

## CONFIDENTIALITY AGREEMENT

hereinafter referred to as the "**Agreement**", entered into on ..... in..... between:

**PBG Spółka Akcyjna in restructuring in liquidation** with its registered office in Wysogotowo (62-081) ul. Skórzewska 35, entered in the Register of Business Organisations of the National Court Register, which records are maintained by the District Court Poznań - Nowe Miasto and Wilda in Poznań, VIII Commercial Division of the National Court Register, entry number 0000184508, Polish tax identification number NIP no: 7772194746 (copy of power of attorney enclosed)("PBG"), represented by the administrator in the remedial proceedings Zimmerman Filipiak Restrukturyzacja Spółka Akcyjna, with its registered office in Warsaw, Aleje Jerozolimskie 81, 02-001 Warsaw, entered in the Register of Business Organisations of the National Court Register, entry number: 0000591282, whose registration records are maintained by the District Court for the capital city of Warsaw in Warsaw, Polish tax identification number NIP: 7010527681, with share capital of PLN 100,000 paid in full (the '**Administrator**'), established by the District Court in Poznan - Stare Miasto in Poznan by way of the decision of February 12, 2020 in the case file No. XI Gr 101/19/mb (at present the remedial proceedings are conducted under the case file No. XI GRs 2/20/mb),

hereinafter referred to as "**PBG**",

a

[●] with its registered office in [●] at [●], entered in the register of business organisations maintained by the District Court [●] NIP [●], Polish business identification number Regon [●] represented by:

.....

.....

hereinafter referred to as the "**Potential Investor**",

hereinafter also referred to separately as the "**Party**" and jointly as the "**Parties**".

### **WHEREAS:**

*The Potential Investor has expressed to PBG its interest in acquiring the Collection of Claims and Rights as defined within the Business Offer Letter specifying the Terms and Conditions of Participation in the Asset Sale Process of the Kiev Development Project dated 18] March 2024 (hereinafter also referred to as the **Contemplated Transaction**);*

The Parties enter into this Agreement to set out the terms and conditions for the confidentiality of the Confidential Information.

## **1 [Confidential Information]**

1. For the purposes of this Agreement, "Confidential Information" shall mean technical, know-how, organisational, financial, legal and other information of economic value, as well as information obtained as a result of analysing or processing the information made available and, in particular, information related to the conduct of business, disclosed to one Party (the "**Receiving Party**") by the other Party (the "**Disclosing Party**"), regardless of the manner of disclosure (including in writing, orally, visually or by any other means of communication by the Disclosing Party), including in particular:

- 1.1. data constituting a legally protected secret, which includes in particular personal data,
- 1.2. other information and documents classified as "confidential", "restricted", "secret" or any other similar classification.

(2) Confidential Information shall also include information within the scope of the foregoing relating to affiliates or subsidiaries of the Disclosing Party regardless of the form in which it was provided to the Receiving Party.

(3) The existence of this Agreement and the conduct of discussions and negotiations relating to potential or existing cooperation between the Parties shall also be regarded as Confidential Information.

## **2. [Obligations of the Receiving Party]**

(1) In connection with the transfer of Confidential Information, the Receiving Party shall keep the Confidential Information confidential and ensure its protection.

(2) The Receiving Party undertakes to:

- 2.1. treat the Confidential Information in accordance with its specific nature and protect it with due care at least to the same extent as it protects its own information of this type,
- 2.2. use any Confidential Information obtained in the course of and in connection with the Collaboration only for the purposes and to the extent mutually determined by the Parties necessary for the execution of the Contemplated Transaction,
- 2.3. not copy or otherwise reproduce Confidential Information other than in connection with the Contemplated Transaction,
- 2.4. provide Confidential Information only to employees, subcontractors or other persons who are directly involved in the Contemplated Transaction (also referred to as Associates), to the extent that such persons are bound by an obligation of confidentiality no less than that provided for in the Agreement,
- 2.5. treat as confidential information suspected to be Confidential Information until its status is determined by the Disclosing Party.

3. Upon the Disclosing Party's written request, and upon cessation of the Contemplated Transaction, the Receiving Party shall return or destroy all materials, documents and information recording/containing or relating to Confidential Information existing in any form, together with all copies and productions, whether authorized or not. The Receiving Party shall also, upon the Disclosing Party's request, provide a written statement that all notes, memoranda, analyses, reports and any other documents in which the Confidential Information appears have been destroyed, otherwise the

Confidential Information shall be deemed to have been disclosed to an unauthorised person (unauthorised party).

4. All rights in the Confidential Information shall vest in the Disclosing Party unless otherwise expressly agreed by the Parties. This Agreement does not transfer or authorise the Receiving Party to receive or exercise any rights, including intellectual property rights of the Disclosing Party. The Receiving Party shall refrain from taking any action to acquire by it or any third party the Disclosing Party's intellectual property rights.

5. The Receiving Party shall be responsible for maintaining the confidentiality of the information in accordance with the provisions of this Agreement by its Associates as for its own actions.

6. The Disclosing Party shall have no obligation under this Agreement to disclose Confidential Information to the Receiving Party.

### **3.[Exclusion of duty of confidentiality]**

The Receiving Party shall not be liable for the disclosure of any Confidential Information that:

- 1) have been made public in a manner that does not constitute a breach of this Agreement;
- 2) are known to a Party from other sources without a duty of confidentiality and without breach of this Agreement;
- 3) have been disclosed to the public with the written consent of the Disclosing Party.

### **4.[Data Protection]**

1. The Disclosing Party agrees not to use or process in any way personal data to which it may gain access as a result of the Contemplated Transaction or negotiations for any purpose other than the implementation of the Contemplated Transaction.

2. The Receiving Party shall be liable for any damage resulting from its conduct caused by processing of personal data in violation of the Agreement, in particular damage caused by loss, improper storage or use of documents that are a carrier of personal data.

### **5.[Liability of Receiving Party]**

The Receiving Party shall be liable to the Disclosing Party for damage caused by the non-performance or improper performance of its confidentiality obligation under the Agreement on the general principles under the Civil Code. The aforementioned liability shall include the consequences of both the actions of the Receiving Party and persons employed by or performing work on behalf of the Receiving Party.

### **6.[Other rights and obligations of the Parties]**

1. The Receiving Party shall immediately notify the Disclosing Party in writing of any identified:

- 1.1. a breach of the obligation to keep Confidential Information confidential by the Receiving Party or any third party;
- 1.2. suspicion of possible disclosure, transfer or unauthorised use of the Confidential Information;
- 1.3. loss, theft or unauthorised destruction of media, documents or other materials containing Confidential Information;

- 1.4. disclosure of the Confidential Information by law, (e.g. an administrative decision, court ruling or other act of a state authority/body) and to take the measures permitted by law to maintain the confidentiality of the Confidential Information once it has been disclosed to an entity authorised by law (e.g. to request an exemption from disclosure).
2. The Receiving Party shall consult with the Disclosing Party as to possible legal steps to avoid or limit disclosure of the Confidential Information should the situation provided for in paragraph 1(d) above arise.
3. The Parties undertake to co-operate in the implementation of the Contemplated Transaction and to negotiate in such a way as not to lead to mutual misunderstandings.
4. The Receiving Party acknowledges that a breach of the provisions of Article 3 above, may cause irreparable damage, the extent of which may be difficult to estimate. The Party whose interests have been damaged as a result of unauthorised disclosure of Confidential Information may seek liquidated damages from the other Party in the amount of USD 20,000.00 (in words: twenty thousand US dollars) for each instance of unauthorised disclosure or use of Confidential Information by the Receiving Party or use by another entity or person as a result of disclosure of Confidential Information by the Receiving Party. In the event that the extent of the damage exceeds the stipulated amount of contractual penalties, the Party suffering the damage may claim damages in the full amount on general terms.

## **7. [Duration of the Agreement]**

This Agreement shall remain in force until the Confidential Information loses its economic value, not less than 5 years from the date of signing of this Agreement.

## **8. [Final provisions]**

5. All amendments and supplements to this Agreement shall be in writing under pain of nullity.
6. If any provision of the Agreement becomes invalid or unenforceable, this shall not affect the remaining provisions of the Agreement, which shall remain valid and enforceable as if the invalid provision did not form part of the Agreement. In such a case, the Parties will negotiate in good faith to agree on the wording of an effective provision to replace the invalid provision
7. No Party may transfer its rights or obligations under the Contract or release itself from such obligations without the prior written consent of the other Party under pain of nullity.
8. In the case of rights and obligations of the Parties not directly regulated in the Agreement, the relevant provisions of the Act on Counteracting Unfair Competition, the Civil Code and the Act on Personal Data Protection shall apply.
9. Disputes arising in connection with the performance of this Agreement shall be resolved by a common court of law with jurisdiction over the defendant's registered office.
10. This Agreement has been drawn up in two counterparts, one for each Party.

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PBG

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Potential Investor