**AGREEMENT FOR PARTICIPATION**

**to the energy markets administrated by BRM**

**no. ……./…………….**

Conclude 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 locality.............................., street ................., postal code.........................................., tel......................., fax.................., email................, having the account opened at the bank ...................., account no.............................................

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

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

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

hereinafter referred to as the “Participant”,

**I. Terminology and applicable legislation**

**Art. 1. -** (1) The terms used in this agreement are defined by the Law on energy and natural gas no. 123/2012, as subsequently amended and supplemented, as well as by 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 products accepted for trading on each Market, according to the Markets Regulations;

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

**the 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 in capacity of operator of a Market or of counterparty, as the case may be, applicable to a Market, according to their provisions and published on BRM’s webpage;

**Letter of bank guarantee** – document under which the 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 officer of the guarantee, issued according to the template agreed by BRM and valid for transactions concluded on any of the Markets.

**II. Object**

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

(2) Except for the cases specifically provided by the primary and secondary legislation applicable to the respective Market, the participation to any of the Markets is voluntary and can be made only to the extent to which the Participant has the right 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 herein will be a reference to a Market on which the Participant has the right to participate, in accordance with the primary and secondary legislation applicable to the respective Market and with the Markets Regulations.

(3) By the conclusion of this Agreement, the parties are aware of the mutual rights and obligations regarding the organized framework for the deployment of the transactions on the Markets, based on 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 have the right to conclude transactions with the Support Asset, on the Markets. The transactions are concluded based on the orders introduced in the trading platform related to the respective Market, that contain firm commitments of contracting of the Participant.

(5) The conditions for the participation to the trading sessions, the offering, the trading, the publication and the provision of the results of the trading sessions, the collections and the payments related to the transactions on each Market are made 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 contained in the Agreement are amended, the Parties will sign an addendum to it that will specify. the changes 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, the assistance and the practical training sessions with respect to the use of the trading system of the Market;

b) to introduce sale and/ or purchase offers of Support Asset 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 its own transactions and to view 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 change, suspend or annul the offer/ offers for the Support Asset during the trading sessions, according to the Markets Regulations;

f) if BRM assumes the role of counterparty on a Market, to collect the equivalent value of the net collection rights related to the positions for the sale 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 a written notice communicated in writing to BRM, based on a 10-day prior notice.

**Art. 4. –** The obligations of the Participant to the Market are as follows:

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

b) to comply with the obligations of notification or physical registration of all the transactions concluded 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 transaction and the notifications related to the transactions and to conclude the commercial contracts related to the transactions confirmed by the trading system of a Market, under the commercial contracts applicable to the respective transaction, through the selected post-trading methods, 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 transactions intermediated by the counterparty having as Support Asset the energy, to communicate within maximum 24 hours the change in any data regarding the party responsible with the balance, any failure to fulfill the obligations resulting from the transactions;

f) to ensure the value of the letter of bank guarantee or of the other guarantees accepted by the Markets Regulations covers the value of the participant bond to a transaction, of the purchase and of the payment obligations respectively;

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

h) to ensure the Participation to the Markets through qualified brokers, familiarized with the trading systems and with the Markets Regulations, including the BRM regulations regarding the conduct of participation to the market, with the provisions of Law no. 123/2012 on 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 of 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 the following:

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 transmit the request for the enforcement of the letter of bank guarantee for payment, if the Participant breaches the payment obligations stipulated in this Agreement and by the Markets Regulations;

c) to issue and to collect the invoice of the Participant who closed transactions on the Markets (including the equivalent value related to VAT), related to the equivalent value of the payment obligations related to the tariff for trading on the Market, as it is 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 Participant of the participant to the Markets;

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

f) to apply the Markets Regulations, including 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 in terms of correctness, objectivity, independence, equidistance, transparency and non-discrimination, in accordance with the provisions of the applicable primary and secondary legislation;

b) to ensure for the Participant assistance and practical training sessions with respect to the use of the trading system of 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 confirmations of transactions and the settlement notes for the transactions concluded, in accordance with the Markets Regulations;

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

f) in case BRM assumes the role of counterparty on a Market, to fully pay the equivalent value of the rights of net collection 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. The regime of solving 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) 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. 1351 of the Civil Code.

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

(4) If the force majeure does not cease within 30 calendar days, the parties are entitled to request the termination of the agreement by the operation of law, without either party 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 full or in part, without the other party’s written consent.

(2) An 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 the legal obligations 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 for a period of 5 (five) years from the cessation 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 result from or in connection with the Agreement.

(2) Unless an amicable resolution of these disputes, controversies or disagreements is possible, any litigations resulted from or in connection with the Agreement, including those with respect to the conclusion, construction, execution or termination of the Agreement, will be resolved in accordance with the common law.

**Art. 11.** – (1) This Agreement represents the only manifest of will of the parties with respect to the commercial relationships between them, superseding any other understanding written and signed by both parties or previous verbal. If any provision of this Agreement is invalidated/ declared partially or fully inapplicable by the court, the remained provisions and any partially applicable provisions will continue to be mandatory and enforceable, and the parties agree to replace the invalid provision 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 unforeseeable changes of the circumstances and renounce any right to request in court under Art. 1271 of the Civil Code the adaptation or the cessation of the Agreement, of the Markets Regulations or of any elements of a transaction concluded on the Market.

(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 signing of this Agreement, in the final part hereof, it is sufficient to express the specific agreement with respect to the non-usual clauses stipulated in the content thereof, no other formality to this effect being necessary.

**Legal representative Legal representative**

**the Romanian Commodities Exchange Participant** .....................................…