**Addendum no. ……./…………….**

**to the**

**Collaboration Agreement**

**(Affiliated Member of BRM)**

**no. ……./…………….**

Concluded by and between:

The Romanian Commodities Exchange

Entry with the Trade Registry No. J40/19450/1992

Sole Registration Code RO1562694

License no. 2269/14.12.2018 (operator of centralized natural gas market) and no. 2314/30.03.2022 (operator of energy market) issued by the National Energy Regulatory Authority hereinafter referred to as “BRM”,

and

the company …………………………………..................................................................................................

having its registered office in .............................., Street ................., postal code.........................................., tel......................., fax.................., email................, having the account opened with the bank ...................., account no............................................

Entry with the Trade Registry no. …………….............................................................

Sole Registration Code…………..............................................................................................

License no. ......................./................. issued by the National Energy Regulatory Authority, having ACER code ……………………….., hereinafter referred to as the “Participant”,

**Whereas**

1. BRM and the Participant have entered into the Collaboration Agreement (Affiliated Member of BRM) no./date, under which the Participant has obtained the right to participate to the energy market of forward contracts administrated by BRM and/ or to the energy Market for the big end clients administrated by BRM and/ or to the Platform for the mediation of bilateral energy supply agreements;
2. BRM intends to implement a new participation agreement that should enable the participants the voluntary participation to any market regulated or not regulated, administrated by BRM based on the licenses issued by ANRE or outside them, based on the provisions of the Law on energy and natural gas no. 123/2012, having as object transactions with natural gas, energy or green certificates, except for the natural gas balance market (the “**Markets**”);
3. The Parties intend to supersede the agreement mentioned at item (i) above, with the agreement stipulated in Annex 1 to this addendum;

**In consideration of the above, the parties decide as follows:**

1. By the execution of this addendum, the parties understand to replace the Collaboration Agreement (Affiliated Member of BRM) no./date, with the Agreement for the participation to the energy markets administrated by BRM stipulated in Annex 1 to this addendum.

2. At the execution of this addendum, the Collaboration Agreement (Affiliated Member of BRM) no./date ceases its effects, being replaced by the Agreement for the participation to the energy markets administrated by BRM stipulated in Annex 1 hereto. The provisions of the Agreement for the participation to the energy markets administrated by BRM stipulated in Annex 1 to this addendum will apply to all the transactions in progress and to the trading orders in force at the execution of this addendum.

3. The terms used in this agreement are defined in the Law on energy and natural gas no. 123/2012, as subsequently amended and supplemented, as well as in the BRM Regulations and Procedures applicable to the Markets, as the case may be.

**Legal representative Legal representative**

**The Romanian Commodities Exchange. Participant** .....................................…

**Annex 1**

 **Agreement for the participation
to the energy markets administrated by BRM**

**no. ……./…………….**

Concluded by and between:

The Romanian Commodities Exchange.

Entry with the Trade Registry no. J40/19450/1992

Sole Registration Code RO1562694

License no. 2269/14.12.2018 (centralized natural gas market operator) and no. 2314/30.03.2022 (energy market operator) issued by the National Energy Regulatory Authority, hereinafter referred to as “BRM”,

and

the Company …………………………………..................................................................................................

having its registered office in .............................., street ................., postal code.........................................., tel......................., fax.................., email................, having an account opened with the bank ...................., account no. ...........................................

Entry with the Trade Registry no. …………….............................................................

Sole Registration Code …………..............................................................................................

License no. ......................./................. issued by the National Energy Regulatory Authority, having ACER code ………………………..

hereinafter referred to as the “Participant”,

**I. Terminology and applicable legislation**

**Art. 1. -** (1) The terms used in this agreement are defined in the Law on energy and natural gas no. 123/2012, as subsequently amended and supplemented, as well as in the BRM Regulations and Procedures applicable to the Markets, as the case may be.

(2) Within the meaning of this agreement, the terms, the expressions and the abbreviations used have the following meaning:

**Support Asset** - means natural gas, energy or green certificates, under the form of the products accepted to trading on each Market, according to the Markets Regulations;

**ANRE** – The National Energy Regulatory Authority;

**Agreement** – this agreement for the participation to the energy markets administrated by BRM;

**Market** – means any market regulated or not regulated, administrated by BRM based on the licenses issued by ANRE or outside them, based on the provisions of the Law on energy and natural gas no. 123/2012, having as object transactions with the Support Asset, except for the natural gas balance market, existing or that will be operated in the future;

**Markets Regulations**– means the Regulations and the Procedures issued by BRM as operator of a Market or counterparty, as the case may be, applicable to a Market, according to the provisions thereof and published on the webpage of BRM;

**Letter of Bank Guarantee** - document under which the guaranteeing bank irrevocably and unconditionally undertakes to pay, at the first written request of BRM, any amount up to the amount of a maximum sum established by the Participant, in capacity of party ordering the guarantee, issued according to the template agreed by BRM and valid for the transactions achieved on any Markets.

**II. Object**

**Art. 2. -** (1) The object of the Agreement is the provision by BRM of the services for the organization and administration of the Markets and the granting to the Participant of the right to conduct sale-purchase transactions with the Support Asset on any of the Markets, in accordance with the primary and secondary legislation applicable to the respective Market and with the Markets Regulations.

(2) Except for the specific cases stipulated by the primary and secondary legislation applicable to the respective Market, the participation to any of the Markets is voluntary and can be achieved only to the extent to which the Participant is entitled to participate to the respective Market, in accordance with the primary and secondary legislation applicable to the respective Market and with the Markets Regulations. For the avoidance of any doubt, any reference to a Market from this Agreement will refer to a Market on which the Participant is entitled to participate, in accordance with the primary and secondary legislation applicable to the respective market and with the Market Regulations.

(3) By the conclusion of this Agreement, the parties become aware of the mutual rights and obligations regarding the organized framework for the conduct of the transactions on the Markets, based on certain specific rules established under the Markets Regulations. By the acceptance of this Agreement, the Participant expresses its agreement with respect to the application of the Markets Regulations, with their subsequent amendments made according to their provisions.

(4) The Participants will be entitled to conclude transactions with the Support Asset on the Markets. The transactions are concluded based on the orders introduced on the trading platform related to the respective Market, that contains firm commitments of contracting of the Participant.

(5) The conditions to participate to the trading sessions, the offering, the trading, the publication and the provision of the results of the trading sessions, the cash collections and the payments related to the transactions on each Market are fulfilled in accordance with the provisions of the Markets Regulations or of the commercial contracts concluded, of the selected post-trading methods respectively, in accordance with the Markets Regulations.

(6) If the identification data of the Participant included in the Agreement are amended, the parties will sign an addendum to it that will mention the amendments occurred.

**III. Rights and obligations of the Parties**

**Art. 3. –** The rights of the Participant to the Markets are as follows:

a) to receive from BRM, at its request, assistance and practical training sessions with respect to the use of the trading system of the Market;

b) to introduce Support Asset sale offers and/ or purchase offers in the trading system related to the Market according to the daily trading schedule;

c) to use a Letter of bank guarantee or another guarantee method allowed by the Markets Regulations;

d) to verify the registrations of their own transactions and to visualize the offers introduced by the other participants to the market in the trading system related to the Market, according to the Markets Regulations;

e) to amend, to suspend or to annul the offer/ offers for the Support Asset during the trading sessions, according to the Markets Regulations;

f) in case BRM assumes the role of counterparty on the Market, to collect the equivalent value of the net collection rights related to the sale positions of the Support Asset as well as to issue and to transmit to BRM the related invoice;

g) to decide the withdrawal from its own initiative from a Market based on the written notice transmitted to BRM, with a 10-day prior notice.

**Art. 4. –** Obligations of the Participant to the Markets are as follows:

a) to comply with the provisions of the Markets Regulations;

b) to comply with the obligations of notice or of physical registration of all the transactions made on the Markets, according to the secondary legislation applicable to the Support Asset, unless this task rests with BRM, in capacity of counterparty;

c) to accept as firm commitments the confirmations of transactions and the notifications related to the transactions and to conclude commercial contracts related to the transactions confirmed by the trading system of a Market, under the commercial contracts applicable to this transaction, through the selected post-trading methods respectively, in accordance with the Markets Regulations;

d) to execute all the transactions concluded on the Markets, in accordance with the provisions of the commercial contracts concluded, of the selected post-trading methods respectively, in accordance with the Markets Regulations;

e) for the intermediary transactions of counterparty having as Support Asset the energy, to communicate within 24 hours the change in any data regarding the party responsible for the balancing, any failure to fulfill the obligations resulted from the transactions respectively;

f) to make sure that the value of the letter of bank guarantee or of the other guarantees accepted by the Markets Regulations covers the guarantee for the participation to a transaction, the intentions to purchase and the payment obligations respectively;

g) to fully pay the equivalent value of the payment obligations related to the trading Tariff on the Market, as it is published on BRM’s website;

h) to ensure the participation to the Markets through qualified brokers, familiarized with the trading systems and with the Markets Regulations, inclusively with the BRM regulations regarding the conduct to participate on the market, with the provisions of Law no. 123/2012 on the energy and natural gas, with the secondary legislation issued by ANRE, with the provisions of the (EU) Regulation no. 1227/2011 of the European Parliament and of the Council dated 25 October 2011 on wholesale energy market integrity and transparency (REMIT), and with the interdictions and the relevant norms of the criminal and fiscal legislation.

**Art. 5. –** BRM’s rights are as follows:

a) to receive from the Participant the letter of bank guarantee issued in favor of BRM or other guarantees accepted according to the Markets Regulations, before the trading sessions where the Participant intends to introduce sale or purchase offers on the Markets;

b) to communicate the request for the enforcement of the letter of bank guarantee to be paid, if the Participant breaches the payment obligations stipulated in this Agreement or by the Markets Regulations;

c) to issue and to collect the invoice of the Participant who made transactions on the Markets (inclusively the equivalent value related to VAT), related to the equivalent value of the payment obligations related to the trading tariff on the Market, as published on BRM’s website;

d) to decide, as the case may be, in accordance with the Markets Regulations, the suspension from trading or the revocation of the capacity of the Participant of participant to the Markets;

e) to send the information requested by the authorized public authorities or the courts of law or that must be transmitted ex officio, by virtue of the capacity of BRM as Market operator, with respect to the Participant, without being necessary the latter’s approval, if it is stipulated in the Agreement, in the primary or secondary legislation and/ or in the Markets Regulations;

f) to apply the Markets Regulations, inclusively with respect to the possibility to annul the transactions, the execution of the guarantees and the sanctioning of the Participant;

g) to solve the potential objections filed by the Participant, according to the Markets Regulations.

h) to periodically update the Markets Regulations, according to the legal and operational necessities.

**Art. 6. –** BRM’s obligations are the following:

a) to ensure a trading environment, under correctness, objectivity, independence, equidistance, transparency and non-discrimination terms, in accordance with the provisions of the applicable primary and secondary legislation;

b) to ensure to a Participant assistance and practical training sessions with respect to the use of the trading system on the Market;

c) to validate the sale/purchase offers introduced by the Participant, in accordance with the provisions of the Market Regulations;

d) to make available to the Participant to the Markets the confirmation of transactions and the settlement notes for the transactions achieved, in accordance with the Markets Regulations;

e) to make the notice or the physical registration of all transactions achieved on the Markets, according to the secondary legislation applicable to the Support Asset, if this task rests with BRM, in capacity of counterparty;

f) if BRM assumes the role of counterparty on a Market to fully pay the equivalent value of the net collection rights related to the sale positions of the Support Asset;

g) to publish on its own website the Markets Regulations.

**IV. Suspension from trading on the Markets. Regime of the solution of objections**

**Art. 7. –** (1)The suspension from trading on the Markets is made according to the provisions of the Markets Regulations.

(2) – BRM will solve the objections against the results of the trading sessions and of the decisions to suspend from trading, according to the Markets Regulations.

**V. Force Majeure**

**Art. 8. -** (1) The force majeure represents any external, unpredictable, absolutely invincible and unavoidable event.

(2) The liability of the parties is removed when the damage is caused by force majeure, under the terms of Art. 1.351 of the Civil Code.

(3) The Party invoking a force majeure event has the obligation to notify the other party, within maximum 48 hours from its occurrence, notification followed by the communication of the supporting written document, issued according to the legislation in force, within 20 calendar days from the same date.

(4) If the force majeure event does not terminate within 30 calendar days, the parties are entitled to request the termination by the operation of law of the agreement, without any of them having the right to claim damages.

**VI. Confidentiality**

**Art. 9. -** (1) Each Party undertakes to keep the confidentiality of all the data, documents and information obtained from the development of this Agreement and not to disclose them to a third party, in fully or in part, without the written consent of the other party.

(2) Exception from the provisions of par. (1) are the following data, documents and information:

a) those that can be disclosed, in accordance with the provisions of the legislation in force;

b) those requested by the State competent bodies, based on a legal obligation of information;

c) those considered to not have a confidential nature, according to the legislation in force.

(3) The provisions of this Article remain in force over a period of 5 (five) years from the termination of the validity of this Agreement.

**VII. Final provisions**

**Art. 10.** – (1) This Agreement is governed by the Romanian law. The parties will attempt, in good faith, to amicably solve any disputes, controversies or disagreements that might occur from or with respect to the Agreement.

(2) Unless an amicable solution of those disputes, controversies or disagreements is possible, any disputes arisen from or in connection with the Agreement, including those related to the conclusion, construction, execution or termination of the Agreement, will be resolved according to the common law.

**Art. 11.** – (1) This Agreement represents the only manifestation of the parties’ will with respect to the commercial relationships between them, superseding any written understanding and an understanding signed by both parties or prior verbal. If any provision of this Agreement is invalid/ declared partially or fully inapplicable by any court, the remaining provisions and any partially applicable provisions will continue to be mandatory and enforceable, and the parties agree to supersede the invalid provisions with a valid one, that approximates the best the intention and the economic purpose of the invalid provision.

(2) The Parties understand that the trading on the Markets has a speculative nature and, as such, the parties assume the risks related to the unpredictable changes in circumstances and waives any right to request in court under Art. 1271 of the Civil Code the adaptation or the termination of the Agreement, of the Markets Regulations or of any other elements of a transaction achieved on the Markets.

(3) The provisions of this Agreement have been preliminarily negotiated and specifically accepted by the parties, in accordance with the provisions of Art. 1203 of the Civil Code. For the avoidance of any doubt, the parties agree to the execution of this Agreement, in the final part thereof, it is sufficient to express the specific agreement with respect to the non-usual clauses stipulated in its content, no other formality no being necessary to this effect.