

AGREEMENT

between

EMS AD BEOGRAD

Kneza Miloša 11, 11000 Beograd

SERBIA

(Serbian TAX identification number: SR103921661)

- hereinafter “**EMS**”-

and

C.N.T.E.E.TRANSELECTRICA – S.A.

33 Gen. Gh. Magheru Blvd, Bucharest s.1

ROMANIA

Correspondence adress : 2-4 Olteni street, s.3, 030786, Bucharest

(EU Community VAT Identification number: RO13328043)

- hereinafter “**Transelectrica**”-,

- for year 2021 -

(both of which are hereinafter referred to as the “Parties”),

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I. Scope of Agreement

1. In Compliance with Regulation (EC) No 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity, EMS and Transelectrica have introduced bilateral coordinated allocation for the Available Transmission Capacities (ATC) at the border between the Bidding Zones of EMS and Transelectrica. These Capacities shall be accessible for the market participants (Registered Participants) in a non-discriminatory way by organising transparent auction procedures. The auction procedures are construed in accordance with :
 - i. the regulations set out by the European law, in particular by Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for internal market in electricity and Regulation (EC) 714/2009 of the European Parliament and the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity;
 - ii. the Romanian and Serbian primary legislation;
 - iii. Energy Community Treaty signed on 25 October 2005;
 - iv. The Romanian and Serbian secondary legislation.

The auction procedures comprehend exclusively the auctions for reservations of Available Transmission Capacities at the border between EMS and Transelectrica and aim at providing a transparent method for congestion management. This Agreement covers only the common auction/allocations procedures for the year 2021, organized by EMS and Transelectrica.

2. The provisions of the auction/allocation procedures are described in separate documents entitled Allocation Rules and shall cover all time frames (yearly, monthly, daily and intraday) as follows:
 - a. Yearly and Monthly Allocation Rules for the Coordinated Allocation of Cross Zonal Capacities at the Border between the Bidding Zones of C.N.T.E.E. Transelectrica S.A. and EMS AD Beograd for the year 2021 – Yearly and Monthly Allocation Rules;
 - b. Daily Auction Rules for the Allocation of Cross Zonal Capacities at the Border between the Bidding Zones of EMS AD Beograd (“EMS”) and C.N.T.E.E. Transelectrica S.A. (“Transelectrica”) for 2021 - Daily Auction Rules;
 - c. Intraday Allocation Rules for the Coordinated Allocation of Cross Zonal Capacities at the Border between the Bidding Zones of C.N.T.E.E. Transelectrica S.A. and EMS AD Beograd for the year 2021 - Intraday Allocation Rules;

This three documents referred above constitute an integral part of this Agreement, unless otherwise stipulated, attached as Appendix./1, Appendix./2 and Appendix./3.

The allocation of the Available Transmission Capacities shall be organized for each timeframe as follows:

- The Yearly and Monthly and the Intraday coordinated allocation for 2021 shall be performed by Transelectrica;
- The Daily coordinated allocation for 2021 shall be performed by EMS.

II. Capacities

1. General provisions of the auction of the reservation of the available Capacities at the border between the Bidding Zones of EMS and Transelectrica

1. The Parties shall auction the Available Transmission Capacity at the border between their Bidding Zones pursuant to the regulations set out by the Allocation Rules (Yearly and Monthly, Daily and Intraday) and in this Agreement.
2. In case of planned or unplanned disconnections of critical network components, the Capacities should be modified to match the monthly, weekly and daily operational planning, as well as intraday operational conditions.
3. The reduction of nominated schedules shall only be used in Emergency Situations, where the relevant TSO must act in an expeditious manner and Redispatching or Countertrading are not possible, or Force Majeure.

2. Yearly and Monthly auction of the available Capacities at the border between the Bidding Zones of EMS and Transelectrica

1. The yearly Capacity equals the net transfer capacity of that year (yearly NTC).
2. The monthly Capacity equals the net transfer Capacity of that month (monthly NTC), deducted by the result of the yearly auctions, but adding the non-used yearly auctioned Capacities, further reduced in case of unplanned disconnections of critical network components.
3. The precise Capacity of the yearly auction shall be calculated and agreed between Transelectrica and EMS and will be published according with deadline stipulated in the relevant Yearly and Monthly Auction Rules.
4. The precise Capacity of each of the monthly auctions shall be calculated and agreed between EMS and Transelectrica until the first (1st) working day of the previous month. In case of any difference in Capacity calculated by EMS and Transelectrica, the lower value is valid.
5. EMS and/or Transelectrica shall not be liable for an uninterrupted provision of the TEL DAMAS system and/or the website <https://www.markets.transelectrica.ro>.

3. Daily auction of the available Capacities at the border between the Bidding Zones of EMS and Transelectrica

1. The remaining daily Available Transmission Capacity (ATC) equals the net Capacity of that month (monthly NTC), reduced by the modifications in case of planned or unplanned disconnections of critical network components, further reduced by the scheduled long term deliveries covered by yearly and monthly Capacity and increased by the long term nominations in the respective counter direction (netting effect).
2. Transelectrica and/or EMS shall not be liable for an uninterrupted provision of the EMS DAMAS System and/or the website <https://damas.ems.rs>

4. Intraday auction of the available Capacities at the border between the Bidding Zones of EMS and Transelectrica

1. The remaining intraday Available Transmission Capacities (ATC) equals the net Capacity of that month (monthly NTC), reduced by the modifications in case of planned or unplanned disconnections of critical network components, further reduced by the scheduled deliveries covered by yearly, monthly and daily Capacity and increased by the nominations in the respective counter direction (netting effect).
2. EMS and/or Transelectrica shall not be liable for an uninterrupted provision of the TEL DAMAS system and/or the website <https://www.markets.transelectrica.ro>.

III. Commitment to the Auction Procedures

The Parties shall accept the results of the individual auction procedures held by the other Party, provided these procedures are consistent with the terms and conditions set out in the Allocation Rules (Yearly and Monthly, Daily and Intraday) and shall carry out the transmission services according to the respective auction results in compliance with the legal requirements for grid access and applicable market rules.

IV. Termination of the Contract between EMS and the Registered Participant or between Transelectrica and the Registered Participant

1. According to Appendix/1, Appendix/2 and Appendix/3 EMS and Transelectrica are entitled to enforce the termination of the contract between EMS and the Registered Participant or the contract between Transelectrica and the Registered Participant and hold the Registered Participant liable for the Auction Price, interests, charges and expenses arising from the enforcing of the termination of the Contract and for the total damage resulting from the termination, such as, but not limited to fees, expenses and deficiencies caused by lower Auction Prices in the event of a reauctioning of the capacity, if the Registered Participant does not fulfill or only partially fulfills any obligation resulting from the Contract in due time, especially if the Registered Participant does not pay the full Auction Price within the time limits set out in the Yearly and Monthly Allocation Rules, Daily Auction Rules and Intraday Allocation Rules.
2. The Parties agree that the Party organizing the auctions shall be in charge of issuing the statement of the termination of the Contract towards the Registered Participant after consultation with the other party.

V. Performance of Yearly and Monthly Auctions/Allocations

1. The provisions for the yearly and monthly allocation procedures are described in the “Yearly and Monthly Allocation Rules”, to be implemented jointly and considered as an integral part of this Agreement, unless otherwise stipulated.
2. Transelectrica shall perform the yearly and monthly allocation using an internet based system “TEL DAMAS System” on Transelectrica’s website: <https://www.markets.transelectrica.ro>, operated by Transelectrica. The “Capacity Trader DAMAS User Guide” is published on Transelectrica’s website: www.transelectrica.ro.

3. If, for any reasons, the internet based platform and/or the website www.transelectrica.ro is interrupted and/or suspended, Transelectrica will perform the respective auction as soon as possible. Bids already sent to the TEL DAMAS system for these auctions before the interruption and/or suspension lose their validity and have to be resent by the Registered Participant. Transelectrica shall not be kept liable for any of such events and delays in auction performance.
4. All issues concerning the yearly and monthly Capacity allocation, such as, but not limited to, the technical and operational aspects of the internet-based platform and the “*Capacity Trader DAMAS User Guide*” published on the website: www.transelectrica.ro, shall be developed by Transelectrica. Therefore the execution and the administration of the yearly and monthly Capacity allocations shall be totally in the responsibility of Transelectrica. This means that Transelectrica shall take full responsibility for the correct, non-discriminatory and transparent execution of the yearly and monthly allocation and for the full compliance with the applicable national and European laws and/or regulatory requirements.
5. Transelectrica shall provide EMS with the results of the yearly and monthly allocation via public platform <https://www.markets.transelectrica.ro/public> and via e-mail in an *.xls (Excel) file and ECAN version 4.0 Total Allocation Results Document (TARD) file, if available, at the latest on the first working day following the day of the respective auction, when the results have to be published in compliance with the Yearly and Monthly Allocation Rules. The format of the ECAN document is given in Appendix ./11.
6. Transelectrica shall send to EMS information about the transfer of monthly and yearly capacity rights in Excel or *.pdf file via email till 15:00 (CET) in D-3.
7. Transelectrica shall send to EMS the yearly and monthly Capacity rights in ECAN version 4.0 Rights Document via email till 15:00 (CET) in D-3. The format of the ECAN document is given in Appendix ./11.
8. On behalf of both Parties, Transelectrica shall provide data regarding yearly and monthly Capacity allocation for Romanian-Serbian border to the Electricity Market Fundamental Information Platform (EMFIP), in accordance with Regulation (EC) 543/2013/EC, and to the REMIT Platform, in accordance with Regulation 1348/2014/EC, as it follows:
 - a) Offered cross-zonal capacity;
 - b) Total capacity already allocated;
 - c) Auction results (the capacity requested by the market, the capacity allocated to the market, the price of the capacity, auction revenue per border).
9. Transelectrica will provide EMS with all relevant data regarding the yearly and monthly Capacity allocation, which could be necessary for planning, statistics, modeling and handling of complaints.

VI. Performance of Daily Auctions/Allocations

1. The provisions for the daily auction procedures are described in “Daily Auction Rules“, to be implemented jointly and considered as an integral part of this Agreement, unless otherwise stipulated.
2. EMS shall perform the daily auctions for reservation of the daily Available Transmission Capacities (ATC) through the use of the internet-based platform “EMS DAMAS System”, operated by EMS. The User Guide is published on the EMS website: <http://www.ems.rs>.
3. If, for any reason, the internet based platform <https://damas.ems.rs> or the system used for nomination of schedules are interrupted and/or suspended, the allocation of daily available Capacities shall not be organized. Bids already sent to the auction system for the daily allocation lose validity for the respective auction. EMS shall not be kept liable for any of such events.
4. All issues concerning the daily auctions, such as, but not limited to, the technical and operational aspects of the internet-based platform and the User Guide published on the website <http://www.ems.rs> shall be provided by EMS. Therefore the execution and the administration of the daily auctions are totally in the responsibility of EMS. This means that EMS takes full responsibility for the correct, non-discriminatory and transparent execution of the daily auctions and for the full compliance with the applicable national and European law and/or regulatory requirements.
5. EMS shall provide Transelectrica with the results of the daily auctions via internet based platform: <http://www.ems.rs> and via email in ECAN version 4.0 Total Allocation Results Document (TARD). The format of the ECAN document is given in Appendix./11.
6. EMS shall send to Transelectrica the daily capacity rights in ECAN version 4.0 Rights Document via email till 10:00 (CET) in D-1.
7. On behalf of both Parties, EMS is responsible to provide data regarding daily capacity allocation for Romanian-Serbian border to the Electricity Market Fundamental Information Platform (EMFIP), in accordance with Regulation (EC) 543/2013/EC, as it follows:
 - a) Offered Cross-Zonal capacity;
 - b) Total capacity already allocated;
 - c) Auction results (the capacity requested by the market, the capacity allocated to the market, the price of the capacity, auction revenue per border).
8. On behalf of both Parties, Transelectrica is responsible to provide data regarding daily capacity allocation for Romanian-Serbian border to the REMIT Platform, in accordance with Regulation 1348/2014/EC, as it follows:
 - d) Offered Cross-Zonal Capacity;
 - e) Total capacity already allocated;
 - f) Auction results (the capacity requested by the market, the capacity allocated to the market, the Auction Price, auction revenue per border).

In order to complete the above task, after each Daily Capacity Auction EMS has obligation to send the above information to Transelectrica. The information will be sent by e-mail, in *.xml format, to the following e-mail addresses: tsoplan@transelectrica.ro; mihaela.condovici@transelectrica.ro.

EMS shall provide Transelectrica with all relevant data regarding the daily Capacity auctions, which could be necessary for planning, statistics, modeling, handling of complaints and for remuneration via the UIOSI principle.

VII. Performance of Intraday Auctions/Allocations

1. The provisions for the intraday allocation procedures are described in the “Intraday Allocation Rules”, to be implemented jointly and considered as an integral part of this Agreement, unless otherwise stipulated.
2. Transelectrica shall perform the intraday allocation using an internet-based system “TEL DAMAS System” on Transelectrica’s website: <https://www.markets.transelectrica.ro>, operated by Transelectrica. The “Capacity Trader DAMAS User Guide” is published on the Transelectrica’s website www.transelectrica.ro.
3. If, for any reasons, the internet-based platform and/or the website www.transelectrica.ro is interrupted and/or suspended, the allocation of intraday session shall not be organized. Transelectrica shall perform auction for next sessions as soon as possible. Transelectrica shall not be kept liable for any of such events and delays in auction performance.
4. All issues concerning the intraday Capacity allocation, such as, but not limited to, the technical and operational aspects of the internet-based platform and the “Capacity Trader DAMAS User Guide” published on the website www.transelectrica.ro, shall be developed by Transelectrica. Therefore the execution and the administration of the intraday Capacity allocations shall be totally in the responsibility of Transelectrica. This means that Transelectrica shall take full responsibility for the correct, non-discriminatory and transparent execution of the intraday allocation and for the full compliance with the applicable national and European laws and/or regulatory requirements.
5. Transelectrica shall provide EMS with the results of the intraday auctions via internet based platform: <https://www.markets.transelectrica.ro/public> and via email in ECAN version 4.0 Total Allocation Results Document (TARD), if available. The format of the ECAN document is given in Appendix./11.
6. Transelectrica shall send to EMS the intraday Capacity rights after each intraday auction, in ECAN version 4.0 Rights Document, via email, according to the deadlines stipulated in relevant Intraday Allocation Rules. The format of the ECAN document is given in Appendix./11.
7. On behalf of both Parties, Transelectrica shall provide data regarding intraday Capacity allocation for Romanian-Serbian border to the Electricity Market Fundamental Information Platform (EMFIP), in accordance with Regulation (EC) 543/2013/EC, and to the REMIT Platform, in accordance with Regulation 1348/2014/EC, as it follows:
 - a) Offered cross-zonal capacity;
 - b) Total capacity already allocated;
 - c) Auction results (the capacity requested by the market, the capacity allocated to the market, the price of the capacity, auction revenue per border).
8. Transelectrica provides EMS with all relevant data regarding the intraday capacity allocation, which could be necessary for planning, statistics, modelling and handling of complaints.

VIII. Secondary Market of PTRs

1. According to the regulations set out in the Regulation (EC) 714/2009 of the European Parliament and of the Council, Capacities bought in the course of an yearly and/or monthly auction shall be tradable (transferable) within the deadline stipulated in the Yearly and Monthly Allocation Rules. The transfer will be possible only for the paid PTRs. Therefore PTRs bought in the course of yearly and/or monthly auctions can be transferred by Registered Participants according to the regulations set out in the Yearly and Monthly Allocation Rules to other Registered Participants fulfilling the requirements set out in the Yearly and Monthly Allocation Rules.
2. The Parties agree that Transelectrica registers each transfer and informs duly EMS about any such transfer.
3. In case of uncertainties or disagreements about the validity of such transfers, EMS and Transelectrica shall use its best efforts to find an amicable solution.

IX. Allocation of costs, payments and risks between EMS and Transelectrica concerning the Yearly and Monthly Capacity Allocation

1. The due payments related to the result of the Yearly and Monthly Capacity allocation procedures shall be invoiced to the Registered Participants by Transelectrica. The applicable currency for the invoicing shall be EUR.
2. Transelectrica shall assume all risks in every financial, economic and legal aspect arising from the execution of the yearly and monthly Capacity allocation, especially in case the execution of the yearly and monthly Capacity allocation does not comply with the applicable national laws and/or regulatory requirements.
3. Unless otherwise provided for in this Agreement, Transelectrica shall fully indemnify EMS in every economic, financial and/or legal aspect, especially in case Registered Participants and/or Regulatory Authorities (National or European) and/or other third parties carry successful claims against EMS because of and resulting from the yearly and monthly Capacity allocation conduct or in case of not organizing yearly and monthly capacity allocation. This means that against any liability arising from any successful claim for performance, warranty claim or successful claims for damages, Transelectrica agrees to hold fully harmless and indemnify EMS against any damages in every economical, financial and/or legal aspect due to a consequential harm caused by a defect, or any successful claims for compensation for possible damages resulting from third party claims.
4. Furthermore, Transelectrica agrees to hold fully harmless and indemnify EMS in case National and/or European Regulatory Authorities impose orders and/or fines and/or penalties because of and resulting from the yearly and monthly Capacity allocation conduct or in case of not organizing yearly and monthly Capacity allocation.
5. EMS shall have the right to obtain 50% of the revenue from the yearly and monthly capacity allocation in EUR, inasmuch as Transelectrica has received these payments from the Registered Participants. EMS shall have the right to obtain also 50% of the interest collected from Registered Participant in case of overdue payments.

6. With the purpose of performing the financial settlement between the Parties, in the beginning of every calendar month, till the 5th (fifth) working day, Transelectrica shall send by e-mail the Yearly and Monthly Settlement Notification (as per Appendix./5) with the quantities and values for the total yearly and monthly allocated PTRs to the Registered Participants in the respective month, as well as with the amount of EMS`s share.
7. In case of non-performed payments to Transelectrica from the Registered Participants by the maturity date, Transelectrica shall send to EMS together with the Yearly and Monthly Settlement Notification, an Outstanding Notification (Appendix./8), showing the Registered Participant names, the values of the non-collected amounts, as well as EMS`s share thereof.
8. Within 2 (two) working days after the date of sending by e-mail the Yearly and Monthly Settlement Notification and the Outstanding Notification, EMS shall send by e-mail an Invoice to Transelectrica, for the 50% of the due amounts representing the difference between the two values presented in Notifications (value from Settlement Notification – value from Outstanding Notification). The Invoice will be sent to Transelectrica at the issuing date.
9. Not later than on the due date stated on the Invoice Transelectrica will transfer the payment to EMS account, stated below (if the bank account details modify, the payment shall be made to the bank account number stated on the Invoice):

EMS AD Beograd
Name of the bank: VOJVODANSKA BANKA
IBAN:RS35325960170005316454
SWIFT code: OTPVRS22

10. The maturity date of the Invoice is set up at 6 (six) working days from the issuing date of the Invoice.
11. Should the maturity date expire on a public holiday, Saturday, Sunday or a public holiday following a Sunday, payment should be received on the following working day.
12. All the bank fees in the process of the payment will be covered by the sender (including the costs of intermediary bank if applicable).
13. The date of payment shall be the date upon which the given amount is credited to the account of EMS, free of charge and without deduction and/or offsetting.
14. As soon as the payment between Transelectrica and a Registered Participant is settled, by payment or by execution of bank guarantees, within one day after crediting Transelectrica`s account, Transelectrica shall send to EMS, first by e-mail and then by registered mail, an Exceptional Notification (Appendix./10), stating that the outstanding amount has been paid. Within 2 (two) working days from receiving date of Exceptional Notification (Appendix./10), EMS shall send by e-mail an Invoice for the 50% of this amount and not later than on the maturity date (set to 6 (six) working days) stated on the Invoice, Transelectrica shall pay the Invoice to EMS.
15. Outstanding accounts/debts shall be collected, recovered, settled, enforced and prosecuted by Transelectrica on behalf of both Parties.

16. Overdue payments of Transelectrica to EMS shall bear interest from the first day following the due date till the date of payment of unpaid amount, at a rate equal to the one month EURIBOR interest rate for 11:00 (CET) on one day after due date plus 1 percent/annum.
17. In case of Curtailment of PTRs or reduction of schedules related to Yearly or Monthly PTRs, Transelectrica, as Allocation Office for Yearly and Monthly Allocation, shall pay the reimbursement to the Registered Participant, on behalf of both Parties, according to the Yearly and Monthly Allocation Rules.
18. Transelectrica shall settle financially with EMS 50% of the reimbursed sum, paid to the Registered Participants due to the Curtailment of the PTRs or reduction of schedules related to Yearly or Monthly PTRs. For the respective month, Transelectrica shall send an invoice to EMS, by e-mail. Within 6 (six) working days after the issue of the invoice, EMS shall pay to Transelectrica the amount stated in the invoice.
19. At the beginning of each month, Transelectrica shall calculate the UIOSI remuneration/compensation per Registered Participant based on their non-nominated PTRs per hour for the previous month and hourly auction price from the Daily auctions, and send it via e-mail to EMS.

X. Allocation of costs, payments and risks between EMS and Transelectrica concerning the daily auctioning

1. The payment related to the results of the daily auction procedures shall be invoiced to the Registered Participants by EMS. The applicable currency for the invoicing is EUR.
2. EMS shall assume all risks in every financial, economic and legal aspect arising from the execution of the daily auctions, especially in case the execution of the daily auction does not comply with applicable national laws and/or regulatory requirement.
3. Unless otherwise provided for in this Agreement, EMS shall fully indemnify Transelectrica in every economic, financial and/or legal aspect, especially in case Registered Participants and/or Regulatory Authorities and/or other third parties carry successful claims against Transelectrica, because of and resulting from the daily capacity auction conduct or in case of not organizing of daily auctions. This means that against any liability arising from any successful claim for performance, warranty claim or successful claims for damages, EMS agrees to hold fully harmless and indemnify Transelectrica against any damages in every economic, financial and/or legal aspect due to a consequential harm caused by a defect, or any successful claims for compensation for possible damages resulting from third Party claims.
4. Furthermore, EMS agrees to hold fully harmless and indemnify Transelectrica in case National and/or European Regulatory Authorities impose orders and/or fines and/or penalties because of and resulting from the daily auction conduct through the use of the internet-based system "EMS DAMAS" or in case of not organizing of daily auctions.
5. Transelectrica shall have the right to obtain the 50% of the revenues from the daily Capacity auctions, in EUR inasmuch as EMS has received these payments from the Registered Participants. Transelectrica shall be entitled to receive also 50% of the interest collected from Registered Participants, in case of overdue payments.

6. Transelectrica shall have right to obtain 50% of the revenues from the daily auctions in EUR, regarding the non-nominated PTRs which were sold in the daily auctions, inasmuch as EMS has received these payments from the Registered Participants that bought Capacities in the daily auctions. Transelectrica shall remunerate the respective PTR Holders by the UIOSI (“Use It Or Sell It”) principle, as described in the Yearly and Monthly Allocation Rules.
7. The results of the daily Capacity auctions shall be settled financially between EMS and Transelectrica on a monthly basis. For the purpose of the financial settlement between the Parties, EMS shall send to Transelectrica by e-mail, no later than the 12th calendar day of the following month, a Settlement Notification for daily auctions (Appendix./6) and an Outstanding Notification (Appendix./8) with the name of the indebted Registered Participants and the value of the uncollected amounts confirming the level of Transelectricas share concerning the daily auctions. If the payment settlement between Registered Participants and EMS is delayed and there is an Outstanding Notification, the revenue for remuneration of the Registered Participants according to the UIOSI principle will have priority instead the revenue of Transelectrica and EMS.
8. Within 5 (five) working days from the end of the month, for the purpose of the financial settlement between the Parties, according to the UIOSI principle, Transelectrica shall send to EMS by e-mail a Settlement Notification for remuneration of the Registered Participants (Appendix./9), confirming the total sum to be reimbursed by Transelectrica to Registered Participants for all non-nominated PTRs.
9. Should the above-mentioned time limits expire on Saturday, Sunday or a public holiday following, the Settlement Notification and the Outstanding Notification should be sent on the following working day.
10. Within 2 (two) working days after the date of sending by e-mail the Settlement Notifications for daily auctions (Appendix./6), Outstanding Notification(Appendix./8) and the Settlement Notification for remuneration to Registered Participants (Appendix./9), Transelectrica shall send by e-mail two invoices to EMS:
 - First Invoice shall be for 50% of the total value in the Settlement Notification for remuneration of the Registered Participants but no more than the value of the Second invoice;
 - Second Invoice shall be for the 50% of the total value in the (Settlement Notification - Outstanding Notification) for daily auctions.

In the situations when the value from the Invoices does not cover the total value (100%) for remuneration of the Registered Participants according to the UIOSI principle due to technical limitation of EMS DAMAS system (the sold Capacities in the daily auction are less than the non-nominated Capacities) the difference value will be covered by Transelectrica and EMS in the equal measure (50% by Transelectrica and 50% by EMS from the respective value). This value will be invoiced separately by Transelectrica to EMS.
11. When the daily auction is not organized due to technical reasons, the Registered Participants will receive remuneration according to the UIOSI principle, based on the Auction Price from the initial Auction (Yearly and/or Monthly Auction), for all non-nominated Capacities (according to Appendix./9). In this case Transelectrica will invoice EMS 50% of the total amount which has to be reimbursed to the Registered Participants.

12. Not later than on the maturity date stated on the invoices, EMS will transfer the due payment to Transelectrica's account, stated below (if the bank account details modify, the payment shall be made to the bank account number stated on the invoice):

CNTEE TRANSELECTRICA SA
Name of the Bank: BRD – Sucursala ACADEMIEI
Account No.: SV18545934100
IBAN: RO14BRDE410SV18545934100
SWIFT code: BRDEROBU

13. The maturity date of the invoices is set up at 6 (six) working days from the issuing date of the invoices.
14. Should the maturity date expire on a public holiday, Saturday, Sunday or a public holiday following a Sunday, payment should be received on the following working day.
15. All the bank fees in the process of the payment will be covered by the sender (including the costs of intermediary bank if applicable).
16. The date of payment shall be the date upon which the given amount is credited to the account of Transelectrica, free of charge and without deduction and/or offsetting.
17. As soon as the payment between EMS and Registered Participant is settled, within one day after crediting EMS' account, EMS shall send by e-mail an Exceptional Notification (Appendix./10) to Transelectrica, stating that this outstanding amount has been paid. Within 2 (two) working days from the receiving of the Exceptional Notification, Transelectrica shall send by e-mail an invoice for the 50% of this amount. EMS shall pay the invoice to Transelectrica's bank account within 6 (six) working days.
18. Outstanding accounts/debts shall be collected, recovered, settled, enforced and prosecuted by EMS on behalf of both Parties.
19. Overdue payments of EMS to Transelectrica shall bear interest from the first day following the due date till the date of payment of unpaid amount, at a rate equal to the one month EURIBOR interest rate for 11:00 (CET) on one day after due date plus 1 percent/annum.
20. In case of the curtailment of Daily PTRs or Daily Schedules, EMS as Allocation Office for daily Capacity auctions shall inform Transelectrica for the period, amount and hours of Curtailment and shall settle financially with Transelectrica in the Settlement Notification (Appendix./6).
21. After each daily Capacity auction, EMS will send to Transelectrica, by e-mail, Comma-separated values (*.csv) file, with the results of the capacity auction and ECAN version 4.0 Total Allocation Results Document (TARD) to: octavia.unguroiu@transelectrica.ro; costel.buscoveanu@transelectrica.ro (only *.csv file). These information will be used by Transelectrica in order to calculate UIOSI remuneration per Registered Participant.

XI. Allocation of costs, payments and risks between EMS and Transelectrica concerning the Intraday Capacity Allocation

1. The due payments related to the result of the Intraday Capacity allocation procedures shall be invoiced to Registered Participants by Transelectrica. The applicable currency for the invoicing shall be EURO.
2. Transelectrica shall assume all risks in every financial, economic and legal aspect arising from the execution of the intraday capacity allocation, especially in case the execution of the intraday capacity allocation does not comply with the applicable national laws and/or regulatory requirements.
3. Unless otherwise provided for in this Agreement, Transelectrica shall fully indemnify EMS in every economic, financial and/or legal aspect, especially in case Registered Participants and/or Regulatory Authorities (National or European) and/or other third parties carry successful claims against Transelectrica because of and resulting from the intraday capacity allocation conduct or in case of not organizing of intraday capacity allocation. This means that against any liability arising from any successful claim for performance, warranty claim or successful claims for damages, Transelectrica agrees to hold fully harmless and indemnify EMS against any damages in every economical, financial and/or legal aspect due to a consequential harm caused by a defect, or any successful claims for compensation for possible damages resulting from third party claims.
4. Furthermore, Transelectrica agrees to hold fully harmless and indemnify EMS in case National and/or European Regulatory Authorities impose orders and/or fines and/or penalties because of and resulting from the intraday capacity allocation conduct or in case of not organizing of intraday capacity allocation.
5. EMS shall have the right to obtain 50% of the revenue from the intraday capacity allocation in EUR, inasmuch as Transelectrica has received these payments from the Registered Participants. EMS shall have the right to obtain also 50% of the interest collected from Registered Participant in case of overdue payments.
6. With the purpose of performing the financial settlement between the Parties, at the beginning of every calendar month, until the 12th (twelfth) calendar day, Transelectrica will send to EMS an Intraday Settlement Notification (Appendix./7), by e-mail, with the quantities and values for the total intraday PTRs allocated to the Registered Participants in the precedent month, as well as with the amount of EMS` share.
7. In case of non-performed payments to Transelectrica by the Registered Participants, Transelectrica shall send to EMS an Outstanding Notification (Appendix./8), alongside the Intraday Settlement Notification, showing the Registered Participant names, the values of the non-collected amounts, as well as EMS`s share thereof.
8. Within 2 (two) working days after the date of sending the Intraday Settlement Notification and the Outstanding Notification, EMS shall send by e-mail, an Invoice to Transelectrica, for the 50% of the due amounts representing the difference between the two values presented in Notifications (value from Settlement Notification – value from Outstanding Notification). The Invoice will be send to Transelectrica at the issuing date.

9. Not later than on the due date stated on the Invoice Transelectrica will transfer the payment to EMS' account, stated below (if the bank account details modify, the payment shall be made to the bank account number stated on the Invoice):

EMS AD Beograd
Name of the bank: VOJVOĐANSKA BANKA
IBAN:RS35325960170005316454
SWIFT code: OTPVRS22

10. The maturity date of the Invoice is set up at 6 working days from the issuing date of the Invoice.
11. Should the maturity date expire on a public holiday, Saturday, Sunday or a public holiday following a Sunday, payment should be received on the following working day.
12. All the bank fees in the process of the payment will be covered by the sender (including the costs of intermediary bank if applicable).
13. The date of payment shall be the date upon which the given amount is credited to the account of EMS, free of charge and without deduction and/or offsetting.
14. As soon as the payment between Transelectrica and a Registered Participant is settled, within one day after crediting Transelectrica's account, Transelectrica shall send to EMS by e-mail an Exceptional Notification (Appendix./10), stating that the outstanding amount has been paid. Within 2 (two) working days from the receiving date of Exceptional Notification (Appendix./10), EMS shall send by e-mail an Invoice for the 50% of this amount and not later than on the maturity date (set to 6 (six) working days) stated on the Invoice, Transelectrica shall pay the Invoice to EMS.
15. Outstanding accounts/debts shall be collected, recovered, settled, enforced and prosecuted by Transelectrica on behalf of both Parties.
16. Overdue payments of Transelectrica to EMS shall bear interest from the first day following the due date till the date of payment of unpaid amount, at a rate equal to the one month EURIBOR interest rate for 11:00 (CET) on one day after due date plus 1 percent/annum.
17. In case of the curtailment of Intraday PTRs or reducing the intraday Exchange Schedules, Transelectrica as Allocation Office for intraday allocation shall inform EMS for the period, amount and hours of Curtailment and shall settle financially with EMS in the Intraday Settlement Notification (Appendix./7) and according to the Intraday Allocation Rules.

XII. Applicable Law and Place of Performance

This Agreement and its Appendix./2 including the issue of its valid conclusion and its pre- and post-contractual effect shall be governed by the laws of Serbia excluding the provisions of Serbian private international law. Appendix./1 and its Appendix ./3 of this Agreement including the issue of its valid conclusion and its pre- and post- contractual effect shall be governed by the laws of Romania excluding the provisions of Romanian private international law. In both cases the obligations according to EU Regulation 714/2009 as of 3 March 2012 shall have priority.

The place of performance of all obligations resulting from this Agreement, and its Appendix./2 shall be the registered seat of EMS. The place of performance of Appendix./1 and Appendix./3 of this Agreement shall be the registered seat of Transelectrica.

XIII. Arbitration

All disputes between Transelectica and EMS arising out of this Agreement and its Appendixes or related to its violation, termination or nullity shall be finally settled under the Rules of Arbitration and Conciliation of the International Arbitral Centre of the Austrian Federal Economic Chamber in Vienna (Vienna Rules) by a panel appointed in accordance with these rules. The number of arbitrators shall be three. The substantive law of Austria shall be applicable. The language to be used in the arbitral proceedings shall be English.

XIV. Severability

If any part or provision of this Agreement and/or Allocation Rules are or become invalid, illegal, void or unenforceable, the remaining part(s) shall continue to be valid and enforceable and shall not be affected thereby. EMS and Transelectica hereby agree that all invalid, illegal, void and/or unenforceable part or provision shall be replaced by valid, legal and/or enforceable part or provision in order to achieve the intended economic and legal effect as far as possible.

XV. Notices

All notices and communications under this Agreement shall be served by e-mail unless explicitly envisaged otherwise in this Agreement. In the event of difficulty in using e-mail, notices may be served in fax and/or writing and/or delivered in person or by courier or by post, which such service deemed effective on the date of receipt. All notices and communications shall be in writing and in the English language. The Parties shall inform each other immediately in case of a change of the e-mail or the postal addresses and/or in case of a change of telephone and fax numbers.

XVI. Confidentiality

Information considered as confidential includes all commercially sensitive information, information clearly marked as "confidential" and information which by its nature must be considered or qualified as confidential. No recipient of confidential information shall use or otherwise process the confidential information obtained by it pursuant to this Agreement for any purpose except as strictly required for the performance of the obligations hereunder, or disclose any such information or the existence of the terms of this Agreement or related information to any third Party other than those of its directors, employees, professional advisors and representatives, regulatory authorities, which have a strict need to know such information for the proper performance of this Agreement. EMS and Transelectica are obliged to organise their data handling in such a way as to minimize the risk of misuse or unauthorized access or the enclosure of confidential information.

XVII. Amendments

No amendment or modification of this Agreement shall take effect unless it is in writing, executed and delivered by EMS and Transelectrica and approved by the Regulatory Authorities in accordance with national legislations.

XVIII. Assignment of Rights and Obligations

EMS and Transelectrica hereby agree, that it is prohibited, unless prescribed by the relevant legislation or a competent authority, to transfer (including by means of merger, split of, or transfer or contribution of universality or a branch of activity or otherwise) all or a part of its rights and obligations arising under this Agreement to a third Party without the prior and express consent of the other Party. This consent cannot be unreasonably withheld or delayed.

XIX. Hardship

If there should occur any extraordinary event or circumstance, independent of the will of Transelectrica and/or EMS, unforeseeable at the time the conclusion of this Agreement (including legislative changes or positions taken by the regulatory authorities or any other authority) and which fundamentally reduces the benefits and the modalities of continuing the Agreement, EMS and Transelectrica shall seek to adjust the conditions of the Agreement in order to re-establish the initial contractual equilibrium while protecting the respective interests. As from the receipt of the request of the affected Party (Transelectrica or EMS) a period of 2 (two) months shall commence for the re-establishing of such an equilibrium. During such period, EMS and Transelectrica shall negotiate in good faith. Failing the successful completion of such negotiation, the Agreement may be terminated by common written action of EMS and Transelectrica. Upon such termination, EMS and Transelectrica shall be relieved from any other further obligations under the Agreement other than payment obligations already due or accrued and any other non-performed obligations under this Agreement, which were to be performed prior to and until such termination decision.

XX. Use of Languages

EMS and Transelectrica acknowledge that they have required the present Agreement and all notices and legal proceedings provided hereunder to be drawn up in the English language, to the extents permitted by rules of public policy relating directly or indirectly to these proceedings.

XXI. Nature of the Relationship

This Agreement shall in no event be considered a partnership or joint-venture or other association between EMS and Transelectrica.

XXII. Liability

EMS and Transelectrica undertake to carry out the provisions set out in this Agreement and Allocation Rules with the diligence of a careful businessman and in compliance with the applicable laws and regulations in the electricity sector. EMS and Transelectrica shall notify the respective other Party of risks and dangers appending the performance of this Agreement recognizable to a careful businessman and provide suggestion for solution.

Claims for damages based on the breach of material contractual duties of the Agreement and Allocation Rules shall be limited to the damages typical and foreseeable in the context of this Agreement, unless there has been wilful misconduct or gross negligence on behalf of either Transelectrica or EMS. Any claims or damages going beyond that, including claims for business interruption, for loss of business profits, or for indirect incidental, special or consequential damages are expressly excluded.

XXIII. Validity

This Agreement shall be valid from the date of its signing by both Parties until December 31, 2021, 24:00 (CET). Unless prolonged by the Parties, this Agreement shall terminate at the above date automatically, without any further acts by the Parties.

However the present Agreement shall govern all Capacities allocated under this Agreement as well as the handling of such Capacities and the enforcement of obligations even upon termination of this Agreement. It is common understanding of the Parties that this Agreement does not govern the auction procedures for the following years or months within.

XXIV. Waiver

No act or omission by EMS or Transelectrica shall be deemed to be a waiver of any rights, if such a waiver is not declared explicitly and in writing.

XXV. Prevailing

In case any dispute between EMS and Transelectrica arises and in case there is any discrepancy between the wording of this Agreement and of the Auction Rules, concerning the settlement of disputes, the wording of this Agreement shall prevail.

XXVI. The Appendixes

(each one of the following appendixes constitutes an integral part of this Agreement)

Appendix./1: “Yearly and Monthly Allocation Rules for the Coordinated Allocation of Cross Zonal Capacities at the Border between the Bidding Zones of C.N.T.E.E. Transelectrica S.A. and EMS AD Beograd for the year 2021“

Appendix./2: “Daily Auction Rules for the Allocation of Cross Zonal Capacities at the Border between the Bidding Zones of EMS AD Beograd (EMS) and C.N.T.E.E. Transelectrica S.A. (Transelectrica) for 2021“

Appendix./3: “Intraday Allocation Rules for the Coordinated Allocation of Cross Zonal Capacities at the Border between the Bidding Zones of C.N.T.E.E. Transelectrica S.A. and EMS AD Beograd for the year 2021“

Appendix./4: List of Contacts

Appendix./5: Yearly/Monthly Settlement Notification

Appendix./6: Daily Settlement Notification

Appendix./7: Intraday Settlement Notification

Appendix./8: Outstanding Notification

Appendix./9: Settlement Notification for remuneration to Registered Participants

Appendix./10: Exceptional Notification

Appendix./11: Format of ECAN documents

Aleksandar Kurćubić
Executive Manager for System and
Market Operation

(based on Authorization no 900-00-
OPP-277/2020 dated 12.03.2020.)

Date

On behalf of EMS AD Beograd (“EMS”)

Cătălin NIȚU
President of Board

Date

Ionuț-Bogdan GRECIA Board
Member

Date

Andreea Mihaela MIU
Board Member

Date

Marius Viorel STANCIU
Board Member

Date

Corneliu Bogdan MARCU
Board Member

Date

On behalf of CNTEE TRANSELECTRICA SA