

DATE: 202[●]

ASSIGNED UNIQUE IDENTIFICATION CODE [●]

CONTRACT FOR DIFFERENCE (CFD)

Between

[●]

(as Generator)

and

OPERATORUL PIETEII DE ENERGIE ELECTRICĂ ȘI DE GAZE NATURALE
“OPCOM” S.A
(as CfD Counterparty)

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THIS CONTRACT FOR DIFFERENCE is made the [●] day of [●] 202[●], by and between:

- (1) [●], a Romanian company with registered office in [●], registered with the Trade Registry under no. [●], sole registration code [●], legally represented by [●] acting as [●] (the “**Generator**”); and
- (2) **OPERATORUL PIETEII DE ENERGIE ELECTRICĂ ȘI DE GAZE NATURALE “OPCOM” S.A.**, a Romanian company with registered office in Bucharest, District 3, 16-18 Hristo Botev Boulevard, registered with the Trade Registry under no. J40/7542/2000, sole registration code 13278352, legally represented by Mr Victor IONESCU acting as General Director (the “**CfD Counterparty**”),
each a “**Party**” and together the “**Parties**”.

PREAMBLE:

- (A) This Contract for Difference is entered into following an auction process carried out by the CfD Scheme Operator pursuant to the Government Decision no. [●] approving the general framework for the implementation and functioning of the Contracts for Difference support mechanism for low carbon technologies, Order of the Minister of Energy no. [●] approving the State aid scheme in the form of Contracts for Difference for the production of electricity from wind and solar renewable energy sources, Order of the Minister of Energy no. [●] on the initiation of the auction for the State aid scheme in the form of Contracts for Difference for the production of electricity from wind and solar renewable energy sources, and the State Aid authorisation decision no. [●] issued by the European Commission. The Funding Request in the Auction relating to the CfD Electricity Generation Capacity was successful, resulting in the Generator being awarded this Contract for Difference.
- (B) The CfD Counterparty is a Romanian registered company appointed to this role in accordance with Article 6 of the Government Decision no. [●] and is entering into this Contract for Difference in accordance with and under the conditions set out in the Government Decision no. [●] and the Ministry Order no. [●].
- (C) This Contract for Difference establishes a revenue stabilisation mechanism in respect of the CfD Electricity Generation Capacity’s output of renewable electricity delivered to the National Energy System (NES) and sold on Organised Market Places according to the obligations of the CfD beneficiary set out in Article 12(4) and (5) of Government Decision no. [●], for up to 15 years in order to protect the Generator from market fluctuations in electricity prices on the terms of, and subject to the conditions set forth in, this Contract for Difference and in accordance with the Government Decision no. [●] and the Ministry Order no. [●].
- (D) In exchange for the revenue stabilisation mechanism provided under this Contract for Difference, the Generator undertakes, amongst other obligations, to build and operate the CfD Electricity Generation Capacity in accordance with this Contract for Difference, the Government Decision no. [●] and the Ministry Order no. [●].
- (E) This Contract for Difference is considered as an integral part of the Government Decision no. [●].

1. DEFINITIONS AND INTERPRETATION

- 1.1 For the purposes of this Contract for Difference (including the Preamble), the terms and expressions below have the following meanings:

“**ANRE**” has the meaning given to it in Article 3 paragraph 3 of Law no.123/2012 of electricity and natural gas, together with any subsequent amendments or modifications thereof, respectively the National Energy Regulatory Authority;

“**Competent Authority**” means:

- (a) any court or administrative agency local or from the European Union;
- (b) any private body to the extent it carries out a public function;

“**State Aid Competent Authority**” means:

- (a) the European Commission;
- (b) the Court of Justice of the European Union; and
- (c) the competent state aid authority in Romania;

“**State Aid**” means any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods as referred to in Article 107(1) of the Treaty of the Functioning of the European Union [2008] OJ C 115/13;

“**CfD Beneficiary**” has the meaning given to it in the Government Decision [●];

“**Awarded Capacity**” means the capacity (in MW) for which this Contract for Difference was awarded to the qualified applicant as a result of its successful participation in the relevant Auction;

“**CfD Electricity Generation Capacity**” means all assets and equipment which are used to generate and deliver electricity to the NES under the CfD Scheme, and which:

- (a) were identified in the Technical Offer and which form part of the Awarded Capacity (or the Final Installed Capacity, if lower);
- (b) are situated within the area shaded on the map set out in Part A of Annex 4; and
- (c) are described in Part B of Annex 4,

but excluding:

- (i) all assets which form part of the distribution or the transmission network (as applicable); and
- (ii) unless the context otherwise requires, any asset (and any associated capacity) which was not identified in the Technical Offer and which does not form part of Awarded Capacity (or the Final Installed Capacity, if lower);

“**Final Installed Capacity**” means the amount determined under clause 6.4.1;

“**Installed Capacity**” means the rated active (apparent) power indicated in the manufacturer’s technical documentation for a generating unit which is marked on the indicator plate or indicated by the manufacturer in the technical documentation and as further prescribed in the grid connection certificate (Romanian, “*certificat de racordare*”);

“**Funding Request**” means the Funding Request (as defined in art. 3 letter c) of the Ministry Order no. [●]) submitted in respect of the CfD Electricity Generation Capacity as part of the Auction;

“**Permitting Requirements**” means the documents listed in Annex 2 to this Contract for Difference, required for the commencement of the construction of the CfD Electricity Generation Capacity;

“**CIC**” means the Chamber of Commerce and Industry of Romania;

“**Payment Start Date Requirements**” means the requirements set out in Annex 1;

“**Bilateral Contract**” has the meaning given to it in the Government Decision no. [●];

“**Direct Agreement**” means the direct agreement which may be entered into between the Generator, the CfD Counterparty and the Lenders (or on their behalf), in the form accepted by the CfD Counterparty with the approval of the Competent Ministry, and which will become an annex to the contract;

“**CfD counterparty**” means Operatorul Pieței de Energie Electrică și de Gaze Naturale “OPCOM” S.A.;

“**CfD Levy**” has the meaning given to it in the Government Decision no. [●];

“**Balancing Responsibility Agreement**” has the meaning set out in the Regulation on the terms and conditions for parties responsible for balancing, approved by ANRE President’s Order No 127/2021, as amended;

“**Adjustment of Previous Billing Statement**” has the meaning given to it in clause 9.5;

“**CiL Costs**” means reasonable additional costs for the Generator or CfD Electricity Generation Capacity incurred as a direct result of the Change in Law and which shall include:

- (a) additional costs of operating the CfD Electricity Generation Capacity, or the acquisition, disposal, modification or construction of any asset required for the continued operation of the CfD Electricity Generation Capacity;
- (b) in the event of a permanent cessation of the CfD Electricity Generation Capacity due to the Change in Law, irrecoverable and unavoidable out-of-pocket costs (including tax liabilities, break costs associated with the Generator’s contractual or financing arrangements in respect of the CfD Electricity Generation Capacity and decommissioning costs); and/or
- (c) in the event of a temporary cessation or reduction of output from the CfD Electricity Generation Capacity, the market value of the output foregone as a direct result of the Change in Law,

and in each case which shall exclude: (1) any contractual compensation (other than break fees) payable by the Generator to a third party; (2) any additional costs associated with the Generator’s financing arrangements; and (3) any fees, costs or expenses for legal, consultancy or other professional services provided to the Generator;

“**Lender**” means any bank or financial institution (excluding any direct or indirect shareholder of the Generator) which provides debt financing or refinancing in relation to the Generator or the CfD Electricity Generation Capacity;

“**Eligibility Criteria**” has the meaning given to it in the Government Decision no. [●];

“**Payment Start Date**” has the meaning given to it in clause 3.10.1;

“**Expiry Date**” has the meaning given to it in clause 2.3;

“**Termination Date**” means the date on which this Contract for Difference is terminated pursuant to clause 13

“**Longstop Date**” means 24 months from the Target Commissioning Date;

“**Signature Date**” means the date of signature of this Contract for Difference by the last Party signing it;

“**Target Commissioning Date**” means the date submitted in the Technical Offer as part of the relevant Auction by which the Generator will satisfy the Payment Start Date Requirements and the CfD Electricity Generation Capacity will be Commissioned, respectively the date *[to be filled in at the time of signing the CfD contract / using the convention month, year]*. The Target Commissioning Date may be extended day-for-day for each day of delay in satisfying the Payment Start Date Requirements or Commissioning the CfD Electricity Generation Capacity by reason of Force Majeure in respect of which the Generator is the affected Party, but only if the Generator has satisfied the requirements and conditions set out in clause 15;

“**Billing Statement**” has the meaning given to it in clause 9.1;

“**CfD Shortfall**” has the meaning given to it in the Government Decision no. [●];

“**Directive**” means in relation to either Party, any ordinance, code, decision, directive, order, decree, regulation or standard issued by a Competent Authority which is legally binding upon a Party;

“**CiL Savings**” means any financial savings for the Generator or CfD Electricity Generation Capacity as a direct result of the Change in Law;

“**Qualifying Issuer**” means either:

- (a) a Romanian bank; or
- (b) an international financing institution or international bank registered in the European Union and the European Economic Area authorised to operate on the Romanian territory with a minimum credit rating of BBB by S&P (or equivalent);

“**Suspension Cessation Event**” has the meaning given to it in clause 12.5;

“**Event of Default**” has the meaning given to it in clause 14.1;

“**Expert**” means any person appointed in accordance with the expert determination procedure set out in clause 18;

“**CfD Counterparty Invoice**” has the meaning given to it in clause 9.9;

“**Generator Invoice**” has the meaning given to it in clause 9.10;

“**Invoice**” means a CfD Counterparty Invoice or Generator Invoice (as the case may be);

“**CfD Liquidity Fund**” has the meaning given to it in the Government Decision no. [●];

“**Modernization Fund**” has the meaning given to it in Article 2 letter t) of the Government Emergency Ordinance no. 60/2022 regarding the stability of the institutional and financial framework for the implementation and management of the funds allocated to Romania through the Modernization Fund, as amended, as amended and supplemented;

“**Force Majeure**” means any event or circumstance which is not a Change in Law as defined within this Contract for Difference and which is unforeseeable, unavoidable or insurmountable in relation to which an affected Party cannot be held accountable and which prevents total or partial, temporary or final performance of one or more of the affected Party’s obligations under this Contract for Difference. A Force Majeure event shall include (without limitation): war or war-like situation, revolution, earthquake, serious floods, embargo, or epidemic, pandemic situation

to the extent such event prevents or makes the obligations of the affected Party illegal or impossible to be fulfilled;

“**Performance Bond**” means a Letter of Guarantee issued by a Qualifying Issuer in favour of the CfD Counterparty as provided in Article 2, point 18 of the Government Decision no. [●];

“**Government Decision no. [●]**” means the Government Decision no. [●] on the approval of the general legal framework for the implementation and functioning of the Contracts for Difference support mechanism for low carbon technologies;

“**Confidential Information**” has the meaning given to it in clause 21.5;

“**CPI**” or “**Consumer Price Index**” means the harmonised index of consumer prices (HICP – monthly data (index)) for the Euro area published by Eurostat;

“**Settlement Unit**” means each fifteen-minute period within a day, such that there are 96 Settlement Units in the 24-hour period, in accordance with Commission Regulation (EU) 2017/2195 establishing a guideline on electricity balancing and Regulation (EU) 2019/943 on the internal market for electricity;

“**Termination Without Cause**” has the meaning give to it at clause 13.18;

“**kW**” means kilowatt;

“**Law**” means all (national or European Union) laws, regulations, decrees or similar orders, decisions, sanctions with mandatory effect issued by the legislative, judicial or executive branch of any relevant government or supranational body, mandatory guidance, subordinated legislation, code of practice, judgement of court of law or requirement of any regulatory body as interpreted and applied, to the extent such laws, regulations, decrees or similar orders that are applicable to the scope of this Contract for Difference;

“**Commercial Operating Licence**” means the administrative act issued by ANRE authorising the commercial operation of the CfD Electricity Generation Capacity;

“**Auction**” has the meaning given to the term “CfD auction” in the Government Decision [●], and refers to the Auction pursuant to which this Contract for Difference was awarded;

“**Ministry**” means the competent ministry as defined in Article 3 paragraph 66 of Law no.123/2012 of electricity and natural gas together with any subsequent amendments or modifications thereof, being the Ministry of Energy as at the date of this Contract for Difference;

“**Change in Law**” or “**CiL**” means, after the date of this Agreement, the coming into effect, amendment, supplement, termination, repeal, replacement, withdrawal of or to any primary or secondary legislation of a Romanian Competent Authority (but excluding any such primary or secondary legislation to the extent it is implementing requirements of the European Union) which directly:

- (a) applies only to the CfD Electricity Generation Capacity or only to the Generator with respect to the CfD Electricity Generation Capacity;
- (b) applies only to generating facilities that are subject to a Contract for Difference; or
- (c) applies only to the holders of, or holdings in, the CfD Electricity Generation Capacity, with regard to the CfD electricity generation Capacity;

and which, notwithstanding the Generator acting in good faith and in accordance with good industry practice, directly gives rise to one of the following outcomes:

- (i) CiL Costs;
- (ii) CiL Savings;
- (iii) permanently prevents the Generator, acting in good faith and in accordance with good industry practice, from fulfilling the Payment Start Date requirements;
- (iv) a period of reduced generation by the CfD Electricity Generation Capacity during the Term of this Contract for Difference;

“**MW**” means megawatt;

“**MWh**” means megawatt-hour;

“**Payment Start Date Requirement Notice**” has the meaning given to it in clause 3.4.2;

“**Dispute Notice**” has the meaning given to it in clause 18.3;

“**Billing Statement Dispute Notice**” has the meaning given to it in clause 19.2;

“**Expert Determination Notice**” has the meaning given to it in clause 18.6;

“**Pre-payment Start Date Termination Notice**” has the meaning given to it in clause 13.5;

“**Default Termination Notice**” has the meaning given to it in clause 13.9;

“**Payment Start Date Notice**” has the meaning given to it in clause 3.8;

“**Final Installed Capacity Notice**” has the meaning given to it in clause 6.1;

“**Permitting Requirement Notice**” or “**PR Notice**” has the meaning given to it in clause 4.4;

“**Technical Offer**” means the Technical Offer (as defined in the Ministry Order no. [●]) submitted in respect of the CfD Electricity Generation Capacity as part of the Auction;

“**Nominated Electricity Market Operator**” has the meaning given to it in Article 3 paragraph 68 of Law no.123/2012 of electricity and natural gas, together with any subsequent amendments or modifications thereof;

“**Metering Operator**” means the internal structure within Transelectrica which performs the function of measurement operator for measurement points under the responsibility of the transmission and system operator as well as processing data measured on the wholesale electricity market (OMEPA);

“**Grid Operator**” means Compania Națională de Transport al Energiei Electrice Transelectrica S.A., or the local distribution system operator, as the case may be;

“**CfD Scheme Operator**” has the meaning given to it in the Government Decision no. [●];

“**CfD Auction Initiation Order**” means the ministry order no. [●] regarding the initiation of an auction for a CfD scheme for the production of electricity from renewable sources of onshore wind and solar photovoltaic energy;

“**Ministry Order no. [●]**” means the ministry order no. [●] regarding the approval of a CfD scheme for the production of electricity from renewable sources of onshore wind and solar photovoltaic energy, adopted pursuant to the Government Decision no. [●];

“**Disclosing Party**” has the meaning given to it in clause 21.5;

“**Receiving Party**” has the meaning given to it in clause 21.5;

“**Negative Price Period**” means any period of one or more Settlement Units in respect of which the DAM_{SU} component of the Reference Price formula set out in clause 7.6 is negative (that is, less than EUR 0/MWh);

“**Billing Period**” means the period starting at 00:00 on the first day of each calendar month and ending at 24:00 on the last day of each calendar month;

“**Day-Ahead Market**” has the meaning given to it in Article 3(86) of Law no.123/2012 of electricity and natural gas together with any subsequent amendments or modifications thereof;

“**Organised Market Place**” has the meaning given to it in Article 3 paragraph 82 of Law no.123/2012 of electricity and natural gas, together with any subsequent amendments or modifications thereof;

“**Difference Payment**” means in respect of a given Billing Period, an amount (expressed in Lei) calculated in accordance with the following formula:

$$\text{Difference Payment} = \text{Metered Output} \times (\text{Strike Price} - \text{Reference Price}) \times \text{Payment Exchange Rate}$$

provided that:

the Metered Output that was delivered by the CfD Electricity Generation Capacity to the NES and sold on an Organised Market Place, in accordance with the obligations of the CfD Beneficiary set out in Article 12 (4) and (5) of the Government Decision no.[●]; and

in respect of any and all Settlement Units which form part of a Negative Price Period the Difference Payment shall be zero (0);

“**Reference Price**” means the EUR/MWh amount calculated pursuant to clause 7.6;

“**Initial Strike Price**” has the meaning set out in clause 7.1;

“**Strike Price**” means the Initial Strike Price, as indexed in accordance with clauses 7.2 to 7.5;

“**Metered Output**” has the meaning given to it in clause 8.1;

“**Bilateral Contracts Excess Profit**” has the meaning given to it in the Government Decision [●];

“**Commissioned**”, “**Commissioning**” and cognate terms mean the successful completion of all activities set out in the technical design documentation and applicable regulations, demonstrating that the equipment and technological systems relating to the CfD Electricity Generation Capacity behave within the limits provided by the project, at the time when the CfD Electricity Generation Capacity declares itself ready to begin commercial operations;

“**Payment Start Date Requirement Response Notice**” has the meaning given to it in clause 3.6;

“**Permitting Requirement Response Notice**” or “**PR Response Notice**” has the meaning given to it in clause 4.6;

“**Supplementary Payment Start Date Requirement Response Notice**” has the meaning given to it in clause 3.6.3 (b);

“**Permitting Requirement Additional Response Notice**” or “**PR Additional Response Notice**” has the meaning given to it in clause 4.7.3(b);

“Payment Exchange Rate” is the average of all daily Lei/Euro exchange rates that have been published by the National Bank of Romania with respect to the Billing Period within which the relevant Settlement Unit falls;

“State Aid Rules” means:

- (a) the State Aid provisions on the Treaty of the Functioning of the European Union [2008] OJ C 115/13;
- (b) any associated European Union legislation in relation to such State Aid provisions including Council Regulation 2015/1589; or
- (c) any relevant decisions, acts or judgments of the European Commission, the Court of Justice of the European Union or any other Competent Authority in relation to State Aid provisions including without limitation, Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (“Regulation 2015/1589 of the Council”);

“CfD Scheme” means the CfD scheme (as defined in the Government Decision) implemented by the Ministry Order no. [●];

“Letter of Guarantee” means an unconditional, irrevocable, first demand standby letter of guarantee issued under the law, denominated in Lei and in form and content reasonably satisfactory to the CfD Counterparty, which is issued in favour of the CfD Counterparty by a Qualifying Issuer and which shall be available for payment at a Romanian branch of the Qualifying Issuer;

“NES” means the National Energy System;

“Termination Amount” means an amount in Lei calculated in accordance with the formula set out in Annex 3 to this Contract for Difference;

“Payable Amount” has the meaning given to it in clause 9.6;

“Generation Technology” means the eligible generation technology category under the Ministry Order no. [●], and for the CfD Electricity Generation Capacity governed by this Contract for Difference it is as specified in Part C of Annex 4;

“CfD Term” has the meaning given to it in clause 2;

“Transelectrica” means Compania Nationala de Transport al Energiei Electrice Transelectrica S.A, the national transmission system operator.

- 1.2 Headings are used in this Contract for Difference are for convenience only and shall not affect its interpretation.
- 1.3 Unless the context otherwise requires, words denoting the singular shall include the plural and vice versa and references to any gender shall include all other genders. References to any person include bodies corporate, unincorporated associations, partnerships, or other entities, in each case whether or not having a separate legal personality.
- 1.4 The word “including” or any variation thereof means “including, without limitation” and shall not be construed to limit any general statement to any specific or similar items or matters immediately following it.
- 1.5 The words “herein”, “hereof” and “hereunder” and words of similar import shall be construed to refer to this Contract for Difference (including the annexes thereto) in its entirety and not to any part thereof, unless the context otherwise requires.

- 1.6 References to “shall cause”, “shall procure” and/or “cause” or “procure” with reference to the fact and/or act of any other person, means “shall cause”, “shall procure” and/or “cause” or “procure” (in Romanian: *obligatie de rezultat*) according to Article 1481 paragraph (1) of the Romanian Civil Code, adopted by Law no.287/17.07.2009, as amended and supplemented.
- 1.7 All references herein to clauses, preambles and Annexes shall be deemed references to clauses preambles, and annexes to this Contract for Difference unless the context otherwise requires.
- 1.8 Non-standard clauses (Romanian: *clauze neuzuale*)
- For the purpose of this Contract for Difference, the Parties hereby declare that they have understood and expressly accept the non-standard clauses under the meaning of Art. 1203 of the Romanian Civil Code adopted by Law no.287/17.07.2009, as amended and supplemented.
- 1.9 To the extent not otherwise specified in this Contract for Difference, the term “day” or “days” in the Contract refers to calendar days. If any obligation or requirement under this Contract for Difference is due to be performed or any notice or other communication is due to be given on (or by) a day that is not a business day, then the obligation shall be performed or the notice or other communication shall be given on (or by) the next following business day. For the purposes of this Contract for Difference, a “business day” is any day other than a Saturday, a Sunday, or a public holiday in Romania when banks are closed for business.
- 1.10 To the extent that terms used in this Contract for Difference are not defined herein, they shall have the meaning given to them in the Government Decision no. [●] and the Ministry Order no. [●].

2. TERM AND DURATION

- 2.1 Subject to clause 2.2, this Contract for Difference shall take effect on the Signature Date and shall, unless terminated earlier in accordance with clause 13, continue in full force and effect for a period of 15 years starting on:
- 2.1.1 the Payment Start Date; or
- 2.1.2 the Target Commissioning Date,
- whichever is earlier (the “**CfD Term**”). Accordingly, and for the avoidance of doubt, where the Payment Start Date occurs after the Target Commissioning Date but before the Longstop Date, the 15-year period commences on the Target Commissioning Date such that the period during which Difference Payments may be made under this Contract for Difference will be less than 15 years, being 15 years less the period between the Target Commissioning Date and the later Payment Start Date.
- 2.2 In addition, where the Final Installed Capacity is less than 100% but greater or equal to 90% of the Awarded Capacity, the 15-year period determined in accordance with the above clause 2.1 will also be reduced proportionately by the percentage of the Awarded Capacity which was not Commissioned as at the Payment Start Date (with this reduction being measured in calendar days and rounded to the nearest integer).
- 2.3 The date on which this Contract for Difference expires pursuant to clause 2.1 and/or clause 2.2 shall be the “**Expiry Date**”.

3. PAYMENT START DATE

Payment Start Date Requirements

- 3.1 Subject to clauses 3.2 and 3.3, the Generator shall fulfil the Payment Start Date Requirements as soon as reasonably practicable, and in any event before the Longstop Date.
- 3.2 Subject to clause 3.3 and provided that the Generator has complied with clause 3.7, if any of the Payment Start Date Requirements specified at Annex 1, paragraph 1, sub-paragraphs (a), (d), (e), and (f) are no longer required under applicable Laws and Directives for the development, construction and operation of the CfD Electricity Generation Capacity, such Payment Start Date Requirement(s) will not be required to be fulfilled by the Generator under this Contract for Difference.
- 3.3 Where the Generator is unable to fulfil a Payment Start Date Requirement due to the application of clause 3.2, the Generator shall, acting in good faith, use reasonable endeavours to procure and provide the CfD Counterparty with a substantially similar or equivalent document certifying the same subject matter envisaged by the relevant Payment Start Date Requirement.
- 3.4 The Generator shall keep the CfD Counterparty informed of the progress towards its fulfilment of the Payment Start Date Requirements and in particular shall:
- 3.4.1 provide the CfD Counterparty with quarterly reports on the progress made towards the fulfilment of the Payment Start Date Requirements; and
 - 3.4.2 give the CfD Counterparty a written notice as soon as practicable each time the Generator considers that a Payment Start Date Requirement has been fulfilled (a “**Payment Start Date Requirement Notice**”), which shall:
 - (a) identify the Payment Start Date Requirement which the Generator considers has been fulfilled; and
 - (b) include any supporting information as the Generator considers to be relevant to evidence the fulfilment of the relevant Payment Start Date Requirement.
- 3.5 The Generator may give the CfD Counterparty a single Payment Start Date Requirement Notice regarding the fulfilment of the Payment Start Date Requirements specified in Annex 1.
- 3.6 The CfD Counterparty shall, no later than 10 days after receipt of a Payment Start Date Requirement Notice, give written notice to the Generator (a “**Payment Start Date Requirement Response Notice**”) in which the CfD Counterparty confirms that:
- 3.6.1 the Generator has fulfilled the notified Payment Start Date Requirement(s), in which case the relevant Payment Start Date Requirement(s) shall be considered as having been fulfilled on the date of the relevant Payment Start Date Requirement Response Notice.
 - 3.6.2 the Generator has not fulfilled the notified Payment Start Date Requirement(s), in which case the relevant Payment Start Date Requirement(s) shall not be considered as having been fulfilled in accordance with the provisions of this Contract for Difference.

3.6.3 the Generator has not provided the CfD Counterparty with sufficient supporting evidence to determine whether the Generator has fulfilled the notified Payment Start Date Requirement, in which case:

- (a) the Generator shall provide any additional supporting evidence as soon as reasonably practicable, and, in any event no later than 10 days from the receipt of a Payment Start Date Requirement Response Notice; and
- (b) upon receipt of the additional supporting evidence submitted by the Generator, the CfD Counterparty shall as soon as reasonably practicable, and in any event no later than 10 days after receipt of the additional supporting evidence from the Generator, provide the Generator with a further Payment Date Response Notice (a “**Supplementary Payment Start Date Requirement Response Notice**”) specifying whether the CfD Counterparty considers that the Generator has or has not fulfilled the Payment Start Date Requirement(s) and clause 3.6.1, 3.6.2 or 3.6.3 (as the case may be) shall apply *mutatis mutandis*.

3.7 The Generator must notify the CfD Counterparty in writing within 3 days of becoming aware:

3.7.1 of any fact, matter or circumstance that will or is likely to prevent the fulfilment of any of the Payment Start Date Requirements by the Target Commissioning Date or the Longstop Date (as applicable at the time of the notice). If the notice pertains to a failure to fulfil any Payment Start Date Requirement by the Target Commissioning Date, the Generator must provide such notice at least 3 months prior to that date, detailing the reasons for the potential failure and the measures the Generator will take to ensure the fulfilment of the relevant Payment Start Date Requirement by the Target Commissioning Date or, if this is not possible, by the Longstop Date at the latest; or

3.7.2 that any Payment Start Date Requirement which was previously notified as having been fulfilled is no longer met. The notice must include the reasons for such change and the measures the Generator will take to address the situation and ensure fulfilment of the affected Payment Start Date Requirement by the Target Commissioning Date or, if this is not possible, by the Longstop Date at the latest.

Notification of Payment Start Date

3.8 Within 10 days of receipt of the Payment Start Date Requirement Response Notice or the Supplementary Payment Start Date Requirement Response Notice (as applicable) confirming that the CfD Counterparty considers that all of the Payment Start Date Requirements have been fulfilled, the Generator shall give a written notice to the CfD Counterparty (a “**Payment Start Date Notice**”).

3.9 A Payment Start Date Notice shall specify the date that the Generator proposes to be the Payment Start Date for the purposes of this Contract for Difference, provided that such date must be:

3.9.1 no earlier than the date of the Payment Start Date Notice; and

3.9.2 no later than 7 days after the date of the Payment Start Date Notice.

Confirmation of Payment Start Date

3.10 Within 10 days of receiving the Payment Start Date Notice, the CfD Counterparty shall give the Generator a response notice specifying whether the Payment Start Date proposed by the Generator in its Payment Start Date Notice:

- 3.10.1 is in accordance with the provisions of clause 3.9 of this Contract for Difference, in which case, the “**Payment Start Date**” shall be the date proposed by the Generator in its Payment Start Date Notice; or
- 3.10.2 is not in accordance with the provisions of clause 3.9 of this Contract for Difference, in which case, the Generator may send, subject to the provisions of this clause 3 and no later than 3 days from the date of the CfD Counterparty’s notice under this clause, a further Payment Start Date Notice to the CfD Counterparty setting out its revised proposal for the Payment Start Date and this clause 3.10 shall apply *mutatis mutandis* to such further Payment Start Date Notice.

4. PERMITTING REQUIREMENTS

Satisfaction of the Permitting Requirements

- 4.1 The Generator shall comply with and fulfil the Permitting Requirements in accordance with this Contract for Difference.
- 4.2 The Permitting Requirements shall be fulfilled by the Generator in accordance with the timetable submitted in the Technical Offer as part of the relevant Auction.
- 4.3 The Generator shall report quarterly to the CfD Counterparty on its progress towards fulfilling the Permitting Requirements, as well as discharging any obligations or conditions under the Permitting Requirements, with reference to the timetable submitted in the Technical Offer as part of the relevant Auction and indicating any delays to that timetable. The Generator shall attach to each quarterly report any documents evidencing the progress made towards fulfilling the Permitting Requirements.
- 4.4 The Generator shall give the CfD Counterparty a written notice as soon as practicable each time the Generator considers that a Permitting Requirement has been fulfilled (a “**Permitting Requirement Notice**” or “**PR Notice**”), which shall
 - 4.4.1 identify the Permitting Requirement which the Generator considers has been fulfilled; and
 - 4.4.2 include any supporting information as the Generator considers to be relevant to evidence the fulfilment of the relevant Permitting Requirement.
- 4.5 The Generator may give the CfD Counterparty a single PR Notice regarding the fulfilment of multiple Permitting Requirements.
- 4.6 The CfD Counterparty shall no later than 20 days after receipt of a PR Notice give a written notice to the Generator (a “**Permitting Requirement Response Notice**” or “**PR Response Notice**”). A PR Response Notice shall specify whether the CfD Counterparty considers that:
 - 4.6.1 the Generator has or has not fulfilled a Permitting Requirement; or
 - 4.6.2 the CfD Counterparty has not been provided with sufficient supporting information to determine whether the Generator has fulfilled (or has otherwise complied with) a Permitting Requirement.
- 4.7 If the CfD Counterparty states in a PR Response Notice that:
 - 4.7.1 the Generator has fulfilled the Permitting Requirement(s), then the relevant Permitting Requirement(s) will be deemed to have been fulfilled for the purpose of this Contract for Difference on the date of the PR Response Notice;

- 4.7.2 the Generator has not fulfilled the Permitting Requirements, then the relevant Permitting Requirement(s) will be deemed not to have been fulfilled for the purposes of this Contract for Difference; or
- 4.7.3 the Generator has not provided the CfD Counterparty with sufficient supporting evidence to determine whether the Generator has fulfilled the Permitting Requirement(s) then:
- (a) the Generator shall provide any additional supporting evidence as soon as reasonably practicable and in any event no later than 10 days after receipt of a PR Response Notice; and
 - (b) upon the receipt of the additional supporting information, the CfD Counterparty shall as soon as reasonably practicable, and in any event no later than 10 days after receipt of such additional supporting information, give an additional notice (“**Permitting Requirement Additional Response Notice**” or “**PR Additional Response Notice**”). The PR Additional Response Notice shall specify whether the CfD Counterparty considers that the Generator has or has not fulfilled the relevant Permitting Requirement(s) and clause 4.6.1 or clause 4.6.2 (as the case may be) shall apply *mutatis mutandis*.

5. PERFORMANCE BOND

Delivery of Performance Bond

- 5.1 No later than 15 working days from the Signature Date of this Contract for Difference, the Generator shall submit at the registered office of the CfD Counterparty a Performance Bond denominated in Lei, for an amount equal to [value to be inserted when finalising each CfD contract with each beneficiary reflecting the value set for the auction] EUR*kW of Awarded Capacity, calculated using the exchange rate published by the National Bank of Romania on that date.
- 5.2 The Performance Bond must remain valid and effective for the amount specified in clause 5.1 until the Payment Start Date. In the event that the CfD Counterparty exercises its right to draw down on any portion of the Performance Bond, the Generator shall be obliged to ensure that the Performance Bond is re-issued or otherwise reinstated to the full original amount required under clause 5.1, such reinstatement to be completed no later than 5 working days from the date of drawdown. This obligation to reinstate the Performance Bond to its full amount shall continue to be binding upon the Generator until the Payment Start Date.

Enforcement of Performance Bond

- 5.3 The CfD Counterparty shall be entitled to draw down, in one or more individual draw downs and for such amount as specified in clauses 5.3.1 to 5.3.3, against the full amount of the Performance Bond posted by the Generator in the event that:
- 5.3.1 at any time prior to the Payment Start Date, an Event of Default occurs and is continuing, and the CfD Counterparty terminates this Contract for Difference pursuant to clause 13.5, in which case the CfD Counterparty will draw down the full amount of the Performance Bond;
 - 5.3.2 any of the Payment Start Date Requirements are not fulfilled by the Generator by the Target Commissioning Date and the Generator has not notified the CfD Counterparty that it would (or was likely to) fail to meet the Target Commissioning

Date in accordance with clause 3.7.1, in which case the CfD Counterparty will draw down on 50% of the amount of the Performance Bond;

5.3.3 any of the Payment Start Date Requirements are not fulfilled by the Generator by the Longstop Date and this Contract for Difference is terminated pursuant to clause 13.3, in which case the CfD Counterparty will draw down the full amount of the Performance Bond;

5.3.4 where applicable, the Generator has failed to comply (to any extent) with the obligation to secure and provide the CfD Counterparty with a copy certifying "true to original" (Romanian: *conform cu originalul*) of a valid grid connection permit for the CfD Electricity Generation Capacity by the deadline specified in the CfD Auction Initiation Order in accordance with the requirements of clause 11.1.16 and this Contract for Difference is terminated pursuant to clause 13.1, in which case the CfD Counterparty will draw down on the full amount of the Performance Bond. The certified true copy shall contain the date of certification, the full name and signature of the person certifying "true to original".

Release of Performance Bond

5.4 Subject to clause 5.3, the CfD Counterparty shall return the Performance Bond (or any unused portion of the Performance Bond) on the date when the Payment Start Date takes effect. In these circumstances, the CfD Counterparty shall execute any documents reasonably requested by the Generator to confirm the release of the Performance Bond.

6. FINAL INSTALLED CAPACITY

6.1 The Generator shall, within 10 days of the date on which it has obtained the grid connection certificate (Romanian: *certificat de racordare*) in respect of the CfD Electricity Generation Capacity, give a written notice to the CfD Counterparty (a "**Final Installed Capacity Notice**"). A Final Installed Capacity Notice shall:

6.1.1 specify the Installed Capacity which has been Commissioned as at the date of the notice, which shall not exceed the Awarded Capacity;

6.1.2 include the grid connection certificate (Romanian: *certificat de racordare*) and any other supporting evidence as the Generator considers to be relevant to confirm this Installed Capacity; and

6.1.3 include the Generator's estimate of the quantity of electricity that will be generated and delivered to the NES by the CfD Electricity Generation Capacity, in each of the following 12 calendar months.

6.2 The Generator shall not give the CfD Counterparty more than one Final Installed Capacity Notice.

6.3 The CfD Counterparty shall no later than 20 days after receipt of the Final Installed Capacity Notice, give a notice to the Generator (a "**Final Installed Capacity Response Notice**"). A Final Installed Capacity Response Notice shall specify either that:

6.3.1 the CfD Counterparty agrees with the Installed Capacity specified in the Final Installed Capacity Notice; or

6.3.2 the CfD Counterparty:

(a) has not been provided with sufficient supporting evidence to confirm the Installed Capacity; and/or

- (b) does not agree with the Installed Capacity specified in the Final Installed Capacity Notice;

in which case the Final Installed Capacity Response Notice shall provide details of any additional or revised supporting information which the CfD Counterparty requires to confirm the Final Installed Capacity specified by the Generator, and the Generator shall provide such information in accordance with clause 6.4.2.

6.4 If the CfD Counterparty:

- 6.4.1 agrees with the contents of the Final Installed Capacity Notice, the “**Final Installed Capacity**” shall be the amount specified in the Final Installed Capacity Notice with effect from the date of the Final Installed Capacity Notice; or
- 6.4.2 gives a Final Installed Capacity Response Notice pursuant to clause 6.3.2:
 - (a) the Generator shall provide such supporting evidence requested by the CfD Counterparty as soon as reasonably practicable and in any event no later than 10 days after receipt of the Final Installed Capacity Response Notice; and
 - (b) upon receipt of the additional supporting information, the CfD Counterparty shall as soon as reasonably practicable give a further Final Installed Capacity Response Notice to the Generator and clauses 6.3 and 6.4 shall apply *mutatis mutandis*.

7. PRICING MECHANISMS

Initial Strike Price

7.1 The initial strike price shall be [EUR] [●]/MWh (the “**Initial Strike Price**”).

Strike Price Adjustment

- 7.2 The Strike Price shall be indexed in line with the CPI every 3 years, provided that the first indexation shall take place three years after the Signature Date, as further detailed (and subject to) the following provisions.
- 7.3 The first indexation adjustment shall be assessed two months after the third anniversary of the Signature Date and shall take effect three months after the third anniversary of the Signature Date. Each subsequent indexation adjustment shall be assessed on the third anniversary of the previous assessment and shall take effect one month thereafter.
- 7.4 The first indexation adjustment shall be calculated by the CfD Counterparty in accordance with the following formula:

$$\text{Strike Price}_1 = \text{Initial Strike Price} \times \frac{\text{CPI_Indexation_Month}_1}{\text{CPI_Signature_Date_Month}}$$

Where *Strike Price*₁ refers to the Strike Price to take effect three months after the third anniversary of the Signature Date, *CPI_Indexation_Month*₁ refers to the CPI for the calendar month that is three years after the month in which the Signature Date falls and *CPI_Signature_Date_Month* refers to the CPI for the calendar month in which the Signature Date falls, provided that $\frac{\text{CPI_Indexation_Month}_1}{\text{CPI_Signature_Date_Month}}$ is at least equal to 110% . If $\frac{\text{CPI_Indexation_Month}_1}{\text{CPI_Signature_Date_Month}}$ is less than 110%, there shall be no adjustment, i.e.:

$$\text{Strike Price}_t = \text{Initial Strike Price} \times \frac{\text{CPI}_{\text{December}}}{\text{CPI}_{\text{Payment Start Month}}}$$

$$\text{Strike Price}_1 = \text{Initial Strike Price}$$

For each subsequent indexation assessment, the adjustment shall be as follows:

$$\text{Strike Price}_t = \text{Strike Price}_{t-1} \times \frac{\text{CPI}_{\text{Indexation Month}_t}}{\text{CPI}_{\text{Indexation Month}_{t-1}}}$$

Where Strike Price_t refers to the Strike Price to take effect one month after the third anniversary of the previous assessment, $\text{Strike Price}_{t-1}$ refers to the Strike Price that resulted from the previous assessment, $\text{CPI}_{\text{Indexation Month}_t}$ refers to the CPI for the calendar the month that is $t \times 3$ years after the month in which the Signature Date falls and $\text{CPI}_{\text{Indexation Month}_{t-1}}$ refers to the CPI that is associated with the month that is $(t - 1) \times 3$ years after the month in which the Signature Date falls and $t \geq 2$, provided that $\frac{\text{CPI}_{\text{Indexation Month}_t}}{\text{CPI}_{\text{Indexation Month}_{t-1}}}$ is at least equal to 110%. If $\frac{\text{CPI}_{\text{Indexation Month}_t}}{\text{CPI}_{\text{Indexation Month}_{t-1}}}$ is less than 110%, there shall be no adjustment, i.e.:

$$\text{Strike Price}_t = \text{Strike Price}_{t-1}$$

The CfD Counterparty shall notify the Generator of any indexation adjustments no later than 15 days after the date of the indexation assessment.

- 7.5 Where any date required for the indexation adjustment falls on a non-working day, the following working day shall be used instead. Where the monthly CPI index required for any indexation adjustment is not available on the date of the assessment, the assessment shall take place on the first day when this becomes available, and the adjustment shall take effect one month after this assessment.

Reference Price

- 7.6 The CfD Counterparty shall use the Reference Price in respect of each Billing Period and each Settlement Unit from the respective Billing Period, which is calculated, established and approved by ANRE in accordance with the following formula and subject to the approved methodology issued by ANRE for establishing the Reference Price:

$$\text{Reference Price} = \frac{\sum_{\text{SU} \in \text{BP}} \text{DAM}_{\text{SU}} \times \text{q}_{\text{SU}}}{\sum_{\text{SU} \in \text{BP}} \text{q}_{\text{SU}}}$$

where for each Settlement Unit (SU) falling within the Billing Period (BP):

- 7.6.1 DAM_{SU} (expressed in EUR/MWh) refers to the average Day Ahead Market clearing price associated with the *Settlement Unit* weighted by trading volumes across the Day-Ahead Markets available in Romania, defined as follows:

$$\text{DAM}_{\text{SU}} = \frac{\sum_{\text{DP}} \text{DAM}_{\text{SU}}^{\text{DP}} \times v_{\text{SU}}^{\text{DP}}}{\sum_{\text{TP}} v_{\text{SU}}^{\text{DP}}}$$

where $\text{DAM}_{\text{SU}}^{\text{DP}}$ refers to the Day Ahead Market clearing price (expressed in EUR/MWh) associated with Settlement Unit SU and recorded on Day-Ahead Market DP ; $v_{\text{SU}}^{\text{DP}}$ refers to the total trading volume (in MWh) associated with Settlement Unit SU and traded day-ahead on Day-Ahead Market DP ; and $\sum_{\text{TP}} v_{\text{SU}}^{\text{DP}}$ refers to the total trading volume (in

MWh) associated with Settlement Unit *SU* traded day-ahead on the Day-Ahead Markets in Romania; and

- 7.6.2 q_{SU} refers to the total Metered Output (in MWh) that has been injected into NES in the same Settlement Unit by all CfD Electricity Generation Capacities for all CfD Beneficiaries for which (i) the CfD Counterparty is preparing a Billing Statement for the same Billing Period (if available) and (ii) that use the same Generation Technology as the CfD Electricity Generation Capacity of the Generator (where the Metered Output delivered into NES of the latter is included in the total Metered Output delivered into NES),

provided that any and all Settlement Units falling into the Billing Period which form part of a Negative Price Period shall be excluded from the calculation of the Reference Price.

Where the term “Metered Output” is used in clause 7.6.2 in respect of CfD Beneficiaries (other than the Generator), it shall be understood as referring to the metering data specifying the quantity of electricity delivered to the NES by such other CfD Beneficiaries.

For the purposes of calculating the Reference Price using the formula above, if any numerical data or value associated with the DAM_{SU} or the q_{SU} (or any of their components) is published or expressed over a time period exceeding fifteen minutes (for example, hourly), such data or value will be treated as uniformly applicable to each fifteen-minute interval within that extended period so that it corresponds to a Settlement Unit (as defined in this Contract for Difference).

Review of the Reference Price

- 7.7 The CfD Counterparty shall use the Reference Price which is reviewed and approved by the ANRE decision mentioned at clause 7.8 below in case that either:

7.7.1 ANRE considers the Reference Price is no longer reflective of market prices, such that it is systematically over-compensating the Generator and other generators holding contracts for difference and increasing costs to consumers; or

7.7.2 ANRE has been notified by more than 50% of generators holding contracts for difference that they consider that the Reference Price is no longer reflective of market prices, such that it is systematically under-compensating them.

- 7.8 In either case, ANRE will consult, including with all affected generators holding contracts for difference, and issue a decision on the adjustments to the Reference Price or the methodology for the Reference Price, which are minimally necessary to reduce the risk of such over-compensation or under-compensation, as applicable. Such adjustments shall be incorporated into the Reference Price and deemed to form part of this Contract for Difference following the decision by ANRE.

8. METERED OUTPUT

- 8.1 In accordance with secondary legislation approved by ANRE, the CfD Counterparty shall receive from OMEPA the metering data specifying the quantity of electricity delivered to the NES by the CfD Electricity Generation Capacity for each Settlement Unit (the “**Metered Output**”). The Generator shall be responsible for verifying and validating the Metered Output data in accordance with secondary legislation issued by ANRE.

- 8.2 Where any damage or fault occurs with respect to the CfD Electricity Generation Capacity’s metering equipment, if the metering equipment is owned by the Generator, the Generator shall be obliged to remedy such failure within 3 days of becoming aware of such damage or fault. Where the electricity metering equipment is owned by the network operator, the Generator is obliged to

make the necessary arrangements with the network operator to rectify this fault within the legal deadline provided by the applicable legislation.

- 8.3 If the CfD Electricity Generation Capacity's metering equipment is not remedied within that 3-day period, the CfD Counterparty shall be entitled to withhold Difference Payments to the Generator until the Settlement Unit in which the remedial works on the metering equipment are completed. The Generator shall not have any claim against the CfD Counterparty for any payments, damages or other sums in respect of any such withholding of Difference Payments under this clause.
- 8.4 Where either Party disputes any Difference Payments based on the CfD Electricity Generation Capacity's Metered Output, either Party may refer the matter for dispute resolution in accordance with clause 9.14.

9. BILLING AND PAYMENT

- 9.1 The CfD Counterparty shall, in relation to each Billing Period from and including the Billing Period in which the Payment Start Date falls, deliver a billing statement to the Generator (each a "**Billing Statement**").
- 9.2 Each Billing Statement shall be delivered to the Generator no later than 5 working days from the most recent date between the date on which the metered data specifying the Metered Output delivered into NES by the CfD Electricity Generation Capacity was received from OMEPA and the date of ANRE's communication of the decision on approval of the Reference Price for the relevant Billing Period.
- 9.3 The contents of the Billing Statement shall be prepared by the CfD Counterparty with reference to the Metered Output reported to the CfD Counterparty in accordance with clause 8.1 for each Settlement Unit in each Billing Period.
- 9.4 Each Billing Statement shall set out:

Identification Information

- 9.4.1 the Billing Period;
- 9.4.2 the name of the Generator (or a unique identifier attributed to the Generator by the CfD Counterparty);
- 9.4.3 the details of the CfD Electricity Generation Capacity (or a unique identifier attributed by the Metering Operator to the metering point);
- 9.4.4 the assigned unique identification code for this Contract for Difference;

Aggregate Difference Payment Calculation

- 9.4.5 the Metered Output delivered to the NES in respect of each Settlement Unit falling in the relevant Billing Period, with an indication of the Settlement Units in which the weighted average clearing price of the Day Ahead Market calculated in accordance with Article 7.6.1 had negative values;
- 9.4.6 the Reference Price in respect of the relevant Billing Period;
- 9.4.7 the Strike Price in respect of the relevant Billing Period

Adjustment of Previous Billing Statement

9.5 “**Adjustment of Previous Billing Statement**” means any revision to the CfD Counterparty Payable Amount or to the Generator Payable Amount (as the case may be) in respect of any preceding Billing Period which are required to reflect:

- 9.5.1 the resolution of any metering dispute;
- 9.5.2 any revision or reconciliation of the Metered Output data communicated by the Metering Operator to the CfD Counterparty under clause 8.1;
- 9.5.3 the correction of any error in any previous bill; and
- 9.5.4 any outstanding payments following a Suspension Cessation Event in accordance with clause 12.6, clause 12.11 or where payments are owed by the CfD Counterparty in the circumstances provided for at clause 21.26.

The correction of invoices will be made in accordance with the provisions of the Fiscal Code, approved by Law no. 227/2015, with subsequent amendments and additions.

The Calculation of Payable Amounts

9.6 The “**Payable Amount**” shall, in respect of each Billing Period, be an amount calculated in accordance with the following formula:

$$\text{Payable Amount} = \sum_{SU \in BP} \text{Difference Payment}_{SU}$$

where *Difference Payment_{SU}* refers to the Difference Payment with respect to the Billing Period (*BP*), excluding the Settlement Units in which the weighted average clearing price of the Day Ahead Market calculated in accordance with Article 7.6.1 was negative.

9.7 Where the Payable Amount is:

9.7.1. positive, it shall represent an amount payable by the CfD Counterparty to the Generator; or

9.7.2. negative, it shall represent an amount payable by the Generator to the CfD Counterparty.

9.8 The VAT applicable to the invoices for the payment obligations of the CfD Counterparty or the Generator shall be in accordance with the provisions of the Fiscal Code approved by Law no.227/2015 with any subsequent amendments or modifications thereof.

Billing and Settlement

9.9 Where, in respect of a Billing Period, the Payable Amount determined in accordance with clause 9.6 is negative, according to clause 9.7.2, the CfD Counterparty shall issue an invoice to the Generator (a “**CfD Counterparty Invoice**”) together with the corresponding Billing Statement for that Billing Period. Each CfD Counterparty Invoice shall set out the amount(s) payable by the Generator to the CfD Counterparty for the relevant Billing Period as set out in (and consistent with) the relevant Billing Statement. The Generator shall pay such invoiced amount(s) to the CfD Counterparty in accordance with clause 9.18.1.

9.10 Where, in respect of a Billing Period, a Payable Amount determined in accordance with clause 9.6 is positive, the Generator shall issue an invoice to the CfD Counterparty (a “**Generator Invoice**”) within 5 days of receipt of the relevant Billing Statement for that Billing Period. Each Generator Invoice shall set out the amount(s) payable by the CfD Counterparty to the Generator

for the relevant Billing Period as set out in (and consistent with) the relevant Billing Statement. The CfD Counterparty shall pay such invoice amount(s) to the Generator in accordance with clause 9.18.2.

- 9.11 Where the Generator has sold through Bilateral Contracts any electricity generated by the CfD Electricity Generation Capacity, and ANRE has established that the Generator has obtained a Bilateral Contracts Excess Profit, the CfD Counterparty shall additionally issue an invoice to the Generator on a yearly basis specifying the Bilateral Contracts Excess Profit calculated by ANRE in respect of the previous year, which the Generator shall pay to the CfD Counterparty in accordance with clause 11.1.13.

Billing Statement and Invoices Disputes

- 9.12 Clauses 9.9, 9.10 and 9.11 shall apply notwithstanding any dispute with respect to any Billing Statement or Invoice, and if a Party wishes to dispute any amount shown in a Billing Statement or Invoice, it shall give a notice to the other Party (a “**Billing Statement/Invoice Dispute Notice**”) which shall specify:

9.12.1 the Billing Statement/Invoice to which the dispute relates;

9.12.2 the name of the Generator;

9.12.3 the Billing Statement/Invoice items to which the dispute relates;

9.12.4 the amount in dispute; and

9.12.5 the position the Party considers is correct and the Party’s reason for that position;

together with any copies of any supporting information on which the referring Party intends to rely in this endeavour.

- 9.13 The making of a payment under clauses 9.9, 9.9 and 9.10 shall not prevent a Party from issuing a Billing Statement/Invoice Dispute Notice.

- 9.14 If the Parties are unable to resolve a Billing Statement/Invoice dispute within 30 days of receipt by the receiving Party of a Billing Statement/Invoice Dispute Notice, the matter shall be referred to ANRE for resolution.

- 9.15 Where a dispute with respect to any Billing Statement/Invoice has been referred to ANRE in accordance with clause 9.144 and ANRE states in writing at any time that it does not have the competence to resolve the dispute in question, the matter shall instead be resolved through the dispute resolution procedure set out in clause 18.

Penalty for Delay

- 9.16 If either Party fails to pay to the other Party any sum owing under this Contract for Difference by the due date for payment, an interest rate shall apply, calculated according to the provisions of Government Ordinance no.13/2011 on statutory interest and penalty interest for money obligations, as well as for regulating certain financial and fiscal measures in the banking sector, with any subsequent amendments and additions. The interest rate shall accrue daily on that sum for the period from (and including) the due date for payment to (but excluding) the date of actual payment of that sum.

- 9.17 The right to receive default interest pursuant to this Contract for Difference is not exclusive of any other rights and remedies provided by Law in respect of non-performance of contractual obligations by a Party.

Payment Accounts

- 9.18 Any payments to be made pursuant to or in connection with this Contract for Difference to:
- 9.18.1 the CfD Counterparty shall be made by the Generator to such bank account in Romania as may be notified in writing by the CfD Counterparty to the Generator, and in any event no later than 5 working days from the date of receipt of the Generator of the relevant CfD Counterparty Invoice; and
 - 9.18.2 the Generator shall be made by the CfD Counterparty to such bank account in Romania as may be notified in writing by the Generator to the CfD Counterparty, and in any event no later than 5 working days from the date of receipt of the CfD Counterparty of the relevant Generator Invoice.

10. REPRESENTATIONS

Generator Representations

Signature Date Representations

- 10.1 The Generator represents to the CfD Counterparty that, as at the Signature Date, the following statements are true, accurate and not misleading:
- 10.1.1 the Generator is a Romanian company and has the capacity to own its own assets and carry on its business as it is being conducted at the Signature Date and as contemplated by this Contract for Difference;
 - 10.1.2 the Generator has the capacity to enter into, deliver and perform, and has taken all necessary action to authorise its entry into, delivery and performance of this Contract for Difference;
 - 10.1.3 the obligations assumed by the Generator pursuant to this Contract for Difference are legal, valid, binding and enforceable;
 - 10.1.4 the entry into and performance by the Generator of this Contract for Difference does not conflict with:
 - (a) its constitutional documents;
 - (b) any Law or Directive applicable to it in a manner which has or which is reasonably expected to have a material adverse effect on the performance of the Generator's obligations arising under the Contract for Difference; or
 - (c) any agreement or instrument binding upon it or any of its shareholders to an extent or in a manner which has or is reasonably expected to have a material adverse effect on the performance of the Generator's obligations arising under the Contract for Difference;
 - 10.1.5 all authorisations required for developing, building and operating the CfD Electricity Generation Capacity which were secured and notified to the CfD Scheme Operator as part of the Auction continue to be in full force and effect as at the Signature Date;
 - 10.1.6 no litigation, arbitration or administrative suit or proceeding, tax claim or tax investigation against the Generator is:
 - (a) current; or

- (b) pending before any court, arbitral, tribunal, administrative or regulatory body or, as the case may be, expert;
- 10.1.7 the Generator is a resident for tax purposes in Romania only;
- 10.1.8 the Generator is the legal and beneficial owner of the CfD Electricity Generation Capacity, subject only to such rights and benefits as have been assigned by way of security to or in favour of any Lender, or parent undertaking of the Generator;
- 10.1.9 the generation technology deployed by the CfD Electricity Generation Capacity is an Eligible Generation Technology under the CfD scheme to which the Contract for Difference relates (as the term is defined in the Government Decision [●]); and
- 10.1.10 no State Aid has been received in relation to the capital or operational costs of the CfD Electricity Generation Capacity other than the State Aid arising under this Contract for Difference;
- 10.1.11 the Generator (and, where applicable the CfD Electricity Generation Capacity) meets and will continue to meet throughout the CfD Term the Eligibility Criteria applicable to the Auction;
- 10.1.12 the Generator has secured or, where this was not required before the Signature Date, the Generator will secure by the deadline specified in the CfD Auction Initiation Order and provide the CfD Counterparty with a certified copy "true to original" of a valid grid connection permit (*Romanian: Aviz Tehnic de Racordare*) for the CfD Electricity Generation Capacity which was identified and described in the Technical Offer including, without limitation, in terms of the capacity which was offered and secured in the Auction (and no lower).

CfD Counterparty Representations

Signature Date Representations

- 10.2 The CfD Counterparty represents to the Generator that, as at the Signature Date, the following statements are true, accurate and not misleading:
 - 10.2.1 the CfD Counterparty is represented by Societatea Operatorul Pieței de Energie Electrică și de Gaze Naturale – “OPCOM” S.A;
 - 10.2.2 the CfD Counterparty has the capacity to enter into, deliver and perform, and has taken all necessary action to authorise its entry into, delivery and performance of this Contract for Difference;
 - 10.2.3 the Generator acknowledges and assumes the obligations under this Contract for Difference; and
 - 10.2.4 the entry into, delivery and performance by the CfD Counterparty of this Contract for Difference does not conflict with:
 - (a) its constitutional documents;
 - (b) any Law or Directive applicable to it in a manner which has or which is reasonably expected to have a material adverse effect on executing the obligations of the CfD Counterparty arising out of this Contract for Difference; or
 - (c) any agreement or instrument binding upon it or any of its assets to an extent or in a manner which has or is reasonably expected to have a material adverse

effect on executing the obligations of the CfD Counterparty arising out of this Contract for Difference.

11. UNDERTAKINGS

Generator Undertakings

11.1 The Generator has the following obligations:

- 11.1.1 to comply at all times with all Laws, Directives and other related documents to which it is a party or may be subject;
- 11.1.2 to provide the CfD Counterparty with written notice promptly but not later than 3 days after becoming aware of any change in (or relating to) the documents specified in the Annexes 1 and 2 to this Contract for Difference and provide the amended documents (or copies of the same) to the CfD Counterparty as soon as reasonably practicable to ensure that, during the course of this Contract for Difference, the CfD Counterparty is correctly and fully informed of the true status of the information contained in such documents;
- 11.1.3 at all times, from the Signature Date, to be the legal and beneficial owner of the CfD Electricity Generation Capacity, subject only to any third party right arising by reason of any security interest in favour of any Lender created or subsisting over or in respect of the CfD Electricity Generation Capacity;
- 11.1.4 to give the CfD Counterparty such assistance as the CfD Counterparty may reasonably request including providing such information and access to its relevant personnel, documents, books and records as the CfD Counterparty may reasonably require for the purpose of verifying whether any requirement under this Contract for Difference requirements has been met or obtaining, preparing, reviewing, verifying or approving any report, information, valuation, opinion, cost, fee, expense, expenditure or saving arising out of or in connection with this Contract for Difference;
- 11.1.5 no later than [7] days before the end of each month during the CfD Term, to give a written notice to the CfD Counterparty specifying:
 - the Generator's estimate of the quantity of electricity that will be generated by the CfD Electricity Generation Capacity and delivered to the NES in each of the following 12 calendar months;
- 11.1.6 on the first working day following the end of each ten-day period of the delivery month, as well as by the end of the delivery month, it shall transmit to the CfD Counterparty information on the quantities of electricity delivered to the NES, as of the beginning of the respective delivery month
- 11.1.7 with respect to the Generator's metering obligations:
 - (a) to ensure that at all times that:
 - (i) the metering equipment in respect of the CfD Electricity Generation Capacity meets all applicable rules and standards provided for in Laws and Directives;
 - (ii) the output of the CfD Electricity Generation Capacity is metered separately from any other generation facilities or additional capacity

(and any associated output) which are not the subject of this Contract for Difference; and

- (b) to investigate and rectify any fault or issue with the metering equipment in respect of the CfD Electricity Generation Capacity as soon as reasonably practicable and in any event no later than 3 days from the time it became aware of such fault or issue;
- 11.1.8 in accordance with the obligations of the CfD Beneficiary set out in Article 12(4) and (5) of Government Decision No [●], to deliver to the NES and sell only on an Organised Market Place all quantities of electricity generated by the CfD Electricity Generation Capacity which is subject to this Contract for Difference, excluding any electricity used for own technological consumption supplied from the Generator's terminals;
- 11.1.9 from the Payment Start Date, to pay Difference Payments to the CfD Counterparty in respect of Settlement Units where the Reference Price is above the Strike Price;
- 11.1.10 to pay any other amounts to the CfD Counterparty that become due and payable under and in accordance with the terms of this Contract for Difference and/or under applicable Laws and Directives;
- 11.1.11 to provide the CfD Counterparty with:
- (a) the commissioning profile of the CfD Electricity Generation Capacity;
 - (b) all information requested by the CfD Counterparty to comply with its obligations under this Contract for Difference, such information to be provided as soon as reasonably practicable and in any event no later than 10 days after the request;
 - (c) notification of the occurrence of any event or circumstance which will or is reasonably likely to affect the Metered Output of the CfD Electricity Generation Capacity. Any such notification shall be provided as soon as reasonably practicable and in any event no later than 3 days after the Generator has become aware of such event or circumstance;
- 11.1.12 to continue to meet the Eligibility Criteria (applicable to the Auction) in respect of the Generator and the CfD Electricity Generation Capacity;
- 11.1.13 to develop, build and operate the CfD Electricity Generation Capacity in accordance with this Contract for Difference, the Government Decision no. [●] and the Ministry Order no. [●], including (without limitation) the requirement to ensure that the CfD Electricity Generation Capacity comprises at all times only New Electricity Generation Capacity (as defined in the Government Decision no. [●]) and utilises only the Generation Technology as specified in Part C of Annex 4;
- 11.1.14 to pay to the CfD Counterparty the Bilateral Contracts Excess Profit (if any) as calculated by ANRE in accordance with Article 13 paragraphs 7 and 8 of the Government Decision no. [●] and the methodology issued by ANRE for this purpose;
- 11.1.15 to promptly provide ANRE with any information required to establish and calculate the Bilateral Contracts Excess Profit obtained by the Generator (if any);

- 11.1.16 if according to the CfD Auction Initiation Order, a grid connection permit (*Romanian: Aviz Tehnic de Racordare*) was not required to be secured for the CfD Electricity Generation Capacity before the Signature Date, to secure and provide the CfD Counterparty by the deadline specified in the CfD Auction Initiation Order with a certified copy „true to original” of a valid grid connection permit (*Romanian: Aviz Tehnic de Racordare*) for the CfD Electricity Generation Capacity which was identified and described in the Technical Offer including, without limitation, in terms of the capacity which was offered and secured in the Auction (and no lower).

12. SUSPENSION

Suspension for reasons relating to state aid

- 12.1 The CfD Counterparty shall be relieved from performing its obligations under this Contract for Difference to the extent that such performance:
- 12.1.1 is or becomes unlawful as a result of not being in compliance with the terms of any European Commission State Aid approval decision in relation to this Contract for Difference;
 - 12.1.2 is or becomes unlawful as a result of a decision, determination or ruling or other action of a State Aid Competent Authority; or
 - 12.1.3 is or becomes unlawful under the State Aid Rules.
- 12.2 Where the CfD Counterparty suspends performance of its obligations under clause 12.1, it shall notify the Generator of this decision as soon as practicable.
- 12.3 Where the CfD Counterparty decides to suspend payment of the Difference Payments, then from the date of the suspension and for as long as such suspension continues, the obligations of the CfD Counterparty and the Generator under this Contract for Difference shall be suspended, except to the extent that any contractual obligation is required to be further performed under the State Aid Rules or to comply with a decision, determination, ruling or other action of a State Aid Competent Authority.
- 12.4 For the avoidance of doubt, any obligations of the CfD Counterparty and Generator that are not suspended pursuant to clause 12.1 shall continue in full force and effect and the Parties shall continue to keep records, receive and exchange information, monitor performance and generally continue to operate and manage this Contract for Difference in accordance with its terms such that upon cessation of the suspension of the Parties' obligations, each Party is prepared to resume all obligations as if the suspension had not occurred.
- 12.5 A suspension shall continue until the date on which any of the following occurs:
- 12.5.1 the Parties have taken or refrained from taking all such actions as may be required by a State Aid Competent Authority and/or the State Aid Rules or as reasonably requested by the Ministry to enable Romania to grant State Aid in relation to this Contract for Difference in compliance with the terms of any European Commission State Aid approval decision and any applicable State Aid Rules;
 - 12.5.2 a decision, determination or ruling leading to a suspension under clause 12.1 has been annulled, revoked or otherwise overturned such that performance by the Parties of their respective obligations under this Contract for Difference is in compliance with the terms of any European Commission State Aid approval decision and any applicable State Aid Rules; or

12.5.3 performance of this Contract for Difference by the CfD Counterparty otherwise ceases to be unlawful under the State Aid Rules,

(each a “**Suspension Cessation Event**”).

12.6 Upon the occurrence of a Suspension Cessation Event, the Parties shall calculate any payments that would have been payable but for the suspension and these payments shall not constitute and shall not be considered a late payment in accordance with this Contract for Difference for which default interest would be payable. The payments shall be set out in the first Billing Statement following the Suspension Cessation Event and shall be payable in the Billing Period corresponding to that Billing Statement.

Suspension due to unlawful operation

12.7 If at any time, the existence or operation of the CfD Electricity Generation Capacity as contemplated in this Contract for Difference is or becomes unlawful under applicable Laws or Directives for reasons other than those specified at clause 12.1 or a Change in Law (an “**Unlawful Operation Event**”), the CfD Counterparty may suspend its performance of its obligations under this Contract for Difference.

12.8 The Generator must notify the CfD Counterparty as soon as reasonably practicable and in any event no later than 3 days after it becomes aware that an Unlawful Operation Event has occurred or is likely to occur. Where the CfD Counterparty suspends performance of its obligations under clause 12.7, it shall notify the Generator of this decision as soon as practicable.

12.9 The suspension of the CfD Counterparty's obligations under this Contract for Difference shall take effect on the date of its notice under clause 12.8 and shall continue until the Generator has remedied the Unlawful Operation Event to the satisfaction of the CfD Counterparty and any relevant Competent Authority (also a “**Suspension Cessation Event**”). For the avoidance of doubt, any obligations of the CfD Counterparty and Generator that are not suspended pursuant to clause 12.7 shall continue in full force and effect and the Parties shall continue to keep records, receive and exchange information, monitor performance and generally continue to operate and manage this Contract for Difference in accordance with its terms such that upon cessation of the suspension of the Parties’ obligations, each Party is prepared to resume all obligations as if the suspension had not occurred.

12.10 In the event of a suspension pursuant to clause 12.7, the Generator shall be liable to reimburse all payments received from the CfD Counterparty (“**Clawback Amount**”) during, or in respect of, the period of the Unlawful Operation Event. The Clawback Amount shall be due and payable by the Generator to the CfD Counterparty within 30 days from the date of the notice of suspension, unless otherwise agreed by the Parties.

12.11 Upon the occurrence of the Suspension Cessation Event specified at clause 12.9, the CfD Counterparty’s obligations under this Contract for Difference shall resume, and the CfD Counterparty shall issue a Billing Statement reflecting any Clawback Amounts made by the Generator and any payments due to the Generator for lawful operation during the Billing Period.

12.12 Any dispute arising from the suspension of this Contract for Difference or the calculation of Clawback Amounts shall be resolved in accordance with the dispute resolution procedure in clause 18.

13. TERMINATION

Termination for failure to secure a grid connection permit by the relevant deadline

- 13.1 If a grid connection permit (*Romanian: Aviz Tehnic de Racordare*) for the CfD Electricity Generation Capacity was not required before the Signature Date but by a certain deadline specified in the Auction Initiation Order within the CfD Term, this Contract for Difference shall automatically terminate where the Generator fails to comply (to any extent) with the obligation to secure and provide the CfD Counterparty with a certified copy of a valid grid connection permit for the CfD Electricity Generation Capacity by the deadline specified in the CfD Auction Initiation Order in accordance with the requirements of clause 11.1.16.
- 13.2 Subject to clauses 5.3 and 13.22, where this Contract for Difference is terminated pursuant to clause 13.1 the termination date shall be the day after the deadline specified in the CfD Auction Initiation Order for obtaining an ATR, and:
- 13.2.1 no payment shall be payable by either Party to the other Party as a consequence of termination;
 - 13.2.2 all rights and obligations of the Parties under the Contract for Difference shall cease from the date of termination; and
 - 13.2.3 neither Party shall be entitled to make any claim against the other Party under or in respect of the Contract for Difference, unless otherwise provided for in this Contract for Difference.

Termination for failure to meet the Longstop Date

- 13.3 This Contract for Difference shall automatically terminate on the day immediately following the Longstop Date where any of the Payment Start Date Requirements are not fulfilled by the Generator by the Longstop Date (inclusive).
- 13.4 Subject to clauses 5.3 and 13.22, where this Contract for Difference is terminated pursuant to clause 13.3 the termination date shall be the day after the Longstop Date, and:
- 13.4.1 no payment shall be payable by either Party to the other Party as a consequence of termination;
 - 13.4.2 all rights and obligations of the Parties under the Contract for Difference shall cease from the date of termination; and
 - 13.4.3 neither Party shall be entitled to make any claim against the other Party under or in respect of the Contract for Difference, unless otherwise provided for in this Contract for Difference.

Pre-Payment Start Date Termination

- 13.5 If:
- 13.5.1 at any time prior to the Payment Start Date an Event of Default occurs and is continuing; or
 - 13.5.2 the Performance Bond is not submitted in original at the registered office of the CfD Counterparty in accordance with clause 5,

then the CfD Counterparty shall have the right, but not the obligation, to give notice to the Generator terminating this Contract for Difference (a “**Pre-Payment Start Date Termination Notice**”).

- 13.6 A Pre-Payment Start Date Termination Notice shall specify:
- 13.6.1 the date on which termination of this Contract for Difference shall take effect; and
 - 13.6.2 where clause 13.5.1 applies, the Event of Default which has occurred.
- 13.7 Subject to clauses 5.3 and 13.22, where this Contract for Difference is terminated pursuant to a Pre-Payment Start Date Termination Notice:
- 13.7.1 no payment shall be payable by either Party to the other Party as a consequence of termination;
 - 13.7.2 all rights and obligations of the Parties under the Contract for Difference shall cease from the date of termination; and
 - 13.7.3 neither Party shall be entitled to make any claim against the other Party under or in respect of the Contract for Difference.

13.8 Should any of the circumstances listed in clause 13.5 occur, the CfD Counterparty may terminate this Contract for Difference pursuant to Article 1552 of the Civil Code adopted by Law No.287/17.07.2009, as subsequently amended and supplemented, with effect from the receipt by the Generator of the Pre-Payment Start Date Termination Notice by which the CfD Counterparty declares to terminate the provisions of this Contract for Difference. No additional grace periods (Romanian: *perioade de gratie*) other than the ones specifically listed in this Contract for Difference may be granted for remediation. For the avoidance of doubt, the Parties agree that the grounds for termination set out in clause 13.5 are the exclusive grounds for Pre-Payment Start Date Termination pursuant to Article 1552 of the Civil Code adopted by Law No.287/17.07.2009, as subsequently amended and supplemented. For the purposes of this clause, the Parties declare to have understood and accepted that the defaulting Party shall be in delay (Romanian: *partea in culpa este de drept pusa in intarziere*) upon expiration of the term prescribed for the performance of the respective obligation or by the mere act or omission to comply with a respective obligation arising out of this Contract For Difference, without any other formality being required and without court intervention being necessary.

Default Termination

- 13.9 If at any time after the Payment Start Date, an Event of Default by the Generator has occurred and is continuing, the CfD Counterparty shall have the right, but not the obligation, to give notice to the Generator terminating this Contract for Difference (a “**Default Termination Notice**”).
- 13.10 A Default Termination Notice shall specify:
- 13.10.1 the date on which termination of this Contract for Difference shall take effect; and
 - 13.10.2 the Event of Default which has occurred.
- 13.11 Where this Contract for Difference is terminated pursuant to a Default Termination Notice, the CfD Counterparty shall:
- 13.11.1 calculate the Termination Amount; and
 - 13.11.2 give a notice to the Generator specifying the Termination Amount and the principal inputs for the Termination Amount Formula in Annex 3 which were used by the CfD Counterparty to calculate such Termination Amount.
- 13.12 The Generator shall no later than 30 days after notification of the Termination Amount, pay to the CfD Counterparty the Termination Amount and no dispute by the Generator as to the amount shall relieve the Generator of its obligation pursuant to this clause 13.12.

- 13.13 In addition, where the Event of Default leading to termination is the one specified at clause 14.1.11 in conjunction with 11.1.8, the Generator shall also repay to the CfD Counterparty any Difference Payments received in respect of the Metered Volume sold outside Organised Market Places.
- 13.14 Subject to clauses 13.11, 13.12, and 13.22, if the CfD Counterparty terminates this Contract for Difference pursuant to clause 13.9:
- 13.14.1 no payment (other than the Termination Amount owed by the Generator and the repayment of any Difference Payments, if case according to clause 13.13) shall be payable by either Party to the other Party as a consequence of such termination;
 - 13.14.2 all rights and obligations of the Parties under the Contract for Difference shall end; and
 - 13.14.3 neither Party shall be entitled to make any claim against the other Party under or in respect of the Contract for Difference.
- 13.15 Should any of the circumstances listed in clause 13.9 above occur, the CfD Counterparty may terminate this Contract for Difference pursuant to Article 1552 of the Civil Code adopted by Law No.287/17.07.2009, as subsequently amended and supplemented, with effect from receipt by the Generator of the Default Termination Notice by which the CfD Counterparty declares to avail of this provision of the Contract for Difference, being understood that no additional grace periods (Romanian: *perioade de gratie*) other than the ones set out in this Contract for Difference shall apply. For the avoidance of doubt, the Parties agree that the grounds for termination set out in clause 13.9 are the exclusive grounds for default termination pursuant to Article 1552 of the Civil Code adopted by Law No.287/17.07.2009, as subsequently amended and supplemented. For the purpose of this clause, the Parties declare to have understood and accepted that the defaulting party shall be in delay (Romanian: *partea in culpa este de drept pusa in intarziere*) upon expiration of the term prescribed for the performance of the respective obligation or by the mere act or omission to comply with a respective obligation arising out of this Contract for Difference, without any other formality being required and without court intervention being necessary.

State Aid & Unlawful Operation Termination

- 13.16 This Contract for Difference shall automatically terminate where any of the following apply:
- 13.16.1 in circumstances where the CfD Counterparty has suspended its obligations in any respect under this Contract for Difference in accordance with clauses 12.1.1 to 12.1.3 or clause 12.7 and:
 - (a) the time period under the relevant national laws for filing an appeal against the decision, ruling or other action has lapsed without an appeal having been filed; or
 - (b) there is no right of further appeal of the decision, ruling or other action; or
 - 13.16.2 a Suspension Cessation Event has not occurred by the date falling 30 months after the date that the CfD Counterparty first notifies the Generator that it is suspending its obligations under the Contract for Difference pursuant to clause 12.1 or clause 12.7.
- 13.17 Subject to clause 13.22, where this Contract for Difference is terminated pursuant to clause 13.16, the termination date shall be date when the appeal under clause 13.16.1(a) has lapsed or on the first day of the 31st month for cases under clause 13.16.2, whichever occurs first and:

- 13.17.1 no payment shall be payable by either Party to the other Party as a consequence of termination, except for the amounts to be recovered based on the European Commission's recovery decision of State Aid or in relation to any outstanding Clawback Amount (as applicable);
- 13.17.2 all rights and obligations of the Parties under the Contract for Difference shall end; and
- 13.17.3 neither Party shall be entitled to make any claim against the other Party under or in respect of the Contract for Difference, except for legal action aimed at the full implementation of a decision by the European Commission regarding recovery of State Aid or the recovery of the Clawback Amount.

Termination without cause

- 13.18 Without affecting any other right or remedy available to the Ministry, the CfD Counterparty may, if instructed by the Competent Ministry, terminate this Contract for Difference on giving not less than 30 days prior written notice to the Generator ("**Termination Without Cause**").
- 13.19 Where the Contract for Difference is terminated pursuant to clause 13.18, the CfD Counterparty shall be required to pay the Generator a Termination Amount.
- 13.20 The CfD Counterparty shall:
 - 13.20.1 calculate the Termination Amount; and
 - 13.20.2 give a notice to the Generator specifying the Termination Amount along with the principal inputs for the Termination Amount Formula in Annex 3 which were used by the CfD Counterparty to calculate such Termination Amount.
- 13.21 The CfD Counterparty shall no later than 30 days after notification of the Termination Amount, pay to the Generator the Termination Amount.

Consequences of Termination

- 13.22 Termination of this Contract for Difference on any of the grounds provided for in this clause 13:
 - 13.22.1 shall not affect, and shall be without prejudice to, the rights and liabilities already due of each Party and the rights and liabilities of each Party arising as a result of:
 - (a) any antecedent breach of any provision of this Contract for Difference; and
 - (b) any breach of any provisions of this Contract for Difference which are expressed to survive expiry pursuant to clause 21.25; and
 - 13.22.2 shall be subject to clause 21.25.

14. EVENT OF DEFAULT

- 14.1 An "**Event of Default**" means the occurrence at any time with respect to the Generator of any of the following events:
 - 14.1.1 the Generator is dissolved, or a resolution/decision passed for its winding up or liquidation exists;
 - 14.1.2 subject to clause 21.28.1, the Generator fails to pay any amounts on the due date pursuant to this Contract for Difference at least 3 times in any 12-month period and payments are not made within 30 days of the CfD Counterparty serving notice on the Generator of its failure to pay;

- 14.1.3 the Generator breaches a material obligation (including, without limitation, its undertakings) under this Contract for Difference, and the breach has not been remedied within 30 days of the CfD Counterparty serving notice on the Generator to remedy said breach; for this purpose, „material obligation” is any obligation under this Contract which, if known not to be assumed or able to be performed by the Generator, would (in the opinion of a diligent professional, of the same standing as the CfD Counterparty) have determined the CfD Counterparty not to enter into this Contract for Difference.
 - 14.1.4 the Final Installed Capacity is lower than 90% of the Awarded Capacity;
 - 14.1.5 the Generator is in breach of clause 5.1;
 - 14.1.6 any representation given by the Generator in clause 10.1 is not true in all material respects as at the date made and such inaccuracy is not remedied within 30 days of the CfD Counterparty serving notice on the Generator to remedy that inaccuracy;
 - 14.1.7 the Generator is in breach of clause 16;
 - 14.1.8 any director, officer or other senior manager of the Generator commits or procures fraud, or aids, abets or counsels fraud (and fraud is in fact committed) in relation to this Contract for Difference, including in the award of this Contract for Difference;
 - 14.1.9 a technical default in relation to the metering equipment occurs and is continuing for more than 30 consecutive days;
 - 14.1.10 the environmental permit required for the operation of the CfD Electricity Generation Capacity is permanently denied, withdrawn or cancelled (as the case may be), where "permanently" means that the decision to deny, withdraw or cancel the permit is final and binding and can no longer be challenged or appealed before any relevant Competent Authority;
 - 14.1.11 ANRE has made a final determination, pursuant to Article 10 paragraph 7 of the Ministry Order no [●], and Article 12 paragraph 6 of the Government Decision no [●], that the Generator has sold any Metered Output, regardless the volume, outside Organised Market Places and is therefore in breach of clause 11.1.8.
- 14.2 The events specified at clause 14.1.2 shall not constitute an Event of Default of the Generator where they arise (or are otherwise attributable) to the CfD Counterparty not paying when due any amount which, but for the operation of clause 21.26, would have been due pursuant to the Contract for Difference.

15. FORCE MAJEURE

- 15.1 A Party affected by Force Majeure shall:
- 15.1.1 be relieved from liability, and deemed not to be in breach of this Contract for Difference for any failure or delay in the performance of its obligations under this Contract for Difference, if and to the extent that such failure or delay is directly attributable to the occurrence and continuance of such Force Majeure, as attested in a certificate issued by the Chamber of Commerce and Industry of Romania which has been provided to the other Party within five (30) working days from the moment of occurrence of the Force Majeure; and

- 15.1.2 be entitled to an extension of the Longstop Date for any delay in fulfilling the Payment Start Date Requirements if and to the extent such delay is directly attributable to the occurrence and continuance of such Force Majeure.
- 15.2 A Party's ability to claim relief from liability and/or entitlement to an extension of the Longstop Date shall be conditional upon:
- 15.2.1 the affected Party giving notice as soon as reasonably practicable to the other Party of the nature and extent of:
- (a) any Force Majeure of which it is aware which it considers will, or is likely to cause its failure or delay in performance of the obligations and/or delay to the CfD Electricity Generation Capacity; and
 - (b) any Force Majeure that has caused or is causing failure or delay in performance and/or delay to the CfD Electricity Generation Capacity.
- 15.2.2 The affected Party using reasonable endeavours to:
- (a) mitigate the effects of the Force Majeure;
 - (b) carry out its obligations under this Contract for Difference; and
 - (c) resume the performance of its obligations under this Contract for Difference as soon as reasonably practicable.

16. TRANSFERS AND ASSIGNMENTS

- 16.1 Neither Party may without the prior written consent of the Ministry:
- 16.1.1 assign to any person all or any of its rights or benefits under this Contract for Difference,
- 16.1.2 transfer (whether by way of novation, subcontract, delegation or otherwise) to any person or enter into an arrangement whereby any person is to perform any or all of its obligations under this Contract for Difference; or
- 16.1.3 conclude a business transfer.

17. DIRECT AGREEMENT

- 17.1 The CfD Counterparty shall enter into a Direct Agreement, in the form accepted by the CfD Counterparty, with the approval of the Ministry. The Direct Agreement shall be executed at the request of the Lender, between the latter and the Generator, in order to subordinate the exercise of certain rights of the Generator pursuant to this Contract for Difference to the prior consultation and/or information and/or consent of the Lender and to grant the Lender customary remedy and step-in rights. The Direct Agreement shall become an annex to this Contract for the Difference.

18. DISPUTE RESOLUTION

- 18.1 Each Party shall at each stage of the dispute resolution procedure endeavour to resolve all disputes arising out of or in connection to this Contract for Difference through negotiation.
- 18.2 The Parties shall continue to comply with all of their respective obligations under this Contract for Difference, notwithstanding any dispute which falls to be resolved in accordance with this clause 18.

- 18.3 If a dispute arises, either Party may give notice to the other to initiate the dispute resolution procedure (a “**Dispute Notice**”). A Dispute Notice shall include:
- 18.3.1 a description of the subject matter of the dispute and the issues to be resolved;
 - 18.3.2 a description of the position the referring Party considers is correct and the reason for the position of the Party who sends the Dispute Notice;
 - 18.3.3 a statement outlining the relief, determination, remedy or recourse which the Party who sends the Dispute Notice is seeking in relation to the dispute; and
 - 18.3.4 the identity of the referring Party’s senior representative(s).

Resolution by Senior Representatives

- 18.4 The Parties shall procure that their experienced representatives (“**Senior Representatives**”) shall meet no later than 10 days after the date of service of a Dispute Notice. If the senior representatives of the Parties:
- 18.4.1 are able to resolve the dispute within 30 days of the date of the Dispute Notice, the terms of the agreement, settlement, or resolution reached between the Senior Representatives shall be documented in writing and shall be signed by the Senior Representatives of the Parties, and with effect from such signature shall become binding upon each Party; or
 - 18.4.2 are unable to resolve the dispute within 30 days of the date of the Dispute Notice (or such longer period as may be agreed by the Parties in writing), the Parties agree that such dispute shall be referred to an Expert for determination.

Expert Determination Procedure

- 18.5 Either Party may refer a dispute to be determined by an Expert where the Parties’ senior representatives have failed to resolve a dispute according to art. 18.4.
- 18.6 A referral to an Expert shall be effected by either Party giving a notice (an “**Expert Determination Notice**”) to the other Party. The Expert Determination Notice shall:
- 18.6.1 include the information required to be included in a Dispute Notice; and
 - 18.6.2 include a proposal as to the identity, and terms of reference for the Expert and the relevant expertise that the notifying Party considers qualifies them to determine the relevant dispute.
- 18.7 The Party receiving the Expert Determination Notice shall no later than 10 days after receipt of an Expert Determination Notice give notice to the other Party setting out whether or not the receiving Party accepts the proposed Expert, proposed terms of reference for the Expert and related matters.
- 18.8 If the Parties fail to agree on:
- 18.8.1 the identity of an Expert; or
 - 18.8.2 the terms of reference for the Expert,
- either party may request the application of Arbitration Procedure.

Arbitration Procedure

- 18.9 If a dispute between the Parties arising out of or in connection with this Contract for Difference including any question regarding its existence, validity or termination, as well as the specific

enforcement of the obligations contained herein shall be referred to and finally resolved by arbitration under the rules for commercial arbitration of the Court of International Commercial Arbitration attached to the Chamber of Commerce and Industry of Romania (“CIC”).

- 18.10 The arbitral tribunal shall be composed of three arbitrators. Each Party shall appoint one arbitrator, and the arbitrators so appointed shall appoint the third arbitrator who will serve as a chairman of the arbitral tribunal. If the two party appointed arbitrators fail to appoint the third arbitrator, then the CIC shall appoint the third arbitrator.
- 18.11 The seat of arbitration shall be in Bucharest, Romania.
- 18.12 The arbitral award shall be final and binding and shall disclose the grounds for the decision, which shall be based on the provisions of this Contract for Difference, related attachments, as well as on the laws of Romania.
- 18.13 To the extent permitted by Law, the Parties hereby waive any rights of appeal to any court of competent jurisdiction with respect to any question of law arising in the course of the arbitration or with respect to any award, whether interlocutory or final.
- 18.14 Notwithstanding the above, a Party may seek and obtain preliminary injunctions, or other available interim relief in lieu of arbitration to prevent a breach or the continuation of a breach of this Contract for Difference by the other Party prior to or during any arbitration proceedings; provided, however, that the right of any Party to obtain such preliminary injunctions, or other relief shall not be construed as a waiver of the obligation to settle any dispute hereunder by arbitration. Without prejudice to the availability of provisional remedies under the jurisdiction of a competent court, the arbitral tribunal shall have full authority to grant provisional remedies and to direct the Parties to request that any court modify or waive any temporary or preliminary relief issued by such court, and to award damages for the failure of any party to respect the arbitral tribunal’s orders to that effect.
- 18.15 The arbitral procedure shall be confidential.
- 18.16 The language of the procedure shall be in a bilingual form (Romanian and English).

19. CHANGE IN LAW

- 19.1 If a Party (the “**Notifying Party**”) considers that a Change in Law has come into effect or will come into effect, it may give a notice (a “**CiL Notice**”) to the other Party (the “**Notified Party**”). A CiL Notice shall include reasonable details to demonstrate that the events may constitute a Change in Law including specifying whether the notifying Party considers that the Change in Law will give rise to or result in CiL Costs or CiL Savings (together with a detailed explanation demonstrating the link between the Change in Law and the CiL Costs or CiL Savings, and detailed supporting evidence for each of the CiL Costs claimed). A CiL Notice shall be accompanied by an affidavit issued by a duly authorised legal representative of the Notifying Party which states that it has been prepared in good faith and, in the opinion of the Notifying Party, the details in the CiL Notice have been included following all due and careful enquiries by the Notifying Party to ensure they are complete and accurate.
- 19.2 The Notified Party shall as soon as reasonably practicable, and in any event no later than forty (40) days after receipt of such CiL Notice, give a response notice to the Notifying Party (in this clause, a “**CiL Response Notice**”) specifying whether or not it agrees with the details in the CiL Notice.
- 19.3 Where:

- 19.3.1 the Notified Party is the CfD Counterparty, it shall not agree that a Change in Law has occurred or will occur, or that any potential Change in Law has given or will give rise to CiL Costs or CiL Savings for the Generator, in each case without having sought and obtained prior written agreement regarding the same from the Competent Ministry.

If, and to the extent that, the Competent Ministry has not agreed (or has not provided any response to the CfD Counterparty by the last day when the CfD Counterparty must provide its CiL Response Notice), then the CfD Counterparty's CiL Response Notice shall not agree with any aspect of the Generator's CiL Notice to the extent that the Competent Ministry has also not expressly agreed in accordance with this clause.

For the avoidance of doubt, CfD counterparty shall not waive (and shall not be deemed to have waived) any rights in relation this clause 19 (or Change in Law generally) without the Competent Ministry's prior written agreement and any acts or omissions of the CfD Counterparty in relation to this clause 19 shall not constitute a waiver unless any such waiver is expressly stated by the CfD Counterparty; or

- 19.3.2 the Notified Party is the Generator, and the Generator disagrees with any aspect of a CiL Notice served by the CfD Counterparty, the Generator shall identify that aspect and include in its CiL Response Notice supporting information, in reasonable detail, to support its conclusions.

The Generator's CiL Response Notice shall be accompanied by a certificate issued by the legal representative of the Generator which states that it has been prepared in good faith and, in the opinion of the Generator, the details in the CiL Response Notice have been included following all due and careful enquiries by the Generator to ensure they are complete and accurate.

Where a Party becomes aware (before any compensation is paid pursuant to this clause) that any information in a CiL Notice or CiL Response Notice was not, or is no longer, true, complete and accurate in all material respects or is misleading it shall as soon as practicable notify the other Party of the same.

- 19.4 If the Parties are not able to agree (or, in the case of the CfD Counterparty, where the Competent Ministry has not agreed):

19.4.1 to any of the matters set out in a CiL Notice or CiL Response Notice and such matters may have an impact on the calculation of any compensation payable pursuant to this clause; or

19.4.2 to the calculation of CiL Costs or CiL Savings;

then either Party may refer the dispute for resolution pursuant to the dispute resolution process set out in clause 18.

- 19.5 Once the matters in a CiL Notice and CiL Response Notice have been agreed or determined, the compensation in respect to the Change in Law shall be paid as follows:

19.5.1 where the Change in Law results in CiL Costs, these shall be payable as compensation by the CfD Counterparty to the Generator as an adjustment to the Strike Price; and

19.5.2 if a Change in Law results in CiL Savings, these shall be payable as an adjustment to the Strike Price.

20. APPLICABLE LAW

20.1 This Contract for Difference is concluded and shall be governed and construed in accordance with Romanian law.

21. MISCELLANEOUS

Intellectual Property Rights

21.1 Nothing in this Contract for Difference shall transfer any ownership of any intellectual property rights acquired or developed by or on behalf of either Party pursuant to this Contract for Difference.

21.2 Each Party grants to the other Party with effect from the Signature Date for the duration of the Term, the right to use on an exclusive, royalty-free, non-transferable basis and solely for the purpose of carrying out any obligations under this Contract for Difference, any intellectual property rights that are created by it, or on its behalf pursuant to the terms of this Contract for Difference, that the Party is owning or are licensed to it (in the latter case, only to the extent that the licensing Party has the right to sub-licence such intellectual property rights).

21.3 The Generator shall promptly indemnify the CfD Counterparty, and keep the CfD Counterparty fully indemnified against all liabilities, costs, expenses, damages and losses incurred in respect of any infringement of third party intellectual property rights arising from the use by the CfD Counterparty of intellectual property rights granted to the CfD Counterparty by the Generator, provided that such infringement has arisen from the use of such intellectual property rights for the purposes of carrying out any obligations under this Contract for Difference.

21.4 The CfD Counterparty shall promptly indemnify the Generator, and keep the Generator fully indemnified against all liabilities, costs, expenses, damages and losses incurred in respect of any infringement of third party intellectual property rights arising from the use by the Generator of intellectual property rights licenced to Generator by the CfD Counterparty, provided that such infringement has arisen from the use of such intellectual property rights for the purposes of carrying out any obligations under this Contract for Difference.

Confidentiality

21.5 The Party (the “**Receiving Party**”) undertakes to fully comply with the confidentiality of any and/or all information deemed confidential (“**Confidential Information**”) and which has been disclosed to the Receiving Party by the other Party (the “**Disclosing Party**”) in under or in relation to this Contract for Difference regardless of the form of submission of the Confidential Information.

21.6 Subject to clause 21.7, the Receiving Party shall not:

21.6.1 disclose the provisions of this Contract for Difference or any Confidential Information to a third party; or

21.6.2 use any Confidential Information for any reason other than for the purpose of performing its obligations under this Contract for Difference;

without the prior written consent of the Disclosing Party.

21.7 The Receiving Party may disclose Confidential Information without the Disclosing Party’s prior consent if:

21.7.1 the Confidential Information is known to the Receiving Party prior to the conclusion of the Contract for Difference;

- 21.7.2 the Confidential Information is in the public domain; or
- 21.7.3 the Confidential Information is required to be disclosed by Law or Directive.

Excluded Losses and Liabilities

- 21.8 Neither Party shall be liable to the other Party pursuant to this Contract for Difference for:
 - 21.8.1 any loss, damage, cost or other expense to the extent that it does not arise directly from the breach of the Contract for Difference and which would not have reasonably been to the attention of the Parties at Execution Date in the event of a probable result of a breach; or v; or
 - 21.8.2 any special, indirect or consequential loss including any such loss which constitutes loss of use, loss of goodwill, loss of profit or loss of revenue of one of the Parties;
in each case where there are damages incurred by the other Party in respect of any breach of the terms of this Contract for Difference.
- 21.9 Both Parties shall take all reasonable steps to mitigate any loss in respect of which a claim could be brought under this Contract for Difference.
- 21.10 The Parties may only recover once in respect of the same loss caused by breaching the provisions of the Contract for Difference.

Notices

- 21.11 Except as otherwise stated in this Contract for Difference, all notice, demands and any other communication between the Parties shall be in writing, in Romanian, sent by courier, registered post, email or by facsimile.
- 21.12 Notices between the Parties shall be deemed effective:
 - 21.12.1 if sent by courier, upon delivery;
 - 21.12.2 if sent by registered post, on the date stated on the postage confirmation receipt;
 - 21.12.3 if sent by e-mail, immediately following confirmation of transmission (provided that the email address details for the recipient are accurate and no send failure notification is received by the sender).

[Note: to insert here each Party's contact details when finalising the agreement.]

No Waiver

- 21.13 No waiver by either Party of any breach by the other Party of this Contract for Difference shall operate unless expressly made in writing, and no such waiver shall be construed as a waiver of any other breach.
- 21.14 No delay or omission by either Party in exercising any right, power or remedy provided by law or pursuant to this Contract for Difference shall:
 - 21.14.1 affect that right, power or remedy; or
 - 21.14.2 operate as a waiver of it.
- 21.15 The partial exercise by either Party of any right, power or remedy provided by law or pursuant to this Contract for Difference shall not unless otherwise expressly stated, preclude any further exercise of it or the exercise of any other right, power or remedy.

Consents

21.16 Any consents, confirmations, approvals, waivers or agreements to be given by the CfD Counterparty pursuant to this Contract for Difference:

21.16.1 shall be effective only if given in writing; and

21.16.2 except as otherwise expressly provided in this Contract for Difference, may be given or withheld by the CfD Counterparty in its sole discretion and if given, may be given on and subject to terms and/or conditions as the CfD Counterparty may determine in its sole discretion.

Further Assurance

21.17 Each Party shall at its own cost, do or procure the doing of all things and execute or procure the execution of all further documents necessary to give full force and effect to and securing to the other Party the full benefit of rights, powers and benefit conferred upon it under or pursuant to this Contract for Difference.

No Variation

21.18 No variation to the provisions of this Contract for Difference shall be valid unless it is in writing, signed by each Party and expressly pre-approved by the Ministry.

Severability

21.19 If any provision or part of a provision of this Contract for Difference becomes illegal, invalid or unenforceable in any jurisdiction, such invalidity or unenforceability shall not affect or impair the legality, validity or enforceability of any other provision of this Contract for Difference.

21.20 To the extent possible, the Parties shall use reasonable endeavours to agree to replace any illegal, invalid or unenforceable provisions with new valid provisions.

Entire Agreement

21.21 This Contract for Difference constitutes the entire agreement, understanding and representations of the Parties and supersedes and extinguishes any agreements, understanding and/or representation previously given or made other than those included in this Contract for Difference.

21.22 Each Party acknowledges that in entering into this Contract for Difference it has not relied on and shall have no right or remedy in respect of any draft, agreement, undertaking, representation, promise, assurance or arrangement of any nature (whether or not in writing) relating to the subject matter of the Contract for Difference other than as expressly set out in this Contract for Difference.

21.23 Nothing in clauses 21.21 and 21.22 shall limit or exclude liability for fraud.

Counterparts

21.24 This Contract for Difference may be executed in any number of counterparts and by the Parties to it on separate counterparts, but shall not be effective until each Party has executed at least one counterpart. Each counterpart shall constitute an original, but all of the counterparts together shall constitute one and the same instrument.

Survival

21.25 Upon termination or expiry of this Contract for Difference, the Parties shall have no further obligations under this Contract for Difference but termination of expiry shall not affect:

- 21.25.1 (save to the extent taken into account in the calculation of the Termination Amount (if any)) the provisions of this Contract for Difference as they relate to the payment of any sum due by one Party to the other pursuant to this Contract for Difference; and
- 21.25.2 the continued existence and validity of, any rights and obligations of the Parties pursuant to: clause 5 (*Performance Bond*), clause 9 (*Billing and Payment*), clause 18 (*Dispute Resolution*) and clause 21 (*Miscellaneous*).

Limited recourse (pay-when-paid)

21.26 Provided that the CfD Counterparty has complied with its obligations under clause 21.27 and notwithstanding any other provision of this Contract for Difference:

- 21.26.1 the Generator acknowledges and accepts that the CfD Counterparty's payment obligations under this Contract for Difference are funded by the amounts which are transferred from time to time by the Competent Ministry from the Modernization Fund into the CfD Liquidity Fund;
- 21.26.2 accordingly, the liability of the CfD Counterparty pursuant to this Contract for Difference shall not exceed the amounts from time to time received and held by the CfD Counterparty, and allocated to this Contract for Difference, from the CfD Liquidity Fund; and
- 21.26.3 the CfD Counterparty shall not be in default pursuant to this Contract for Difference in not making any payment that is due and owing if and to the extent that it shall not have received the amounts referred to in clause 21.26.1 above which are necessary to make such payment. The CfD Counterparty shall continue to owe an amount equal to the amount of the payment due and owing but not paid and such amount shall accrue interest in accordance with clause 9.16. The CfD Counterparty shall make such payment promptly (and in any event within 10 working days) after and to the extent of its receipt of such corresponding and allocated amounts referred to in clause 21.26.1.

21.27 The CfD Counterparty shall, to the extent consistent with the CfD Counterparty's proper exercise of its functions and duties pursuant to the Government Decision no. [●] and the Ministry Order no. [●]:

- 21.27.1 make appropriate and timely notifications and requests to the Ministry (and, where applicable, ANRE) for the purpose of ensuring that the CfD Counterparty has sufficient funds available (from the CfD Liquidity Fund) to meet its liabilities in full pursuant to this Contract for Difference, as provided for in the Government Decision no. [●];
- 21.27.2 notify the Ministry, ANRE and the Generator if the CfD Counterparty has reason to believe that it will have insufficient funds available to make when due the totality of the payments to the Generator that are required pursuant to this Contract for Difference.

21.28 The CfD Counterparty agrees that in circumstances where the CfD Counterparty has failed to pay an amount to the Generator on the date it is due pursuant to this Contract for Difference:

- 21.28.1 the Generator shall be entitled to withhold (and shall not be in default for withholding) Difference Payments owed to the CfD Counterparty up to the value of any sums payable by the CfD Counterparty to the Generator but which remain

unpaid and continue to be owed by the CfD Counterparty to the Generator under clause 21.26. The Generator shall, upon withholding any Difference Payments under this clause, place these sums into a designated reserve account. These sums shall not be applied towards, or used for, any other purpose. Upon receiving the outstanding sums owed by the CfD Counterparty under clause 21.26, the Generator shall promptly release and pay the withheld sums from this reserve account to the CfD Counterparty, up to the extent of the payments received from the CfD Counterparty.

Annexes 1 to 4 form an integral part of this Contract for the Difference.

This Contract for Difference has been signed today, _____, being the effective date hereof, in two original copies, one for each Party.

SIGNATURE PAGE

[Note: Execution blocks to be inserted in accordance with preferred method of execution by Parties.]

ANNEX 1
PAYMENT START DATE REQUIREMENTS

1. PAYMENT START DATE REQUIREMENTS

1.1 The Payment Start Date Requirements are as follows:

- (a) The Generator has secured (and provided the CfD Counterparty with a copy of) the Commercial Operating Licence and this either authorises the operation of the CfD Electricity Generation Capacity or, where the CfD Electricity Generation Capacity forms part of a larger project, the Commercial Operating Licence authorises the operation of such larger project;
- (b) Where the CfD Electricity Generation Capacity forms part of a larger project, the Generator secures (and provides the CfD Counterparty with a copy of) a written confirmation (Romanian: “*proces-verbal*”) from the Grid Operator evidencing that the output of the CfD Electricity Generation Capacity delivered to NES is separately metered using dedicated metering equipment;
- (c) The Generator has confirmed by affidavit (Romanian: “*declaratie pe proprie raspundere*”) from its duly authorised legal representative that a Final Installed Capacity of not less than 90% of the Awarded Capacity has been Commissioned;
- (d) The Generator has entered into (and provided the CfD Counterparty with a copy of) the balancing responsibility agreement with Transelectrica, or provides evidence to the CfD Counterparty that the Generator has otherwise lawfully delegated its balancing responsibility to a third party responsible for ballancing;
- (e) The Generator has confirmed by affidavit (Romanian: “*declaratie pe proprie raspundere*”) from its duly authorised legal representative that it has secured the necessary environmental permits and authorisations for the CfD Electricity Generation Capacity to lawfully produce electricity and export it to the NES;
- (f) The Generator has secured (and provided the CfD Counterparty with a copy of) a valid grid connection certificate (Romanian: “*certificat de racordare*”) in respect of the output of the CfD Electricity Generation Capacity to the NES.

ANNEX 2
PERMITTING REQUIREMENTS

1. PERMITTING REQUIREMENTS

1.1 The Permitting Requirements are as follows:

- (a) The Generator has secured (and provided the CfD Counterparty with a copy of) the endorsements and permits required under the urbanism certificate issued by the relevant Competent Authority in respect of the CfD Electricity Generation Capacity;
- (b) The Generator has secured (and provided the CfD Counterparty with a copy of) the environmental permit/framing decision (Romanian: *acord de mediu / decizia de încadrare*) issued by the relevant Competent Authority for environmental protection in respect of the CfD Electricity Generation Capacity;
- (c) The Generator has secured (and provided the CfD Counterparty with a copy of) the setting-up authorisation (Romanian: *“autorizație de înființare pentru realizarea unei capacități de producere a energiei electrice”*) issued by ANRE in respect of the CfD Electricity Generation Capacity; and
- (d) The Generator has secured (and provided the CfD Counterparty with a copy of) the building permit(s) issued by the relevant Competent Authority in respect of the CfD Electricity Generation Capacity.

ANNEX 3
TERMINATION AMOUNT FORMULA

1. The Termination Amount shall be calculated based on the “**Base Amount**” (expressed in Lei), which is given by the following formula:

$$Base\ Amount = \sum_{i=1}^n (SP - RP) \times Average\ Exchange\ Rate \times MO_i \times \frac{1}{(1 + d)^{i-1}}$$

where:

i is an integer from 1 to *n* referring to different time periods, as follows:

- the first period (*i* = 1) covering the period from the Termination Date to 31 December in the year in which the Termination Date falls;
- the period from (*n*-1) to the second period where $n > i \geq 2$ is the period covering one or more consecutive calendar years;
- period *n* is the period beginning on January 1 in the year in which the Date Expiry Date and ends on the Expiry Date;

SP refers to the Strike Price (expressed in Euro per MWh) that is effective on the Termination Date;

RP is calculated as follows:

$$RP = \frac{\sum_{SU} Reference\ Price_{SU} \times MO_{SU}}{\sum_{SU} MO_{SU}}$$

for all Settlement Units (*SU*) from the Payment Start Date up to and including the Termination Date (or days in the period beginning on the Payment Start Date and ending on the Termination Date if the latter are less than 365), where the Reference Price applying to a Settlement Unit (*Reference Price_{SU}*) is defined by the Reference Price applying to the Billing Period in which the Settlement Unit falls, and *MO_{SU}* refers to the Metered Output delivered in NES (expressed in MWh) for a particular Settlement Unit;

Average Exchange Rate is given by the simple average of all daily lei / Euro exchange rates that have been published by the National Bank of Romania with respect to the 365 days up to and including the Termination Date (or days in the period beginning on the Payment Start Date and ending on the Termination Date if the latter are less than 365);

MO_i is an estimate of the total Metered Output (expressed in MWh) for period *i* calculated as follows:

- for each period *i*, where $1 < i < n$, it is the sum of the Metered Outputs delivered in NES for the Settlement Units in the last 365 days up to and including the Termination Date, or the sum for the days in the period beginning on the Payment Start Date and ending on the Termination Date if the latter are less than 365, multiplied by 365 and divided by the number of such days;
- for the periods *i* = 1 and *i* = *n*, it is the value derived in the same manner as above, divided by 365 and multiplied by the number of days in periods *i* = 1 and *i* = *n*, respectively;

d is the is the nominal discount rate, equivalent to the “Monetary Policy Interest Rate” as published by the National Bank of Romania (BNR) applicable in the current year for the calculation of the Termination Amount. If the discount rate for the current year is not available at the time of the calculation of the Termination Amount, the immediately preceding known rate will be applied ([https://www.bnr.ro/Rata-dobanzii-de-politica-monetara-1744- Mobile.aspx](https://www.bnr.ro/Rata-dobanzii-de-politica-monetara-1744-Mobile.aspx)).

2. In the case of Default Termination, the Termination Amount shall be equal to absolute value of the Base Amount if the Base Amount is negative and zero otherwise.
3. In the case of Termination without Cause, the Termination Amount shall be equal to Base amount if Base amount is positive and zero otherwise.

ANNEX 4
CFD ELECTRICITY GENERATION CAPACITY

Part A
Map of CfD Electricity Generation Capacity

[Note: Specific map delineating CfD Electricity Generation Capacity to be inserted.]

Part B
Description of CfD Electricity Generation Capacity

[Note: Description of CfD Electricity Generation Capacity to be inserted.]

Part C
Generation Technology of the CfD Electricity Generation Capacity

[Note: Solar pv/Onshore wind]

ANNEX 5
FORM OF DIRECT AGREEMENT

[To be inserted]