

**NON-DISCLOSURE AGREEMENT**  
("AGREEMENT")

Warsaw, .....2022

.....  
(„Receiving Party”),

HEREBY DECLARES TOWARDS

**EOS Poland Sp. z o. o.** with its registered office in Warsaw (02-366 Warszawa), at 7a Bitwy Warszawskiej 1920 r. Street, registered in the District Court for the Capital City of Warsaw, 12th Commercial Division, under KRS number 0000114457, NIP 6342278894, REGON 273904230, with a share capital (fully paid up) PLN 6 700 000.00

(„Disclosing Party”, „EOS”)

[hereinafter jointly referred to also as „the Parties”]

THAT IT UNDERSTANDS, ACCEPTS AND AGREES THE FOLLOWING CONDITIONS AND OBLIGATIONS REGARDING THE CONFIDENTIALITY OF THE INFORMATION MADE AVAILABLE BY THE DISCLOSING PARTY IN CONNECTION WITH THE SUBMISSION OF THIS STATEMENT BY THE RECEIVING PARTY:

**1. Adopted definitions**

**"Purpose"** means to procure that the Receiving Party enters into the relevant debt assignment agreement with the Fund and any discussions, negotiations, exchange of correspondence, activities between the Parties, conducted by EOS on behalf of the Funds, concerning or relating to Receivables, the Real Property, the Mortgage or related proceedings disclosed in the course of the cooperation between the Parties.

**"Debtor"** means a person obliged to the Fund, the Company or their legal predecessor to perform under a Claim or Mortgage or in connection with the ownership or possession of the Real Property.

**"Funds"** shall mean investment funds which are mortgage creditors with respect to Receivables and Mortgage Loans and administrators of the Debtors' personal data, i.e. EOS 1 Fundusz Inwestycyjny Zamknięty Niestandaryzowany Fundusz Sekurytyzacyjny (nr RFI 683) represented by BPS Towarzystwo Inwestycyjne Zamknięty S.A. and Aneto Niestandaryzowany Sekurytyzacyjny Fundusz Inwestycyjny Zamknięty (nr RFI 1613) represented by Forum Towarzystwo Inwestycyjne Zamknięty S.A, on behalf of which EOS acts on the basis of relevant powers of attorney and whose debt portfolios are managed by EOS as an entity referred to in Article 192 sec. 1 of the Act on Investment Funds.

**"Mortgage"** means a security over the Receivables on the Real Property.

**"Confidential Information"** shall mean in this Agreement any information disclosed by the Disclosing Party, which is not generally available to the public, i.e. any data, documents, contracts, applications, report compilations, credit analyses, know-how or any other written or verbal material, constituting the resources of the Disclosing Party, to which restrictions on disclosure of information apply under mandatory legal provisions (i.e. such as bank secrecy, fund professional secrecy, secrecy binding on legal professionals, business secrecy, etc.), data protected by the Disclosing Party to ensure competitive advantage, protect reputation, intellectual property (copyright, trademarks, patents, design, etc.), which are subject to disclosure by the Disclosing Party in connection with the pursuit of the Purpose.

Confidential Information includes, in particular:

- (i) information about the submission of this NDA (entering into the non-disclosure agreement);
- (ii) information about negotiations regarding the Receivables or Real Property;

- (iii) information not generally available to the public regarding receivables documentation, agreements giving rise to the assignment of receivables, pleadings, correspondence, business plans and forecasts, collection activities, and other manifestations of the Disclosing Party's business activity; and
- (iv) information from third parties that the Disclosing Party is required to keep confidential,
- (v) personal information.

Confidential Information does not include information which:

- (i) is or has become generally available to the public without breach of this Agreement,
- (ii) was known to the Receiving Party at the time of receipt from the Disclosing Party and this fact may be confirmed by producing appropriate written documents,
- (iii) has been received from a third party who has not come into possession thereof as a result of a breach of any representation, contractual provision or tort, or
- (iv) has been independently created by the Receiving Party other than through access to the Confidential Information and this fact can be confirmed by producing appropriate written documents.

**"Real Property"** shall mean, as used in Article 46 of the Civil Code, the property of the Funds, or the property of the Debtor secured by a Mortgage in favour of the Funds

**"Affiliated Entity"** means any entity which directly or indirectly controls, is controlled by, or is under common control with, a Party, their contractor, appraiser, investor, or an employee.

**"Personal Data Protection Law"** shall mean the Act of 10 May 2018 on the Protection of Personal Data (consolidated text of the Journal of Laws of 2019, item 1781, as amended), national regulations and guidelines of the authorities dealing with compliance with these standards.

**"GDPR"** shall mean Regulation of the European Parliament and of the Council (EU) 2016/679 of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC.

**"PUODO"** shall mean the President of the Personal Data Protection Office.

**"Investment Funds Act"** shall mean the Act of 27 May 2004 on investment funds and management of alternative investment funds.

**"Receivables"** shall mean the rights and claims defined in a functional and substantive entirety to which the Funds are entitled under civil law contracts, the enforcement of which in enforcement or bankruptcy may lead to the purchase or sale of the Real Property.

## 2. Use of Confidential Information

Receiving Party:

- a. shall use the Confidential Information solely in connection with carrying out the Purpose, including but not limited to performing its obligations under any agreement entered into with the Disclosing Party or to conduct business activity with the Disclosing Party. The Receiving Party shall not use Confidential Information received from the Disclosing Party in any manner adverse to the interests of the Disclosing Party. The Receiving Party shall take all reasonable measures to avoid disclosure, dissemination or unauthorized use of Confidential Information. The use of Confidential Information shall not in any way involve activity to evade or violate the law or activity by persons with a criminal record, including criminal fiscal offences;
- b. undertakes to maintain the secrecy of all Confidential Information, regardless of the manner in which it is made available or disclosed and the medium on which it is fixed;
- c. undertakes not to disclose or otherwise make available, without the consent of the Disclosing Party, given in writing, any Confidential Information to any third party;
- d. undertakes to ensure adequate safeguards and appropriate and secure processing of all Confidential Information throughout the period in which it is in its possession and control;

- e. undertakes to destroy, at the Disclosing Party's request and at its own expense, within 30 (thirty) days of receiving the request, all material and carriers containing any Confidential Information, together with any copies in its possession or in the possession of persons to whom it may have granted access to Confidential Information pursuant to the Agreement.

### **3. Affiliated Entities**

The Receiving Party shall permit access, viewing and use of Confidential Information only by its employees, contractors and other Affiliated Entities which:

- a. must have access to, and be able to learn and use, the Confidential Information in connection with the Parties' cooperation in accomplishing their respective tasks to achieve the Purpose; and
  - b. have been informed by the Receiving Party of the confidential nature of the Confidential Information available to and used by it and of the prohibition on using it in any other manner,
- whereas the Receiving Party shall ensure that such persons or entities observe the rules for the protection of Confidential Information by requiring such persons or entities to exercise at least the same degree of care and due professional diligence as is required under this Agreement.

### **4. Disclosure to Public Authorities and Regulators**

The Receiving Party may disclose Confidential Information in accordance with the Purpose or as required by order or decision of the relevant public authorities if the Receiving Party:

- a. informs the Disclosing Party promptly (no later than within 3 (three) days) of the occurrence of such request and the circumstances accompanying it, and consults with the Disclosing Party the assessment of the appropriateness of taking available steps to reject or reduce the scope of the request, thereby providing the Disclosing Party with an opportunity to request security for the claim by way of injunction, or other available legal remedies (if such communication to the Disclosing Party is legally permissible);
- b. reasonably cooperates with the Disclosing Party in formulating such an appeal or other available remedy (whereas reasonable costs incurred by the Receiving Party for such cooperation shall be reimbursed by the Disclosing Party);
- c. discloses only such information as may be required by the authority or regulator; and
- d. takes commercially reasonable steps to ensure that any Confidential Information disclosed is treated as confidential.

### **5. Protection of Personal Data**

- I. In the course of the Parties' activities leading to the achievement of the Purpose, EOS will share the following personal data with the Receiving Party:
  - a. Land and Mortgage Register number;
  - b. Name and surname of the Debtor;
  - c. PESEL of the Debtor;
  - d. Address of the Real Property;
  - e. Reference number of the enforcement title issued against the Debtor together with the indication of the court adjudicating the case.
- II. Personal Data referred to above is made available to the Receiving Party pursuant to Article 6 sec. 1(c) and 6 sec. 1(f) of the GDPR, having regard to the legitimate interest of the Funds and Companies to liquidate the Receivables or the Real Property, including by selling these assets on the open market.
- III. Once Personal Data is shared, the Receiving Party becomes a separate data controller. Therefore, it is obligated to process Personal Data in compliance with the GDPR and Personal Data Protection Law and to comply with all obligations imposed by the GDPR, including obligations imposed by other sources of personal data protection law on controllers of Personal Data.
- IV. Each Party shall be solely responsible for its own breaches of its obligations as a data controller with respect to personal data made available to the Receiving Party under this Agreement and unconditionally undertakes to indemnify the other Party, including the obligation to investigate, in the event claims are made against the non-defaulting Party arising from its breach of its obligations as a data controller by the breaching Party.

## **6. Title to Confidential Information**

- I. All Confidential Information is the sole property of the Disclosing Party or the Funds. Disclosure by the Disclosing Party of Confidential Information shall not constitute an express or implied transfer to the Receiving Party of any rights belonging to the Disclosing Party, arising primarily from copyrights, trade or professional secrets, trademarks and industrial designs.
- II. The Receiving Party shall not use disclosed Confidential Information that is subject to the copyright of EOS or its Affiliated Entities such as presentations, quotations, descriptions, compilations and other similar works, nor shall the Receiving Party use any trademark, graphic, name, marketing materials or advertising of EOS or its Affiliated Entities in the course of its business.
- III. The Receiving Party shall not, prior to executing a transaction subject to the Purpose, contact the Debtor, its relatives, in-laws, attorneys or representatives in any way for the purpose of obtaining data or statements relating to the Real Property, Receivables or the Mortgage, even if such contact is not directly related to the use of Confidential Information.
- IV. The Receiving Party does not have the right to use Confidential Information in any way in its relations with the Debtor of the Receivables or the Mortgage and, in particular, does not represent the Debtor in the future directly or indirectly (through an Affiliated Entity) in any proceedings related to the Real Property, the Receivables or the Mortgage even if no transaction subject to the Purpose is effected. In particular, the Receiving Party shall not take the side of the Debtor, support the Debtor's claims, applications or objections or represent the Debtor in cases against EOS before common courts, bailiffs, law enforcement agencies or public or local government authorities.
- V. The Receiving Party shall be obliged to refrain from any activities that could at least expose EOS, the Funds and the Companies to loss or damage to their good image.

## **7. Notification of Unauthorised Use**

The Receiving Party shall notify the Disclosing Party immediately upon learning of any unauthorized use of Confidential Information or any other breach of the Agreement. The Receiving Party will cooperate with the Disclosing Party to the fullest reasonably necessary extent to assist the Disclosing Party in regaining possession of such Confidential Information and to deter further unauthorized use thereof.

## **8. Liability**

- I. The Disclosing Party shall be entitled to apply for injunctive protection of receivables in connection with any breach of this Agreement.
- II. The Receiving Party shall promptly indemnify and hold the Disclosing Party harmless from any and all liability for breaches of data confidentiality committed by the Receiving Party in the event that any third party claims are made in connection with such breach. It shall also promptly bring any action related to such breach and remedy or settle any penalties, fines, damages, or remedies resulting from such action.
- III. If, in connection with a breach of the provisions of this Agreement, there is an unauthorised disclosure of Confidential Information or any other breach of the terms of this NDA, the Receiving Party shall pay to the Disclosing Party a contractual penalty in the amount of PLN 50,000 (in words: fifty thousand zlotys) for each breach, payable on the first demand of the Disclosing Party within 14 days from the date of delivery of the demand. Payment of the contractual penalty shall not limit the Disclosing Party's right to claim compensation in the event the breach results in damage to EOS, the Fund or the Company of a value exceeding the contractual penalty paid.

**9. The Term and Termination of the Agreement**

- I. This Statement applies to Confidential Information received both after and before the date of its signing. In the event that the Parties enter into cooperation agreements within the scope of the negotiations, the obligations of the Parties shall be regulated separately in the relevant agreement and shall supersede the obligation arising from the Statement.
- II. The Statement shall remain in force for further 5 years and shall apply to all relations between the Parties during this period of time.
- III. In the event discussions are terminated without the Parties entering into an appropriate agreement, including an assignment of Receivables or an agreement for the sale of the Real Property, the Receiving Party shall destroy and permanently delete, within 5 business days after the termination of discussions or receipt of a request by EOS expressed in any form and at its own expense, all emails, materials and media containing any Confidential Information along with all copies in its possession or in the possession of persons to whom it may have granted access to Confidential Information pursuant to the Declaration. The Receiving Party shall not be entitled to retain any Confidential Information. The Receiving Party shall confirm the deletion and destruction of the Confidential Information by sending a statement to that effect to the Disclosing Party in at least a documentary form, including via email.
- IV. The Receiving Party shall also be obligated to permanently and immediately delete or destroy Confidential Information and carriers containing Confidential Information if the Receiving Party breaches any of the obligations described and agreed to in this Statement.

**10. Final provisions**

- I. The failure of the Disclosing Party to enforce performance by the Receiving Party of an obligation covered by the Statement shall not constitute a waiver of the Disclosing Party's right to later enforce such right in another instance.
- II. If any provision of this Statement is held invalid, the remaining provisions hereof shall be unaffected and shall continue to have effect notwithstanding such invalidity, unless the invalidity concerns a material provision without which this Statement and the legal relationship between the parties could not have been entered into at all, in particular, if without the provision in question the Disclosing Party would not have communicated any Confidential Information to the Receiving Party and would not have commenced carrying out the Purpose with the Receiving Party.
- III. This Statement is made under and shall be construed in accordance with Polish law.
- IV. Any amendments and supplements to this Agreement may be made in writing or in the electronic form within the meaning of Article 78 1 of the Civil Code, under pain of nullity.

Any disputes arising from this Statement shall be brought before the courts competent for the registered office of EOS.

**SIGNATURE OF THE RECEIVING PARTY**