# CONFIDENTIALITY AGREEMENT

THIS AGREEMENT dated as [●] is entered into by and between:

(1) **Advario Antwerp Gas Terminal NV,** a 100pct subsidiary company of Advario BV, organized under the laws of Belgium, with registered office located at Land van Waaslaan 3, B-9130 Beveren with company identification number BE 0422.781.329 (hereinafter referred to as “AGT”);

(2) **Fluxys SA,** a company duly incorporated and organized under the laws of Belgium, having its seat at Kunstlaan 31, 1040 Brussels, Belgium, registered with the Crossroads Bank of Enterprises under the number 0827.783.746 (hereinafter referred to as “Fluxys”); and

**(3) [Entity]**, a company incorporated under the laws of [●], having its registered office at [●], registered with company identification number [●] (hereinafter referred to as “●”).

(Each a “**Party**” and collectively, the “**Parties**”.)

**WHEREAS:**

1. Fluxys is a fully independent infrastructure group active in gas transmission & storage and liquefied natural gas terminalling. As a purpose-led company, Fluxys together with its stakeholders contributes to a better society by shaping a bright energy future. Building on the unique assets of its infrastructure and its commercial and technical expertise, Fluxys intends to play a catalyst role in the energy transition by helping the industry decarbonize its activities through providing the adequate transmission infrastructure (pipeline and terminalling facilities) for ‘renewable gasses’ such as hydrogen (“H2”) and its derivative ammonia (“NH3”) or carbon dioxide (“CO2”).
2. AGT is a independent energy provider focused on accelerating the energy transition through building independent and open-access import infrastructure for Chemicals, Gases, Hydrogen, Hydrogen derivatives (including but not limited to ammonia – NH3), and hydrogen carriers, as well as CO2, including liquefaction, purification, other related infrastructure, including export infrastructure, in conjunction with local partners and /or government owned entities.

(C) The Parties are currently involved in exploratory discussions (“**Authorised Discussions**”) with each other regarding the feasibility of an open-access NH3 terminal in the port area of Antwerp-Bruges (the “**Project**”).

(D) The Parties believe that for the purpose of enabling them to analyse the Project with a view to reaching an agreement, each Party will need to disclose certain proprietary confidential information to the other Party.

(E) Each Party is willing to make certain information available to the other Party in consideration of the Project and subject to the terms and conditions set forth below.

**NOW IT IS AGREED** as follows:

# 1. Definitions

In this Agreement, the following words shall have the meanings as defined hereunder or in the text of the Agreement:

“**Agreement**” means this Confidentiality Agreement;

“**Affiliate**” means, in relation to a Party, any other legal entity, which directly or indirectly controls that Party or is controlled by that Party, or is under the common control of the party controlling that Party. For this purpose, "control" means the power to determine the direction of the management or material policies of an entity, whether through ownership of voting shares, contract or otherwise. Without limiting the foregoing, the direct or indirect beneficial ownership of at least fifty percent (50%) of the voting shares of an entity is deemed to constitute control;

“**Confidential Information**” means:

* 1. any and all information of whatsoever nature (whether represented in tangible, electronic or any other form) relating to the Project, any Party or its Representatives;
  2. any and all notes, analyses, compilations, forecasts, studies or other documents prepared by a Receiving Party or its Representatives which contain or are based upon, in whole or in part, any of the foregoing information set out in paragraph (a) above;
  3. the existence and the contents of this Agreement; and
  4. the fact that the Parties are having discussions on the Project;

“**Disclosing Party**” means the Party providing information to the other Party for the purpose of the Authorised Discussions;

“**Receiving Party**” means the Party to whom information is provided by the Disclosing Party for the purpose of the Authorised Discussions;

“**Representatives**” means directors, officers, employees and professional advisers (such as legal, finance, insurance or otherwise) of the Receiving Party or of an Affiliate of the Receiving Party who have a legitimate need to know the Confidential Information in order to perform their duties relating to and in connection with the Authorised Discussions.

# 2. Undertakings

Subject to the provisions of Section 3 and 6 below, each Receiving Party undertakes, in relation to Confidential Information of the Disclosing Party:

1. to use the Confidential Information solely for the purpose of and in connection with the Authorised Discussions and not for any other purpose;
2. to keep the Confidential Information in strict confidence and handle the Confidential Information in the same careful manner as it would handle its own proprietary and confidential information;
3. not, without the prior written consent of the Disclosing Party, to disclose the Confidential Information furnished to it to anyone other than its Representatives;
4. to ensure that those Representatives to whom it directly or indirectly discloses Confidential Information adhere to the obligations of the Receiving Party under this Agreement as if the Representatives were a party to this Agreement;
5. before disclosing Confidential Information to any Representative to inform each of them of their obligations of confidentiality pursuant to this Agreement;
6. to be liable for any breach of the Representatives’ obligations of confidentiality pursuant to this Agreement; and
7. to immediately notify the Disclosing Party of any unauthorised disclosure or misuse by any person of any Confidential Information, upon that Receiving Party having knowledge of the same.

# 3. Disclosure by law

If a Receiving Party or its Representatives is required by law, regulation, enforceable court or arbitral order or requirement of any regulatory or administrative authority to disclose Confidential Information of the Disclosing Party, that Receiving Party or its Representatives shall, if legally possible, prior to such disclosure immediately give written notice to the Disclosing Party so that it may seek a protective order and/or such other appropriate remedy. If such protective order is not or cannot be obtained, then that Receiving Party or its Representatives shall disclose only that portion of the Confidential Information that is legally required to be disclosed and shall use reasonable efforts to obtain assurances that confidential treatment will be accorded to the Confidential Information and shall keep the Disclosing Party timely informed about any further developments as far as it concerns such Confidential Information that the Receiving Party has been required to disclose.

# 4. No Announcements

No Party shall make any announcement or disclosure of the existence, nature or substance of the purpose or the terms of the Authorised Discussions or any Party’s interest in the Authorised Discussions to any third party without the prior written consent of the other Party unless such announcement or disclosure is required by law, regulation, enforceable court order or requirement of any regulatory authority (and if so, Clause 3 shall apply to such announcement or disclosure).

# 5. Return and Destruction of Confidential Information

Each Receiving Party will immediately upon receipt of a written demand from the Disclosing Party:

1. return to the Disclosing Party or destroy all Confidential Information (and any copies thereof or any part thereof) in its possession or control and the possession or control of its Representatives);
2. expunge all Confidential Information in its possession and control and the possession and control of its Representatives from any computer, word processor or other similar device into which it was programmed or stored by that Receiving Party or its Representatives, provided, however, that the Receiving Party shall not be required to comply with the foregoing to the extent that the Confidential Information resides on routine back-up, disaster recovery or business continuity systems of the Receiving Party and/or its Representatives or to the extent that the Receiving Party and/or its Representatives is required to retain such Confidential Information to comply with statutory record keeping requirements or internal compliance procedures, provided further that such Confidential Information shall remain subject to the Receiving Party’s obligations set out in this Agreement for the period of time that the Confidential Information is retained (notwithstanding Clause 9 below);
3. destroy all notes, analyses, memoranda and other documents containing Confidential Information prepared by that Receiving Party or its Representatives which are in its/their possession and control, provided, however, that the Receiving Party and its Representatives are entitled to retain copies of the Confidential Information to the extent required to comply with statutory record keeping requirements or internal compliance procedures, provided further that such Confidential Information shall remain subject to the Receiving Party’s obligations set out in this Agreement for the period of time that the Confidential Information is retained (notwithstanding Clause 9 below); and
4. upon the return, expunction and/or destruction of the Confidential Information certify in writing to the Disclosing Party that it and its Representatives have fully complied with its obligations under this Clause 5, if so required by the Disclosing Party.

# 6. Exclusions

## 6.1 This Agreement and the undertakings herein shall not apply to any Confidential Information which:

1. at the time of disclosure to a Receiving Party or thereafter has become part of public knowledge without breach of the provisions of this Agreement by that Receiving Party or its Representatives;
2. a Receiving Party can show was already in its possession at the time of disclosure, as evidenced by written records in existence at that time;
3. a Receiving Party can show was received by it after the time of disclosure hereunder from a third party (other than one disclosing on behalf of the Disclosing Party or its Affiliates); or
4. a Receiving Party can show was developed by it, its Representative or Affiliate independent of any Confidential Information received by it.

## The exclusions in Clause 6.1 shall not apply to:

1. specific information merely because it is embraced by or included with other information which falls within any one or more of such exclusions; or
2. any combination of information merely because specific information (but not the combination itself) falls within any one or more of such exclusions.

# 7. Commitments, Warranties & Specific Performance

## No representations or warranties, express or implied, are made by any Disclosing Party or any of its Representatives or Affiliates concerning the accuracy or completeness of the Confidential Information disclosed in the course of the Authorised Discussions and no Disclosing Party or any of its Representatives or Affiliates shall be liable in any way to any Receiving Party for the receipt or use by that Receiving Party of the Confidential Information and each Disclosing Party disclaims any such liability whether in negligence or otherwise.

## The Confidential Information disclosed by the Disclosing Party shall at all times belong to and remain the property of the Disclosing Party (and/or its Affiliate, as the case may be). Nothing in this Agreement shall be construed as the Disclosing Party giving any rights, title, interest or ownership in or to any Confidential Information to the Receiving Party. No right or license under patents or other industrial or intellectual property shall be granted or transferred by way of this Agreement.

## None of the Parties shall be under any obligation or commitment to enter into any further agreement with regard to the Authorised Discussions merely by reason of the execution of this Agreement and the disclosure, evaluation or inspection of the Confidential Information shall not constitute nor should it be construed to constitute an offer or a commitment in respect of the Authorised Discussions.

## Each of the Parties acknowledges and agrees that damages alone would not be an adequate remedy for any breach of this Agreement and any injured Party shall be entitled to the remedies of injunction, specific performance or other equitable relief. Such remedy shall be in addition to and not in lieu of or limitation of other remedies available to the injured Party at law or in equity.

# 8. Notices

8.1 Any notice or other communication to be given or made under or in connection with the Agreement (each a “**Notice**” for the purposes of the Agreement) shall be in English, in writing and to be provided for the attention of the person set out below. A Party may change its address for service as may from time to time be notified in writing by that Party to the other Party.

8.2 Save as otherwise expressly provided in the Agreement, service of a Notice must be effected by one of the following methods:

(i) by hand to the relevant address and shall be deemed served upon delivery if delivered during normal working hours, or at the start of the next business day if delivered at any other time;

(ii) by prepaid first-class post to the relevant address and shall be deemed served at the start of the third business day following the day on which it was posted; or

(iii) by email to the relevant email address and shall be deemed served at the time of transmission, unless an automated reply is received that such email was not successfully sent or the recipient is out of the office, provided that any Notice which refers or relates to any dispute, event of default or breach or termination of the Agreement may not be sent by email.

8.3 Party Fluxys:

Address: Kunstlaan 31 1040 Brussel

Attention: Nicolas Daubies - Head of legal

eMail: legal@fluxys.com

Parties AGT:

Address: Scheldelaan 450, 2040 Antwerp

Attention: Nancy De Groof – VP Belgium

eMail: nancy.de.groof@advario.com

Party [●]

Address: [●]

Attention: [●]

eMail: [●]

# 9. Duration

This Agreement shall come into force on the date first above written and shall remain in full force and effect for a period of **three (3)** years from the date hereof.

**10. Third Party Rights**

No other third party shall have any right to enforce any term of this Agreement.

# 11. Severability

# In case one or more of the provisions contained in this Agreement should be or become fully or in part invalid, illegal or unenforceable in any respect under any applicable law, the validity, legality, and enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired. Any provision which is fully or in part invalid, illegal or unenforceable shall be replaced by a provision which best meets the purpose of the replaced provision; the same shall apply in case of an omission.

# 12. Amendments

Amendments and additions to the Agreement and any contractually relevant declarations as well as declarations influencing a legal relationship, especially without being limited to termination notices, reminders, or notices to set time limits, require written form. The foregoing provision also applies to any waiver of the written-form requirement.

The written-form requirement can also be met by exchange of letters or with an electronically transmitted signature (facsimile transmission, e-mail transmission with scanned signatures, or other agreed form of electronic contract conclusion provided by or on behalf of the undersigning party, such as the DocusignTM procedure).

# 13. Governing Law and Dispute Resolution

This Agreement shall be governed by, and construed in accordance with, the laws of Belgium.

Any dispute arising out of or in connection with this Agreement shall be resolved by the courts of Antwerp and the Parties shall and hereby submit to the exclusive jurisdiction of the Antwerp courts.

**IN WITNESS** whereof the Parties to this Agreement have executed this Agreement the day and year first above written.

**For and on behalf of Fluxys SA**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name : Raphaël De Winter

Title : Director new energy solutions

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Name : Pascal De Buck

Title : Managing Director and Chief Executive Officer

**For Advario Gas Terminal NV**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name: Michel Ruttens

Title: Bestuurder

For and on behalf of **[●]**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name :

Title :

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name :

Title :