

[**company name**], a company organized and existing under the laws of [**country**], with its registered seat in [**country, place, address**] and registered with [**registry name**] under number [**registration number**] and VAT ID: [**VAT ID number**] (hereinafter: **Auction Participant**);

and

**CROATIAN POWER EXCHANGE Ltd.**, a company organized and existing under the laws of the **Republic of Croatia**, with its headquarters in **Croatia, Slavonska avenija 6/A** and registered with the court registry of the **Commercial Court in Zagreb** under the number **080914267**, VAT ID: **14645347149** (hereinafter: **CROPEX**);

(hereinafter collectively referred to as: **Parties**)

enter into the following

## **PARTICIPATION AGREEMENT IN GUARANTEES OF ORIGIN AUCTION ("Agreement")**

### **Article 1**

(1) CROPEX conducts Auctions for selling Guarantees of Origin of electricity in accordance with the Auctions Specifications.

(2) The manner of the Auction conduct referred to in Paragraph 1 of this Article, the conditions that the Auction Participant has to fulfil to be authorized to participate in Auctions, the Collateral which the Auction Participant is obligated to deliver to CROPEX, the determination of the Auction results, the obligation to pay the price for the Quantity of Purchased GOs and the Trading Fee, along with the other mutual rights and obligations of CROPEX and the Auction Participant, are set out in the Rules for Auction of CROATIAN ENERGY MARKET OPERATOR Ltd. Guarantees of Origin and Rules for Auction of Guarantees of Origin outside the Incentive System, established by CROPEX (hereinafter jointly as: **Rules**) which are published on the Web page of CROPEX.

(3) The Rules form an integral part of this Agreement. By signing this Agreement, the Auction Participant confirms it is acquainted with and accepts all provisions of the Rules. CROPEX is authorized to amend the Rules after concluding this Agreement, in accordance with provisions of the Rules, and such amended Rules shall be applied to the Parties of this Agreement.

(4) In order to be authorized to participate in Auction, the Auction Participant is obligated to fulfil all conditions for participation in the Auction set out by the Rules. For the purpose of avoiding any doubt, CROPEX shall determine if the Auction Participant has fulfilled the conditions for participation in Auction prior to each Auction in which the Auction Participant plans to participate.

(5) An integral part of this Agreement, as its Annex 1, is the Fee Schedule, which

defines the amounts of the Trading Fee and the Annual Fee (hereinafter: **Annex 1 or Fee Schedule**). CROPEX provided the Auction Participant with the Fee Schedule, valid at the time of entering into this Agreement, prior to the execution of this Agreement, and the Auction Participant confirms receipt thereof by signing this Agreement.

## **Article 2**

- (1) Except as otherwise agreed in this Agreement, the terms used in this Agreement shall have the meaning established in the Rules.
- (2) In the event of any discrepancies between this Agreement and the Rules, the provisions of this Agreement shall prevail.
- (3) In the event of any discrepancies between this Agreement and the Fee Schedule, the provisions of this Agreement shall prevail.

## **Article 3**

- (1) By concluding this Agreement, the Auction Participant hereby represents and warrants to CROPEX that:
  - a. it has undertaken all necessary actions to be authorized to sign this Agreement to which the provisions of the Rules apply, and
  - b. the signing of this Agreement and its compliance with this Agreement and the Rules, does not violate any law, rule, regulation or agreement, document or instrument binding or applying to the Auction Participant.
- (2) In addition to the above Paragraph (1) of this Article, the Auction Participant by signing this Agreement gives CROPEX the statements and warranties set out in the Rules.
- (3) By concluding this Agreement, CROPEX hereby states and warrants to the Auction Participant that:
  - a. it has undertaken all necessary actions to be authorized to sign this Agreement to which the provisions of the Rules apply, and
  - b. the signing of this Agreement and its compliance with this Agreement and the Rules, does not violate any law, rule, regulation or agreement, document or instrument binding or applying to CROPEX.

## **Article 4**

- (1) The Auction Participant has submitted to CROPEX data for communication and other data through the Request for Auction Participation.
- (2) The Auction Participant shall notify CROPEX about any change in data referred to in Paragraph 1 of this Article, without delay, in a manner regulated by the Rules.

## **Article 5**

- (1) In the event that the Auction Participant authorized CROPEX within the Request for Auction Participation which they have submitted to CROPEX in order to conclude this Agreement, to, in the event that the Auction Participant's Bid has been accepted and the purchase agreement of Guarantees of Origin has been concluded, directly transfer the funds which the Auction Participant is obligated to pay to CROPEX pursuant

to invoice issued by CROPEX in accordance with the Rules based on the Quantity of Purchased GOs and/or the Annual Fee amount (hereinafter: **CROPEX's Invoice**), from the Deposit Account to the Settlement Account; CROPEX shall, on the due day of the Auction Participant's financial obligation pursuant to CROPEX's Invoice, complete the settlement by transferring the due amount from the Deposit Account to the Settlement Account, instead of settlement via payment by the Auction Participant. In the event that the amount which the Auction Participant has deposited on the Deposit Account is insufficient for settlement of the total claim pursuant to CROPEX's Invoice, then the Auction Participant shall be obligated to pay the difference up to the total amount of the claim before due date of the claim, pursuant to CROPEX's Invoice.

(2) The authorization given to CROPEX by the Auction Participant pursuant to Paragraph (1) of this Article, refers to the settlement of all CROPEX's Invoices which CROPEX issues to the Auction Participant pursuant to this Agreement.

(3) The Auction Participant may revoke the authorization given to CROPEX pursuant to Paragraph (1) of this Article, with a written notice delivered by registered mail to the address of CROPEX's registered seat, signed by an authorized person of the Auction Participant (hereinafter: **Revocation of Authorization**). The Revocation of Authorization shall apply only to the Auctions held after expiry of 5 days after the date when CROPEX received the Revocation of Authorization, and only in relation to the Annual Fee that becomes due after the expiry of five (5) days from the date CROPEX received the Revocation of Authorization.

(4) In the event that the Auction Participant gave authorization to CROPEX in accordance with Paragraph (1) of this Article, if CROPEX fails to charge the Deposit Account on the due date of CROPEX's Invoice, CROPEX shall not lose the right to charge the Deposit Account on any subsequent day, but it shall not be entitled to charge the Statutory Default Interest on the due amount pursuant to CROPEX's Invoice, unless the Auction Participant by their performance or non-performance in any way prevented or provoked the inability to charge the Deposit Account on the due date of CROPEX's Invoice. CROPEX shall always be entitled to charge the Statutory Default Interest in the event that the settlement on the due date of CROPEX's Invoice was not possible due to insufficient funds of the Auction Participant on the Deposit Account. Notwithstanding the reason for charging the Deposit Account after the due date of CROPEX's Invoice, CROPEX shall not be liable for any additional expenses which occur to the Auction Participant arising from such subsequent charge, including the foreign exchange charges.

(5) The Auction Participant agrees that any right of CROPEX to charge the Deposit Account, regardless of the reason for such charge, that is, regardless if CROPEX performs the charge pursuant to the authorization given by the Auction Participant in accordance with Paragraph (1) of this Article or pursuant to the right to use the Collateral in accordance with the Rules, shall not be subject to a set-off against the claim of the Auction Participant toward CROPEX, nor shall the Auction Participant be entitled to restrict or prevent the right of CROPEX to perform settlement in accordance with the authorization given by the Auction Participant pursuant to Paragraph (1) of this Article, through an interim, preliminary measure or any other security measure. For the avoidance of any doubt, the Parties hereby agree that nothing in this Article shall restrict or exclude the rights of CROPEX regarding the use of the Collateral in accordance with the Rules.

## Article 6

(1) The Auction Participant is obliged to pay CROPEX the Annual Fee in the amount set forth in Annex 1 of this Agreement, which may be amended from time to time (hereinafter: the **Annual Fee**), for each year of the Agreement's term, regardless of whether the Participant took part in Auctions during any particular calendar year of the Agreement.

(2) The Auction Participant is obliged to pay CROPEX the Trading Fee, in the amount set forth in Annex 1 of this Agreement, which may be amended from time to time, within the deadlines and in the manner provided for in the Rules.

(3) The invoice for the Annual Fee shall be issued by the end of January each year for the current calendar year. For the first calendar year of the term of the Agreement, CROPEX shall issue an invoice for the Annual Fee, calculated proportionally to the number of months from the date of execution of this Agreement until the end of the current calendar year, immediately upon execution of the Agreement.

(4) The due date for the invoice for the Annual Fee is fifteen (15) days from the date of issuance.

(5) CROPEX is authorized at any time during the term of this Agreement to modify the amount of the Annual Fee and/or the Trading Fee, in the manner provided for in Article 11 of this Agreement.

## Article 7

(1) The amendments to this Agreement shall be made in a written form by both Parties.

(2) Notwithstanding paragraph (1) of this Article, CROPEX is entitled to amend the Rules unilaterally in accordance with the provisions of the Rules.

(3) Notwithstanding paragraph (1) of this Article, CROPEX may unilaterally amend and supplement Annex 1, in the manner provided for in Article 11 of this Agreement.

## Article 8

(1) This Agreement is concluded for an indefinite term.

(2) Each Party is entitled to cancel this Agreement by delivering a written cancellation notice with a cancellation period of **30** (thirty) days.

(3) Each Party is entitled to terminate this Agreement in the event that the other Party breaches any of their contractual obligations, by delivering a written termination notice by registered mail to the other Party with an appropriate subsequent term for fulfilment of the obligation of 10 (ten) days from the day of receipt of the termination notice. CROPEX is entitled to terminate the Agreement for example in the following cases:

- in the event the Auction Participant does not fully settle within due date any of its financial obligations pursuant to the Agreement, or
- if the Auction Participant fails to deliver Collateral to CROPEX, or
- if the Auction Participant ceases to have their user account in the Guarantee of

Origin Register connected to AIB system, or

- if the manner of receiving the Guarantees of Origin traded outside of AIB system, as indicated by the Auction Participant in the Statement by the Auction Participant becomes inapplicable, incorrect and/or impossible to fulfil with regard to the Auction Participant, or
- if the Auction Participant breaches any other contractual obligation (including the obligation envisaged by the Rules as its integral part).

The Agreement shall be terminated after the expiration of an appropriate subsequent term for fulfilment if the other Party does not cease with the breach of the Agreement and does not remedy consequences of this breach in the subsequent term for fulfilment. The Party which caused the termination of the Agreement shall compensate for all damages that occurred to the other Party due to the Agreement termination.

(4) CROPEX is entitled to terminate the Agreement by a written termination notice without an appropriate subsequent term for fulfilment of the obligation, if a pre-bankruptcy proceeding, bankruptcy proceeding, liquidation proceeding or another proceeding which has similar effects or which is initiated in connection with indebtedness or inability to make payments of the Auction Participant is initiated against the Auction Participant, or if any of the bankruptcy reasons occur in relation to the Auction Participant.

(5) In any case of cessation of the Agreement, the Auction Participant is obliged to settle with CROPEX all obligations for the payment of the Trading Fee and Annual Fee that arose before the moment of termination or cancellation of this Agreement.

(6) In the event of:

- (a) cancellation of the Agreement during a calendar year pursuant to paragraph (2) of this Article, or
- (b) termination of the Agreement by CROPEX pursuant to paragraphs (3) and/or (4) of this Article,

CROPEX shall retain the full amount of the Annual Fee for the calendar year in which the Agreement ceased.

(7) In the event of termination of the Agreement pursuant to paragraph (3) of this Article by the Auction Participant due to a breach of contractual obligations by CROPEX, CROPEX shall return to the Auction Participant a portion of the received Annual Fee, calculated proportionally to the number of months from the date of termination of the Agreement until the end of the current calendar year.

## **Article 9**

(1) The Auction Participant is not entitled to transfer this Agreement to a third party, nor to transfer the rights from this Agreement to a third party, without the prior written consent of CROPEX.

(2) Regarding any matter which is not regulated by the provisions of this Agreement or

the Rules, the provisions of the Civil Obligations Act and other applicable regulations shall apply.

## **Article 10**

(1) CROPEX shall ensure that no third party obtains access to or knowledge of matters related to the business or personal affairs of the Auction Participant, of which CROPEX becomes aware by conducting the Auction, and CROPEX shall not use such information for any purpose other than those related to the process of Auction and CROPEX's related activities.

(2) The Auction Participant undertakes not to disclose to any person at any time, any confidential information related to business, affairs, customers and clients of CROPEX.

(3) Notwithstanding other provisions of Article 10 of this Agreement:

- a. the Auction Participant acknowledges that CROPEX shall be entitled to provide to HROTE and/or the Seller information which CROPEX receives or obtains from the Auction Participant based on or related to this Agreement;
- b. the Auction Participant acknowledges that CROPEX shall be entitled to provide information referred to in point a. of this paragraph to any other person or entity advising or assisting CROPEX in its operations, provided that these persons or entities are subject to a corresponding obligation of confidentiality;
- c. the obligation of confidentiality shall not extend to information which is or becomes public through actions that do not represent a breach of a Party's confidentiality obligations pursuant to this Agreement and/or the Rules;
- d. both Parties shall be entitled to disclose any information as may be required by the applicable Law, a court order, or any governmental or regulatory body;
- e. neither Party shall be entitled to keep confidential the fact that they have entered into this Agreement, as well as the fact of cancelation or termination of this Agreement.

(4) This Article 10 shall not limit either Party's confidentiality obligations pursuant to the applicable Law.

## **Article 11**

(1) CROPEX has the right, at its sole discretion, to modify the amount of the Trading Fee and/or the Annual Fee specified in the Fee Schedule, at any time, in accordance with provisions of the Rules, and such amended Fee Schedule shall be applied to the relations of the Parties based on this Agreement.

(2) The Auction Participant agrees that CROPEX shall deliver all amendments to the Fee Schedule to the following e-mail address of the Auction participant: **[insert]**..

(7) The Auction Participant is responsible for the accuracy and functionality of the e-mail address provided in this Article, or any other e-mail address subsequently communicated to CROPEX in writing, and bears all consequences arising from an

incorrect, inactive, or overloaded e-mail address. Sending the Notice of Changes to the properly recorded e-mail address of the Auction Participant shall be deemed valid delivery for the purposes of this Article.

## **Article 12**

(1) This Agreement shall be governed by the Croatian law, and the Agreement shall be construed and produce legal effects in accordance with the Croatian law.

(2) The Parties shall attempt to resolve all disputes arising from this Agreement in amicable manner.

(3) In the event that a dispute cannot be resolved in an amicable manner, the Parties hereby ascertain the jurisdiction of the competent court in Zagreb.

## **Article 13**

This Agreement shall become effective on the date of its signature by both Parties.

\* \* \*

IN WITNESS OF THEIR AGREEMENT each Party has signed this Agreement by its authorized representative and the Agreement produces legal effects from the date of signature of both Parties.

This Agreement may be concluded in electronic form, using a qualified electronic signature.

**For and on behalf of the Auction Participant**

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Signature

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Name and function (capital letters)

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Place and date

**For and on behalf of CROPEX**

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Signature

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Name and function (capital letters)

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Place and date