

## **Mutual Confidentiality Agreement**

This Mutual Confidentiality Agreement (the "**Agreement**") is entered and effective as of this \_\_\_\_ day of \_\_\_\_\_ 202.....

### **BETWEEN**

- (1) Dangote Petroleum Refinery and Petrochemicals Fze, a company incorporated and registered in Nigeria whose registered office is at Lekki Coastal Road Ibeju- Lekki Lagos, Nigeria. ("**DPRP**").
- (2) ..... a company incorporated and registered in ....., whose registered office is at ..... ("**Counterparty**").

Hereinafter referred to jointly as the "**Parties**" and individually as a "**Party**".

### **WHEREAS**

DPRP and the Counterparty have each requested that each makes available information of a confidential or proprietary nature for the purpose of evaluating such other Party's and/or any of its Affiliates' credit worthiness and/or evaluating any proposed future business between the Parties and/or their Affiliates (the "**Purpose**"). The Parties wish to exchange such information (Confidential Information), subject to the terms of this Agreement.

### **AGREED TERMS**

#### **1. DEFINITIONS AND INTERPRETATION**

- 1.1 The definitions and rules of interpretation in this clause apply in this Agreement.

**Affiliate:** means with respect to any Party, any entity that directly or indirectly controls, is controlled by, or is under common control with such Party.

**Control** means the ownership of more than fifty percent (50%) of the voting securities, membership interests, or other ownership interests of the entity, or the power to direct or cause the direction of the management and policies of the entity, whether through ownership of voting securities, by contract, or otherwise. An entity shall be deemed an Affiliate only so long as such control exists.

**Business Day:** a day (other than a Saturday, Sunday, or public holiday) when banks in Nigeria and England are both open for business.

**Confidential Information** means all information, in any form or medium, whether disclosed orally, in writing, electronically, or through observation, that is disclosed or made available by the Disclosing Party to the Receiving Party, directly or indirectly, in connection with this Agreement. This includes, but is not limited to, business, technical, financial, or strategic information, such as:

- i. Business operations, strategies, and practices, including marketing plans, pricing, and sales data.
- ii. Technical data, research and development, trade secrets, know-how, inventions, designs, processes, formulas, and software.
- iii. Personal data, customer lists, supplier details, contracts, and corporate structure information.
- iv. Intellectual property, including patents, trademarks, copyrights, and other proprietary rights.
- v. Any information that a reasonable person would recognize as confidential based on its nature and the circumstances of its disclosure, regardless of whether it is explicitly labelled as confidential.
- vi. Information that is derived from or based on the original Confidential Information, as well as the existence and terms of this Agreement.

However, Confidential Information does not include information that:

- i. Is or becomes publicly available without breach of this Agreement by the Receiving Party.
- ii. Was lawfully known to the Receiving Party prior to disclosure by the Disclosing Party, as evidenced by written records.
- iii. Is disclosed to the Receiving Party by a third party who has the legal right to make such disclosure without violating any confidentiality obligation.
- iv. Is independently developed by the Receiving Party without reference to or use of the Disclosing Party's Confidential Information.

Disclosing Party: A Party providing, or whose Representative is providing, Confidential Information to the other Party or to a Representative of such other Party.

Receiving Party: a Party receiving, or whose Representative is receiving, Confidential Information from the other Party or from a Representative of such other Party.

Representative: An Affiliate of a Party, employee, officer, director, shareholder, consultant, or professional adviser of a Party or of any of its Affiliates.

- 1.2 The headings are for ease of reference only and do not affect the interpretation of this Agreement.
- 1.3 A person includes a natural person, corporate or unincorporated body (whether having separate legal personality) and that person's legal and personal representatives, successors and permitted assigns.
- 1.4 Words in the singular shall include the plural and vice versa.
- 1.5 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment, and includes any subordinate legislation for the time being in force made under it.
- 1.6 Any obligation in this Agreement on a person not to do something includes an obligation not to agree or allow that thing to be done.
- 1.7 References to clauses are to the clauses of this Agreement.

## **2. OBLIGATIONS OF CONFIDENTIALITY**

- 2.1 The Receiving Party shall keep the Disclosing Party's Confidential Information confidential and except with the prior written consent of the Disclosing Party, shall not, and shall use reasonable endeavours to procure that its Representatives shall not:
- (a) use or exploit the Confidential Information in any way except for the Purpose; or
  - (b) disclose or make available the Confidential Information in whole or in part to any third party, except as expressly permitted by this Agreement; or
  - (c) copy, reduce to writing or otherwise record the Confidential Information except as strictly necessary for the Purpose.
- 2.2 The Receiving Party may only disclose the Disclosing Party's Confidential Information to those of its Representatives who need to know this Confidential Information for the Purpose, provided that:
- (a) it informs these Representatives of the confidential nature of the Confidential Information before disclosure; and
  - (b) at all times, it is responsible for these Representatives' compliance with the obligations set out in this Agreement.
- 2.3 The Receiving Party may disclose Confidential Information to the extent required (i) by law, by any government or other regulatory authority, or by a court or other authority of competent jurisdiction, provided that, to the extent it is legally permitted to do so, it gives the Disclosing Party prior notice of this disclosure, or (ii) for the purpose of protecting its interest vis-à-vis any party before any competent court, arbitral institution, or panel, provided that the Receiving Party shall not disclose more than what is required.
- 2.4 The Receiving Party shall establish and maintain reasonable security measures to safeguard the Confidential Information from unauthorized access or use.
- 2.5 The Receiving Party shall not make, or permit any person to make, any public announcement concerning this Agreement, the Purpose, or its prospective interest in the Purpose without the prior written consent of the Disclosing Party except as required by law or any governmental or regulatory authority (including, without limitation, any relevant securities exchange) or by any court or other authority of competent jurisdiction. The Receiving Party shall not make use of the Disclosing Party's name, or any information acquired through its dealings with the Disclosing Party for publicity or marketing purposes without the prior written consent of the Disclosing Party.

### **3. RETURN OF INFORMATION**

- 3.1 As soon as reasonably practicable of the request of the Disclosing Party, the Receiving Party shall, save to the extent that the Confidential Information has been disclosed under clause 2.3 above:
- (a) return to the Disclosing Party all documents and materials (and any copies) containing, reflecting, incorporating, or based on the Disclosing Party's Confidential Information and use its reasonable endeavours to procure the same by all other persons to whom it was disclosed under the provisions of this Agreement.
  - (b) erase all the Disclosing Party's Confidential Information from its computer systems or which is stored in electronic form (to the extent technically practicable) and use its reasonable endeavours to procure the same by all other persons to whom it was disclosed under the provisions of this Agreement; and
  - (c) certify in writing to the Disclosing Party that it has complied with the requirements of this clause, provided that the Receiving Party or its Representatives may retain documents and materials containing, reflecting, incorporating, or based on the Disclosing Party's Confidential Information to the extent required by law, any applicable governmental or regulatory authority or any internal information- retention policy and to the extent reasonable to permit the Receiving Party or its Representatives to keep evidence that it has performed its obligations under this Agreement. The provisions of this Agreement (including, for the avoidance of doubt, this clause 3) shall continue to apply to any such documents and materials retained by the Receiving Party or its Representatives, subject to clause 6.2.
- 3.2 If the Receiving Party develops or uses a product or a process which, in the reasonable opinion of the Disclosing Party, might have involved the use of any of the Disclosing Party's Confidential Information, the Receiving Party shall, at the request of the Disclosing Party, supply to the Disclosing Party information reasonably necessary to establish that the Disclosing Party's Confidential Information has not been used or disclosed.

### **4. RESERVATION OF RIGHTS AND ACKNOWLEDGEMENT**

- 4.1 All Confidential Information shall remain the property of the Disclosing Party. The Disclosing Party reserves all rights in its Confidential Information. No rights, including, but not limited to, intellectual property rights, in respect of the Disclosing Party's Confidential Information are granted to the other Party and no obligations are imposed on the Disclosing Party other than those expressly stated in this Agreement.
- 4.2 Except as expressly stated in this Agreement, the Disclosing Party makes no express or implied warranty or representation concerning its Confidential Information, or the accuracy or completeness of the Confidential Information.
- 4.3 The disclosure of Confidential Information by the Disclosing Party shall not form any offer by, or representation or warranty on the part of, the Disclosing Party.

to enter into any further agreement in relation to the Purpose, or the development or supply of any product or service to which the Confidential Information relates.

- 4.4 The Receiving Party shall be liable to the Disclosing Party for the actions or omissions of the Receiving Party's Representatives under this Agreement, as if they were the actions or omissions of the Receiving Party.

## **5. RIGHT OF THIRD PARTIES**

- 5.1 A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

## **6. TERM AND TERMINATION**

- 6.1 This Agreement shall continue in force from the date hereof until the earlier to occur of (i) three (3) years from the date of this Agreement, or (ii) terminated by mutual consent or by either Party by giving to the other not less than one month's prior written notice, provided, however, that the obligations of the Receiving Party herein shall survive any such termination for a period of three (3) years from the date of this Agreement.
- 6.2 Termination of this Agreement shall not affect any accrued rights or remedies to which either Party is entitled. However, for Confidential Information that constitutes trade secrets, intellectual property, or other sensitive and proprietary information beyond this period, the Receiving Party's obligations to protect such information shall continue indefinitely or until it enters the public domain through no fault of the Receiving Party.

## **7. ENTIRE AGREEMENT AND VARIATION**

- 7.1 This Agreement constitutes the whole agreement between the Parties and supersedes all previous agreements between the Parties relating to its subjectmatter. Each Party acknowledges that, in entering into this Agreement, it has not relied on, and shall have no right or remedy in respect of, any statement, representation, assurance or warranty (whether made negligently or innocently) other than as expressly set out in this Agreement. Nothing in this clause shall limit or exclude any liability for fraud or for fraudulent misrepresentation.
- 7.2 No variation of this Agreement shall be effective unless it is in writing and signed by each of the Parties (or their authorised representatives).

## **8. NO WAIVER**

- 8.1 Failure to exercise, or any delay in exercising, any right or remedy provided under this Agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict any further exercise of that or any other right or remedy.

- 8.2 No single or partial exercise of any right or remedy provided under this Agreement or by law shall preclude or restrict the further exercise of that or any other right or remedy.

## **9. ASSIGNMENT**

Neither Party may transfer or assign any of its rights or obligations under this Agreement without the prior written consent of the other Party (such consent not to be unreasonably withheld or delayed).

## **10. REMEDIES**

- 10.1 Without prejudice to any other rights or remedies which the Disclosing Party may have, the Receiving Party acknowledges and agrees that damages would not be an adequate remedy for any breach by the Receiving Party of the provisions of this Agreement and the Disclosing Party shall be entitled to the remedies of injunction, specific performance and other relief for any threatened or actual breach of any such provision by the other Party or any other relevant person and no proof of special damages shall be necessary for the enforcement by the Disclosing Party of the rights under this Agreement.
- 10.2 However, in no event shall either Party be liable to the other (whether under this Agreement or otherwise in connection with it or in contract, tort, breach of statutory duty or otherwise) for: (i) any (whether direct or indirect) loss of profit, cost of wasted overheads, loss of revenue, loss resulting from loss of contract, loss of use or business interruption; or, (ii) for any consequential or other indirect losses. The provisions of this Clause 10 shall continue to apply notwithstanding the termination or expiry of this Agreement for any reason whatsoever.

## **11. NO OFFER, REPRESENTATION OR WARRANTY**

- 11.1 The Receiving Party acknowledges and agrees that:
- (a) the Confidential Information does not purport to be all inclusive and that no representation or warranty, express or implied has been or will be made by the Disclosing Party or its Representatives as to the accuracy, reliability, or completeness of any of the Confidential Information.
  - (b) the Disclosing Party shall have no liability to the Receiving Party or to any other person resulting from the use of the Confidential Information by the Receiving Party or any of its Representatives.

This sub-clause does not exclude any liability for, or remedy in respect of, fraudulent misrepresentation.

- 11.2 Save as expressly set out in this Agreement, the Receiving Party acknowledges and agrees that the Disclosing Party shall not have any duty of care to the Receiving Party or its Representatives or to any other person.

## **12. NOTICES**

- 12.1 Any notice or other communication under this Agreement shall be in writing and shall be delivered personally, or sent by pre-paid first-class post or recorded delivery or by commercial courier or by electronic mail, to a Party at its address set out below:

**DPRP:** Dangote Petroleum Refinery and Petrochemicals Fze

**Attention:** Mr Aliyu Suleiman

Group Chief Strategy Officer

East Wing 6th Floor Leadway Marble House 1, Alfred Rewane Road Falomo- Ikoyi,

Lagos -Nigeria

Tel: +234-80-7049-2469

Email: [aliyu.suleiman@dangote.com](mailto:aliyu.suleiman@dangote.com)

**Counterparty:** or as otherwise specified by a Party by notice in writing to the other Party.

**Attention:**

- 12.2 Any notice or other communication shall be deemed to have been duly received:
- (a) if delivered personally, when left at the address and for the contact referred to in this clause; or
  - (b) if sent by pre-paid first-class post or recorded delivery, at 11.00 am on the fourth Business Day after posting; or
  - (c) if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or
  - (d) if sent by an electronic mail, on the day of receipt, if received before 11.00 a.m. on a Business Day, or otherwise on the first Business Day after receipt.

### 13. NO PARTNERSHIP

Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the Parties, constitute any Party the agent of another Party, nor authorised any Party to make or enter any commitments for or on behalf of any other Party.

### 14. GOVERNING LAW AND JURISDICTION

- 14.1 This Agreement and any dispute or claim arising under, out of or in connection with it shall be governed by and construed in accordance with the laws of England and Wales.
- 14.2 Any dispute, controversy, difference or claim arising out of or in connection with this Agreement, including the existence, validity, interpretation, performance, breach or termination, or any dispute regarding non-contractual obligations arising out of it which is not resolved by the Parties' executive management within 120 days after the claiming Party files a notice of dispute with the other Party, shall be referred to and finally resolved by arbitration in London, United Kingdom, in accordance with the London Court of International Arbitration ("Rules") for the time being in force, which rules are deemed to be incorporated by reference in this clause, and the following:
- (i) The number of arbitrators shall be One (1) and shall be mutually agreed upon by the Parties.

- (ii) If the Parties fail to agree upon and nominate the sole arbitrator within 60 (sixty) days from the date when the request for arbitration has been received by the other Party, the sole arbitrator shall be appointed according to the Rules.
  - (iii) The venue or location for the arbitration shall be London, United Kingdom.
  - (iv) The seat of the arbitration shall be London, United Kingdom.
  - (v) The language of the arbitration shall be English.
  - (vi) All documents shall be in the English language.
  - (vii) Each Party shall bear its own costs, including attorney's fees.
- 14.3 Any award rendered by the arbitral tribunal shall be made in writing, shall be final and binding on the Parties, save for manifests error or fraud.

## **15. SOVEREIGN IMMUNITY**

The Receiving Party irrevocably and unconditionally acknowledges that the execution, delivery, and performance of this Agreement constitute private and commercial (and not public) acts of the Receiving Party. The Receiving Party expressly, unconditionally and irrevocably agrees to waive (to the fullest extent permitted by law) any entitlement it may have to claim or benefit from any present or future immunity (whether characterized as state immunity, sovereign immunity, act of state or otherwise) it may possess for its benefit or that of its Affiliates or any property or assets (which it now has or may hereafter acquire), in respect of its obligations under this Agreement. For avoidance of doubt, the foregoing is without prejudice to the Receiving Party's other rights at law, including those relating to any applicable rights of appeal.

## **16. ELECTRONIC SIGNATURE**

- 16.1 The Parties may (i) sign this Agreement by Adobe Sign or Docu Sign simple electronic signature and this method of signature shall be as conclusive of their intention to be bound by this Agreement as if signed by manuscript signature or (ii) sign this Agreement in several counterparts, each of which is an original and all of which constitute one and the same instrument.

## **17. MUTUAL REPRESENTATIONS AND WARRANTIES**

The Parties hereto hereby represents and warrants that the execution, delivery and performance of this Agreement by it (a) has been duly authorized by all necessary action and its signatories to this Agreement has the full right, power and authority to execute this Agreement and to bind that Party to the same, (b) does not and shall not require any consent or approval of its regulatory or governing bodies, other than that which has been obtained, and (c) does not and shall not violate any applicable law.



## **18. DATA PROTECTION**

- 18.1 Each Party confirms that the processing of any personal data exchanged pursuant to this Agreement shall be effected: (i) in compliance with any relevant data protection legislation which may be applicable (such as, by way of non- exclusive example, Regulation (EU) 2016/679 and the Nigeria Data Protection Act 2023 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (the "GDPR") and (the "NDPA") which might apply); and (ii) on the basis that neither Party is a processor (as defined in the GDPR) and (as defined in the NDPA) of the other Party's data.

*[Remainder of page left intentionally blank]*

This Agreement has been entered into on the date stated at the beginning of it.

Duly authorised for and on behalf of

**Dangote Petroleum Refinery and Petrochemicals Fze:**

---

**Name: Aliyu Suleiman**

**Position: Group Chief Corporate Strategy Officer**

Duly authorised for and on behalf of

---

**Name:**

**Position:**