**PARTICIPATION AGREEMENT
in the Energy Markets Administered by Bursa Romana de Mărfuri** **(Romanian Commodities Exchange ) S.A.**

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

Closed between:

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 town.............................., street ................., postal code.........................................., tel......................., fax.................., e-mail address................, with bank account ...................., account no............................................

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

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

License no. ......................./................. issued by the National Energy Regulatory Authority, with code ACER ............................., legally represented by ..................., as ..................

hereinafter referred to as "Participant",

1. **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 appropiate.

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

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

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

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

**Market** - means any centralized/organized market, administered by BRM based on licenses issued by ANRE, involving transactions with Products, excluding the natural gas balancing market;

**Market Regulations-** refers to any any centralized/organized market, administered by BRM based on licenses issued by ANRE, involving transactions with Products, excluding the natural gas balancing market

**Bank Guarantee Letter** - a banking document made available to BRM by a Participant, in which the bank unconditionally and irrevocably commits to pay, upon BRM's first written request, any amount up to the maximum amount determined by the Participant, as the guarantor, issued in accordance with the model agreed upon by BRM and valid for transactions carried out on any of the Markets.

1. **Object of the Agreement**

**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 be angaged 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 shall 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 engages or is entitled to be engaged in accordance with the primary and secondary legislation applicable to that Market and the Market Regulations.

(3) By entering into this Agreement, the involved entities acknowledge their shared rights and responsibilities related to the structured framework governing transactions on the Markets. This framework operates under specific regulations outlined in the Market Regulations. Upon accepting this Agreement and Annex 1, the Participate consents to the implementation of the Market Regulations, including any subsequent modifications made in accordance with the regulations. In the event of amendments, the Participant retains the right to opt out of participation in any of the Markets before the amendments take effect. This withdrawal must be communicated to the BRM before the effective date of the changes without affecting obligations incurred prior to the withdrawal. The BRM is obligated to notify Participants of impending or newly introduced changes to the Market Regulations directly, at least 5 working days before the changes come into effect. Additionally, this information will be made publicly available on the website, ensuring that all Market Participants are informed, with a minimum notice period of 5 working days.

(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.

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

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

a) to receive assistance and practical training sessions from BRM regarding the use of the Market’s trading system;

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

c) to have access to their own transactions records and to view the offers placed by other market participants within the Market’s trading system, in accordance with the Market Regulations;

d) to receive the equivalent value of net collection rights related to sales positions of the Product they issue and to submit the corresponding invoice to BRM for the Markets where BRM acts as a counterparty, in accordance with the Regulations of the respective Market.

e) to decide to withdraw voluntarily from a Market based on a written notification sent to BRM with a notice period of 15 calendar days, without prejudice to the obligations existing at the time;

f) the Participant shall be entitled to the refund of guarantees established for participation in a trading session in accordance with the provisions of the Market Regulations;

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

**Art.4 -** Theobligations of the Market Participant are as follows:

a) to adhere to the provisions of the Markets Regulations;

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

c) to fulfill the notification or physical recording obligations for all transactions made on the Markets, in accordance with the applicable Product legislation, unless this task falls under BRM as the counterparty;

d) to accept transaction confirmations and notifications related to transactions biding commitments and to conclude the commercial contracts related to the trading system of a Market through selected post-trading methods, in accordance with the Market Regulations;

e) to execute all transactions concluded on the Markets, in accordance with the provisions of the commercial contracts concluded and the selected post-traded methods, in line with the Market Regulations. For counterparty-intermediated transactions with electricity as the Product, to communicate any changes in the responsible party for balancing, or any failure to fulfill obligations arising from transactions, within a maximum of 24 hours;

f) for counterparty-intermediated transactions,with electricity as the Product, to communicate any changes in responsible party for balancing, or any failure to fulfill obligations arising from transactions, within a maximum of 24 hours;

g) to provide BRM with a bank guarantee letter in accordance to the model agreed by BRM or another guarantee method specified by the Market Regulations. For Participants not registered for tax purposes in Romania, it is necessary to transmit the bank guarantee letter through the clearing bank (BCR) via swift message;

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

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

j) to ensure that the value of the bank letter of guarantee or other guarantees accepted by the Markets Regulations covers the value of the participation guarantee for a transaction, as well as the intentions to buy or to sell, or the transaction itself, or the market price of the Product, as applicable;

k) to have the available necessary cash for settling transactions generated by sales and/or purchase offers of the Product. If the Participant repeatedly fails to have cash available to settle transactions, BRM may condition the acceptance of offers in the trading session on a collateral structure, involving a cash guarantee made available to 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 transactions, as well as the bank fees related to the above and penalties for transaction cancellation requests, according to the applicable tariffs published on the BRM website.

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

**Art 5 -** Therights of BRM are as follows:

a) to request and receive from the Participant the bank guarantee letter issued in favour of BRM or other guarantees accepted in accordance with the Market Regulations, including the collateral structure requested by BRM under the terms of Art. 4 paragraph g) prior to the trading sessions in which the Participant intends to place bids or offers on the Markets and subsequently, 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 the payment obligations stipulated in this Arrangement and/or the Market Regulations;

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

d) to decide, where 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) to transmit the information/data/documents requested by the state authorities, the courts or those required to be transmitted by virtue of BRM's status as a licensed Market operator, regarding the Participant, without the need of latter's consent, if provided in the Agreement, primary or secondary legislation and/or Market Regulations;

f) to apply the Market Regulations regarding transaction cancellations, execution of guarantees and sanctioning of the Participant;

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

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

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

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

a) to 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) to provide assistance and practical training sessions to the Participant, regarding the use of the Market trading system;

c) to validate the sales/purchase offers submitted by the Participant in accordance with the provisions of the Market Regulations;

d) to provide transactions confirmations to the Participant for the transactions made on Markets, in accordance with the Market Regulations;

e) to perform 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 falls under BRM as counterparty;

f) in case BRM assumes the role of counterparty on a Market, to fully and timely pay the value of net collection rights related to sales positions of the Product;

g) in case BRM assumes the role of counterparty on a Market to issue invoices for the sales of Products made by the Participant, within the specified timeframe;

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

i) for counterparty-intermediated transactions involving natural gas delivery support Products, to transmit to the National Gas Transmission Company Transgaz S.A., the nominators for transactions made in accordance with the current legislation;

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

k) to verify the Participant's right to engage in each selected Market as per Annex 1 at the time of the the Arrangement’s conclusion and throughout its execution, in accordance with the applicable primary and secondary legislation of the respective Market and Market Regulations.

1. **Suspension and Withdrawal from Trading on the Markets. Complaints Resolution Regime**

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

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

1. **Force majeure**

**Art. 8 -** (1) Force majeure refers to any external, unforeseeable, absolutely invincible and unavoidable event.

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

(3) The party invoking a 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 from 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.

1. **Privacy**

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

(2) The following data, documents and information are exceptions to the provisions stipulated in Art.9, pharagraph (1)

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

b) those requested by the competent State authorities 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 BRM’s public section of its website.

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

**VII. Limitation of BRM’s liability**

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

(i) unfavorable 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 BRM, including, interruptions in the supply of electricity/internet services or situations beyond the control of 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 communication delays between the Participant's computer systems and 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 Agreement.

**VIII. Transitional and final provisions**

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

1. The Participant may unilaterally terminate this Agreement with a notice period of at least 15 calendar days before the desired termination date or under the conditions of Art 2, paragraph (3) of this Agreement, without the termination affecting the fulfillment of overdue obligations to BRM or other Participants at the date of termination of the Agreement or to refund of sums paid to BRM as fees or commissions for participation in any of the Markets. By partial denunciation of the Agreement regarding a Market, the applicability of the provisions of the Market Regulations that govern the rights and obligations regarding participation in the respective Market automatically ceases.

(ii) This Agreement is considered partially terminated, regarding participation in a Market, automatically and without delay, without the need for a notice period, without court intervention, and without any prior formality, from the moment the Participant no longer meets the participation requirements for the respective Market, in accordance with Market Regulations. Through the partial termination of the Agreement concerning a Market, the provisions of the Market Regulations governing rights and obligations related to participation in that Market cease automatically.

**Art. 12 -** This Agreement may be amended unilaterally, at the initiative of 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, they have the option to unilaterally terminate the Agreement in accordance with the provisions of Article 11.

**Art. 13** - (1) This Agreement is 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 Agreement.

(2) If an amicable resolution of these disputes, controversies, or disagreements is not possible, any disputes arising from or in connection with the Agreement, including those regarding its conclusion, interpretation, execution, or termination, shall be resolved in accordance with common law.

**Art. 14** - (1) This Agreement represents the sole expression of the parties' will regarding their commercial relationship, replacing any other written or verbal agreements previously signed by both parties. If any provision of this Agreement is invalidated or declared partially or totally inapplicable by a court, the remaining provisions and any partially applicable provisions shall continue to be obligatory and enforceable. The parties agree to replace the invalid provision with a valid one that best approximates the intention 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 seek in court under Article 1271 of the Civil Code to adjust or terminate the Agreement, the Market Regulations or any elements of a transaction conducted on the Markets.

(3) The provisions of this Agreement 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 other formality is necessary in this respect.

(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 acts as a separate data controller with respect to their respective processing of personal data.

**Art. 15 -** The provisions regarding participation in the Day-Ahead Electricity Market in compliance with the price coupling mechanism of the markets and in the Intraday Electricity Market in compliance with the price coupling mechanism of the markets will apply only after the operationalization of these markets by BRM, in accordance with the designation by ANRE as the Designated Electricity Market Operator (OPEED).

**Legal representative Legal representative**

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

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

The Participant wishes to engage in the following BRM - Administered Marketplaces, and to receive the below 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 Regarding the Organized Framework for Trading Standardized Products on the Centralized Natural Gas Markets administered by Bursa Română de Mărfuri S.A. (Romanian Commodities Exchange S.A.), approved by ANRE.Centralized List of Tradable Products within the Short-Term Standardized Products Market, Medium and Long-Term Standardized Products Market, Flexible Medium and Long-Term Products Market, as well as Standardized Medium and Long-Term Derivative Products Market, approved by decision of the President of the National Energy Regulatory Authority, in accordance with the provisions of Order no. 105/2018, with subsequent amendments and completions.Market Participation Conduct Procedure.For further details, please refer to: <https://www.brm.ro/reglementare-gaze-naturale/> |
| Short-Term Standardized Products Market for natural gas<https://www.brm.ro/reglementare-gaze-naturale-spot/> | Framework Agreement For Counterparty Services For The Short-Term Products MarketProcedure For The Organization And Operation Of The Market For Standardized Short-Term Products, Administered By The Romanian Commodities Exchange (Societatea Bursa Română De Mărfuri) S.A. |  |
| Medium and Long-Term Standardised Product Market for natural gas<https://www.brm.ro/reglementare-gaze-naturale-forward/> | Procedure for the Organization and Operation of the Market for Medium and Long-Term Standardized Products |  |
| Medium and Long-Term Flexible Products Market for natural gas<https://www.brm.ro/reglementare-gaze-naturale-forward/> |  |
| Medium and Long-Term Standardised Products Market for natural gas under clearing house/central counterparty conditions<https://www.brm.ro/reglementare-gaze-naturale-forward-ccp/> | Framework Agreement On Acceptance Of Clearing Member StatusClearing, Settlement And Risk Management Regulation Of The Romanian Commodity Exchange As Central CounterpartyTrading Procedure On The Centralized Natural Gas Markets Administered By Bursa Romana De Mărfuri (Romanian Commodities Exchange) S.A., Under The Conditions Of Using A Clearing House/Central Counterparty |  |
| Medium and Long-Term Standardised Derivatives Market for natural gas<https://www.brm.ro/reglementare-gaze-naturale-futures/> | Framework Agreement On Acceptance Of Clearing Member StatusRegulation Of Compensation, SettlementAnd Risk Management For Futures Contracts With Natural Gas As Underlying AssetTrading Procedure For Futures Contracts With Natural Gas As Underlying Asset On The Market Administered By The Romanian Commodities Exchange S.A. |  |
| **2. Electricity markets** |
| **Common applicable documents**Regulation on the Organisation and Functioning of the Organised Electricity Market, Administered by the Romanian Commodities Exchange Company - S.A.Market Conduct ProcedureFor further details, please refer to:<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 Electricity By Large ConsumersProcedure For The Operation Of The Electricity Market For Large End Consumers Organized By The Romanian Commodities Exchange S.A. |  |
| Electricity Futures Market<https://www.brm.ro/reglementare-energie-electrica-forward/> | Framework Agreement For Acceptance As A Clearing MemberRegulation For Clearing, Settlement, And Risk Management Of The Romanian Commodities Exchange As A Central CounterpartyProcedure For Trading On The Centralized Natural Gas Markets Administered By The Romanian Commodities Exchange (Bursa Română De Mărfuri) S.A., Under The Conditions Of Using A Clearinghouse/Central Counterparty. |  |
| Day-Ahead Market For Electricity With Respect To The Price Coupling Mechanism of 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 Day-Ahead Market For Electricity With Compliance With The Price Coupling Mechanism Of The BRM-Administered Energy Markets Participation Agreement MarketsNext Day Market Procedure For Electricity Under The Market Price Coupling (PZU) MechanismProcedure For Market Surveillance, Monitoring And Reporting Of Transactions Concluded In The PZU And IP-Linked MarketsBRM's Clearing Procedure As Counterparty In The PZU And PI Linked Markets |  |
| 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 ToIntraday Electricity Market With Compliance With The Price Coupling Mechanism Of The Markets To The Participation AgreementOn Energy Markets Administered By BRMNext Day Market Procedure For Electricity With Respect To The Price Coupling Mechanism (PZU) Procedure For Market Surveillance, Monitoring And Reporting Of Transactions Concluded In The PZU And IP-Linked MarketsBRM's Clearing Procedure As Counterparty In The PZU And PI Linked Markets |  |
| **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**

**Bursa Română de Mărfuri S.A. Participant** ........................................