

## **Initiation of the third auction for the State aid scheme in the form of Contracts for Difference for the production of electricity from renewable sources of onshore wind and solar photovoltaic energy**

### **Initiation of CfD Auctions**

**Art. 1** The third round of the CfD auction is initiated for onshore wind, for the target of 290 MW installed capacity for the production of electricity from onshore wind.

### **Rules for the tender procedure**

**Art. 2** The tender is conducted in accordance with the Tender rules, as provided under Annex 2, an integral part of the *Order of the minister of energy regarding the approval of the initiation of the third auction for the State aid scheme in the form of Contracts for Difference for the production of electricity from renewable sources of onshore wind and solar photovoltaic energy* as well as the *Tender rules for the third auction*.

### **Art. 3 Definitions**

In addition to the definitions set out in the scheme *State aid scheme in the form of Contracts for Difference for the production of electricity from renewable sources of onshore wind and solar photovoltaic energy* approved under Order of the minister of energy no. 1120/2024, as subsequently amended and supplemented and *GD no. 318/2024 on the approval of the general framework for the implementation and operation of the support mechanism through contracts for difference for low carbon technologies*, the terms and expressions below have the following meaning:

- a) **the Order of the minister of energy approving the CfD scheme** means the Order of the ministry of energy no. 1120/2024, as subsequently amended and supplemented;
- b) **the tender rules** - as defined under art. 2 point 41 of G.D. no. 318/2024, as set out under Annex no. 2 and referred to as "Request for Applications" and "RFA" (the terms "Tender rules", "Request for Applications" and "RFA" shall be used interchangeably);
- c) **CfD scheme** – the State aid scheme in the form of Contracts for Difference for the production of electricity from renewable sources of onshore wind and solar photovoltaic energy approved under Order of the minister of energy no. 1120/2024, as subsequently amended and supplemented.

### **Auction requirements**

**Art. 4** (1) Applicants can participate in the CfD auction process by submitting a funding request in accordance with the provisions of art. 7, which includes the submission of both a technical offer and financial offer.

(2) Funding requests made by applicants are to indicate within the financial offer a strike price (at the value as of the date of submission) no greater than **80 EUR/MWh for the onshore wind** auction and to set out within the technical offer the generation capacity to be installed and the target commissioning date, which will be no later than 36 months from the anticipated date of signing the CfD contract, in accordance with the provisions of art. 7.

### **Eligibility criteria for the Applicant**

**Art. 5** To participate in the CfD scheme and for the applicant's funding request to be considered in a CfD auction, the applicant must cumulatively meet the eligibility criteria provided in the CfD scheme and detailed in the Tender rules.

### **Eligibility criteria for the Project**

**Art. 6** To participate in the CfD scheme and for the applicant's funding request to be considered in a CfD auction, the applicant's project must cumulatively meet the eligibility criteria provided in the CfD scheme and detailed in the Tender rules.

### **Art. 7 Submission of Funding Requests**

(1) Applicants are required to submit:

- a) a technical offer demonstrating the fulfilment of the eligibility criteria for both the applicant and the project;
- b) a financial offer specifying the Strike price offered by the applicant, and, if required, any other financial or pricing information which must be provided by the applicant; and
- c) a bid bond.

(2) Funding requests must be submitted no later than the deadline set out in the indicative timetable which shall be published on the website of the Ministry of Energy and of the CfD scheme operator, CNTEE Transelectrica SA.

(3) Applicants shall simultaneously submit two sealed envelopes, one containing the technical offer and one containing the financial offer, both envelopes being included in a common outer envelope or box. Applicants are required to submit physical documents together with a USB stick (one with the technical offer and one with the financial offer) with the documents in digital form, appropriately encrypted (as defined in the Tender rules), identified and sealed at the following address:

- In attention to the CfD scheme evaluation commission
- CNTEE Transelectrica SA, the CfD Scheme Operator
- Olteni Street no. 2-4, Sector 3
- Postal code: 030786, Platinum building
- Bucharest

(4) Together with the funding request, applicants must submit the following:

- a) an organisation chart showing the names and details of the direct and indirect shareholders, owners and controllers that have an interest in the applicant and/or the project;
- b) confirmation that such direct and indirect shareholders, owners and controllers are not subject to international sanctions, together with confirmation that such shareholders, owners and controllers are not:
  - (i) persons, entities or bodies specifically named in the legal acts imposing those sanctions by the United Nations, the European Union or any other authority having jurisdiction over them;
  - (ii) Undertakings owned or controlled by persons, entities or bodies targeted by sanctions adopted by the European Union by the United Nations, the European Union or any other authority having jurisdiction over them; or
  - (iii) Undertakings active in industries targeted by sanctions adopted by the European Union;
- c) either:
  - (i) confirmation that such direct or indirect shareholders, owners or controllers will not have any direct or indirect shareholding, ownership or controlling interest in any other applicant, or
  - (ii) details of such direct or indirect shareholding, ownership or controlling interest in any other applicant;
- d) supporting documents to demonstrate the fulfilment of the eligibility criteria of the project;
- e) a report presenting the technical characteristics of the project's proposed installed capacity, and including the applicant's estimate for the quantity of electricity that the project will generate and deliver to the national energy system annually over the term of the CfD contract (if awarded);
- f) any other documents, information and confirmations that are required to be submitted in accordance with the tender rules;
- g) the bid bond issued in accordance with the applicable provisions of this order and tender rules for the relevant CfD auction;
- h) an affidavit confirming that the project and its proposed installed capacity does not benefit from financing from public funds. The project cannot benefit from more than one support mechanism or other state aid funding.

#### **Art. 8 Bid bond**

- (1) Applicants are required to provide a bid bond in the amount of the **Lei equivalent of EUR 20,000 per MWac** for the project's installed power, using the exchange rate published by the National Bank of Romania on the issuance date.
- (2) The bid bond will:
  - a) be provided or procured by the Applicant in accordance with the Tender rules;
  - b) be in favour of the CfD Scheme Operator; and

- c) be included in the technical offer envelope.
- (3) The CfD Scheme Operator will enforce the bid bond if a qualified applicant who has been successful in a CfD auction:
- a) does not sign or causes a special purpose vehicle nominated in accordance with art. 9, not to sign a CfD contract in accordance with art. 21 para. (4) of the Annex to the Order of the minister of energy 1120/2024 approving the CfD scheme, as subsequently amended and supplemented; or
  - b) does not submit the performance bond to the CfD counterparty within 15 working days from the date of signing the CfD contract, in accordance with the terms of the CfD contract.

### **Art. 9 Special purpose vehicles (SPV)**

- (1) In accordance with the CfD contract, the entity signing a CfD contract shall be a company incorporated for fiscal purposes in Romania.
- (2) A successful applicant may nominate a special purpose vehicle to be the entity which signs the CfD contract in accordance with art. 21 of the Annex to the Order of the minister of energy 1120/2024 approving the CfD scheme, as subsequently amended and supplemented, provided that, prior to the signing the CfD contract:
  - a. The successful applicant, as a single entity, provides proof of full ownership of the special purpose vehicle; or
  - b. The successful applicant, in the case of a consortium, provides proof of ownership of the special purpose vehicle in the proportions specified in the applicant's funding request.

### **Art. 10 Performance bond**

- (1) Successful applicants or special purpose vehicles are required to provide a performance bond in the amount of the **Lei equivalent of EUR 75,000 per MWac** of the project's installed power, converted at BNR exchange rate applicable on the issuance date. Performance bonds must:
  - (a) meet the requirements specified under art. 8 of G.D. no. 318/2024 and under the CfD contract and
  - (b) shall be submitted in the form provided in this annex. The bank guarantee letter shall be provided in Romanian, with the option to submit it in a bilingual format, in both Romanian and English, provided that the Romanian version shall prevail.
- (2) Performance bonds will be returned to successful applicants or nominated special purpose vehicles or will be enforced in the manner set out in the CfD contract.

### **Art. 11 Evaluation criteria**

- (1) The auction evaluation process will be carried out in two stages, as follows:

- a) First stage, an evaluation of the technical offer of the applicant (on a pass or fail basis by reference to the eligibility criteria); and
  - b) Second stage, an evaluation of the financial offer of the applicant (ascending order of the strike price for the qualified applicants).
- (2) The Tender rules set out the evaluation criteria for financial offers.

#### **Art. 12 Calendar for CfD auctions**

- (1) The announcement of the CfD auction Calendar shall be published on the website of the Ministry of Energy and on the website of the CfD scheme operator and shall include, without limitation, the deadline for submission of financing requests, the starting date for the evaluation of technical offers, the period for contestations, the date of evaluation of financial offers, the estimated date of signing the CfD contracts.
- (2) The calendar may be updated, if deemed necessary, in accordance with the provisions of the tender rules.

## BANK GUARANTEE LETTER

Bank guarantee no. [Please enter the reference number of the bank guarantee]

Date: [Enter day, month, year]

Reference: Bank Guarantee Letter for the CfD Contract concluded between the Generator and the ELECTRICITY AND NATURAL GAS MARKET OPERATOR OPCOM S.A., as CfD Counterparty no....., in accordance with the Order of the Minister of Energy regarding qualified applicants declared winners to be awarded CfD contracts following the third CfD auction in Romania.

In favor: ELECTRICITY AND NATURAL GAS MARKET OPERATOR OPCOM S.A.

Bucharest, Sector 3, Hristo Botev Boulevard no. 16-18

Cod fiscal: 13278352

(hereinafter referred to as the "CfD Counterparty")

### CONSIDERING:

- 1) THE ELECTRICITY AND NATURAL GAS MARKET OPERATOR OPCOM S.A., as CfD Counterparty, has concluded the CfD Contract no. .... from ..... (hereinafter referred to as the "CfD Agreement") with ..... [name, identification data of the authorising officer] as Generator (hereinafter referred to as the "Generator").
- 2) In accordance with the CfD Agreement, the Generator shall provide a performance guarantee, in the form of a bank letter of guarantee, issued in favour of the CfD Counterparty, as a guarantee for the proper and correct performance of the Generator's obligations under and in accordance with the CfD Agreement.
- 3) At the request of the Manufacturer, we, the [Name of Bank], with its registered office at [Bank Registered Office] (the "Bank") have agreed to provide this Bank Letter of Guarantee (hereinafter referred to as the "Guarantee").
- 4) The value of the Performance Guarantee is..... RON (hereinafter referred to as the "Guarantee Value"), representing the equivalent of the amount of ..... EUR, calculated using the exchange rate published by the National Bank of Romania valid for the date of provision by the Bank of the Guarantee.

Accordingly, the Bank hereby unconditionally and irrevocably guarantees and affirms the following:

- 1) The Bank, at the request of the Generator, unconditionally and irrevocably undertakes to pay, [through the Romanian branch]<sup>1</sup>, at the first request, to the CfD Counterparty, an amount or more amounts up to a maximum of ..... Lei (Guarantee Value) without any objection, reservation, objection or protest arising from the CfD Agreement, in the event that the Generator fails to perform its obligations under the provisions of the CfD Agreement.

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<sup>1</sup> To be filled in only by the Qualifying Issuer – an international financial institution or an international bank registered in the European Union and the European Economic Area, authorized to operate on the territory of Romania, with a minimum credit rating of BBB by S&P (or equivalent)

- 2) Any such written request from the CfD Counterparty, according to which the Generator has not fulfilled its obligations under the provisions of the CfD Agreement and that, as a result of this breach, the amount claimed is due to the CfD Counterparty, is final, conclusive and binding on the Bank.
- 3) The Bank hereby unconditionally undertakes to pay, [through the Romanian branch]<sup>1</sup> the amount requested, without objections, reservations, objections or protests arising from the CfD Agreement, regardless of whether or not the CfD Counterparty's claim is disputed by the Generator, upon the first written request of the CfD Counterparty stating that the requested amount is due to it as a result of the Generator's default, of its obligations under the provisions of the CfD Agreement.
- 4) This Warranty is irrevocable and will remain in force until ... [Target Commissioning Date plus 30 days] (Warranty Validity). This Guarantee may be extended by the Bank at the request of the Generator, so that the period of validity of this Guarantee is not shorter than the period of validity provided for in the CfD Agreement or for an extended period that may be mutually agreed between the Counterparty of the CfD and the Generator and, in any case, with the prior agreement of the Bank. This Guarantee shall maintain its Guarantee Value and Guarantee Validity until the Payment Start Date. Any claim for payment under this Guarantee may only be made during the period of validity of this Guarantee.
- 5) Each payment request made by the CfD Counterparty shall be sent to [the Romanian branch of]<sup>1</sup> the bank in original, on letterhead and signed by an authorised representative of the CfD Counterparty.
- 6) The Bank agrees that the CfD Counterparty is the empowered entity that will decide whether the Generator has not fulfilled its obligations under the provisions of the CfD Agreement, notwithstanding any disagreements between the CfD Counterparty and the Generator or any unresolved or unenforceable dispute against the Bank pending before any court or any other relevant authority.
- 7) This Guarantee shall not be affected by any change in the formation or liquidation of the Manufacturer or the Bank, by any merger of the Manufacturer or the Bank.
- 8) The CfD counterparty has full freedom, without affecting in any way the Bank's liability under this Guarantee, to periodically amend any of the terms and conditions contained in the respective CfD Agreement, subject to the contractual provisions applicable in the event of a change in the provisions of the CfD Agreement.
- 9) Any presentation under this guarantee shall be deemed sufficient if addressed to the Bank and sent by courier or registered letter to the Bank to the address [of the Romanian branch]<sup>1</sup> mentioned herein, via the bank of the CfD Counterparty, confirming that the signatures on these documents are legally binding on the CfD Counterparty.
- 10) The Bank undertakes to make the payment, [through the Romanian branch]<sup>1</sup> within 5 working days of receipt of the original payment request of the CfD Counterparty to the address of the bank, [Romanian branch]<sup>1</sup> [Name of the Bank together with the address of submission of the request], which is deemed to have been duly authorised to receive the respective payment request.

- 11) The CfD counterparty is not obliged to take action against the respective Generator before requesting the Bank to pay under this Guarantee. The Bank will pay under this Guarantee, without prejudice to any other guarantee that the CfD Counterparty may have obtained from the respective Generator, and which will be valid at the time of submitting the payment request under the Guarantee to the Bank.
- 12) The Bank also undertakes not to release this Guarantee from its obligations during its validity, unless the CfD Counterparty gives its express prior written consent.
- 13) The Bank shall be obliged to pay, [through the Romanian branch]<sup>1</sup> the Amount of the Guarantee or any part thereof only if the CfD Counterparty submits [to the Romanian branch of]<sup>1</sup> the Bank a written payment request in accordance with the provisions of this Guarantee by the date of validity of the Guarantee at the latest.
- 14) This warranty is governed by and construed in all respects in accordance with Art. 2321 of the Civil Code. The courts of Romania shall have exclusive jurisdiction to settle any disputes that may arise out of or in connection with this Warranty. This guarantee is subject to the Uniform Rules for Guarantees on Demand – ICC publication no. 758 (URDG), with the exception of Art. 15(a).

[This warranty was issued in electronic form and was electronically and compulsorily signed with a qualified electronic signature based on a valid, non-revocable, and non-suspended qualified certificate.]<sup>2</sup>

THEREFORE, THE BANK SIGNED THIS ACT ON THE DAY, MONTH AND YEAR MENTIONED ABOVE.

Signed by Bank \_\_\_\_\_ Branch

Through Mr/Mrs. \_\_\_\_\_ and its authorized official.

(Signature of the authorized representative)

(Official seal)

#### OBSERVATIONS:

- (i) The bank guarantee must contain the name and position of the official(s) signing the guarantee

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<sup>2</sup>Use only for electronically signed bank guarantee letters.  
The "/" character indicates that one of the displayed options will be chosen.