

## STATUTES OF A JOINT STOCK COMPANY

Polenergia S.A.  
(the "**Company**")  
(consolidated text)

### 1. GENERAL PROVISIONS

- 1.1. The business name of the Company shall be: **Polenergia spółka akcyjna**. The Company may use an abbreviated business name: Polenergia S.A. and a distinctive graphic design.
- 1.2. The registered seat of the Company is in the capital city of Warsaw.
- 1.3. The Company shall operate on the territory of the Republic of Poland and abroad.
- 1.4. The Company has been established for an unlimited period of time.
- 1.5. Subject to the other provisions hereof, the Company may establish and operate branch offices, plants, representative offices, and other organizational units, as well as participate in other companies or enterprises on the territory of the Republic of Poland and abroad.

### 2. COMPANY'S OBJECT OF ACTIVITY

- 2.1. The subject of the Company's business activity shall be:
  - 2.1.1. generation, transmission and distribution trade of electricity (PKD 35.1);
  - 2.1.2. generation of electricity (PKD 35.11.Z);
  - 2.1.3. transmission of electricity (PKD 35.12.Z);
  - 2.1.4. distribution of electricity (PKD 35.13.Z);
  - 2.1.5. trade of electricity (PKD 35.14.Z);
  - 2.1.6. works related to construction of other civil engineering projects not elsewhere classified (PKD 42.99.Z);
  - 2.1.7. other construction installation (PKD 43.29.Z);
  - 2.1.8. other credit granting (PKD 64.92.Z);
  - 2.1.9. buying and selling of own real estate (PKD 68.10.Z);
  - 2.1.10. management of real estate on a fee or contract basis (PKD 68.32.Z);
  - 2.1.11. activities of head office and holding companies, excluding financial holding companies (PKD 70.10.Z);
  - 2.1.12. accounting, bookkeeping and auditing activities; tax consultancy (PKD 69.20.Z);
  - 2.1.13. business and other management consultancy activities (PKD 70.22.Z);
  - 2.1.14. architectural activities (PKD 71.11.Z);
  - 2.1.15. engineering activities and related technical consultancy (PKD 71.12.Z);

- 2.1.16. other research and experimental development on natural sciences and engineering (PKD 72.19.Z);
- 2.1.17. other business support service activities not elsewhere classified (PKD 82.99.Z);
- 2.1.18. other financial service activities, except insurance and pension funding, not elsewhere classified (PKD 64.99.Z);
- 2.1.19. site preparation (PKD 43.12.Z);
- 2.1.20. electrical installation (PKD 43.21.Z);
- 2.1.21. other information service activities, not elsewhere classified (PKD 63.99.Z);
- 2.1.22. manufacture of industrial gases (PKD 20.11.Z);
- 2.1.23. manufacture of gaseous fuels (PKD 35.21.Z);
- 2.1.24. wholesale of fuels and related products (PKD 46.71.Z);
- 2.1.25. wholesale of chemical products (PKD 46.75.Z); and
- 2.1.26. warehousing and storage of fuel gases (PKD 52.10.A).
- 2.2. Should the undertaking of any of the above-mentioned activities require obtaining a permit/license of a relevant authority, the Company shall obtain such permission/license before taking up that activity.

### **3. SHARE CAPITAL AND SHARES**

- 3.1. The share capital amounts to PLN 154,437,826 (one hundred fifty-four million four hundred thirty-seven thousand eight hundred twenty-six) and is divided into shares with a nominal value of PLN 2 (two zlotys) each, including 2,213,904 A series shares; 2,304,960 B series shares; 515,256 C series shares; 566,064 D series shares; 1,338,960 E series shares; 544,800 F series shares; 683,376 G series shares; 288,000 H series shares; 856,704 I series shares; 3,835,056 J series shares; 1,640,688 K series shares; 3,144,624 L series shares, 182,359 M series shares; 69,922 N series shares, 70,908 O series shares, 89,500 P series shares, 37,560 R series shares, 147,026 S series shares, 125,300 U series shares, 143,200 W series shares, 945,800 T series shares, 1,570,000 Y series shares, 24,129,580 Z Series shares, 21,358,699 AA series shares and 10,416,667 AB series shares.
- 3.2. The Company may issue registered shares and bearer shares.
- 3.3. The Management Board shall convert the registered shares into bearer shares, at the shareholder's request. Only fully paid-up shares shall be subject to conversion.
- 3.4. The share capital may be increased by issuing new shares or increasing the face value of existing Shares on the terms and conditions specified in a resolution of the General Meeting, adopted in accordance with Section 5.3.1(e).
- 3.5. The shareholders shall have the pre-emption right with respect to acquisition of new shares issued in proportion to the number of Shares they hold.
- 3.6. Shares may be redeemed under a resolution of the General Meeting adopted in accordance with Section 5.3.1(f), with the consent of the shareholder whose Shares are to be redeemed (voluntary redemption). Redemption of Shares shall require a reduction of the share capital. A shareholder shall be entitled to compensation for the redemption

of his/her Shares in an amount equal to the value of his/her redeemed Shares determined by a resolution of the General Meeting.

#### 4. AUTHORISED SHARE CAPITAL

- 4.1. The Management Board shall be authorised to increase the Company's share capital through the issuance of up to 115,828,368 (in words: one hundred and fifteen million eight hundred and twenty-eight thousand three hundred and sixty-eight) zlotys by issuing up to 57,914,184 (in words: fifty-seven million nine hundred and fourteen thousand one hundred and eighty-four) new ordinary bearer shares with a nominal value of 2 (in words: two) zloty each (the "**New Issue Shares**") (the "**Authorised Capital**").
- 4.2. Within the limits of the Authorised Capital, the Management Board is authorised to increase the share capital of the Company by means of one or several increases of the share capital of the Company.
- 4.3. The authorisation of the Management Board to increase the Company's share capital within the limits of the Authorised Capital shall expire three years from the date on which the amendment to the Company's Statutes made by resolution of the Extraordinary General Meeting of the Company No. 3/2024 dated 13 March 2024, introducing this Authorised Capital, is entered in the Register of Entrepreneurs.
- 4.4. A resolution of the Management Board of the Company adopted within the limits of the authorisation arising from the Authorised Capital (the "**Management Board's Issue Resolution**") replaces the resolution of the General Meeting on the increase of the Company's share capital and shall require the form of a notarial deed in order to be valid. The authorisation of the Management Board to increase the Company's share capital within the limits of the Authorised Capital shall be without prejudice to the General Meeting's authority to increase the share capital in an ordinary manner during the period in which the Management Board exercises this authorisation.
- 4.5. Within the Authorised Capital, the Management Board may only issue New Shares for cash contributions. The issue price of the New Issue Shares may not be however covered by way of set-off of receivables.
- 4.6. The New Issue Shares may, at the discretion of the Management Board, be ordinary registered shares or bearer shares, provided that registered shares may only be offered to shareholders of the Company who have given their consent, and to the Company's other shareholders the Management Board will only offer ordinary bearer shares in accordance with the provisions of generally applicable law (in the case of issuance of New Shares with retention of pre-emptive rights of existing shareholders) or in a number not less than that determined in accordance with Article 4.9.8 of the Company's Statutes (in case the Management Board decides to exclude the shareholders' pre-emptive rights to the New Issue Shares).
- 4.7. In connection with any increase of the Company's share capital within the limits of the authorisation arising from the Authorised Capital, the Management Board may not grant preference shares or personal rights.
- 4.8. In case of each increase of the Company's share capital within the limits of the Authorised Capital, the Management Board may, in the interests of the Company and with consent of the Supervisory Board in the form of a resolution, exclude shareholders' pre-emptive rights to New Issue Shares in whole or in part.
- 4.9. Except as otherwise provided by law or by the Company's Statutes, the Management Board is authorised to decide on all matters relating to the increase of the Company's

share capital within the limits of the Authorised Capital. In particular, the Management Board is authorised to:

- 4.9.1. determine the minimum and maximum number of the New Issue Shares that can be issued and the minimum and maximum amount by which the Company's share capital can be increased in each share capital increase within the limits of the Authorised Capital;
- 4.9.2. determine the issue price range for book-building purposes or the maximum issue price of the New Issue Shares;
- 4.9.3. determine the final number of the New Issue Shares and the final issue price of the New Issue Shares within the limits of the Authorised Capital in each share capital increase;
- 4.9.4. determine the date(s) from which the New Issue Shares will participate in dividends;
- 4.9.5. determine the detailed terms, dates and conditions of the issuance of the New Issue Shares and the method of taking up and offering to take up the New Issue Shares issued by way of public offering, including one requiring the preparation of a prospectus within the meaning of Regulation (EU) 2017/1129 or a public offering exempt from the obligation to prepare and publish a prospectus as referred to in Article 1(4) of Regulation (EU) 2017/1129;
- 4.9.6. conclude underwriting agreements or other agreements securing the success of the issue of the New Issue Shares;
- 4.9.7. take all actions for the dematerialisation and registration in the securities depository maintained by Krajowy Depozyt Papierów Wartościowych S.A. ("**KDPW**") and admission and introduction to trading on the regulated market of the New Issue Shares, rights to the New Issue Shares and preemptive rights to the New Issue Shares (in case of issue with pre-emptive rights), including submission of all applications and declarations and conclusion of agreements with KDPW and Giełda Papierów Wartościowych w Warszawie S.A. (Warsaw Stock Exchange);
- 4.9.8. determine the detailed terms of subscription and allotment of the New Issue Shares, including determination of the opening and closing dates for subscription of the New Issue Shares or the deadline for conclusion of the New Issue Share subscription agreements, and determine the procedure and terms of subscription and allotment of the New Issue Shares, including the priority right and the method, terms and dates of its exercise, provided that in the event that the Management Board, with the consent of the Supervisory Board, decides to exclude the shareholders' pre-emptive rights to the New Issue Shares:
  - a) the Management Board shall be obliged to firstly offer and allot the New Issue Shares to the eligible shareholders referred to in Article 4.9.8;
  - b) of the Company's Statutes with priority over other investors, in such number which, if taken up in full by a given eligible shareholder, will enable him to maintain, after the issue of the New Issue Shares, its percentage share in the share capital of the Company at the end of the day indicated by the Management Board in the Management Board's Issue Resolution (the "**Preference Date**") (the "**Priority Right**");

- (b) the Priority Right referred to in Article 4.9.8(a) of the Company's Statutes is vested in any, at person or entity who holds at the end of the Preference Date, shares in the Company representing not less than 0.2% of the Company's share capital (the "**Priority Threshold**") or who was included in the list of persons entitled to attend the Extraordinary General Meeting of the Company of 13 March 2024 prepared in accordance with Articles 4063 and 407 of the Commercial Companies Code, and will confirm this fact and declare their willingness to subscribe for the New Issue Shares at the issue price determined by the Management Board in the manner and within the timeframe determined by the Management Board in the Management Board's Issue Resolution ("**Eligible Investors**") and provided that: (i) in the case of a public offering of the New Issue Shares made on the basis of an exception to the obligation to publish a prospectus or other information/offering document in accordance with applicable laws for the purposes of such offering, the participation in the offering by such Eligible Investor would not constitute a breach of the aforementioned exception criteria; and (ii) the shares held by the pension funds, investment funds, insurance companies and/or other entities managed by the same pension fund manager, investment fund manager and/or asset management company shall be aggregated for the purpose of calculating the Priority Threshold;
- (c) each Eligible Investor may designate another entity or person to exercise the Priority Right instead of the Eligible Investor (in whole or in part) or in parallel with such Eligible Investor (in the part not exercised by such Eligible Investor) (the "**Designated Eligible Investor**"). In the case of a public offering of the New Issue Shares made on the basis of an exception to the obligation to publish a prospectus or other information/offering document in accordance with applicable laws for the purposes of such offering, the exercise of the Priority Right by the Designated Eligible Investor cannot result in the inapplicability of the exception to the obligation to publish the aforementioned documents for the purposes of such public offering of the New Issue Shares. An Eligible Investor cannot also designate as a Designated Eligible Investor an entity or person in relation to whom the offering of the New Issue Shares would constitute a breach of applicable laws or require the Company to comply with additional legal requirements, including registration, notification or filing of the New Issue Shares or their offering;
- (d) if, following the offer and allotment of all the New Issue Shares covered by the Priority Rights, there are any unallocated New Issue Shares:
  - (i) the Management Board shall firstly be obliged to allot the remaining New Issue Shares to the Eligible Investors, or Designated Eligible Investors as the case may be, who have declared their intention to subscribe for a greater number of the New Issue Shares than their entitlement under the Priority Rights, provided that in the event that the Eligible Investors, and the Designated Eligible Investors as the case may be, jointly declare their intention to subscribe for a greater number of the New Issue Shares than the maximum number of the New Issue

Shares, the remaining New Issue Shares shall be allotted to a given Eligible Investor and his Designated Eligible Investor(s) as the case may be, proportionally to the percentage shareholding of a given Eligible Investor, as if the aggregate number of shares held by the Eligible Investors participating (directly or through his Designated Eligible Investor(s)) in the allocation of the remaining New Issue Shares equalled 100%, provided further that in case of designation of any Designated Eligible Investor(s) in accordance with Article 4.9.8 (c), the allotment of the remaining New Issue Shares to the given Eligible Investor and all of its Designated Eligible Investors shall not exceed in total the number of New Issue Shares which would be allotted to such Eligible Investor if he had not designated any Designated Eligible Investors; and

- (ii) the Management Board shall thereafter be entitled to offer and allot the remaining New Issue Shares to investors selected by the Management Board at its discretion, provided that in the case of a public offering of the New Issue Shares made on the basis of an exception to the obligation to publish a prospectus or other information/offering document in accordance with applicable laws for the purposes of such offering, any further offering and allotment of the New Issue Shares by the Management Board to investors chosen by the Management Board at its discretion may not result in the inapplicability of the exception to the obligation to publish the aforementioned documents for the purposes of such public offering of the New Issue Shares.

4.9.9. Prepare and publish a prospectus within the meaning of Regulation (EU) 2017/1129 or any other information or offering document, if required or if it proves necessary for the offering of the New Issue Shares or their admission and introduction to trading on a regulated market.

4.10. The exercise of the authorisations referred to in Article 4.9.1, 4.9.2, 4.9.3 and 4.9.6 by the Management Board requires the approval of the Supervisory Board in the form of a resolution. The approval of the Supervisory Board may also be given after the relevant resolution of the Management Board on the exercise of the aforementioned authorisations, provided that the need for the approval of the Supervisory Board is reserved in the resolution of the Management Board. The above decisions of the Supervisory Board shall constitute the SB Reserved Matters and the SB Limited Reserved Matters.

## **5. CORPORATE GOVERNANCE**

### **5.1. The Company's Governing Bodies**

The Company's Governing Bodies include:

- 5.1.1. General Shareholders Meeting,
- 5.1.2. the Supervisory Board; and
- 5.1.3. the Management Board

## 5.2. General Meeting

- 5.2.1. Save for GM Reserved Matters, the scope of competencies of the General Meeting shall be limited to those prescribed by Law.
- 5.2.2. Each Share shall carry the right to one vote at the General Meeting. There are no voting privileges.
- 5.2.3. General Meeting shall be held at least once a year.
- 5.2.4. General Meeting may be ordinary or extraordinary.
- 5.2.5. The Ordinary General Meeting should be held within six months after the end of each financial year.
- 5.2.6. An Extraordinary General Meeting is convened by the Management Board acting at its own initiative or in response to a written motion submitted by the Supervisory Board, a shareholder or shareholders representing at least 1/20 of the share capital. Such motion may be filed in electronic form. If the Management Board has not convened an Extraordinary General Meeting upon request of an authorised shareholder or authorised shareholders or the Supervisory Board within 14 days of delivery of such a request, the Extraordinary General Meeting is convened by the Supervisory Board.
- 5.2.7. The Supervisory Board may also convene an Extraordinary General Meeting when it deems it to be advisable and an Ordinary General Meeting if the Management Board fails to convene the Ordinary General Meeting by the prescribed deadline.
- 5.2.8. Shareholders representing at least a half of the share capital or at least a half of the total votes in the Company may convene an Extraordinary General Meeting.
- 5.2.9. The General Meeting shall be convened by means of an announcement on the Company's website and in the manner specified for communicating current information, pursuant to the provisions of the act of 29 July 2005 on public offering, the conditions governing the introduction of financial instruments to organised trading, and on public companies. The notice shall be made at least 26 days before the date of the General Meeting. The notice of the General Meeting shall be accompanied by an agenda specifying the business of such meeting and all of the relevant papers and documents.
- 5.2.10. A shareholder or shareholders representing at least 1/20 of the share capital may request certain items be put on the agenda of a General Meeting. Such request should include a justification or a draft resolution regarding the proposed agenda item and shall be submitted to the Management Board not later than 21 days before the specified meeting date. The request should be filed with the Management Board in writing or in electronic form.
- 5.2.11. General Meetings shall be held in Warsaw, and the specific place of the meeting shall be determined in the announcement of convening the General Meeting.
- 5.2.12. The shareholders may participate in the meeting by means of videoconference or similar means of distance communication (*przy wykorzystywaniu środków komunikacji elektronicznej*). The relevant rules for participation in the General Meeting using electronic means of communication shall be set out in the by-laws of the General Meeting or the specific by-laws on the participation in the

General Meeting by using electronic means of communication, as the case may be, adopted by the Supervisory Board as an SB Limited Reserved Matter.

5.2.13. The General Meeting will adopt its resolutions with a simple majority of votes, unless the provisions of Law require a qualified majority.

### 5.3. GM Reserved Matters

5.3.1. The following matters (jointly the “**GM Reserved Matters**”) will require a resolution of the General Meeting:

- (a) the disposal of the Company's enterprise (*przedsiębiorstwo*) or an organised part thereof (*zorganizowana część przedsiębiorstwa*), or establishment of any Encumbrance thereon; for the avoidance of doubt, this does not include Disposal of shares held by the Company in any Group Companies, which constitutes an SB Reserved Matter as provided for in Section 5.5.1(d);
- (b) material change to the scope of the business activity of the Company (*istotna zmiana przedmiotu działalności*), within the meaning of Article 416 of the Commercial Companies Code;
- (c) liquidation and winding up of the Company and appointment of the Company's liquidator;
- (d) mergers of the Company with other entities, division, and transformation of the Company;
- (e) increase of the Company's share capital;
- (f) decrease of the Company's share capital, redemption of Shares (*umorzenie akcji*) and acquisition of own Shares (*nabycie akcji własnych*);
- (g) issuance of convertible bonds, bonds with pre-emptive rights, subscription warrants, options and other securities convertible into or granting rights to the newly issued Shares;
- (h) amendments to the Statutes;
- (i) approving new or amending the existing by-laws of the General Meeting;
- (j) payment of dividend by the Company otherwise than in accordance with the Distribution Policy; and
- (k) approval of the exclusion of a shareholder's pre-emption right pertaining to the New Shares issued in performance of the Authorised Capital, if the Supervisory Board fails to approve such exclusion.

5.3.2. Acquisition or disposal by the Company of real estate, perpetual usufruct right or interest in real estate shall not require the consent of the General Meeting.

### 5.4. Supervisory Board

5.4.1. The Supervisory Board of the Company shall consist of eight members appointed for individual three-year terms of office. In the event of the election of Supervisory Board members by voting in groups, in accordance with the provisions of the Commercial Companies Code, the Supervisory Board elected in this manner shall consist of seven members. As long as the Company the



Company remains a public company within the meaning of the provisions of the act of 29 July 2005 on public offering, the conditions governing the introduction of financial instruments to organised trading, and on public companies the Supervisory Board of the Company will include two independent members that meet the independence criteria set forth in Article 129 section 3 of the Act of May 11, 2017 on statutory auditors, audit firms and public supervision; following the loss of the status of a public company, the Supervisory Board shall consist of six members appointed for individual three-year terms of office.

5.4.2. The Supervisory Board shall be appointed in the following manner:

- (a) no more than six members of the Supervisory Board based on the personal rights vested in, Mansa and, respectively, Brookfield (each an **“Authorised Shareholder”**) as follows:
  - (i) in the case of an Authorised Shareholder holding at least 22.80% of the Shares, shall have a personal right (uprawnienie osobiste) to appoint three members of the Supervisory Board;
  - (ii) in the case of an Authorised Shareholder holding less than 22.80% but at least 20% of the Shares, shall have a personal right (uprawnienie osobiste) to appoint two members of the Supervisory Board; and
  - (iii) in the case of an Authorised Shareholder holding less than 20% but at least 10% of the Shares, shall have a personal right (uprawnienie osobiste) to appoint one member of the Supervisory Board;
- (b) two members of the Supervisory Board shall comply with the independence criteria set out in Article 129 section 3 of the Act of 11 May 2017 on statutory auditors, audit firms and public supervision. They shall be appointed by the General Meeting, where:
  - (i) each shareholder may nominate candidates for independent members of the Supervisory Board, provided, however, that such an independent member may not, directly or indirectly, at any time be involved in, cooperate with or benefit from activities competitive with the Company or any Group Company, or be affiliated with any entity or person conducting such competitive activities;
  - (ii) each Authorised Shareholder holding at least 20% of the Shares will be excluded from exercising the right to vote on the appointment of one independent member of the Supervisory Board (such exclusion does not apply to the appointment of a second independent member of the Supervisory Board, and for the avoidance of doubt, such exclusion expires when the shareholding of a given Authorised Shareholder falls below 20% of the Shares);
  - (iii) in the event that the General Meeting does not appoint an independent member of the Supervisory Board in the manner described in Article 5.4.2. (b)(ii), exclusion of voting rights referred to in Article 5.4.2. (b)(ii), shall not apply to the appointment of such an independent member of the

Supervisory Board at any subsequent General Meeting until such independent member is appointed; and

- (c) members of the Supervisory Board who are not appointed in accordance with Article 5.4.2 (a) are appointed and dismissed by the General Meeting by a simple majority of votes of all shareholders.

5.4.3. [*intentionally left blank*]

5.4.4. The Supervisory Board shall have a Chairperson and a Deputy Chairperson. In case the Chairperson is elected from among Mansa's appointees to the Supervisory Board, the Deputy Chairperson shall be elected from among the appointees of Brookfield and, accordingly, in case the Chairperson is elected from among Brookfield's appointees to the Supervisory Board, the Deputy Chairperson shall be elected from among the appointees of Mansa, provided however that as long as (i) Mansa holds at least 10% of Shares, Mansa's appointees to the Supervisory Board will hold the position of the Chairperson of the Supervisory Board. Neither the Chairperson, nor the Deputy Chairperson shall have any casting vote.

5.4.5. Only the Authorised Shareholder who appointed the given member of the Supervisory Board in the exercise of its personal right (*uprawnienie osobiste*) shall have a right to subsequently suspend or dismiss such member, subject to Section 5.4.7 below.

5.4.6. The aforesaid personal rights to appoint, suspend or dismiss a member of the Supervisory Board shall be exercised by way of delivery of a written statement to the Company and shall be effective upon its receipt by the Company, provided that with respect to exercise of appointment rights, the statement is delivered together with the respective declaration of acceptance of a given candidate to being appointed to the Supervisory Board.

5.4.7. If a member of the Supervisory Board is not appointed by the Authorised Shareholder within 10 Business Days from the day the respective position in the Supervisory Board became vacant, and as a result the number of the Supervisory Board members at that point in time drops below a) eight, or b) seven, in the event of the election of Supervisory Board members by voting in groups, in accordance with the provisions of the Commercial Companies Code, or c) six, if the Company ceases to be a public company pursuant to the provisions of the act of 29 July 2005 on public offering, the conditions governing the introduction of financial instruments to organised trading, and on public companies, the remaining members of the Supervisory Board may, by a simple majority of votes cast, temporarily appoint by way of co-optation a Supervisory Board member to the vacated position. In order to dispel any doubt:

- (a) the Authorised Shareholder who was originally entitled to appoint, suspend and dismiss the given member of the Supervisory Board, shall retain its rights and may at any time dismiss the individual appointed to the Supervisory Board in accordance with the preceding sentence, provided that simultaneously with such dismissal such Authorised Shareholder appoints a new member to the Supervisory Board; and
- (b) such temporarily appointed, by way of co-optation in accordance with the this Section 5.4.7, member of the Supervisory Board shall not be accounted for as any Authorised Shareholder's appointee to the

Supervisory Board, whether for the purposes of approving any SB Reserved Matter or SB Limited Reserved Matter, or for any other purpose.

- 5.4.8. Upon appointment, each member of the Supervisory Board will be provided by the Company with an individual email address, maintained at the Company's domain @polenergia.pl or such other domain as may be maintained by the Company. Such email address shall be the main channel of communication for the Supervisory Board members on any Company-related matters -provided, however, that a member of the Supervisory Board may, by notice to the Company, elect to use for such purposes a different e-mail address maintained at the domain of the Authorised Shareholder who appointed such Supervisory Board member.
- 5.4.9. The Supervisory Board shall perform its duties and carry out its activities in accordance with the by-laws of the Supervisory Board approved by the Supervisory Board as an SB Reserved Matter in accordance with Section 5.5.1(p).
- 5.4.10. The remuneration of the members of the Supervisory Board shall be determined by the General Meeting.
- 5.4.11. Meetings of the Supervisory Board shall be convened and held as and when required, but in any event at least once every calendar quarter.
- 5.4.12. The Chairperson of the Supervisory Board or the Deputy Chairperson shall convene a meeting of the Supervisory Board at his/her own initiative or at a written request of the Management Board of the Company and/or a member of the Supervisory Board. The meeting should be convened within 2 (two) weeks from the moment of submitting the application.
- 5.4.13. Members of the Supervisory Board shall be notified of the meetings by way of e-mail communication (sent with the request of delivery report option enabled), sent out at least 5 Business Days prior to the given meeting of the Supervisory Board. Shorter notice is allowed, provided that all members of the Supervisory Board are present at the meeting. Notice of the Supervisory Board meeting shall be accompanied by an agenda specifying the business of that meeting and all relevant materials and documentation required for such meeting.
- 5.4.14. Meetings of the Supervisory Board can be held using videoconference or similar means of distance communication (*przy wykorzystywaniu środków komunikacji elektronicznej*) made available by the Company in a manner enabling each participant of the Supervisory Board participating in the meeting to hear one another. Members of the Supervisory Board present at the meeting of the Supervisory Board are required to sign the minutes of the Supervisory Board meeting no later than immediately after the opening of the next meeting of the Supervisory Board. The lack of a signature or the refusal to sign by a member of the Supervisory Board shall be recorded in the minutes by the Chairperson of the Supervisory Board, explaining the circumstances. A member of the Supervisory Board refusing to sign the minutes from the previous meeting of the Supervisory Board in which they participated either directly or by means of remote communication devices, shall be required to submit a written explanation of the refusal to sign. The lack of a signature of a member of the Supervisory Board under the minutes of the meeting shall not have a negative impact on the validity of the resolutions adopted at such meeting. In the case of

meetings convened and held with the use of distance communication devices, it shall be assumed that the place of the meeting and the minutes are the place of residence of the Chairperson of the Supervisory Board or, in their absence, the Deputy Chairperson's, if the meeting was held under the chairmanship of the Deputy Chairperson of the Supervisory Board.

- 5.4.15. Resolutions of the Supervisory Board may be adopted by a written vote ordered by the Chairperson or by the Deputy Chairperson in his/her absence, if all members of the Supervisory Board agree to the content of the resolutions or to vote in writing. The date of signing a resolution by the Chairperson or Deputy Chairperson, if the written vote was ordered by the Deputy Chairperson, shall be deemed as the date of the adoption of the resolution.
- 5.4.16. The Supervisory Board will adopt its resolutions with a simple majority of votes, save for:
- (a) SB Reserved Matters - where an affirmative vote of at least one Supervisory Board member appointed in the exercise of a personal right (uprawnienie osobiste), as set out in Section 5.4.2(a), by each Authorised Shareholder holding at least 20% of the Shares will be required; and
  - (b) SB Limited Reserved Matters - where an affirmative vote of at least one Supervisory Board member appointed pursuant to the exercise of a personal right (uprawnienie osobiste), as set out in Section 5.4.2(a), by each Authorised Shareholder holding at least 10% of the Shares will be required, provided that, as long as Mansa's appointee to the Supervisory Board holds the position of the Chairperson of the Supervisory Board, and Mansa's other appointee(s) to the Supervisory Board vote differently than such Chairperson on any SB Reserved Matter or SB Limited Reserved Matter, the affirmative vote of Mansa's appointee to the Supervisory Board holding the position of the Chairperson of the Supervisory Board will be required for a given SB Reserved Matter or SB Limited Reserved Matter to be approved.

## 5.5. SB Reserved Matters

### 5.5.1. The following shall constitute “**SB Reserved Matters**”:

- (a) approval of Business Plan, Annual Budgets and any Ad-Hoc Budgets, as well as any revisions thereto, introducing any changes to or approval of new Required Investment Criteria, and approval of New Ventures;
- (b) except for (a) transactions related to Qualified Rejected New Ventures and (b) conclusion of guarantees and sureties by Polenergia Obrót S.A. in accordance with the Budget and strategy for the Trade and Sales operating segment and based on mandates and risk limits approved in accordance with the currently applicable Management Policy Risk for Polenergia Obrót S.A., incurring financial debt (including guarantees and sureties) or concluding sales and leaseback transactions or other financial transactions with a single or total value exceeding EUR 30,000,000 in the current financial year, and establishing encumbrances on assets, including shares and other participation rights in connection with such financial transaction(s);

- (c) except for transactions related to Qualified Rejected New Ventures, incurring any other liabilities (including guarantees and suretyships), or creating or incurring any Encumbrance over any assets, including shares and other participation rights, in connection with transactions other than listed in Section 5.5.1(b) above, of a one-off value or a combined value in a current accounting year exceeding EUR 15,000,000;
- (d) except for transactions related to Qualified Rejected New Ventures, acquisitions or Disposal of assets, including acquisitions or Disposals of shares or other participation rights, of a one-off equity value exceeding EUR 30,000,000, or in case the aggregate equity value of all such transactions (irrespective of their individual value) in the current accounting year would exceed EUR 60,000,000, as well as Disposals presented to the Supervisory Board for approval in accordance with Section 5.6.3(d) below;
- (e) execution, termination or amendment of any Material Agreement;
- (f) except for transactions related to Qualified Rejected New Ventures, execution, termination or amendment of any other agreements resulting in expenditures in excess of EUR 15,000,000 calculated: (i) with respect to fixed term contracts - an estimate over the entire term of the agreement, and (ii) with respect to indefinite term contracts - an annual estimate;
- (g) instituting, discontinuing or settling any legal proceedings involving an amount of more than EUR 15,000,000;
- (h) any transactions with a shareholder or a shareholder's Related Party;
- (i) approving remuneration of the members of the Management Board and any changes thereto, including with respect to bonuses, share schemes, or other types of arrangements of similar nature;
- (j) approval of the hedging strategy of the Group and any changes thereto;
- (k) decision to provide shareholder funding otherwise than at the Company's level;
- (l) changes to the Distribution Policy;
- (m) approval of any payment of interim dividend against expected dividend otherwise than in accordance with the Distribution Policy;
- (n) appointing, suspending and dismissing members of the Management Board;
- (o) approving new or amending the existing by-laws of the Management Board or the specific by-laws relating to participation in the Management Board meetings by use of electronic means of communication;
- (p) approving new or amending the existing by-laws of the Supervisory Board or the specific by-laws relating to participation in the Supervisory Board meetings by use of electronic means of communication;

- (q) approving the accounting principles, policies, and practices and any changes thereto except for such changes to the accounting principles, policies, and practices that are reasonably requested by the Company's statutory auditor in order to comply with applicable Law or which do not affect the level of profit or reserves available for distribution to the shareholders;
- (r) exercise by a Group Company of a call option in respect of the stake of shares and other participation rights held by a Material Subsidiary Co-Investor in a Material JV;
- (s) exercise by the Company of its voting rights in a Material Subsidiary, at the relevant general meeting, shareholders' meeting or any other appropriate governing body or forum, in respect of matters set out in Section 5.3.1 or in any of the items (a) through (r) of this Section 5.5.1;
- (t) approval of the Alternative Plan with respect to a Material JV, as may be presented by the Management Board;
- (u) effecting any distribution, capital reduction, share redemption or acquisition of own shares which is prohibited by Article 30 of the AIFMD to the extent applicable to any of the shareholders in respect of the Company;
- (v) approval of the exclusion of a shareholder's pre-emption right pertaining to the New Shares issued in performance of the Authorised Capital; and
- (w) appointment of the Valuation Expert;
- (x) granting approvals for the exercise by the Management Board of authorisations referred to in Article 4.10.;
- (y) selection of an audit firm to audit the financial statements and consolidated financial statements, and selection of an audit firm to attest sustainability reporting.

5.5.2. The matters set out in Sections 5.5.1(b) through 5.5.1 (v) shall not require any additional approval by the Supervisory Board if and to the extent such matters are specifically provided for in the then current the Annual Budget for the given year, or an applicable Ad-Hoc Budget, approved by the Supervisory Board in accordance with Section 5.5.1(a).

## 5.6. SB Limited Reserved Matters

5.6.1. The following shall constitute “**SB Limited Reserved Matters**”:

- (a) incurring financial indebtedness or entering into any sale and lease back transactions or any other financing transaction of a one-off value or a combined value in a current accounting year exceeding EUR 75,000,000, and creating or incurring any Encumbrance over any assets, including shares and other participation rights in connection with such financial transaction;
- (b) incurring any other liabilities (including guarantees and suretyships), or creating or incurring any Encumbrance over any assets, including shares and other participation rights in connection with transactions other than listed in Section 5.6.1(a) above, of a one-off value or

a combined value in a current accounting year exceeding EUR 75,000,000;

- (c) incurring financial indebtedness or entering into transactions that would include Company's financial or other covenants limiting or otherwise restricting the Company in distributing profits to its shareholders in accordance with the Distribution Policy, including by decreasing what would otherwise be the amount of the Minimum Distribution;
- (d) subject to Section 5.6.3 below, acquisitions or Disposal of assets, including acquisitions or Disposals of shares or other participation rights, of a one-off equity value exceeding EUR 100,000,000;
- (e) any transactions with a shareholder or a shareholder's Related Party;
- (f) decision to provide shareholder funding otherwise than at the Company's level;
- (g) approving the accounting principles, policies, and practices and any changes thereto except for such changes to the accounting principles, policies, and practices that are reasonably requested by the Company's statutory auditor in order to comply with applicable Law or which do not affect the level of profit or reserves available for distribution to the shareholders,
- (h) changes to the Distribution Policy;
- (i) approving new or amending the existing by-laws of the General Meeting or detailed by-laws regarding participation in the meetings of the General Meeting by use of electronic means of communication;
- (j) exercise by the Company of its voting rights in a Material Subsidiary, at the relevant general meeting, shareholders' meeting or any other appropriate governing body or forum, in respect of matters set out in items 5.6.1 (a) through 5.6.1(g);
- (k) granting approvals for the exercise by the Management Board of authorisations referred to in Article 4.10.

5.6.2. The matters set out in Section 5.6.1 shall not require any additional approval by the Supervisory Board if and to the extent such matters are specifically provided for in the then current Annual Budget for the given year, or an applicable Ad-Hoc Budget, approved by the Supervisory Board in accordance with Section 5.5.1(a) above with affirmative vote from at least one Supervisory Board member appointed by each Authorised Shareholder holding at least 10% of the Shares.

5.6.3. If the Supervisory Board, acting in accordance with Section 5.6.1(d) above, does not approve a proposed sale of an asset (including shares in a Group Company) to a bona fide third party purchaser, solely due to the Supervisory Board member being the appointee of the Authorised Shareholder holding less than 20% of the Shares in the Company voting against such resolution, then the Management Board, at the request of the members of the Supervisory Board who voted in favour of approval of the above mentioned sale of the asset, may (at its own discretion) authorize the Fairness Opinion Provider to conduct an assessment the proposed transaction, including its financial and other

significant conditions, and present a fairness opinion addressed to the Company and the Supervisory Board. In such event:

- (a) the Fairness Opinion Provider shall act with outmost care and professionalism, with the view to conduct appropriate analysis into the relevant asset and the proposed terms of the sale transaction in order to issue its opinion whether the proposed terms of the sale transaction are fair, from a financial point of view, to the Company (or the respective Group Company being the actual seller, as the case may be) ("**Fairness Opinion**");
- (b) the Fairness Opinion Provider shall present the Company and the shareholders with a draft of the Fairness Opinion together with all underlying and supporting valuations, reports and analysis; each of the Company and the shareholders may present, within two weeks from being presented with the above, its comments and questions thereto;
- (c) the Fairness Opinion Provider shall address the Fairness Opinion to the Company and to each of the shareholders;
- (d) if, following completion of the above procedure, the Fairness Opinion confirms that the proposed terms of the sale transaction are fair, from a financial point of view, to the Company (or the respective Group Company being the actual seller, as the case may be), the matter shall be presented once more to the Supervisory Board for approval, but this time as an SB Reserved Matter, and not an SB Limited Reserved Matter.

#### 5.7. Other competencies of the Supervisory Board

5.7.1. In addition to the competencies of the Supervisory Board prescribed by applicable Law, as well as in Articles 5.5.1, 5.6.1 and other provisions of this Statute, the following matters shall require the prior approval of the Supervisory Board by simple majority of votes:

- (a) granting of any donations or other free-of-charge performances with a value of EUR 50,000 or more, whether in a single transaction or a series of related transactions in an accounting year;
- (b) execution, termination or amendment of any sponsoring, marketing or other agreements resulting in expenditures of EUR 100,000 or more, whether in a single transaction or a series of related transactions in an accounting year calculated: (i) with respect to fixed term contracts - an estimate over the entire term of the agreement, and (ii) with respect to indefinite term contracts - an annual estimate;
- (c) execution, termination or amendment of any advisory, consultancy or similar agreements resulting in expenditures of a combined value in a current accounting year of EUR 200,000 or more calculated: (i) with respect to fixed term contracts - an estimate over the entire term of the agreement, and (ii) with respect to indefinite term contracts - an annual estimate;
- (d) except for transactions related to Qualified Rejected New Ventures, incurring financial indebtedness or entering into any sale and lease back transactions or any other financing transaction of a one-off value



or a combined value in a current accounting year exceeding EUR 5,000,000, and creating or incurring any Encumbrance over any assets, including shares and other participation rights in connection with such financial transaction;

- (e) except for transactions related to Qualified Rejected New Ventures, incurring other obligations (including guarantees and sureties) or incurring any Encumbrances on assets, including shares and other participation rights, in connection with transactions other than those listed in Section 5.7.1 (d), with a one-off value or a total value in the current financial year exceeding EUR 3,000,000;
- (f) acquisitions or Disposal of assets, including acquisitions or Disposals of shares or other participation rights, of a one-off equity value exceeding EUR 1,000,000;
- (g) except for transactions related to Qualified Rejected New Ventures, execution, termination or amendment of any other agreements resulting in expenditures in excess of EUR 1,000,000 calculated: (i) with respect to fixed term contracts - an estimate over the entire term of the agreement, and (ii) with respect to indefinite term contracts - an annual estimate;
- (h) instituting, discontinuing or settling any court or out-of-court proceedings involving an amount of more than EUR 500,000;
- (i) exercise by the Company of its voting rights in a Material Subsidiary, at the relevant general meeting, shareholders' meeting or any other appropriate governing body or forum, in respect of matters set out in 5.7.1(a) through 5.7.1(h); and
- (j) exercise by the Company or its representatives of other corporate rights in a Material JV in relation to the reserved matters granted to the Group Company or its representatives in the relevant corporate documents, shareholders' or similar agreements relating to such Material JV and which would not otherwise constitute SB Reserved Matters.

5.7.2. The matters set out in Sections 5.7.1 shall not require any additional approval by the Supervisory Board if and to the extent such matters were specifically provided for in the then current Annual Budget for the given year, or an applicable Ad-Hoc Budget, approved by the Supervisory Board in accordance with Section 5.5.1(a) above.

#### 5.8. Supervisory Board Member Conflict

Each member of the Supervisory Board shall disclose to the Company and to other Supervisory Board members any conflict of interests they might have with the Company or any other Group Company immediately, but in any case no later than on the next Business Day, upon becoming aware of such conflict and shall refrain from participating in any meetings, discussions and/or voting in relation to such conflicted matter. The above shall not apply with respect to Group Company's dealings with any of the shareholders and their respective Affiliates.

#### 5.9. Audit Committee and other committees

- 5.9.1. The Audit Committee shall operate within the Supervisory Board as long as the Company is a public company pursuant to the provisions of the act of 29 July 2005 on public offering, the conditions governing the introduction of financial instruments to organised trading, and on public companies.
- 5.9.2. The Audit Committee shall consist of three members including the members of the Supervisory Board referred to in Section 5.4.2(b).
- 5.9.3. The rules of the Audit Committee shall determine in detail the manner of operation of this Committee. The rules of the Audit Committee shall be adopted by the Supervisory Board.
- 5.9.4. The Supervisory Board may create other committees and determine the rules and scope of competence of such committees by way of a resolution.

#### 5.10. Management Board

- 5.10.1. The Management Board of the Company shall consist of one or more members, appointed for a three-year joint term of office, subject to Sections 5.11.2(a) and 5.11.2(b), including the President of the Management Board and the Vice-President of the Management Board (in case of multi-member Management Board).
- 5.10.2. Subject to Section 5.11, members of the Management Board shall be appointed, suspended and dismissed by the Supervisory Board as an SB Reserved Matter). The Supervisory Board shall decide upon the number of members to be appointed to the Management Board for a given term of office.
- 5.10.3. The Company shall be represented vis-a-vis third parties by two members of the Management Board acting jointly, or a member of the Management Board acting jointly with a commercial proxy (*prokurent*).
- 5.10.4. The President of the Management Board shall manage the work of the Management Board, convene and chair the meetings of the Management Board, set the agenda of the meetings, order written voting on the terms and conditions set out in the Management Board's by-laws and coordinate the activities of individual members of the Management Board in accordance with the responsibilities entrusted thereto under the Management Board's by-laws.
- 5.10.5. The Management Board will run the day-to-day operations of the Company, including making decisions and contracting obligations within the Ordinary Course of Business. Any and all matters relating to running the Company and not reserved under the Law or these Statutes for the powers of the Supervisory Board or the General Meeting shall be the competence of the Management Board.
- 5.10.6. Matters falling outside of the Ordinary Course of Business need to be approved by a resolution of the Management Board.
- 5.10.7. Resolutions of Management Board may be adopted provided that all Management Board members have been duly notified of a Management Board meeting. Resolutions of the Management Board shall be passed by an absolute majority of votes; in case of equal votes, the President of the Management Board shall have a prevailing vote, subject to Section 5.11.4.

- 5.10.8. The Management Board may adopt resolutions without convening a meeting by means of a written vote if all members of the Management Board have agreed to such resolutions and have been informed about the content of the draft resolutions.
- 5.10.9. Meetings of the Management Board can be held using videoconference or similar means of distance communication (*przy wykorzystywaniu środków komunikacji elektronicznej*) provided by the Company in a manner that enables all members of the Management Board participating in such meeting to hear one another. Members of the Management Board present at the meeting of the Management Board shall be required to sign the minutes of the meeting of the Management Board no later than immediately after the opening of the next meeting of the Management Board. The lack of a signature or refusal to sign by a member of the Management Board shall be recorded by the President of the Management Board in the minutes, explaining the circumstances. A member of the Management Board refusing to sign the minutes of the previous Management Board meeting in which they participated, whether directly or by means of remote communication devices, shall be required to submit a written explanation of the refusal to sign. The lack of a Management Board member's signature on the minutes of the meeting shall have no negative impact on the validity of the resolutions adopted at such meeting. In the case of a meeting convened and held by means of remote communication devices, it shall be assumed that the place of residence of the President of the Management Board shall be the place of holding the meeting and preparing the minutes.
- 5.10.10. The remuneration of the Management Board members shall be determined by the Supervisory Board, in accordance with Section 5.5.1(i).
- 5.10.11. The Management Board shall perform its duties and carry out its activities in accordance with the Management Board by-laws approved by the Supervisory Board as an SB Reserved Matter.

#### 5.11. Appointment Deadlock

- 5.11.1. In the event the Supervisory Board fails to adopt a proposed resolution relating to the appointment of the Management Board for a new joint three-year term of office following expiry of the mandates of the then current Management Board members due to lapse of their joint three-year term of office despite the required quorum being present at the meeting and despite the meeting being adjourned for at least one week and the matter being put into vote for a second time at such adjourned meeting or such resolution was not adopted due to lack of the required quorum at two subsequent formally convened meetings (**"Appointment Deadlock"**) each of the shareholders may notify the other and the Company, stating that it considers that a Material Appointment Deadlock has occurred (**"Appointment Deadlock Notice"**).
- 5.11.2. Unless the Appointment Deadlock is resolved within five Business Days from the date of delivery of the Appointment Deadlock Notice by way of a relevant Supervisory Board resolution (without prejudice to Section 5.5.1(n)), the mandates of all members of the Management Board shall automatically expire with effect as of the sixth Business Day following of delivery of the Appointment Deadlock Notice to the Company (unless already expired due to lapse of the term of office and holding of the annual ordinary General Meeting). Following thereafter:

- (a) each Authorised Shareholder holding at least 20% of the Shares in the Company (calculated jointly with the Shares held by its Affiliates, but without double counting) shall have the personal right (uprawnienie osobiste) to appoint and to dismiss one Management Board member for an individual three-year term of office; and
- (b) each Authorised Shareholder holding at least 50% of Shares in the Company (calculated jointly with the Shares held by its Affiliates, but without double counting) shall have the personal right (uprawnienie osobiste) to nominate, out of the two members appointed in accordance with item (a) above, the Management Board member to hold the position of the President of the Management Board; provided that, following such nomination, the other Management Board member shall automatically hold the position of the VicePresident of the Management Board.

5.11.3. The relevant personal rights of the Authorised Shareholder provided for in Articles 5.11.2(a) and 5.11.2(b) shall remain in force until the Supervisory Board adopts a unanimous resolution confirming the resolution of the Deadlock. After adopting such a resolution, the Supervisory Board may dismiss members of the Management Board appointed in accordance with Article 5.11.2 and appoint new members of the Management Board; the provisions of Articles 5.10.1 and 5.10.2 will apply.

5.11.4. The President of the Management Board appointed pursuant to Section 5.11.2(b) shall not have any casting or second vote.

## **6. ACCOUNTING AND REPORTING**

- 6.1. The Company's financial year is a calendar year.
- 6.2. The Company prepares its consolidated financial statements and standalone financial statements in accordance with accounting principles, policies, and practices as approved by the Supervisory Board.
- 6.3. The Management Board shall be required to prepare and submit to the Supervisory Board, within 4 (four) months after the end of the financial year, after verification by the certified auditors indicated by the Supervisory Board, a balance sheet as at the last day of the year, a profit and loss account, a cash flow statement and additional information, as well as an accurate written report on the Company's operations in the previous financial year.
- 6.4. Within the scope permitted by law and within the scope determined under a resolution of the Supervisory Board, the Management Board shall prepare monthly reports and provide such to all members of the Supervisory Board within 28 (twenty-eight) days of the end of each calendar month.
- 6.5. If the Management Board publishes a current report regarding any extraordinary changes in the financial or legal situation of the Company or significant breaches of contracts to which the Company is a party, in accordance with the regulations on trading in securities on the regulated market, the Management Board shall be required to immediately inform the Supervisory Board of such circumstances.

- 6.6. The Management Board will present the Annual Budget for the given financial year to the Supervisory Board for approval no later than 15 (fifteen) days before the end of the year preceding a given year.

## 7. DISTRIBUTION POLICY

- 7.1. To the extent permitted by Law, the Group Companies' profits shall be distributed in line with the Distribution Policy adopted by the Management Board and approved by the Supervisory Board.
- 7.2. The Management Board may decide on payment of an interim dividends to the shareholders against dividend expected as at the end of the financial year if the Company has sufficient funds to make such distribution. Each payment of an interim dividends against expected dividend shall require the approval of the Supervisory Board adopted as an SB Reserved Matter in accordance with Section 5.5.1(m).

## 8. FUNDS AND FUNDING

- 8.1. The Company may form the following capitals, provisions and specialpurpose funds:
- 8.1.1. share capital;
  - 8.1.2. supplementary capital,
  - 8.1.3. revaluation reserve fund;
  - 8.1.4. reserve capital to finance a share capital increase using the Company's funds,
  - 8.1.5. technical provisions,
  - 8.1.6. reserve capital to finance the payment of interim dividends against an expected dividend, which may be disposed of by the Management Board for that purpose;
  - 8.1.7. prevention fund.
- 8.2. The supplementary capital account is set up to cover losses and to be earmarked for other purposes pursuant to the provisions of Law. At least 8% of the profit for a given financial year shall be transferred to then supplementary capital account until this capital account is at least equal to one-third of the share capital.

## 9. DEFINITIONS AND INTERPRETATION

In addition to the meanings set forth elsewhere in this Statute, the following capitalized terms and expressions shall have the following meanings in this Statute:

- 9.1.1. **"Ad-Hoc Budget"** means any change of or addition to the Annual Budget, whether in the form of full revised Annual Budget or as a supplementary project-specific budget.
- 9.1.2. **"Affiliate"** of a person means any person, directly or indirectly, through one or more intermediaries, Controlling, Controlled by or under common Control with such person; except, in the case of the Brookfield, entities, such as Brookfield Public Securities Group LLC, Oaktree Capital Group, LLC, Atlas OCM Holdings, LLC and their respective subsidiaries, that are required under applicable Laws or bona fide internal rules to operate behind an "information wall" from Brookfield, shall not be considered Affiliates of Brookfield.
- 9.1.3. **"AIFMD"** means Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and

amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No. 1060/2009 and (EU) No. 1095/2010.

- 9.1.4. **"Alternative Plan"** means a course of action that may be formally proposed and presented by the Management Board to the Supervisory Board, in a situation where the Management Board becomes aware that a Group Company may exercise a call option with respect to the entire stake of shares and other participation rights held by a Material Subsidiary Co-Investor in a Material JV.
- 9.1.5. **"Annual Budget"** means any annual budget of the Company and the Group prepared and approved in respect of a given financial year of the Company.
- 9.1.6. **"Brookfield"** means BIF IV Europe Holdings Limited, a private limited company duly incorporated and existing under English law, with its registered office in London, address: Level 25, One Canada Square, Canary Wharf, London, the United Kingdom, E14 5AA, registered with the Registrar of Companies for England and Wales under company No. 12903059, as well as its legal successors.
- 9.1.7. **"Business Day"** means any day other than a Saturday or Sunday on which banks are normally open for general banking business in Warsaw, Poland and London, the United Kingdom.
- 9.1.8. **"Business Plan"** means any long-term business plan relating to the operations of the Company and the Group.
- 9.1.9. **"Commercial Companies Code"** means the Act of 15 September 2000 - Polish Companies Code (in Polish: *ustawa z dnia 15 kwietnia 2000 r. Kodeks Spółek Handlowych*, uniform text, Polish Journal of Laws of 2020, item 1526, as amended).
- 9.1.10. **"Control"** means, in relation to a person, the ability of a person to ensure that the activities and business of such person are conducted in accordance with the wishes of such person; a person shall be deemed to have Control of a person if that person (directly or indirectly) possesses or is entitled to acquire the majority of the issued share capital of the person or to exercise the majority of the voting rights in such person including, without limitation, through a power of attorney, transfer of voting rights, contract, by virtue of being or controlling the general partner, managing member, manager, board of managers or board of directors, by virtue of beneficial ownership or by control over a majority of the economic interest or otherwise) or has the right to receive the majority of the income of the person or any distribution by it of its income or the majority of its assets in the case of its winding up or is entitled to appoint a majority of members of any governing body of such person, and "Controlled" and "Controlling" shall be construed accordingly.
- 9.1.11. **"Disposal"** means, in respect of any asset (including shares, subscription warrants, convertible bonds or other participation rights), a sale or any other disposal, on any basis whatsoever, including in particular by way of donation, exchange, *datio in solutum*, assignment, or any other transfer; "Dispose of" shall be construed accordingly.
- 9.1.12. **"Distribution Policy"** means a policy relating to distribution of profits by the Group Companies.

- 9.1.13. **"Encumbrance"** means an ordinary, financial or registered pledge, tax lien, an mortgage, servitude, or any other limited rights in rem, (fiduciary) transfer of title, retention of title, option, right of first refusal or another priority right, attachment by writ of execution, rights arising out of an agreement or any other rights or claims, alternatively encumbrances obliging to perform a legal transaction that arose out of the provisions of an agreement (including but not limited to on the basis of articles of association or a partnership agreement) unilateral statement of will, decision, order or judgment of a public authority, by virtue of the law or as the result of another legal event, or any other encumbrance or right resulting in the same, as may be performed by a third party; the term 'to Encumber' must be interpreted accordingly.
- 9.1.14. **"Fairness Option Provider"** means the relevant entity belonging to one of the following reputable banking, investment banking or financial advisory groups: Goldman Sachs, Morgan Stanley, UBS, JPMorgan Chase, Citigroup, Barclays Investment Bank, Deutsche Bank, Nomura, Bank of America Merrill Lynch, HSBC, BNP Paribas, Societe Generale, Royal Bank of Scotland, Scotiabank, Bank of Montreal, Canadian Imperial Bank of Commerce (CIBC), Santander, BBVA, EY, Deloitte, KPMG or PwC.
- 9.1.15. **"General Meeting"** means the general meeting of the Company (in Polish: *Walne Zgromadzenie*).
- 9.1.16. **"Good Industry Practice"** means the practice of a person exercising that degree of skill, diligence, prudence, foresight and care reasonably expected of a skilled and experienced developer and operator of energy projects in the relevant technology internationally.
- 9.1.17. **"Governmental Authority"** means any supra-national, national, state, municipal or local government in any country (including any subdivision, court or other tribunal of competent jurisdiction, administrative agency or commission or other authority of the same) or any quasi-governmental, industry or trade, or private body exercising any regulatory or quasi-regulatory, taxing, importing or other governmental or quasi-governmental power or authority in any country, including securities exchanges, energy regulatory authorities, competition authorities, data protection authorities and the European Union.
- 9.1.18. **"Group"** and "Group Companies" means the Company together with all entities in which the Company holds, whether directly or indirectly, any shares or other participation rights, and a Group Company means any of those entities.
- 9.1.19. **"Law"** means, to the extent they apply to a given person, any EU, federal, state or local statute, law, ordinance or code, or any secondary legislation, regulations or generally applicable interpretations issued by any competent Governmental Authority pursuant to any of the foregoing, as well as any decision, order, writ, injunction, directive, judgment or decree of any competent Governmental Authority.
- 9.1.20. **"Management Board"** means the management board of the Company (in Polish: *zarząd*)
- 9.1.21. **"Mansa"** means Mansa Investments sp. z o.o. (KRS No. 371763), as well as its legal successors.
- 9.1.22. **"Material Agreement"** means any and all:

- (i) shareholder agreements, joint venture agreements and other types of agreements relating to similar type of investments and long term partnering; and
- (ii) power purchase and sale agreements, certificates of origin of renewable energy (green certificates) purchase and sale agreements, gas purchase and sale agreements European Union Allowance (EUA) purchase and sale agreements and other related or similar agreements, other than transactions (a) concerning power and certificates of origin of renewable energy (green certificates) generated by the Group's generating assets with delivery period up to three years, (b) effected in performance of framework agreements concluded by Group Companies (within the Group or with third parties), (c) concerning purchase of power or certificates of origin by the Group Companies for own needs, or (d) purchases and sales executed with third parties as part of proprietary trading activities in compliance with the Budget and strategy for Trading and Sales operating segment and based on risk mandates and limits approved according to the Risk Management Policy for Polenergia Obrót S.A. currently in force;

as well as the following types of agreements if the total value of payments over the term of the given contract (excluding value added or similar taxes) exceeds EUR 1,000,000:

- (i) distribution, transmission and connection agreements related to any Operating Project or Project Under Construction;
- (ii) operation and maintenance or similar agreement related to any Operating Project;
- (iii) management services agreement provided by a third-party service provider in respect of any Operating Project; and
- (iv) material contracts for the construction, operation, maintenance or exploitation of any Project Under Construction (including material EPC, O&M and solar modules supply agreements).

9.1.23. **"Material JV"** means such Material Subsidiary in which a Material Subsidiary Co-Investor holds any shares or other participation rights or instruments.

9.1.24. **"Material Subsidiary Co-Investor"** means any entity, other than a Group Company, which holds any shares or other participation rights or instruments in any Material Subsidiary and which is a party to a shareholders or other agreement with a Group Company regarding investment in such Material Subsidiary

9.1.25. **"Material Subsidiary"** means any Group Company in which the Company directly or indirectly, holds any shares or other participation rights or instruments, which represents and stands for least 5% of the revenues, profits or assets in the last consolidated financial statement of the Company; provided that, without limiting the foregoing, the following entities are deemed to be Material Subsidiaries:

MFW Bałtyk I sp. z o.o.;



MFW Bałtyk II sp. z o.o.;

MFW Bałtyk III sp. z o.o.;

Polenergia Obrót S.A.;

Polenergia Dystrybucja sp. z o.o.; and

Polenergia Elektrociepłownia Nowa Sarzyna sp. z o.o.

- 9.1.26. **“Minimum Distribution”** means the aggregate amount of distributions (including any interim distributions, if such are approved at any point in time during a given accounting year) approved with respect to any given year calculated in accordance with the formula specified in the Distribution Policy.
- 9.1.27. **“New Ventures”** means such investments and initiatives, whether grown organically or through acquisitions and other investments into new projects, whether by incorporating or acquiring new Group Companies or by expanding the business operations of existing Group Companies, or otherwise.
- 9.1.28. **“Operating Project”** means a project which produces electricity and holds a relevant license for generation of electricity.
- 9.1.29. **“Ordinary Course of Business”** means business activities falling within the range of activities conducted by the Company or any of the Material Subsidiaries, in each case as a going concern and within the 2 (two) years period directly preceding the given relevant date (as the context requires), consistent with the Group's respective past customs and business practices, carried out in compliance with applicable Laws and on an arms' length basis, reasonably necessary to effectively and properly manage:
- (i) the Operating Projects in accordance with Good Industry Practice and local market practice; or
  - (ii) the development of pipeline projects in accordance with Good Industry Practice and local market practice and the completion of any construction actions, and the undertaking of any other required steps, until any other assets (including Projects Under Construction, pipelines or secured tariff projects) become Operating Projects and, where a given project benefits or may benefit from any relevant support system, the fulfilment of all of the conditions required under such support system.
- 9.1.30. **“Project Under Construction”** means a project at the stage before obtainment of a relevant license for generation of electricity and commencement of electricity production.
- 9.1.31. **“Qualified Rejected New Venture”** means a New Venture which: (i) is consistent with (although not necessarily envisaged in) the Business Plan from time to time and (ii) satisfies the Required Investment Criteria, in relation to which the Supervisory Board has twice failed to adopt a resolution on the approval of such New Venture as a result of all members of the Supervisory Board appointed by Brookfield pursuant to Section 5.4.2 voting against such resolution.

- 9.1.32. **"Related Party"** of any person, means such person's Affiliate or related party (*jednostka powiązana*) within the meaning of Article 3 item 1 point 43 of the Accounting Act of 29 September 1994 (as amended).
- 9.1.33. **"Required Investment Criteria"** means the investment criteria that Mansa and Brookfield expect that a New Venture will satisfy, as agreed between Mansa and Brookfield and notified to the Company, in order to provide, among other things, appropriate guidance to the Management Board when sourcing and considering any available or potential investment opportunities.
- 9.1.34. **"Shares"** means any and all shares in the Company's share capital at any given point in time, and "Share" means any one of them.
- 9.1.35. **"Statutes"** means these statutes of the Company (in Polish: *statut*).
- 9.1.36. **"Supervisory Board"** means the supervisory board of the Company (in Polish: *Rada Nadzorcza*).
- 9.1.37. **"Valuation Expert"** means an independent entity elected by the Supervisory Board to be appointed to provide the Company with the fair market value of new Shares for the purposes of any share capital increases, if applicable.