

## CONFIDENTIALITY AGREEMENT

**THIS AGREEMENT** is made on .....

### BETWEEN

**FLUXYS S.A./N.V.**, a company incorporated under the laws of Belgium whose registered office is Avenue des Arts 31, B-1040 Brussels (**Fluxys**);

### AND

....., a company incorporated under the laws of .....  
whose registered office is .....  
(the **Prospective Shipper**)

### WHEREAS

Fluxys is evaluating (i) the expansion of transit capacity through Belgium on certain terms and conditions and (ii) the provision of such expanded capacity to Prospective Shippers interested in subscribing for such capacity (the **Project**).  
The Prospective Shipper has indicated its interest in subscribing for such transit services.

**NOW IN CONSIDERATION** of Fluxys and the Prospective Shipper agreeing to provide each other with Confidential Information (as defined below), each party agrees as follows:

### 1. CONFIDENTIAL INFORMATION

All information, plans, proposals or data, of a commercial, financial, technical, planning, management, legal or whatever other nature concerning Fluxys or the Prospective Shipper or any of their respective affiliates or their business including, without limitation, their legal foundation, financial structure or plans, or, in the case of Fluxys, concerning its evaluation, planning and/or realisation of the Project which is disclosed to or obtained by the other party whether before or after the date of this Confidentiality Agreement, whether in writing or drawings, orally or by computer print-out, or in any other way, shall be hereinafter referred to as **Confidential Information** and shall be subject to this Confidentiality Agreement subject to section 6 below.

Confidential Information may be obtained from or pursuant to discussions with Fluxys or the Prospective Shipper and/or from any of their respective affiliates, representatives, advisers or consultants or from their respective management or employees or otherwise.

### 2. DUTY OF CONFIDENTIALITY

Each party acknowledges that the Confidential Information is confidential and proprietary to the relevant disclosing party. Both Fluxys and the Prospective Shipper undertake to maintain the confidentiality of the Confidential Information disclosed by the other party.

### 3. USE OF CONFIDENTIAL INFORMATION

Both parties shall use the Confidential Information solely for the purpose of evaluating the Project and for the conduct of consultations and negotiations in relation thereto and, in particular, shall not use the Confidential Information in any way which is or may be detrimental to the interests of the relevant disclosing party or use the Confidential Information, or act in any way which is or may be detrimental to the successful planning, development and/or realisation of the Project and/or any extension of it. As such, the Prospective Shipper agrees that Fluxys may exchange and/or share the Confidential Information with its adjacent grid operators, including without limitation Creos in the Grand Duchy of Luxembourg, to the extent necessary to coordinate investments in transit capacity and to allow for an co-ordinated allocation of capacity by Fluxys and the adjacent grid operators.

**4. DISTRIBUTION OF CONFIDENTIAL INFORMATION**

Each party agrees only to show Confidential Information disclosed by the other party to its employees and advisors, its affiliates and their employees (for each party together being referred to as its **Relevant Parties**) on a strictly need to known basis, to the extent necessary for the purposes set out in section 3 hereabove, and on condition that its Relevant Parties are made aware of the terms of this Confidentiality Agreement and that each party will be responsible for any breach of any terms of this Confidentiality Agreement by any of its Relevant Parties.

**5. SURRENDER OR DISTRUCTION OF CONFIDENTIAL INFORMATION**

If either party subsequently does not participate in the Project, each party shall cease to make use of the Confidential Information disclosed to it by the other party and will return all Confidential Information and all copies thereof to the relevant disclosing party or shall procure that such Confidential Information is destroyed and each party shall promptly notify the other in writing that the same has been destroyed.

**6. NON-CONFIDENTIAL INFORMATION**

This Confidentiality Agreement shall not apply to information:

- (a) which is publicly available at the time it is made available to either party or subsequently becomes generally available to the public other than as a result of disclosure or other act or omission by either party or any of its Relevant Parties or otherwise contrary to their respective obligations of confidentiality; or
- (b) which was available (as can be demonstrated by its written records) to either party or to any of its Relevant Parties, prior to the supply of Confidential Information by the relevant disclosing party, and which is free of any restrictions as to its use or disclosure; or
- (c) which either party is required by law, or regulation or by the requirements of any regulatory or other authority to disclose.

**7. DURATION OF DUTY OF CONFIDENTIALITY**

Each party's obligations in respect of the Confidential Information disclosed by the other party shall continue in force for a period of five (5) years.

**8. OBLIGATION TO MAKE ANNOUNCEMENTS**

Neither the Prospective Shipper nor any of its Relevant Parties nor any other person or body acting on behalf of the Prospective Shipper or any of its Relevant Parties shall make, permit or solicit any announcement, communication or disclosure concerning the Project and/or any extension of it without the prior written consent of Fluxys.

**9. GOVERNING LAW**

This Confidentiality Agreement shall be governed by and construed in accordance with the Belgian law. Each of the parties to this Confidentiality Agreement irrevocably agrees that the courts of Brussels are to have exclusive jurisdiction to settle any disputes which may arise out of or in connection with this Confidentiality Agreement or the subject matter hereof and submit to the jurisdiction thereof.

for and on behalf of **FLUXYS SA/NV**

Name:

Name:

Position:

Position:

for and on behalf of the **Prospective Shipper**

Name:

Name:

Position:

Position: