**PARTICIPATION AGREEMENT   
in the energy markets administered by the Romanian Commodity Exchange** **S.A.**

**(Romanian Commodities Exchange** S.A.**)**

**nr. ......./................**

Closed between:

BURSA ROMÂNĂ DE MĂRFURI S.A. (Romanian Commodities Exchange S.A.)

Commercial Register No J40/19450/1992

Unique Registration Code RO1562694

Guarantee account: RO50 RNCB 0082 0009 9180 0641 - lei

Current account: RO64 RNCB 0082 0009 9180 0001 - lei

with Licence No 2269/14.12.2018 (centralised natural gas market operator) and No 2314/30.03.2022 (electricity market operator) issued by the National Energy Regulatory Authority, hereinafter referred to as "BRM", legally represented by Gabriel Purice, in his capacity as President - General Manager

and

Society .........................................................................................................................................

with registered office in the city.............................., ...................................... no. ........... county .............................postcode.........................................., tel......................., fax.................., official e-mail address................, with bank account ...................., account no............................................

Commercial Register No. ............................................................................

Unique Registration Code..........................................................................................................

Licence No ......................./................. issued by the National Energy Regulatory Authority, code ACER ............................., legally represented by ..............................................., as ..................

hereinafter referred to as "Participant",

**I. Terminology and applicable law**

**Art.1 -** (1) The terms used in this Agreement are defined in the Electricity and Natural Gas Law No 123/2012, as amended, in secondary legislation issued by the National Energy Authority, and in the BRM Regulations and Procedures applicable to the Markets, as applicable.

(2) For the purposes of this Convention, the terms, expressions and abbreviations used shall have the following meaning:

**Product** - means natural gas and electricity or green certificates, in the form of products accepted for trading on each Market, according to the Market Regulations;

**ANRE** - National Energy Regulatory Authority;

**Agreement** - this agreement for participation in the energy markets administered by BRM;

**Market** - means any centralized/organized market, managed by BRM under licenses issued by ANRE, dealing in Products, with the exception of the natural gas balancing market;

**Market Regulations** - means the Regulations, Procedures and Framework Agreements issued by the BRM as operator of a Market or as counterparty, as the case may be, applicable to a Market, as set out in the table set out in Annex 1 to this Agreement, in the current form published on the BRM's website, www.brm.ro;

**Bank Guarantee Letter** - a bank document, placed at the disposal of the BRM by a Participant, by which the guarantor bank irrevocably and unconditionally undertakes to pay, at the first written request of the BRM, any amount up to a maximum amount set by the Participant, as the originator of the guarantee, issued in accordance with the model agreed by the BRM and valid for transactions carried out on any of the Markets.

**II. Object of the Convention**

**Art.2 -** (1) The object of the Agreement is the provision by BRM of the services of organization and administration of the Markets and granting the Participant the right to carry out sale-purchase transactions with Products on the Markets, under the terms of the Market Regulations. A Participant's option to participate in trading on one or more Marketplaces shall be made only by ticking the appropriate boxes for each Marketplace in Appendix 1 to this Agreement. Participation in other Markets than those selected at a given time shall be made by updating the option expressed in Appendix 1 to this Agreement.

(2) Except as expressly provided for in the primary and secondary legislation applicable to that Market, participation in any Market is voluntary and may only be undertaken to the extent that the Participant is entitled to participate in that Market in accordance with the primary and secondary legislation applicable to that Market and the Market Regulations. The BRM will verify the Participant's entitlement to participate in each selected Market in accordance with the respective Market Regulations prior to signing the Agreement. For the avoidance of doubt, any reference to a Market in this Agreement shall refer to a Market in which the Participant participates or is entitled to participate in accordance with the primary and secondary legislation applicable to that Market and the Market Regulations.

(3) By entering into this Convention, the Parties acknowledge their mutual rights and obligations concerning the organised framework for the conduct of transactions on the Markets, based on specific rules laid down in the Markets Regulations. By accepting this Agreement and Annex 1, the Participant agrees to the application of the Market Regulations, with their subsequent amendments made in accordance with their provisions, failing which the Participant shall have the right to withdraw from participation in any of the Markets prior to the entry into force of the amendments made, by notifying the BRM prior to the date of entry into force of such amendments, without prejudice to the obligations undertaken prior to the date of withdrawal. The BRM shall inform Participants of the forthcoming or arising changes to the Market Regulations directly at least 5 working days prior to the entry into force of the changes, and by publication on the website no later than 5 working days for the information of all Market Participants.

(4) Participants shall be entitled to enter into transactions in Products on the basis of orders entered on the trading platform of the relevant Market; transactions shall represent firm contracting commitments of the Participant.

(5) The conditions for participation in trading sessions, the offering, trading, publication and making available of the results of trading sessions, receipts and payments for transactions on each Market shall be carried out in accordance with the provisions of the Market Regulations and/or the concluded trading contracts, respectively the post-trading methods selected by the Participant in accordance with the Market Regulations.

(6) By ticking the appropriate boxes in Appendix 1, the Participant shall be subject to the provisions of the Market Regulations referred to in each Market listed in Appendix 1 to this Agreement as applicable, as applicable. In the event of any discrepancy between the terms of this Agreement and the special terms of the Market Regulations, the Market Regulations shall apply.

(7) If the Participant's identification data contained in the Arrangement changes, the parties shall sign an addendum to the Arrangement recording the changes.

(8) The Framework Agreements issued by the BRM, set out in the table in Appendix 1 and applicable to a Market, shall automatically enter into force between the Participant and the BRM by the signature of this Agreement expressing the intention to participate in that Market (by the Participant ticking the relevant Market in the signed form of Appendix 1);

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

**Art. 3 - The** rights of the Market Participant are as follows:

a) receive assistance and practical training sessions from the BRM on the use of the Market's trading system;

b) to enter, modify or cancel bids and/or offers in the trading system of the Market in accordance with its Regulations;

c) to have access to the records of their own transactions and to view the bids placed by other market participants in the trading system related to the Market, in accordance with the Market Regulations;

d) to benefit from the countervalue of the net collection rights related to the sale positions of the Product to issue and send to BRM the related invoice for the Markets where BRM acts as counterparty according to the respective Market Rules;

e) to decide to withdraw from a Market on its own initiative on the basis of a notice sent in writing to the BRM with 15 calendar days' notice, without prejudice to the obligations existing at the time;

f) The Participant shall be entitled to the return of collateral posted for the purpose of participation in a trading session in accordance with the provisions of the Market Regulations;

g) to receive tax invoices in accordance with the services provided by the BRM under this Agreement;

**Article 4 -** The obligations of the Market Participant are as follows:

a) comply with the provisions of the Markets Regulations;

b) notify the BRM of any change subsequent to the signing of the Agreement which may affect the right to participate in the Market;

c) to comply with the obligations to notify or physically record all transactions carried out on the Markets, in accordance with the legislation applicable to the Product, unless this task is incumbent on BRM as counterparty;

(d) accept as binding commitments trade confirmations and trade notifications and enter into trade contracts relating to transactions confirmed by the trading system of a Market by selected post-trade methods in accordance with the Market Regulations;

e) to execute all transactions concluded on the Markets, in accordance with the provisions of the concluded commercial contracts, respectively of the selected post-trading methods, in accordance with the Markets Regulations for counterparty-intermediated transactions with electricity as Product, to communicate within 24 hours any change in any data concerning the balancing party, respectively any failure to fulfil the obligations arising from the transactions;

f) for transactions intermediated by the counterparty with electricity as a Product, to communicate within 24 hours at the latest any change in the balancing party's data or any failure to fulfil its obligations arising from the transactions;

g) provide the BRM with a bank guarantee letter conforming to the model agreed by the BRM or another method of guarantee provided for by the Market Regulations. For Participants who are not registered for tax purposes in Romania, the bank guarantee letter must be sent via the settlement bank (BCR) by swift message;

h) verify the records of its own transactions in the trading systems related to the Market, in accordance with the Market Regulations;

i) respond to any request for clarification from the BRM and/or other Market Participants submitted through the BRM, in a concise manner and within the timeframe specified in the Market Regulations.

j) ensure that the trading collateral accepted by the Market Regulations covers the value of the trade participation collateral, the purchase or sale intentions, respectively the trade or the marked-to-market price of the Product, as the case may be. Notwithstanding the above, where the BRM is settling as Central Counterparty, the Participant must provide funds in the BRM's Collateral Account equivalent to at least the value of the Purchase Obligations corresponding to a three (3) day delivery period on the respective markets, determined on the basis of the Participant's current and historical trading activity on each market.

k) to have available the cash necessary to settle transactions generated by offers to sell and/or offers to buy the Product. In the event that the Participant repeatedly does not have the cash available to settle transactions, the BRM may make the admission of bids to the trading session conditional on a collateral structure involving a cash collateral placed at the disposal of the BRM.

l) to pay in full the countervalue of the payment obligations related to the Market trading fees, respectively the fees related to other services offered to the Participant, including manual settlement services in case of unsettled trades, as well as the bank fees related to the above and penalties for requests for cancellation of trades, according to the applicable tariffs published on the BRM website.

m) to ensure access to the trading systems to authorised persons, to represent the Participant only through qualified personnel, familiar with the trading systems and with the Market Regulations, including the BRM regulations on the conduct of market participation, with the provisions of the Law no. 123/2012 on electricity and natural gas, with the secondary legislation issued by ANRE, with the provisions of Regulation (EU) no. 1227/2011 of the European Parliament and of the Council of 25 October 2011 on the integrity and transparency of the wholesale energy market (REMIT) and with the relevant prohibitions and rules of criminal and fiscal legislation.

**Article 5 - The** rights of the BRM are as follows:

a) request and receive from the Participant the bank guarantee letter issued in favour of the BRM or other guarantees accepted in accordance with the Market Regulations, respectively the guarantee structure requested by the BRM under the terms of Article 4 lit. g) prior to the trading sessions in which the Participant wishes to place bids or offers on the Markets and afterwards, in accordance with the provisions of the Market Regulations;

b) to execute the Bank Guarantee Letter of Payment in the event that the Participant breaches its payment obligations under this Arrangement and/or the Market Regulations;

c) issue and collect the invoice from the Participant who has carried out transactions on the Markets (including the VAT countervalue), representing the countervalue of the payment obligations, i.e. fees/fees/fees for participation/transaction on the Market/ and other services offered to the Participant, including for manual operation of transactions, settlements and/or cancellation of transactions, as well as the bank fees related to the above, as published on the BRM website;

d) to decide, as appropriate, in accordance with the Market Regulations, to suspend from trading or revoke the Participant's status as a participant in one or more Markets administered by BRM; in the case of such actions, the decisions shall be made known to the market by publishing them on the BRM website;

e) transmit information/data/documents requested by State authorities, courts or those required to be transmitted by virtue of the BRM's status as a licensed Market operator, concerning the Participant, without the latter's consent, if so provided for in the Agreement, primary or secondary legislation and/or Market Regulations;

f) to apply the Market Regulations with regard to the conditions for cancellation of transactions, execution of guarantees and sanctioning of the Participant;

g) to resolve any disputes submitted by the Participant in accordance with the Market Regulations;

h) update the Market Regulations and this Agreement, whenever necessary, in accordance with operational needs and legal provisions, with the completion of the public consultation process;

i) to request and collect the fees and commissions for trading on the Markets and the fees for other services offered to the Participant, as published on the BRM website.

**Art. 6 -** The obligations of the BRM are as follows:

a) ensure a fair, objective, independent, equitable, transparent and non-discriminatory trading environment, in accordance with the provisions of applicable primary and secondary legislation and Market Regulations;

b) provide the Participant with assistance and practical training sessions on the use of the Market trading system;

c) to validate the put/bid bids submitted by the Participant in accordance with the provisions of the Market Regulations;

d) to provide the Market Participant with the trade confirmations for transactions carried out in accordance with the Market Regulations;

e) to carry out the notification or physical registration of all transactions carried out on the Markets, in accordance with the secondary legislation applicable to the Product, if this task is incumbent on BRM as counterparty;

f) if BRM assumes the role of counterparty in a Market, to pay in full and on time the net cash proceeds of the sale positions of the Product;

g) where the BRM assumes the role of counterparty in a Market to issue timely tax invoices for sales of Products by the Participant;

h) publish on its website and update, whenever necessary, the Market Regulations, including the fee schedules/rates/commissions applicable to Participants;

i) for transactions intermediated by the counterparty having as underlying asset Products consisting of the delivery of natural gas, to transmit to the Operator of the National Natural Gas Transmission System, in this case the National Natural Gas Transmission Company Transgaz - S.A., the nominations for transactions carried out in accordance with the regulations in force;

j) ensure the security of access/trading on/within trading platforms and the confidentiality of commercially sensitive information;

k) verify the Participant's right to participate in each Market selected in accordance with Annex 1 at the time of the conclusion of the Arrangement and during its execution, in accordance with the primary and secondary legislation applicable to that Market and the Market Regulations.

**IV. Suspension and Withdrawal from Trading on the Markets. Settlement of Disputes**

**Article 7 -** (1) Suspension and withdrawal from trading on the Markets shall be carried out in accordance with the provisions of the Market Regulations.

(2) - The BRM will settle appeals against the results of trading sessions and decisions to suspend trading in accordance with the Market Regulations.

**V. Force majeure**

(1) Force majeure is any external, unforeseeable, absolutely invincible and unavoidable event.

(2) The liability of the parties is waived when the damage is caused by force majeure, in accordance with Article 1.351 of the Civil Code.

(3) The party claiming force majeure shall notify the other party within 48 hours of the occurrence of the force majeure, followed by the submission of the supporting document, issued in accordance with the legislation in force, within 20 calendar days of the same date.

(4) If force majeure does not cease within 30 calendar days, the parties shall be entitled to request the automatic termination of the contract, without either party being entitled to claim compensation.

**VI. Privacy**

**Article 9 -** (1) Each Party undertakes to keep confidential all data, documents and information obtained from the operation of this Convention and not to disclose them, in whole or in part, to any third party without the written consent of the other Party.

(2) An exception to the provisions of paragraph. (1) the following data, documents and information:

a) those which may be disclosed, in accordance with the provisions of the legislation in force;

b) those requested by the competent State bodies on the basis of a legal obligation to provide information;

c) those considered to be non-confidential under the legislation in force;

d) those published on the public section of the BRM's own website.

(3) The provisions of this Article shall remain in force for a period of three (3) years after the expiry of this Convention.

**VII. Limitation of BRM liability**

**Art. 10 -** BRM shall not be liable for any damage suffered by Participants as a result of:

(i) adverse market conditions, commercial risk, fortuitous event and force majeure as defined by the Civil Code, the interruption, suspension or exclusion from trading of a Product, where the interruption, suspension or exclusion from trading of a Product is carried out in accordance with the BRM's prerogatives set out in the Market Regulations;

(ii) the application in good faith of the provisions of this Agreement and/or the Market Regulations by the BRM;

(iii) technical problems of the BRM, including, interruptions in the supply of electricity/internet services or situations beyond the control of the BRM that affect the provision of the services offered under the Markets Regulations and/or this Agreement;

(iv) technical problems of the Participant, including, without limitation, display and communication errors or delays in communication between the Participant's computer systems and the BRM's computer systems, entry of orders into a system other than the trading system, errors caused by power outages, Internet connection errors, operating system errors, technical difficulties that may affect the operation of Internet connections and/or computer equipment and/or Internet provider applications and/or malfunction of e-mail, technical problems and/or heavy Internet traffic; errors caused by incorrect use of the personal computer or other equipment by the participant (power failure of the computer, errors caused by the operating system installed on the computer, errors caused by the computer operating system virus, etc.).).

(v) legislative changes or decisions of public authorities that would affect the functionality of any services provided under this Convention.

**VIII. Transitional and final provisions**

**Art. 11.** This Convention is concluded for an indefinite period. This Convention may be terminated under the following conditions:

1. The Participant may unilaterally terminate this Convention by giving at least 15 calendar days' notice before the date on which it wishes to terminate it or in accordance with Article 2, paragraph 2. 3 of this Agreement, without such termination affecting the fulfilment of obligations due to the BRM or other Participants at the date of termination of the Agreement or the refund of amounts paid to the BRM by way of fees or commissions for participation in any of the Markets. Partial termination of the Agreement in respect of a Market shall also automatically terminate the applicability of the provisions of the Market Regulations governing rights and obligations in respect of participation in that Market.
2. This Agreement shall be deemed to be terminated in part, in respect of participation in a Market, as of right, without notice, without the need for a period of notice, without the intervention of a court of law and without any other prior formality, as soon as the Participant no longer fulfils the conditions for participation in that Market under the Market Regulations. Partial termination of the Agreement in respect of a Market shall automatically terminate the provisions of the Market Regulations governing rights and obligations in respect of participation in that Market.

**Art. 12 -** This Convention may be amended unilaterally, at the initiative of the BRM, following a public consultation process, and the amendments thus adopted shall be binding on the Participant. If the Participant does not agree with the amendments adopted, it may unilaterally terminate the Convention in accordance with the provisions of Article 11.

**Article 13** - (1) This Convention shall be governed by Romanian law. The Parties shall endeavour, in good faith, to resolve amicably any disputes, controversies or disagreements which may arise out of or in connection with the Convention.

(2) If amicable settlement of such disputes, controversies or disagreements is not possible, any disputes arising out of or in connection with the Convention, including those relating to the conclusion, interpretation, performance or termination of the Convention, shall be settled in accordance with the ordinary law.

**Art. 14** - (1) This Convention shall be the sole expression of the will of the Parties with regard to trade relations between them and shall supersede any previous written and signed by both Parties or oral agreement. If any provision of this Agreement is invalidated/declared unenforceable in whole or in part by the court, the remaining provisions and any partially enforceable provisions shall continue to be binding and enforceable, and the parties agree to replace the invalid provision with a valid provision that best approximates the intent and economic purpose of the invalid provision.

(2) The parties understand that trading on the Markets is speculative in nature and, as such, the parties assume the risks relating to unforeseeable changes in circumstances and waive any right to claim in court under Article 1271 of the Civil Code, the adaptation or termination of the Agreement, the Market Regulations or any elements of a transaction carried out on the Markets.

(3) The provisions of this Convention have been expressly accepted by the parties in accordance with the provisions of Article 1203 of the Civil Code. For the avoidance of doubt, the parties agree that the signature of this Agreement, in its final part, is sufficient to express their express agreement to the non-unusual clauses contained herein, and that no further formality is required.

(4) The processing of any personal and sensitive data included in this Agreement shall comply with the relevant rules in force, in particular the European Regulation GDPR 2016/679 ("General Data Protection Regulation"). The parties acknowledge and agree that each of them shall act as a separate data controller with respect to their respective processing of personal data.

**Art.15 -** The provisions on the participation in the Day-Ahead Market for electricity with respect to the price coupling mechanism of the markets and in the Intraday Market for electricity with respect to the price coupling mechanism of the markets shall apply from the moment of the operationalization of these markets by the BRM, as designated by ANRE as Designated Electricity Market Operator (OPEED).

**Legal representative Legal representative**

**Romanian Commodities Exchange - S.A. Participant** ........................................

**Annex 1 - Markets/Services to which the Convention applies**

The Participant wishes to participate in the following BRM-administered Marketplaces, i.e. to receive the following REMIT reporting services

1. Natural gas markets
2. Electricity markets
3. REMIT reporting services

|  |  |  |
| --- | --- | --- |
| **Market/Service Name** | **Applicable Market Regulations** | **Participation Agreement** |
| **1. Natural gas markets** | | |
| **Common applicable documents**  Regulation on the organized framework for trading of standardized products on the centralized natural gas markets administered by Bursa Romana de Mărfuri S.A. (Romanian Commodities Exchange S.A.) approved by ANRE  Centralized list of tradable products within the short-term standardized products market, the medium- and long-term standardized products market, the medium- and long-term flexible products market and the medium- and long-term standardized derivatives market, approved by decision of the President of the National Energy Regulatory Authority in accordance with the provisions of the Order of the President of the National Energy Regulatory Authority No 105/2018, as amended and supplemented.  Market conduct procedure  <https://www.brm.ro/reglementare-gaze-naturale/> | | |
| Market for short-term standardised products (natural gas)  <https://www.brm.ro/reglementare-gaze-naturale-spot/> | Agreement - Framework for the provision of counterparty services for the Short Term Products Market  Procedure for the organization and operation of the market for short-term standardized products administered by the Romanian Commodities Exchange S.A. |  |
| Medium and long-term standardised product market (natural gas)  <https://www.brm.ro/reglementare-gaze-naturale-forward/> | Procedure for the organisation and operation of the market for standardised products in the medium and long term. |  |
| Medium and long-term flexible product market (natural gas)  <https://www.brm.ro/reglementare-gaze-naturale-forward/> |  |
| Medium and long-term standardised products market (natural gas) under clearing house/central counterparty conditions  <https://www.brm.ro/reglementare-gaze-naturale-forward-ccp/> | Framework Agreement on Acceptance of Clearing Member Status  Clearing, Settlement and Risk Management Regulation of the Romanian Commodity Exchange as Central Counterparty  Trading procedure on the centralised natural gas markets administered by the Romanian Commodities Exchange S.A. (Bursa Română de Mărfuri S.A.), under the conditions of using a clearing house/central counterparty |  |
| Medium and long-term standardised derivatives market (natural gas)  <https://www.brm.ro/reglementare-gaze-naturale-futures/> | Framework Agreement on Acceptance of Clearing Member Status  Regulation of compensation, settlement  and risk management for futures contracts with natural gas as underlying asset  Trading procedure for futures contracts with natural gas as underlying asset on the market administered by Bursa Romana de Mărfuri S.A. (Romanian Commodities Exchange S.A.) |  |
| **2. Electricity markets** | | |
| **Common applicable documents**  Regulation on the organisation and functioning of the organised electricity market administered by Bursa Română de Mărfuri S.A. (applicable to all markets except PZU and PI)  Market conduct procedure  <https://www.brm.ro/reglementare-energie-electrica/> | | |
| Electricity market for large end customers  <https://www.brm.ro/reglementare-energie-electrica-pmc/> | Regulation on the organised framework for the contracting of electricity by large final customers  Procedure for the operation of the electricity market for large end customers organised by the Romanian Commodities Exchange S.A. |  |
| Electricity futures market  <https://www.brm.ro/reglementare-energie-electrica-forward/> | Framework Agreement on Acceptance of Clearing Member Status  Clearing, Settlement and Risk Management Regulation of the Romanian Commodity Exchange as Central Counterparty  Trading procedure issued under the Regulation on the organisation and functioning of the  organised electricity market, administered by Bursa Română de Mărfuri S.A. |  |
| Day-ahead market for electricity respecting the price coupling mechanism of the markets (Applicable under Art. 15)  [https://www.brm.ro/reglementare-energie-electrica-pzu/](https://www.brm.ro/reglementare-energie-electrica-pzu) | Special conditions applicable to the Day-Ahead and Intraday Electricity Markets with respect to the price coupling mechanism of the markets  Next Day Market Procedure for electricity under the Market Price Coupling (PZU) mechanism  Clearing Procedure on the Next Day Electricity Market of the Romanian Commodity Exchange S.A. as Central Counterparty  Agreement for the provision of counterparty services for PZU and PI |  |
| Intraday electricity market with respect to the price coupling mechanism (Applicable under Art. 15)  <https://www.brm.ro/reglementare-energie-electrica-pi/> | Special conditions applicable to the Day-Ahead and Intraday Electricity Markets with respect to the price coupling mechanism of the markets  Intraday Electricity Market Procedure with respect to the Market Coupling Mechanism (MPM)  Clearing Procedure on the Intraday Electricity Market of the Romanian Commodities Exchange S.A. as Central Counterparty  Agreement for the provision of counterparty services for PZU and PI |  |
| **3. REMIT reporting services** | | |
| REMIT Transaction Data Reporting Service  <https://www.brm.ro/reglementare-remit/> | REMIT Data Reporting Agreement - Transaction data |  |
| REMIT Bilateral Contracts Reporting Service  <https://www.brm.ro/reglementare-remit/> | Data reporting agreement - Bilateral contracts |  |

**Legal representative Legal representative**

**Romanian Commodities Exchange S.A. Participant** ........................................