which have the characteristics of other derivative financial instruments, having regard to whether, inter alia, they are traded on a regulated market, OTF, or an MTF;
 - k. emission allowances consisting of any units recognised for compliance with the requirements of Directive 2003/87/EC (Emissions Trading Scheme);
- v. E-money is electronically, including magnetically, stored monetary value as represented by a claim on the issuer which is issued on receipt of funds for the purpose of making payment transactions and that is accepted by a person other than the financial institutions that issued the electronic money.

Methodology

The FIT effectively operates through a process of elimination examining whether the DLT Asset in question qualifies as a virtual token; a financial instrument or E-money. Where the DLT Asset does not fall to be classified as any of the aforementioned assets, it shall be classified as a VFA.

To reach a determination a substance over form approach has been adopted and all three stages of the FIT were undertaken. Nomenclature employed by the Issuer in its materials have been ignored and attention has instead been focused on the characteristics and qualities of the VAI Token in the context of the definitions found in the VFAA, the Regulations, the Rulebook and traditional financial services legislation to ensure that the assessment is objective and true to the substance of the VAI Token.

Considerations

The VAI Token is a DLT Asset which shall be used as a means of settlement in exchange for services when the Issuer's clients make use of VAIOT's solutions. The Issuer also intends admitting the VAI Token to trading on one or more DLT Exchanges.

The Issuer's Whitepaper clearly states that "the VAI Tokens and/or the holding, use, and trading of the VAI Tokens carries no rights, whether express or implied, other than for their use on the VAIOT Platform and trading on DLT Exchanges following the VAI Token's admission to trading on such DLT Exchange or Exchanges."

The Issuer shall initially release VAI Tokens which are based on an ERC-777 standard. However, it intends migrating such tokens onto a proprietary blockchain built on Cosmos SDK technology at a later stage.

Consequently, the migration to the Issuer's proprietary blockchain solution based on Cosmos SDK, will enable token holders to use their VAI Tokens in exchange for services on the VAIoT Platform. The Issuer also intends to apply for admission to trading on one or more DLT Exchanges. Thus, following listing on one or more DLT Exchanges, the VAI Tokens shall enable their holder to exchange them on such exchange platforms.

The Issuer's Whitepaper also states that upon completion of the settlement for the service offered by the Issuer, in VAI Tokens, the said tokens shall then be transferred to the Issuer's wallet. Subsequently, this enables the Issuer to "sell the VAI Tokens received as settlement for services on DLT Exchanges, or keep them at the Issuer's disposal, or use them to serve platform functionalities."

The above characteristics of the VAI Token have been considered against those of the following VFA Assets:

1. Virtual Token ("VT"):-

In order for a DLT Asset to be classified as a VT it should:

- a. remain exchangeable either solely within the DLT platform on or in relation to which it was issued or within only a limited network of DLT platforms;
- b. not allow for convertibility into another DLT asset type; and
- c. be a form of digital medium recordation whose utility, value or application is restricted solely to the acquisition of goods or services.

Since the Issuer intends to admit the DLT Asset to trading on a DLT Exchange it can be immediately confirmed that the VAI Token does not satisfy the criteria to be classified as a VT.

2. Financial Instrument ("FI"):-

In assessing whether the VAI Token qualifies to be classified as a FI we sought to examine the criteria and characteristics which are accepted qualities of FIs by reference to the guidance notes issued by the MFSA and the definition of a financial instrument in terms of Markets in Financial Instruments Directive ("MiFID") and examining whether any of these characteristics can be attributed to the VAI Token.

i. Transferable Securities

Transferable Securities are defined in the ISA as those classes of securities which are negotiable on the capital markets and include:

- a. shares in companies and other securities equivalent to shares in companies, partnerships or other entities, and depository receipts in respect of shares;
- b. bonds or other forms of securitised debt, including depository receipts in respect of such securities;

- c. any other securities giving the right to acquire or sell any such transferable securities or giving rise to a cash settlement determined by reference to transferable securities, currencies, interest rates or yields, commodities or other indices or measures.

Based on the assessment of the VAI Token, it is apparent that the subject of the present evaluation will not carry any of the following characteristics:

- participation rights in the capital of the Issuer;
- rights to receive proceeds from the liquidation of Issuer in excess of nominal value;
- entry in the register of shareholders;
- right or guarantee to a fixed principal amount due (whether fixed or variable); nor
- entry in the register of debenture holders.

In the absence of such characteristics, the classification of the VAI Token as a Transferable Security can be excluded.

ii. Money Market Instruments

Money Market Instruments (“MMIs”) constitute those classes of instruments which are normally dealt in on the money market, such as treasury bills, certificates of deposit and commercial papers and excluding instruments of payment.

It is immediately evident that the VAI Token does not meet the criteria of a MMI.

iii. Collective Investment Scheme

We sought to establish whether the VAI Token qualifies as a unit in a Collective Investment Scheme (“CIS”). Since the VAI Token will not enable holders of the token to participate in or receive profits or income arising from the acquisition, holding, management or disposal of the token itself, and there is no intention to collectively invest the capital of the holders of VAI Token, the undertaking does not constitute a CIS.

iv. Derivative Instruments, Contracts for Difference, Options, futures, swaps, forward rate agreements, foreign exchange for investment purposes and Emission Allowances

The VAI Token does not give the holder an economic exposure to either the difference between the price of an underlying asset at the start of the contract and the price when the contract is closed or the difference in the price of two different underlying assets.

The VAI Token does not possess the qualities of a future or option arrangement given the absence of any contractual terms imposing restrictions on the date, time and option of redemption. In view of the preceding observations, the VAI Token does not bear any features equivalent to an option, future, forward rate agreement, swap or other derivative contract.

Furthermore, the VAI Token is not issued by a national competent authority in terms of article 18 of the Directive 2003/87/EC and hence it does not qualify as an Emission Allowance.

In view of the above considerations one can therefore conclude that the VAI Token does not satisfy the criteria to be classified as a financial instrument.

3. Electronic Money:-

Electronic money is defined as “electronically, including magnetically, stored monetary value as represented by a claim on the issuer which is issued on receipt of funds for the purpose of making payment transactions and that is accepted by a person other than the financial institutions that issued the electronic money”. It should be immediately noted that it is not the intention of the Issuer that any other entity accepts VAI Tokens as a means of settlement against a service other than the Issuer itself.

Whilst the VAI Token is capable of being used in order to settle the amount owed in return for a service, the VAI Token cannot be said to store monetary value, as the value of a VAI Token will be determined in accordance with the tokenomics surrounding the VAI Token itself considering its market value at the time of use.

Furthermore, the response to the following question posed by the Financial Instrument Test for the purpose of determining whether the VAI Token is an instrument of payment:

‘Is the DLT Asset used for the purpose of placing, transferring or withdrawing value irrespective of any underlying obligations between the two parties?’

was determined to be in the negative as the VAI Token may only be exchanged for services and therefore any use thereof is strictly correlated with the underlying obligations resulting from a sales transaction.

In view of the above considerations one can therefore conclude that the VAI Token does not satisfy the criteria to be classified as E-money.

Final Classification

Based on the above assessment of the VAI Token it is our opinion that the VAI Token falls to be classified as a VFA. The absence of a number of features normally associated with FIs and E-money as well as the intention of the Issuer to offer the VAI Token to the public is consistent with the determination of a VFA when considered within the parameters set out in the FIT.

4. Qualifications

The opinions set forth in this legal opinion are given subject to the following qualifications:

- 4.1 All capitalised terms included in this legal opinion which are not defined herein shall be understood to have the same meaning as that attributed to them by the Virtual Financial Assets Act and/or and regulations of rules issued thereunder;
- 4.2 This Opinion relates solely to the relevant laws of Malta as are in force at the date of this Opinion. To the extent to which the laws of any other jurisdiction may be relevant, we have assumed that such laws do not affect this Opinion and we do not express or imply any opinion on such laws;

- 4.3 The power and obligations of, the rights in relation to the Issuer as are contained in any act, code, decree, regulation, order or other law, may be extinguished, varied or modified at any time by the Parliament of Malta or by any other competent authority. Consequently, subject to the matters specifically dealt with in this Opinion, we are unable to express any opinion which may relate to the future but are not aware of any anticipated or pending extinguishment, variation or modification by any competent authority which would affect our Opinion;
- 4.4 The power and obligations of members in relation to the Company are subject to the Maltese Companies Act, 1995 (Chapter 386 of the laws of Malta) and any changes in the relative powers granted to the Company or its personality are subject to any limitations which might be prescribed from time to time.
- 4.5 All opinions as to the enforceability of agreements and obligations are subject to all applicable bankruptcy, composition, compromise, arrangement, re-organisations, insolvency, moratorium or other similar rights affecting the enforcement of creditors' rights generally;
- 4.6 The opinions expressed herein do not imply that Malta Courts will necessarily grant any remedy, the availability of which is subject to equitable considerations or otherwise at the discretion of the Court. Ultimately it is a Court of Law that would have the jurisdiction to determine any issues definitely, and accordingly it is not necessarily the case that the Courts or any other authority would agree with our interpretation. In particular, orders for specific performance and injunctions are normally discretionary. Specific performance may not be available where damages are considered by the Court to be an adequate alternative remedy;
- 4.7 Claims in Malta may become barred by time or limited by subject or may be or become subject to the defences of set-off or counterclaim;
- 4.8 This Opinion is valid as at the date hereof and we take no responsibility for any change in circumstances, including changes in law and fact; and
- 4.9 We do not take any responsibility for any delays which occur in the updating and publishing of any filed documentation at any public office, court or authority.

This Opinion is intended solely for the information of the Addressee and its legal advisors, and shall not be published, quoted or otherwise disseminated to, or relied upon by, any other person without the prior written consent of the undersigned.

Yours sincerely



Dr Wayne Pisani
Advocate