

NON-DISCLOSURE AGREEMENT AND PROTECTION OF MATERIALS AND INFORMATION – Investment Project (name): XXX

DATE: 07.04.2022

Explosia a.s., Company Reg. No.: 252 91 581, with its registered office: Pardubice-Semtín 107, Postal Code 530 02, entered in the Commercial Register maintained by the Regional Court in Hradec Králové, Section B, Entry 1828 (“**Disclosing Party**”) and [____XXX____], Company Reg. No.: _____XXX_____, with its registered office _____XXX_____, entered in _____XXX_____ (“**Receiving Party**”), together also referred to as the “**Parties**” entered into the following agreement (hereinafter referred to only as the “**Agreement**”)

1. Definitions

For the purpose of this Agreement “**INFORMATION**” means any information of the Disclosing Party that the Receiving Party may have access to in any form, namely information about the Disclosing Party and its subsidiaries and related persons or about third persons and their business activities, know-how, manufacturing procedures, products and their composition, technical data and drawings, analyses, prognoses, planned projects and projects in progress, plans, assets, all intellectual property including patents and industrial designs, financial and marketing information and data, employees and business partners, content of business negotiations, existing or imminent disputes and administrative proceedings and any other private information the Receiving Party learns about in connection with the future, planned or the existing factual or contract-based relationship between the Parties or otherwise including the terms and conditions of this Agreement. All the aforesaid information that was disclosed to the Receiving Party by the Disclosing Party (or by its related persons) is considered confidential **INFORMATION** also in its written or electronic form, even if it cannot be considered trade secret within the intention of the provision of Section 504 of act no. 89/2012 Sb., the Civil Code, or if it is not explicitly labelled as confidential and even if it has real material or non-material value or not or even if a respective agreement has been entered by and between the Parties. Any information disclosed by another person is considered **INFORMATION** if the Receiving Party could and should expect the Disclosing Party to have a legitimate interest in protecting it even in case such **INFORMATION** has subsequently been modified by the receiving Party.

INFORMATION also means any information about the premises of Explosia a.s., especially information about the layout of the individual areas and places of work, their interconnections, or any other relationship concerning these premises, information about protection and security in all areas and places of work owned or used by Explosia a.s. The Receiving Party undertakes to use only permitted parts of roads on the estate of Explosia a.s. and to enter the premises of Explosia a.s. only for the purpose of discussing specific projects or implementation thereof and to ensure that the ban on filming or recording (using e.g. cameras, video-cameras, audio or magnetic devices) or ban on bringing any devices that may be used for recording are observed, and ensures that internal guidelines of Explosia a.s. are observed regarding movement and work on the premises, especially, but not limited to, Directive XXX Entry of persons and vehicles to Explosia a.s. In case the Receiving Party also moves on the premises of XXX the Receiving Party is obligated to observe internal guidelines of XXX, which are accessible from XXX.

“**MATERIAL**” includes any material, report, agreement, accounting, legal or business documents, drawings, photographs, any formats, or media accessible from a computer or any other document provided in connection with the performance under this Agreement, which is the property of the Disclosing Party.

The word “**Employee**” includes all employees, cooperating persons and contractors performing under contracts of the Receiving Party, authorized persons, representatives or any other persons authorized by the Disclosing Party (including, but not limited to, lawyers, accounting and financial consultants and auditors) in respect of future or the existing contract-based relationship.

2. Use of **INFORMATION**

The Receiving Party agrees and undertakes (a) to secure and maintain secured all **INFORMATION/MATERIALS** provided by the Disclosing Party, especially if labelled as “Confidential” and to prevent them from being disclosed or accessed by third parties; (b) not to use any **INFORMATION/MATERIALS** for any purpose other than as necessary in connection with either future or the existing contract-based or factual relationship and not to use them in contradiction to this Agreement; (c) to refrain from recording or copying this **INFORMATION/MATERIALS** or not to let anyone record or copy such **INFORMATION/MATERIALS**, except for cases necessary for performing its contract-based obligations towards the Disclosing Party [*and subject to a consent granted in writing*] and (d) to restrict access to **INFORMATION/MATERIALS** to Employees who may request such **INFORMATION/MATERIALS** on reasonable grounds in connection with either future or existing contract-based relationship with the Receiving Party. The Receiving Party is obligated to observe the respective provisions of the law on personal data protection.

The Disclosing Party bears no liability (arising from any legal title) or warranty as regards completeness or correctness of such **INFORMATION**.

3. Non-Disclosure of **INFORMATION** to Third Parties

The Receiving Party will maintain confidentiality and will not disclose **INFORMATION** or enable access to **MATERIALS** to any persons or entities other than the persons or entities authorized under this Agreement and will take all necessary measures to observe this obligation. The Receiving Party will inform the Providing Party without undue delay about any requests made by a third person, court, or administrative body to disclose or provide **INFORMATION/MATERIAL** and/or about any breach of the obligation to maintain confidentiality by any person. The Receiving Party will cooperate with the Disclosing Party in protecting **INFORMATION/MATERIALS** against disclosure. The Providing Party is entitled to check the scope and condition of security measures taken by the Receiving Party in respect of performance under this Agreement and in case any deficiencies are found in terms of protecting **INFORMATION/MATERIALS**, the Receiving Party is obligated to rectify them without delay.

The Receiving Party undertakes to pay contractual penalty to the Disclosing Party amounting to XXX of the net turnover of the Receiving Party for the past ended accounting period; however, the minimum amount is XXX and the maximum amount is XXX for every single breach of this Agreement even in case of

repetitive breaches within XXX days from the day a request to pay the contractual penalty in writing is received. Any obligation to compensate for damage exceeding the contractual penalty amount is not prejudiced by the content of this provision.

In case the Receiving Party breaches this Agreement, the Disclosing Party is entitled to withdraw from all contracts concluded with the Receiving Party.

The Receiving Party will ensure the same obligation to maintain confidentiality applies to Employees (as defined above) in full under this Agreement and also to any other persons that are in either legal or factual relationship with the Receiving Party and will participate in the cooperation of the Parties and will gain access to INFORMATION. The Receiving Party undertakes to restrict access to INFORMATION to persons that may request it on reasonable grounds in connection with such cooperation. The Receiving Party always bears full liability for breach of the obligation not to disclose and maintain confidentiality of the aforesaid third parties and the Disclosing Party is entitled to exercise its rights directly towards the Receiving Party instead of such persons. The Receiving Party is obligated to submit the name of the persons who have access to INFORMATION in accordance with the previous sentence including the scope of such access at the Disclosing Party's request.

4. Ownership and Returning INFORMATION/MATERIALS

All MATERIALS have been and will remain the property of the Disclosing Party. Anytime during the duration of this Agreement or after its termination, the Disclosing Party can request that all handed over MATERIALS or parts thereof be returned immediately or (in case it is not possible to return them) destroyed and the Receiving Party is obligated to perform under such request without delay but no later than within XXX days and in case of destruction the Receiving Party will notify the Disclosing Party about the method of destruction.

Disclosure of or enabling access to INFORMATION does not constitute any right for the Receiving Party to licence, trademark, patent, right to use or distribute copyrighted work or any other intellectual or industrial property rights.

5. Access of Employees

Prior to granting access to INFORMATION/MATERIALS to any of the Employees, the Receiving Party will inform each such Employee about the property and confidential nature of such INFORMATION/MATERIALS and about the Receiving Party's obligations under this Agreement and, if possible, a similar agreement will be entered into by and between the Receiving Party and the Employee. In addition to the aforesaid, the Receiving Party remains jointly and severally liable for any disclosure by the Employee in violation of this Agreement in respect of the fact, that the Receiving Party approved of this Employee's access to INFORMATION/MATERIALS.

6. Exceptions

Obligations incorporated in this Agreement do not apply to (a) INFORMATION that has been or will become publicly known

without violating this Agreement; (b) INFORMATION disclosed to the Receiving Party in good faith by a third person authorized on legal grounds to disclose it; (c) INFORMATION disclosed in case the Receiving Party is required to disclose by law; or (d) INFORMATION published by the Receiving Party based on the prior consent granted by the Disclosing Party in writing.

7. Miscellaneous

The rights and obligations of the Parties under this Agreement are binding for their successors. If any of the provisions herein is or becomes unenforceable or void, all the other provisions remain in force and effect and the unenforceable and void provision will be replaced with another provision valid in terms of its content and form that will comply with the purpose and intention of the unenforceable or void provision as much as possible. No changes, modifications or amendments of this Agreement are not valid unless they are made in writing and signed by the representative of each Party.

This Agreement is governed by the Czech body of laws and the conflict rules are excluded.

8. Intellectual Property Rights

If there is an outcome arising from the cooperation or negotiations of the Parties as part of the project that is eligible for protection under the intellectual property rights (hereinafter referred to as the "Subject of Protection"), the Parties undertake to adopt all measures necessary to ensure such protection and conclude a contract that will regulate especially the method of legal protection and the rights and obligations of the Parties after such protection is ensured (especially in respect of the use and handling of the Subject of Protection). Until such contract is concluded, the Receiving Party is obligated to maintain confidentiality as regards the Subject of Protection and to protect it as INFORMATION.

If either of the Parties proves that the Subject of Protection was created without the other Party, all intellectual property rights belong to this Party.

9. Effect of Agreement

This Agreement replaces any and all previous covenants or agreements between the Parties with respect to the aforesaid; it comes into force on the day it is signed by both Parties and takes effect on _____XXX_____ and it is concluded for the term of [XXX]. If the Agreement is subject to the duty to publish it in the Czech Contract Register, it takes effect on the day it is published in the Register. The obligation to maintain confidentiality of INFORMATION remains after the termination of any contract-based or factual relationship between the Parties for the period of XXX years. This Agreement remains binding and effective for the same period of time if the Parties give up their intention to enter into mutual contract-based relationship in case the INFORMATION has already been disclosed.

Explosia a.s.

[_____XXX_____]

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