

Amendment No. 3
TO ENGINEERING, PROCUREMENT AND CONSTRUCTION (EPC) CONTRACT
relating to the
Construction of Paks II Nuclear Power Plant Units 5 and 6, Hungary
dated December 2, 2020

between

Paks II. Nuclear Power Plant Company Ltd.

(formerly MVM Paks II.
Nuclear Power Plant Development Private Limited Company)

and

Joint Stock Company ASE [Engineering Company]
(formerly Joint Stock Company Nizhny Novgorod Engineering Company
“Atomenergoproekt”)

This Amendment No. 3 ("**Amendment No. 3**") is entered into on December 2, 2020 in Budapest, Hungary.

THE UNDERSIGNED

- (1) **Paks II. Nuclear Power Plant Ltd.** (formerly: MVM Paks II. Nuclear Power Plant Development Private Company Limited by Shares), a company duly incorporated under the laws of Hungary, with company registration number 17 10 001282, having its registered office at Gagarin Street 1, Paks, Hungary 7030 (the "**Owner**"), duly represented herein by Mr. István Lenkei (Chief Executive Officer), on the one hand; and
- (2) **Joint-Stock Company ASE Engineering Company** (JSC ASE EC) (formerly: Joint-Stock Company Nizhny Novgorod Engineering Company Atomenergoproekt (NIAEP JSC), a company duly incorporated under the laws of the Russian Federation, with company registration number 1075260029240, having its registered office at Ploshad Svobody 3, Nizhny Novgorod, Russia, 603006, the Russian Federation (the "**Contractor**"), duly represented herein by Mr. Khazin Alexander Borisovich, acting under power of attorney numbered 77/805-н/77-2019-5-200 dated 01.02.2019, duly issued by the President of JSC ASE EC, on the other hand

(together, save as otherwise indicated, the "**Parties**", and each individually, a "**Party**"),
hereby modify certain provisions of the EPC Contract (as defined below), as follows:

RECITALS

- A. On December 9, 2014, the Owner and the Contractor entered into the engineering, procurement and construction contract for the construction of Paks II Nuclear Power Plant Units 5 and 6 (for the purposes of the below paragraphs (B) through (E) the "**EPC Contract**").
- B. On June 29, 2015, the Parties made adjustments and added interpretations to the EPC Contract (the "**Addendum**").
- C. On December 22, 2017, the Parties amended the EPC Contract to adjust the Completion Dates, subject to the respective amendment of the Financial Intergovernmental Agreement (which amendment constituted the first amendment to the EPC Contract) (the "**Amendment**").
- D. On February 26, 2018, the Parties amended the EPC Contract to facilitate an earlier start of certain preliminary construction works in order to timely complete the construction works of Unit 5 and Unit 6 and made adjustments to the Table of Selected Technical Milestones of Table 2 of the Supplement to Appendix 3.2 Payment Schedule to the EPC Contract for the purpose of updating certain milestones during the Project's implementation (which



amendment constituted the second amendment to the EPC Contract) ("**Amendment No. 1**").

- E. On July 31, 2019, the Parties agreed to amend certain terms of the EPC Contract constituting the third amendment to the EPC Contract, in order to extend the Completion Dates under Clause 33.4 of the EPC Contract (which amendment constituted the third amendment to the EPC Contract) ("**Amendment No. 2**").
- F. The Parties have agreed to revise the dispute resolution and certain other contractual provisions of the EPC Contract ("**Amendment No. 3**"). (The EPC Contract, as amended by the Addendum, Amendment, Amendment No. 1 and 2 to the EPC Contract is hereinafter referred to as the "**EPC Contract**").

IT IS AGREED AS FOLLOWS

1. DEFINITIONS AND INTERPRETATION

- 1.1 In this Amendment No. 3, the capitalized terms used herein shall have the same meaning as set forth in the EPC Contract, unless defined herein or the context otherwise requires.
- 1.2 Any clause references used herein shall be interpreted as referring to the relevant clause in the EPC Contract, unless otherwise stated. The expression "Article" used in Amendment No. 1. and 2. and the expression "Clause" used in the EPC Contract and in this Amendment No. 3. shall have the same meaning.
- 1.3 Clause 2 (*Interpretation*), Clause 3 (*Notices and Language*), Clause 27 (*Governing Law*), and Clause 30 (*Confidential Information*) of the EPC Contract shall apply and be incorporated by reference into this Amendment No. 3, as if fully set out in this Amendment No. 3, save that references in those Clauses to "this Contract" (or an equivalent or corresponding term) shall be construed as references to this Amendment No. 3, and otherwise *mutatis mutandis*.

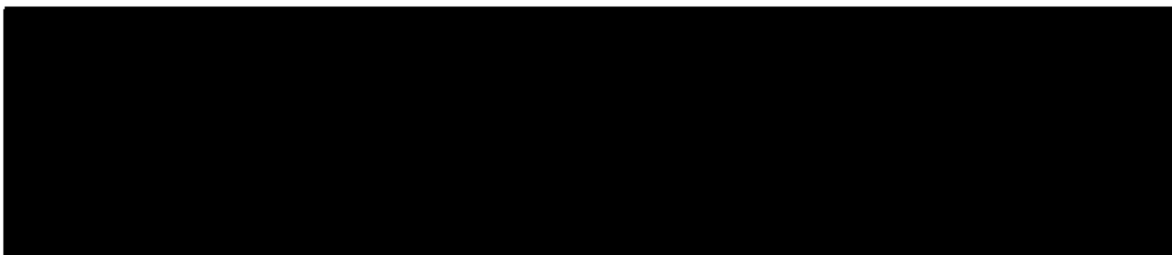
2. AMENDMENT

- 2.1 Clause 6.13 of the EPC Contract shall be deleted and replaced with the following provisions:

"Whenever this Contract provides that the Owner shall proceed in accordance with this Clause 6.13 to agree or determine any matter, the Owner shall consult with the Contractor in an endeavour to reach agreement. If agreement is not achieved, the Owner shall make a fair determination in accordance with the Contract, which determination in the view of the Owner takes due regard of all relevant circumstances. The Owner shall give notice to the Contractor of each agreement or determination, with supporting particulars. Each Party shall give effect to each agreement or determination, unless the Contractor gives notice, to

the Owner, of its dissatisfaction with a determination within 14 (fourteen) days of receiving it. Either Party may then refer the Dispute to amicable settlement of Disputes in accordance with Clause 28.3 ("Notice of Amicable Settlement") and thereafter, as set forth in Clause 28.3.3, refer the Dispute to the DAB in accordance with Clause 28.5 or directly to arbitration in accordance with Clause 28.13."

2.2



2.3 Clause 28 of the EPC Contract shall be deleted and replaced with the following provisions:

"28. SETTLEMENT OF CLAIMS, DISPUTES AND ARBITRATION

Notice of Claim

28.1 If the Owner considers itself to be entitled to any payment under any Clause of this Contract or otherwise in connection with the Contract, and/or to any extension of the Defects Liability Period, it shall give written notice and particulars describing the event or circumstance giving rise to the claim ("**Notice of Claim**") to the Contractor. The Notice of Claim is not required for services requested by the Contractor from the Owner.

The Notice of Claim shall be given as soon as practicable after the Owner became aware of the event or circumstances giving rise to the claim. A Notice of Claim relating to any extension of the Defects Liability Period shall be given before the expiry of such period.

The particulars shall specify the Clause or other basis of the claim, and shall include substantiation of the amount and/or extension to which the Owner considers itself to be entitled in connection with this Contract. The Owner shall then proceed in accordance with Clause 6.13 to agree or determine (i) the amount (if any) which the Owner is entitled to be paid by the Contractor, and/or (ii) the extension (if any) of the Defects Liability Period in accordance with Clause 14.8.

The Contractor shall open, immediately but not later than 3 (three) Business Days from the receipt of the Notice of Claim, a separate bank account at a bank seated in Russian Federation and shall place the disputed amount of money thereon which account shall not be used for any other purposes. In the event that the Owner does not refer the dispute to DAB (Clause 28.5) or initiate arbitration (Clause 28.1) claiming the so separated amount within 30 (thirty) days following the conclusion of amicable settlement negotiations pursuant to Clauses 28.3 and 28.4, the Contractor shall become entitled to drawdown the separated amount. Otherwise, the

Contractor will be entitled to drawdown the separated amount only as directed by a DAB's decision after the expiry of the period for issuing a notice of dissatisfaction pursuant to Clause 28.12 or after the issuance of an arbitration award provided that such claim is not withdrawn by the Owner.

- 28.2 If the Contractor considers itself to be entitled to any extension of the time for completion and/or any additional payment, under any Clause of this Contract or otherwise in connection with this Contract, the Contractor shall submit a Notice of Claim to the Owner. The Notice of Claim shall be given as soon as practicable, and not later than 28 (twenty-eight) days after the Contractor became aware, or should have become aware, of the event or circumstance. If the Contractor fails to submit a Notice of Claim within such period of 28 (twenty-eight) days, the time for completion shall not be extended, the Contractor shall not be entitled to additional payment, and the Owner shall be discharged from all liability in connection with the claim. Otherwise, the following provisions of this Clause shall apply.

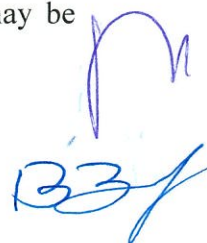

The Contractor shall also submit any other notices which are required by this Contract and supporting particulars for the claim, all as relevant to such event or circumstance.

The Contractor shall keep such contemporary records as may be necessary to substantiate any claim, either on the Site or at another location acceptable to the Owner. Without admitting liability, the Owner may, after receiving any notice under this Clause, monitor the record-keeping and/or instruct the Contractor to keep further contemporary records. The Contractor shall permit the Owner to inspect all these records, and shall (if instructed) submit copies to the Owner.

Within 42 (forty-two) days after the Contractor became aware (or should have become aware) of the event or circumstance giving rise to the claim, or within such other period as may be proposed by the Contractor and approved by the Owner, the Contractor shall send to the Owner a fully detailed Notice of Claim which includes full supporting particulars of the basis of the claim and of the extension of time and/or additional payment claimed. If the event or circumstance giving rise to the claim has a continuing effect:

- a) this fully detailed claim shall be considered as interim;
- b) the Contractor shall send further interim claims at monthly intervals, giving the accumulated delay and/or amount claimed, and such further particulars as the Owner may reasonably require; and
- c) the Contractor shall send a final claim within 28 (twenty-eight) days after the end of the effects resulting from the event or circumstance, or within such other period as may be proposed by the Contractor and approved by the Owner.

Within 42 (forty-two) days after receiving a Notice of Claim or any further particulars supporting a previous claim, or within such other period as may be



proposed by the Owner and approved by the Contractor, the Owner shall respond with approval, or with disapproval and detailed comments. The Owner may also request any necessary further particulars, but shall nevertheless give its response on the principles of the claim within such time.

Each interim payment shall include such amounts for any claim as have been reasonably substantiated as due under the relevant provision of this Contract. Unless and until the particulars supplied are sufficient to substantiate the whole of the claim, the Contractor shall only be entitled to payment for such part of the claim as he has been able to substantiate.

The Owner shall proceed in accordance with Clause 6.13 to agree or determine (i) the extension (if any) of the time for completion (before or after its expiry) in accordance with Clause 33.2, and/or (ii) the additional payment (if any) to which the Contractor is entitled under this Contract.

The requirements of this Clause are in addition to those of any other Clause which may apply to a claim. If the Contractor fails to comply with this or another Clause in relation to any claim, any extension of time and/or additional payment shall take account of the extent (if any) to which the failure has prevented or prejudiced proper investigation of the claim, unless the claim is excluded under the second paragraph of this Clause.

Amicable Settlement of Disputes

28.3 In the event of any dispute, controversy or claim arising out of or in connection with this Contract (including any questions regarding the existence, validity, invalidity, breach or termination thereof) or any non-contractual obligations arising out of or in connection with this Contract (the "**Dispute**"), the Parties shall enter into negotiations with a view to resolving the Dispute within 30 (thirty) days from the date of the Notice of Amicable Settlement.

28.3.1 The Notice of Amicable Settlement shall:

28.3.1.1 contain the Notice of Claim submitted under Clause 28.1 or 28.2; and

28.3.1.2 propose a date, time and place for negotiations, which may not be earlier than the 7th Business Day after receipt of the Notice of Amicable Settlement by the other party; negotiations should be held in person in Hungary if reasonably practicable and otherwise by any appropriate means.

28.3.2 The Party giving Notice of Claim shall be considered as the initiating party within the meaning of Clause 28 of this Contract ("**Initiating Party**"). If

an amicable settlement is reached in course of the negotiations, the Parties shall conclude their amicable settlement in writing.

28.3.3 The amicable settlement of a Dispute is deemed to have failed in any of the following cases:

28.3.3.1 if the party other than the Initiating Party fails or refuses to respond to the Notice of Amicable Settlement or to participate in the negotiations;

28.3.3.2 in respect of any claim as to which no settlement agreement has been signed within 45 (fourty-five) days calculated from the day of commencement of the negotiations.

28.4 If the amicable settlement of Disputes is deemed to have failed (as defined above in Clause 28.3.3) in respect of any claim, the Initiating Party may, within 60 (sixty) days following the date of failure of amicable settlement pursuant to Clause 28.3.3, at its option either refer the Dispute to the DAB in accordance with Clause 28.5 or directly to arbitration in accordance with Clause 28.13 . In such case, the other Party must abide by the Initiating Party's choice of dispute resolution mechanism, i.e. in case of the Initiating Party refers the Dispute to the DAB, the Parties may not refer the Dispute directly to arbitration, and in case of the Initiating Party refers the Dispute directly to arbitration, the Parties may not refer the Dispute to the DAB. Should the Initiating Party fail to exercise its option within such period, either Party may refer the Dispute to the DAB.

Dispute Adjudication Board ("DAB")

28.5 The DAB shall have jurisdiction to adjudicate all Disputes referred to it in accordance with the terms and conditions of this Contract.

28.5.1 The reference of a Dispute to the DAB shall set out in detail the Dispute and be in writing with a copy to the other Party ("**Reference to DAB**"). The Reference to DAB be deemed to have been received by the DAB on the date it is received by the chairperson of the DAB.

28.5.2 The DAB proceeding shall be conducted in the English language according to the DAAB Procedural Rules of the FIDIC 2017 Conditions of Contract for EPC/Turnkey Projects ("**DAB Rules**"). The DAB Rules shall be interpreted and applied in a manner that is consistent with this Contract. In case of any inconsistency or conflict between the provisions of this Contract and the DAB Rules, provisions of this Contract shall prevail.

28.6 Appointment of the DAB

28.6.1 The Parties shall cooperate to appoint a DAB by the date 28 (twenty-eight) days after submission of the Reference to DAB. In case the DAB

is not constituted by that date, the relevant appointments shall be made pursuant to Clause 28.7.

- 28.6.2 The Notice of DAB shall, unless prohibited by law, be deemed to interrupt the running of any applicable statute of limitations or prescription period.
- 28.6.3 The DAB shall comprise three persons (the "**Members**" and each a "**Member**"). The Members shall be when appointed and remain independent from the Parties throughout their appointment, and are required to act impartially and in accordance with this Contract. The DAB shall be an ad hoc DAB with jurisdiction to decide only the Dispute specifically referred to it; provided, however, that the Parties may jointly refer additional Disputes to a sitting DAB or appoint the same Member to multiple or subsequent DABs.
- 28.6.4 Each Party shall notify the other Party of its nominated Member within 7 (seven) calendar days after receipt of the Reference to DAB by the other Party. The Member must satisfy the requirements set forth in Clauses 28.6.5 and 28.6.6. Together with the nomination, each Party shall submit in writing a statement setting forth to his/her best knowledge and recollection, any:
- 28.6.4.1 existing and/or past professional relationships with any director, officer or employee of the Owner (including as a dispute resolution practitioner on another project), the Contractor, or any of the Employer's Personnel or the Contractor's Personnel involved in the Dispute referred to the DAB,
 - 28.6.4.2 facts or circumstances which might call into question his/her independence or impartiality, and
 - 28.6.4.3 previous involvement in the Project of which the Contract forms part.
 - 28.6.4.4 If either Party reasonably believes that the Member nominated by the other Party does not satisfy the requirements set forth in Clause 28.6.6, it must object within three days of such Member's nomination and provide details. The other Party shall consider the arguments and evidence in good faith and, if it agrees, withdraw its initial nomination and submit an alternative within 5 (five) days of the objection.
 - 28.6.4.5 If there are no objections, a Member is deemed appointed. The party-appointed Members shall, in consultation with the respective Parties, jointly appoint the chairperson of the

DAB within 7 (seven) calendar days of the appointment of the second Member. Otherwise, the chairperson of the DAB shall be appointed pursuant to Clause 28.7 upon request of either Party.

28.6.5 Qualifications of the DAB members

- 28.6.5.1 Each DAB Member shall possess the level of proficiency in the English language necessary to conduct the DAB proceedings in the English language.
- 28.6.5.2 Each party-appointed DAB Member shall have at least 5 years' experience in a senior position in the technical or commercial area that the appointing party considers to be most closely related to the Dispute.
- 28.6.5.3 The chairperson shall have at least 10 years' experience in a senior position in the nuclear power generation sector and DAB experience; provided, however, that that party-appointed Members acting together shall have discretion to prioritize the one or other requirement, depending on the nature of the dispute put to the DAB.

28.6.6 Independence and Impartiality

Each DAB member shall:

- 28.6.6.1 have no financial interest in the Contract, or in the Project, except for payment under the DAB Agreement;
- 28.6.6.2 be independent of the Owner and the Contractor as well as any of the Owner's Personnel or the Contractor's Personnel involved in the dispute referred to the DAB;
- 28.6.6.3 in the ten years before signing the DAB Agreement, not have been employed by the Owner or the Contractor or any of the Owner's Personnel or the Contractor's Personnel involved in the dispute referred to the DAB;
- 28.6.6.4 not, while a DAB Member and for the term of the DAB:
 - 28.6.6.4.1 be employed as a consultant or otherwise by, and/or
 - 28.6.6.4.2 enter into discussions or make any agreement regarding future employment with

the Owner, the Contractor, or any of the Owner's Personnel or the Contractor's Personnel involved in the dispute, except as may be agreed by the Owner, the Contractor and/or

28.6.6.5 not solicit, accept or receive (directly or indirectly) any gift, gratuity, commission or other thing of value from the Owner, the Contractor, or any of the Owner's Personnel or the Contractor's Personnel involved in the dispute, except for payment under the DAB Agreement.

28.6.7 If at any time the Parties so agree, they may appoint a person or persons to replace any one or more Members of the DAB. Unless the Parties agree otherwise, a replacement appointment shall be made if a Member declines to act or is unable to act as a result of death, illness, disability, resignation or termination of appointment. The replacement shall be appointed in the same manner as the replaced person was appointed, as described in this Sub-Clause.

28.6.8 The appointment of any Member may be terminated by mutual agreement of both Parties, but not by the Owner or the Contractor acting alone.

28.6.9 Unless otherwise agreed by both Parties, the appointment of the DAB (including each Member) shall expire 28 (twenty-eight) days after the DAB has given its decision on all Disputes referred to it under Sub-Clause 28.5.

28.7 Appointing Authority

28.7.1 If any of the following conditions apply, namely:

28.7.1.1 if by the dates stated in Sub-Clause 28.6:

28.7.1.1.1 either Party fails to appoint a Member; or

28.7.1.1.2 either Party objects to the appointment of the other Party's Member for lack of independence and/or impartiality, and no substitute Member has been appointed by the non-objecting Party in response; or

28.7.1.1.3 the Parties fail to agree on the appointment of the third Member (to act as chairperson) of the DAB;

28.7.1.2 the Parties fail to agree upon the appointment of a replacement person within 14 (fourteen) days after the date on which any of the three Members declines to act or is unable to act as a result of death, illness, disability, resignation or termination of appointment; or

28.7.1.3 if, after the Parties have agreed the appointment of the Member(s) or replacement(s), one Party refuses or fails to sign a DAB Agreement with any such Member or replacement (as the case may be) within 7 (seven) days of the other Party's request to do so,

then the President of the FIDIC upon the request of either or both of the Parties and after due consultation with both Parties, appoints this Member of the DAB (the "**Appointing Authority**"). In the event that the Appointing Authority declines or is unable to act and provides both Parties with written notification of its declination or inability, the ICC International Centre of ADR shall act as an alternate appointing authority (the "**Alternate Appointing Authority**") and shall, after due consultation with both Parties, appoint this Member of the DAB. The appointment by the Appointing Authority or Alternate Appointing Authority (as the case may be) shall be final and conclusive.

28.7.2 The Parties agree that the Appointing Authority shall be guided by the requirements set forth in Clauses 28.6.5 and 28.6.6 of this Contract.

28.7.3 Thereafter, the Parties and the Members so appointed shall be deemed to have signed and be bound by a DAB Agreement under which: the monthly services fee and daily fee shall be as stated in the terms of the appointment agreement; and the law governing the DAB Agreement shall be the governing law of the Contract as defined in Clause 27.

28.7.4 Each Party shall be responsible for paying one-half of the remuneration of the appointing entity.

28.8 The terms of the remuneration of each of the three Members, including the remuneration of any expert whom the DAB consults, shall be mutually agreed upon by the Parties when agreeing the terms of appointment. Each Party shall be responsible for paying one-half of this remuneration. The terms and conditions of the agreement with Members shall be set out substantially in the form and content of General Conditions of Dispute Avoidance/adjudication Agreement Appendix to FIDIC 2017 Conditions of Contract for EPC/Turnkey Projects (the "**DAB Agreement**").

28.9 The Parties' obligations:

28.9.1 Both Parties shall promptly make available to the DAB all information, access to the Site, and appropriate facilities, as the DAB may require for the purposes of making a decision on such Dispute.

28.9.2 Unless the Contract has already been abandoned, repudiated or terminated, the Parties shall continue to perform their obligations and in particular the Contractor shall continue to proceed with the Services in accordance with the Contract.

28.10 The DAB's decision

28.10.1 The DAB shall complete its adjudication and give its decision within:

28.10.1.1 84 (eighty-four) days after receiving the Reference, or

28.10.1.2 such other period as may be proposed by the DAB and approved by both Parties.

28.10.2 However, if neither of the Parties has paid in full the invoices submitted by each Member pursuant to the DAB Rules, the DAB shall not be obliged to give its decision until such invoices have been paid in full (by either Party), in which case the DAB shall give its decision as soon as practicable after payment has been received.

28.10.3 The decision shall be given in writing, shall be reasoned, and shall state that it is given under this Sub-Clause.

28.10.4 If the issue in dispute referred to the DAB is the price of a Variation, the decision of the DAB shall specify a target price for such Variation. The Contractor shall use open book policy in respect of pricing and procurement of the Goods and Services relating to the performance of such Variation. Shall the Contractor's actual costs of performance of the Variation be lower than the target price decided by the DAB, then, in addition to such actual costs, the Owner shall pay to the Contractor the difference between these actual costs and the target price decided by the DAB. Shall the Contractor's actual costs of performance of the Variation be higher than the target price decided by the DAB, then the amount which the Owner shall pay to the Contractor for the relevant Variation shall be the aggregate of the following: (i) the target price of the Variation decided by the DAB; and (ii) the difference between the target price decided by the DAB and the Contractor's actual costs of performance of the Variation.

28.10.5 The decision shall be binding on both Parties, who shall promptly comply with it.

28.11 The DAB proceeding shall not be deemed to be an arbitration and the DAB Members shall not be deemed to act as arbitrators in conducting the DAB proceeding.

28.12 Dissatisfaction with DAB's decision

28.12.1 If either Party is dissatisfied with the DAB's decision:

28.12.1.1 such a party may give a notice of dissatisfaction with the DAB's decision ("**NOD**") to the other Party, with a copy to the DAB;

- 28.12.1.2 this NOD shall state that it is a "Notice of Dissatisfaction with the DAB's Decision" and shall set out the matter in Dispute and the reason(s) for dissatisfaction; and
- 28.12.1.3 this NOD shall be given within 28 (twenty-eight) days after receiving the DAB's decision.
- 28.12.2 If the dissatisfied Party is dissatisfied with only part(s) of the DAB's decision:
 - 28.12.2.1 this part(s) shall be clearly identified in the NOD;
 - 28.12.2.2 this part(s), and any other parts of the decision that are affected by such part(s) or rely on such part(s) for completeness, shall be deemed to be severable from the remainder of the decision; and
 - 28.12.2.3 the remainder of the decision shall become final and binding on both parties as if the NOD had not been given.
- 28.12.3 If the DAB fails to give its decision with the period stated in Sub-Clause 28.10. DAB's decision, then either Party may, within 14 (fourteen) days after this period has expired, give a NOD to the other Party in accordance with Clause 28.12.1 or Clause 28.12.2. If the DAB has given its decision as to a matter in Dispute to both Parties, and no NOD has been given by either Party within 28 (twenty-eight) days after receiving the DAB's decision, then the decision shall become final and binding on both Parties.

Arbitration

- 28.13 Unless settled amicably, any Dispute (as defined above in Clause 28.3) in respect of which the DAB's decision has not become final and binding shall be finally resolved by international arbitration settled under the Rules of Arbitration of the Swiss Chambers' Arbitration Institution as follows:
 - 28.13.1 The number of arbitrators shall be three and they shall be appointed in accordance with the Swiss Rules; provided, however that the third arbitrator who shall act as President shall be appointed by the two other party-appointed arbitrators in consultation with the respective parties within 30 (thirty) days of the confirmation of the second party-nominated arbitrator. The seat of the arbitration shall be Zurich, Switzerland. The arbitral proceedings shall be conducted in English.
 - 28.13.2 The arbitrator(s) shall have full power to open up, review and revise any certificate, determination, instruction, opinion or valuation of (or on behalf of) the Owner and the Contractor, and any decision of the DAB (save for the binding and final decisions of the DAB), relevant to the Dispute.

- 28.13.3 Neither Party shall be limited in the proceedings before the arbitrator(s) to the evidence or arguments previously put before the DAB to obtain its decision, or to the reasons for dissatisfaction given in its NOD. Any decision of the DAB shall be admissible in evidence in the arbitration.
- 28.13.4 Arbitration may be commenced prior to or after completion of the Services. The obligations of the Parties shall not be altered by reason of any arbitration being conducted during the progress of the Services.
- 28.13.5 In the event that a Party fails to comply with any decision of the DAB, whether binding or final and binding, then the other Party may, without prejudice to any other rights it may have, refer the failure itself directly to arbitration and Clause 28.3 and Clause 28.4 Amicable Settlement of Disputes shall not apply to this reference. The arbitral tribunal (constituted under Sub-Clause 28.13 Arbitration) shall have the power, by way of summary or other procedure, to order, whether by an interim or provisional measure or an award (as may be appropriate under applicable law or otherwise), the enforcement of that decision.
- 28.13.6 In the case of a binding but not final decision of the DAB, such interim or provisional measure or award shall be subject to the express reservation that the rights of the Parties as to the merits of the Dispute are reserved until they are finally resolved by an arbitral award.
- 28.13.7 Any interim or provisional measure or award enforcing a decision of the DAB which has not been complied with, whether such decision is binding or final and binding may also include an order or award of damages or other relief.

Sovereign Immunity

- 28.14 The Parties acknowledge article 177 section 2 of the Swiss International Private Law Statute and hereby undertake not to raise the sovereign immunity defense in connection with any arbitration pursuant to this Clause 28 in particular but without limitation the Parties undertake not to invoke their own law to contest the arbitrability of a dispute or their capacity to be subject to arbitration.”

2.4 Clause 38.8 of the EPC Contract shall be deleted and replaced with the following provision:

“Pursuant to Article 8, para 4 and Article 9 of the Financial Intergovernmental Agreement, any amendment to this Contract is subject to the prior approval of the authorized bodies of the Russian Federation and Hungary. Any amendment to this Contract shall thus enter into force on the date of the occurrence of the latter of the following events:

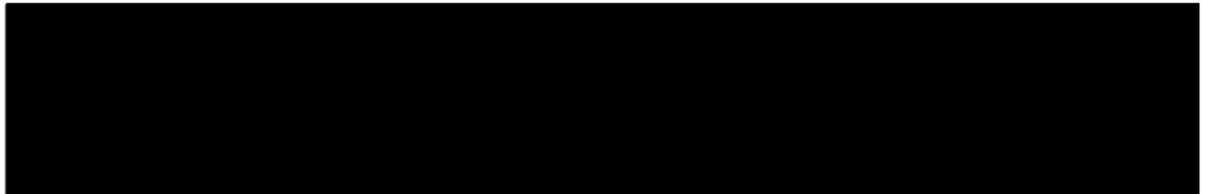
- (i) the Owner serves the Contractor a declaration representing and confirming, substantially in the form and with the content set forth in Appendix 4.12 attached hereto, that the Ministry of Finance of Hungary (or its legal successor) acting as the authorized body of Hungary appointed in Article 9

of the Financial Intergovernmental Agreement, agreed to and approved the relevant amendment of this Contract, and

- (ii) the Contractor serves the Owner a declaration representing and confirming, substantially in the form and with the content set forth in Appendix 4.12 attached hereto, that each of the Ministry of Finance and the Ministry of Economic Development of the Russian Federation (or their legal successors respectively), acting as the authorized bodies of the Russian Federation appointed in Article 9 of the Financial Intergovernmental Agreement, agreed to and approved the relevant amendment of this Contract.

The Owner serves the Contractor with a declaration signed by the Owner's Representative. The Contractor serves the Owner with a declaration signed by the Contractor's Representative."

2.5



2.6 Appendix 4.10 – "DAB Rules" is hereby revoked and no longer forms an integral part of the EPC Contract.

2.7 Appendix 4.12 - "Form of Owner's declaration and Form of Contractor's declaration under Article 38.8" shall be appended to the EPC Contract as a new Appendix.

3. AGREEMENT

3.1 The Parties hereby acknowledge and agree that the Owner shall act in good faith and use its respective reasonable endeavors to obtain the consent and/or approval (formal, informal or otherwise) of each of the European Commission's (i) Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs (DG GROW); (ii) Directorate-General for Energy (DG ENER); and (iii) Directorate-General for Competition (DG COMP) to the terms of this Amendment No. 3 (the "**EC Consents**"), assuming the EC Consents are required by Applicable Law, and the Contractor shall, in good faith, provide all necessary support and cooperation as is reasonably requested by the Owner to obtain the EC Consents.

3.2 The Parties hereby acknowledge and agree that the revised provisions of Clause 28 as set out in Clause 2.1 of this Amendment No. 3 shall apply to any current or future dispute (including any Dispute) or claim between the Parties under the EPC Contract irrespective whether it has been notified or not at the effective date of this Amendment No. 3.

4. REPRESENTATION AND WARRANTIES

4.1 Representation and warranties of the Contractor

The Contractor represents and warrants to the Owner that the Ministry of Finance of the Russian Federation and Ministry of Economic Development of the Russian Federation have approved this Amendment No. 3 in compliance with Clause 38.8 of the EPC Contract as well as Articles 8.4 and 9 of the Financial Intergovernmental Agreement.

4.2 Representation and warranties of the Owner

The Owner represents and warrants to the Contractor that the Ministry of Finance of Hungary has approved this Amendment No. 3, in compliance with Clause 38.8 of the EPC Contract as well as Articles 8.4 and 9 of the Financial Intergovernmental Agreement.

5. MISCELLANEOUS

5.1 This Amendment No. 3 is limited as specified and shall not constitute a modification or waiver of any of the other provisions of the EPC Contract, each of which shall continue in full force and effect except as otherwise provided in this Amendment No. 3.

5.2 This Amendment No. 3 contains the whole agreement between the Parties relating to the subject matter of this Amendment No. 3 at the date of this Amendment No. 3 and supersedes any other previous written or oral agreement between the Parties in relation to the matters dealt with in this Amendment No. 3.

5.3 Unless otherwise specified in this Amendment No. 3, this Amendment No. 3 shall enter into force on the date on which it is duly signed by both Parties, subject to the approval of the Ministry of Finance of Hungary and the Ministry of Finance of the Russian Federation in compliance with Clause 38.8 of the EPC Contract as well as the Financial Intergovernmental Agreement.

5.4 The following schedule forms an integral part of this Amendment No. 3:

- (i) Schedule 1 - "Appendix 4.12. - Form of Owner's declaration and Form of Contractor's declaration under Clause 38.8"

5.5 This Amendment No. 3 is signed in 4 (four) original copies, 2 (two) for the Owner and 2 (two) for the Contractor.

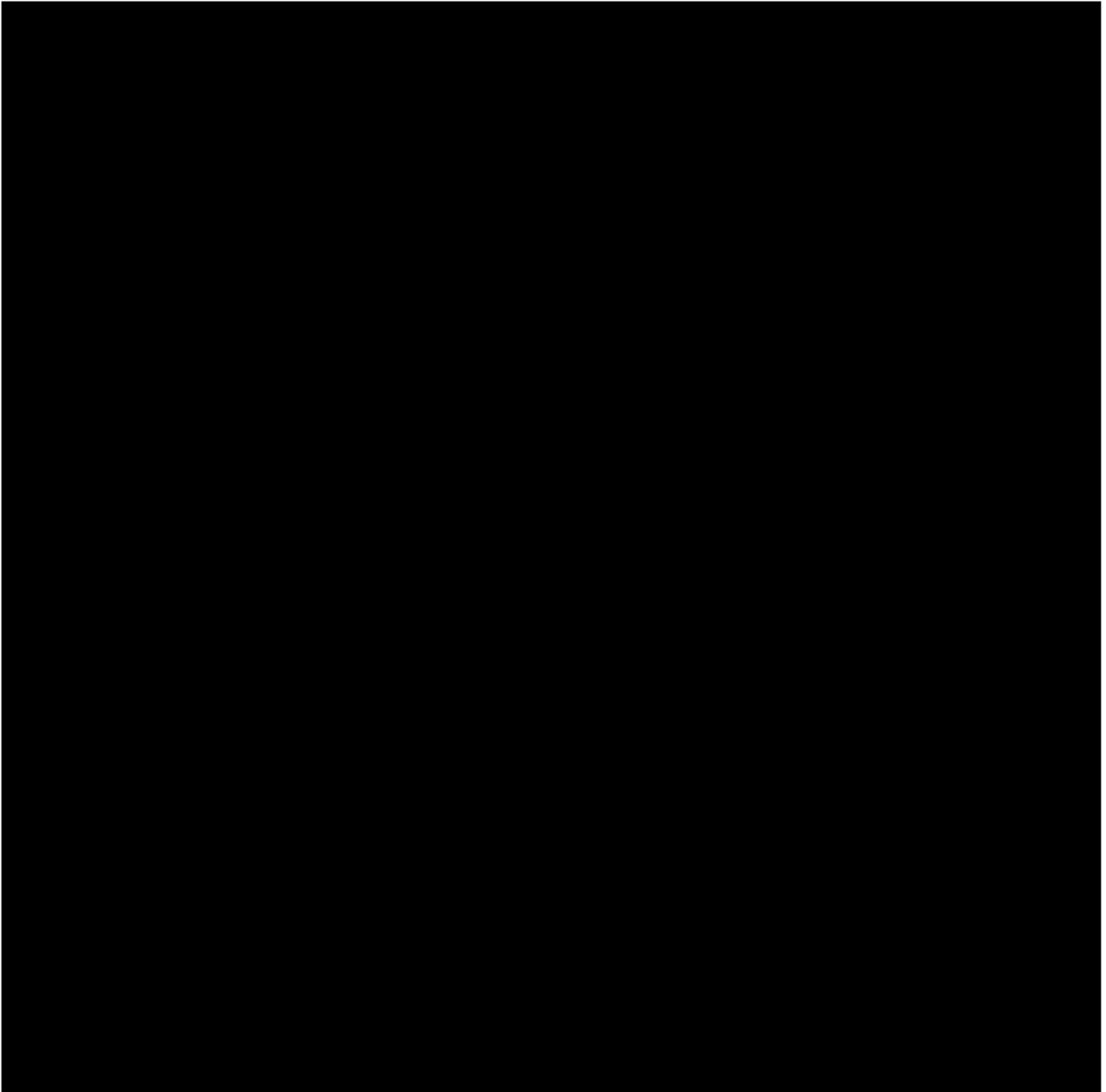
SIGNED:

For and on behalf of the **Owner**

SIGNED:

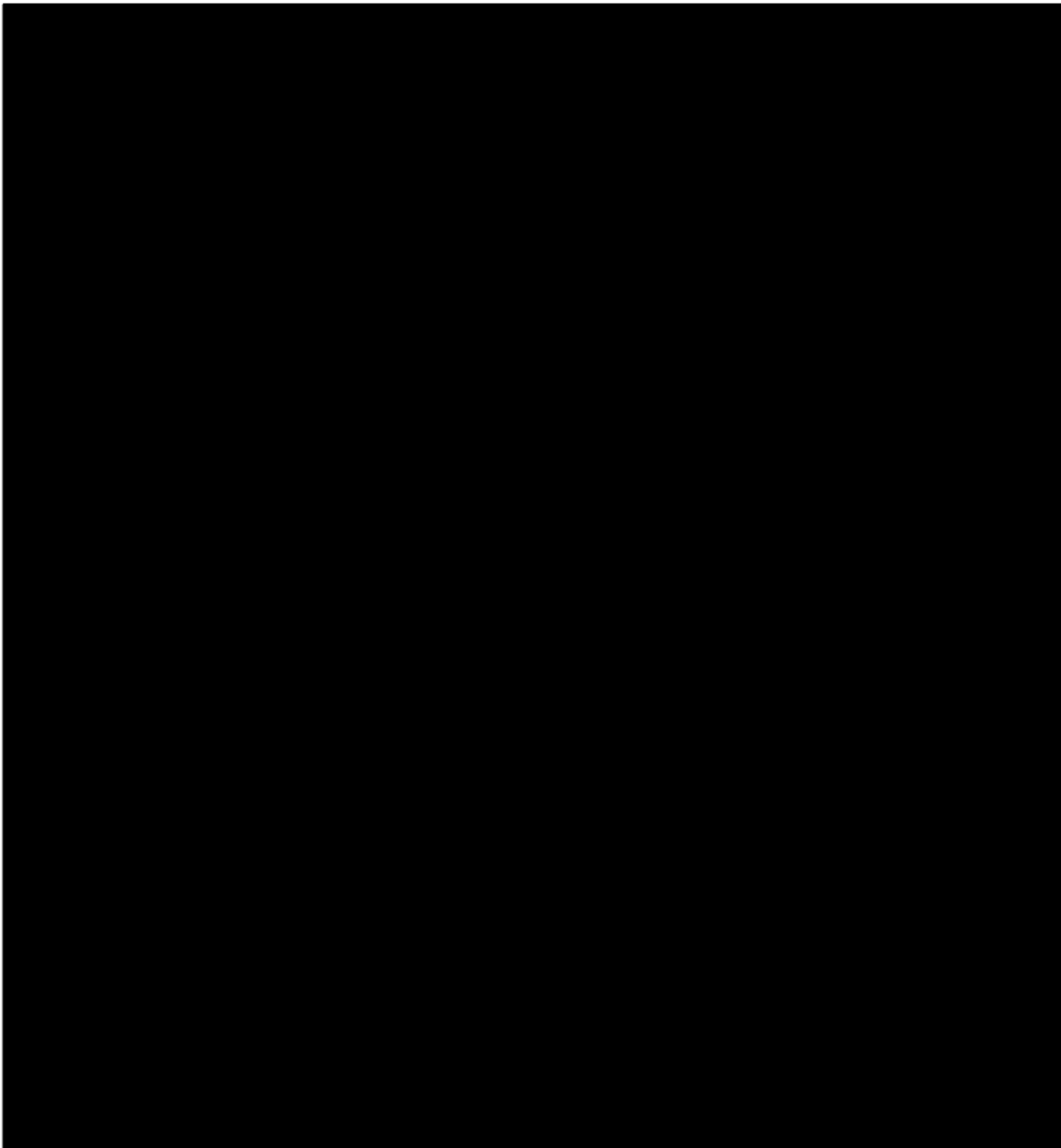
For and on behalf of the **Contractor**

SCHEDULE 1



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