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ΑΠΟΦΑΣΗ ΡΑΕ ΥΠ' ΑΡΙΘ. 470/2021

Έγκριση Σύμβασης Επαυξημένης Δυναμικότητας στο Σημείο Διασύνδεσης με τον ΤΑΡ «Νέα Μεσημβρία»

Η Ρυθμιστική Αρχή Ενέργειας

Κατά την τακτική συνεδρίασή της, στην έδρα της, στις **3 Ιουνίου 2021**, και

Λαμβάνοντας υπόψη:

1. Τις διατάξεις του ν. 4001/2011 «Για τη λειτουργία Ενεργειακών Αγορών Ηλεκτρισμού και Φυσικού Αερίου, για Έρευνα, Παραγωγή και δίκτυα μεταφοράς Υδρογονανθράκων και άλλες ρυθμίσεις» (ΦΕΚ Α' 179/22.08.2011), όπως ισχύει, και ιδίως του άρθρου 76 αυτού.
2. Τις διατάξεις της Οδηγίας 2009/73/ΕΚ (εφεξής «Οδηγία») του Ευρωπαϊκού Κοινοβουλίου και του Συμβουλίου της 13^{ης} Ιουλίου 2009 σχετικά με τους κοινούς κανόνες για την εσωτερική αγορά φυσικού αερίου και την κατάργηση της οδηγίας 2003/55/ΕΚ, και ιδίως του άρθρου 36.
3. Τις διατάξεις του Κανονισμού (ΕΚ) αριθ. 715/2009 του Ευρωπαϊκού Κοινοβουλίου και του Συμβουλίου της 13^{ης} Ιουλίου 2009 σχετικά με τους όρους πρόσβασης στα δίκτυα μεταφοράς φυσικού αερίου και για την κατάργηση του κανονισμού (ΕΚ) αριθ. 1775/2005.
4. Τον Κανονισμό (ΕΕ) 459/2017 της Επιτροπής της 16^{ης} Μαρτίου 2017 για τη θέσπιση κώδικα δικτύου σχετικά με μηχανισμούς κατανομής δυναμικότητας στα συστήματα μεταφοράς αερίου και για την κατάργηση του κανονισμού (ΕΕ) αριθ. 984/2013 (ΕΕ L 72/17.03.2017), και ιδίως του Κεφαλαίου V (άρθρα 22-31) αυτού.
5. Την υπ' αριθμ. 269/12.6.2013 Απόφαση της ΡΑΕ «Συμμόρφωση της ΡΑΕ κατά την παράγραφο 9 του άρθρου 36 της Οδηγίας 2009/73/ΕΚ με την από 16.05.2013 Απόφαση της Ευρωπαϊκής Επιτροπής υπ. αριθμ. C(2013)2949 final για την εξαίρεση του αγωγού ΤΑΡ ΑΓ από τις διατάξεις των άρθρων 9, 32 και 41(6), (8) και (10) της Οδηγίας 2009/73/ΕΚ και τροποποίηση της υπ. αριθμ. 111/2013 απόφασης της ΡΑΕ» (εφεξής «Απόφαση Εξαίρεσης») με την οποία εγκρίθηκε το κείμενο με τίτλο «Final Joint Opinion of the Energy Regulators on TAP AG's Exemption Application: Autorita per l'energia elettrica e il gas (Italy), Enti Rregullator I Energjise (Albania), Ρυθμιστική Αρχή Ενέργειας (Greece)» (ΦΕΚ Β'

- 1833/29.07.2013, εφεξής «Απόφαση Εξαίρεσης» ή «FJO») καθώς και τις από 6 Ιουνίου 2013 υπ' αριθμ. 249/2013/R/gas Απόφαση της Ιταλικής Ρυθμιστικής Αρχής (ΑΕΕΓ), από 13 Ιουνίου 2013 υπ' αριθμ. 64 Απόφαση της Αλβανικής Ρυθμιστικής Αρχής Ενέργειας (ERE) και από 25 Ιουνίου 2013 απόφαση του Ιταλικού Υπουργείου Οικονομικής Ανάπτυξης (Ministero dello Sviluppo Economico), με τις οποίες επίσης εγκρίθηκε Απόφαση Εξαίρεσης (FJO).
6. Την υπ' αριθμ. 131/2015 Απόφαση της ΡΑΕ με θέμα «*Συμμόρφωση της ΡΑΕ κατά την παράγραφο 9 του άρθρου 36 της Οδηγίας 2009/73/EC με την από 17.03.2015 Απόφαση της Ευρωπαϊκής Επιτροπής υπ. αριθμ. C(2015)1852 final για την έγκριση του αιτήματος της εταιρείας TAP A.G. για την επέκταση της χρονικής διάρκειας της εξαίρεσης του αγωγού TRANS ADRIATIC PIPELINE (TAP) από τις διατάξεις των άρθρων 9, 32 και 41(6), (8) και (10) της Οδηγίας 2009/73/EK*», με την οποία εγκρίθηκε το κείμενο με τίτλο «*Energy Regulators' Joint Opinion on TAP AG's request for a prolongation of the validity period of the exemption decision*», το οποίο προσαρτήθηκε στην εν λόγω Απόφαση και αποτελεί αναπόσπαστο τμήμα αυτής (εφεξής η «Απόφαση Εξαίρεσης» από κοινού με το σχετικό 5).
 7. Την υπ' αριθμ. 531/2013 Απόφαση της ΡΑΕ (ΦΕΚ Β' 3003/26.11.2013) με θέμα «*Έγκριση του Κανονισμού Τιμολόγησης της εταιρείας "TAP A.G." για τον αγωγό TAP*», όπως τροποποιήθηκε με την υπ' αριθμ. 708/2018 Απόφαση της ΡΑΕ (ΦΕΚ Β' 3661/28.08.2018) και ισχύει, καθώς και τις αποφάσεις ΑΕΕΓSI Deliberation 495/2013/R/gas, dated 6/11/2013, και ERE Decision n. 127 dated 7/11/2013 της Ιταλικής και Αλβανικής Ρυθμιστικής Αρχής, αντίστοιχα, με τις οποίες εγκρίθηκε ο Κανονισμός Τιμολόγησης για τον αγωγό TAP.
 8. Την υπό στοιχεία Δ1/Α/5346/22-03-2010 απόφαση του Υφυπουργού Περιβάλλοντος, Ενέργειας και Κλιματικής Αλλαγής «*Κώδικας Διαχείρισης του Εθνικού Συστήματος Φυσικού Αερίου*» (Β' 379) (εφεξής, «*Κώδικας Διαχείρισης ΕΣΦΑ*»), όπως τροποποιήθηκε με τις υπ' αρ. 1096/2011 (Β' 2227), 526/2013 (Β' 3131), 239/2017 (Β' 1549 και Β' 2159), 123/2018 (Β' 788), 1005/2019 (Β' 4088), 727/2020 (Β' 1684), 1035/2020 (Β' 2840), 1400/2020 (Β' 4585) και 1433/2020 (Β' 4799 & Β' 5078), αποφάσεις της ΡΑΕ.
 9. Την υπ' αριθμ. 1435/2020 Απόφαση της ΡΑΕ με θέμα «*Τροποποίηση Πρότυπων Συμβάσεων Πλαίσιο για τη Μεταφορά Φυσικού Αερίου και τη Χρήση Εγκατάστασης ΥΦΑ*» (εφεξής «*Πρότυπη Σύμβαση Μεταφοράς*») (ΦΕΚ Β' 4802/30.10.2020).
 10. Την υπ' αριθμ. 651/2019 Απόφαση της ΡΑΕ με θέμα «*Έγκριση Κατευθυντήριων Γραμμών για την Πρόσκληση Εκδήλωσης Ενδιαφέροντος έτους 2019 για την επαύξηση δυναμικότητας του αγωγού Trans-Adriatic Pipeline (TAP)*» καθώς και τις αποφάσεις ARERA Deliberation 267/2019/R/gas, dated 25/06/2019 και ERE Decision n. 95 dated 17/6/2019 της Ιταλικής και Αλβανικής Ρυθμιστικής Αρχής, αντίστοιχα, με τις οποίες εγκρίθηκαν οι κατευθυντήριες γραμμές για την εκδήλωση ενδιαφέροντος για την επαύξηση δυναμικότητας του αγωγού TAP.
 11. Την έκθεση εκτίμησης ζήτησης της αγοράς για την επαυξημένη δυναμικότητα του αγωγού TAP, η οποία διαμορφώθηκε από κοινού από τους Διαχειριστές TAP, SNAM και ΔΕΣΦΑ και αναρτήθηκε στις ιστοσελίδες τους στις 21.10.2019 με τίτλο «*Demand assessment report for incremental capacity between Trans Adriatic Pipeline, Snam Rete Gas and DESFA*».

12. Την από 20.04.2021 επιστολή της εταιρείας ΔΕΣΦΑ προς τη Ρυθμιστική Αρχή Ενέργειας με θέμα «... Υποβολή Σύμβασης Επαυξημένης Δυναμικότητας» (αριθμ. πρωτ. ΡΑΕ Ι-301220/21.04.2021).
13. Την υπ'αριθμ. 426/2021 Απόφαση της ΡΑΕ με θέμα «Έγκριση της Πρότασης Έργου Επαυξημένης Δυναμικότητας των Διαχειριστών ΤΑΡ, SNAM και ΔΕΣΦΑ καθώς και τις αποφάσεις AEEGSI Deliberation 189/2021/R/gas, dated 11/05/2021, και ERE Decision n. 122 dated 11/05/2021 της Ιταλικής και Αλβανικής Ρυθμιστικής Αρχής, αντίστοιχα, με τις οποίες εγκρίθηκε η πρόταση έργου επαυξημένης δυναμικότητας των τριών Διαχειριστών.
14. Το από 27.05.2021 ηλεκτρονικό μήνυμα της ΡΑΕ προς τη ΔΕΣΦΑ με θέμα «GTA – Incremental TAP» (αριθμ. πρωτ. ΡΑΕ Ο- 87892/27.05.2021).
15. Το από 1.06.2021 απαντητικό ηλεκτρονικό μήνυμα της εταιρείας ΔΕΣΦΑ προς τη Ρυθμιστική Αρχή Ενέργειας με θέμα «GTA – Incremental TAP » (αριθμ. πρωτ. ΡΑΕ Ι-303782/2.6.2021).

Σκέφτηκε ως εξής:

Επειδή, με τις ως άνω υπό στοιχεία (5) και (6) Αποφάσεις, χορηγήθηκε στην εταιρεία ΤΑΡ ΑΓ εξαίρεση από τις διατάξεις των άρθρων 9, 32 και 41(6), (8) και (10) της Οδηγίας 2009/73/ΕΚ για τον αγωγό Trans Adriatic Pipeline (ΤΑΡ), σύμφωνα με τους ειδικότερους όρους και προϋποθέσεις της Απόφασης Εξαίρεσης.

Επειδή, με την Απόφαση Εξαίρεσης οι αρμόδιες Ρυθμιστικές Αρχές Ελλάδας (ΡΑΕ), Αλβανίας (ΕΡΕ) και Ιταλίας (ΑΡΕΡΑ), έθεσαν στην εταιρεία ΤΑΡ ΑΓ την υποχρέωση αύξησης της μεταφορικής ικανότητας του αγωγού από 10 bcm/y σε 20 bcm/y ή και περισσότερο, μέσω μηχανισμών αγοράς, σύμφωνα με τις βέλτιστες πρακτικές της Ευρωπαϊκής Ένωσης, εφόσον υπάρχει ζήτηση και η επέκταση κριθεί οικονομικά αποδοτική.

Επειδή, κατά τα ανωτέρω, εξαίρεση από το άρθρο 32 της Οδηγίας περί πρόσβασης τρίτων έχει χορηγηθεί μόνο για την αρχική δυναμικότητα, ενώ πιθανή αύξηση δυναμικότητας θα είναι ρυθμιζόμενη όσον αφορά την πρόσβαση τρίτων. Περαιτέρω, δεν έχει χορηγηθεί εξαίρεση από την εφαρμογή του Κανονισμού (ΕΚ) 715/2009, καθότι σύμφωνα με την Απόφαση εξαίρεσης ο εν λόγω Κανονισμός εφαρμόζεται στο βαθμό που δεν έρχεται σε αντίθεση με την εν λόγω Απόφαση. Ομοίως, τυγχάνει εφαρμογής και ο Κανονισμός (ΕΕ) 459/2017 με τον οποίο θεσπίζεται κώδικας δικτύου σχετικά με μηχανισμούς κατανομής δυναμικότητας στα συστήματα μεταφοράς αερίου (εφεξής, «Κανονισμός CAM»), δεδομένου ότι ο εν λόγω Κανονισμός εκδόθηκε κατ' εξουσιοδότηση του Κανονισμού (ΕΚ) 715/2009.

Επειδή, στο Κεφάλαιο V του Κανονισμού CAM περιλαμβάνεται συγκεκριμένη διαδικασία με την οποία πραγματοποιείται επαύξηση δυναμικότητας σε σημεία διασύνδεσης (Interconnection Points). Επιγραμματικά και επί της αρχής, η διαδικασία (Incremental Capacity Procedure) είναι η ακόλουθη: αρχικά προσδιορίζεται συγκεκριμένο χρονικό περιθώριο κατά το οποίο όποιος ενδιαφέρεται να μεταφέρει φυσικό αέριο εντός της Ευρωπαϊκής Ένωσης υποβάλλει μη δεσμευτικό αίτημα (Demand Indication) στους αρμόδιους

διαχειριστές. Ακολούθως, οι διαχειριστές εκπονούν κοινή έκθεση εκτίμησης ζήτησης (Demand Assessment Report) αξιολογώντας τα αιτήματα. Βάσει των αποτελεσμάτων, οι διαχειριστές αποφασίζουν αν θα προχωρήσουν σε αναλυτικό σχεδιασμό των αιτηθέντων έργων. Στην περίπτωση αυτή υποβάλλουν πρόταση προς έγκριση στους αρμόδιους ρυθμιστές. Εάν η πρόταση εγκριθεί, η προς ανάπτυξη δυναμικότητα τίθεται υπό δημοπράτηση. Οι ενδιαφερόμενοι καταθέτουν δεσμευτικές προσφορές. Βάσει των προσφορών, διενεργείται οικονομική δοκιμή για το κατά πόσον το έργο κρίνεται οικονομικά αποδοτικό. Εάν το αποτέλεσμα είναι θετικό, οι διαχειριστές υποχρεούνται να υλοποιήσουν το έργο επαύξησης της δυναμικότητας και δεσμεύονται με τους χρήστες μέσω σύμβασης μεταφοράς.

Επειδή, οι Ρυθμιστικές Αρχές Ενέργειας, κατόπιν συνεργασίας μεταξύ τους και με την TAP AG, ενέκριναν το 2019 Κατευθυντήριες Γραμμές για τη διεξαγωγή της πρώτης φάσης του Market Test (σχετικό 10), κατά τρόπο ώστε να εφαρμοστεί κατά το δυνατόν ο Κανονισμός CAM, στο βαθμό που δεν αντιβαίνει στην Απόφαση Εξαίρεσης. Η επαύξηση, δηλαδή, της δυναμικότητας του αγωγού TAP όπως προβλέπεται από την Απόφαση Εξαίρεσης, να συνδυαστεί κατάλληλα με την επαύξηση δυναμικότητας σε Σημεία Διασύνδεσης από κοινού με τους γειτονικούς διαχειριστές όπως περιγράφεται στον Κανονισμό CAM.

Επειδή, τον Ιούλιο του 2019 πραγματοποιήθηκε η πρώτη φάση της διαδικασίας επαύξησης δυναμικότητας με την υποβολή μη δεσμευτικών αιτημάτων. Ειδικότερα, για το σημείο διασύνδεσης του αγωγού TAP με το Εθνικό Σύστημα Φυσικού Αερίου στη Νέα Μεσημβρία, εκδηλώθηκε ενδιαφέρον από πέντε εταιρείες, οι οποίες αιτήθηκαν συνολικά μέγιστη ημερήσια δυναμικότητα παράδοσης στην είσοδο του Εθνικού Συστήματος Φυσικού Αερίου ίση με 169.471.096 kWh ανά ημέρα για την περίοδο 2023-2030.

Επειδή, σύμφωνα με τον Κανονισμό CAM, αμέσως μετά την υποβολή των μη δεσμευτικών αιτημάτων, οι τρεις Διαχειριστές (TAP, SRG και ΔΕΣΦΑ) συνεργάστηκαν για τη σύνταξη της Έκθεσης Εκτίμησης Ζήτησης της Αγοράς, η οποία δημοσιεύτηκε τον Οκτώβριο του 2019 και ανέδειξε την ανάγκη έναρξης έργου επαυξημένης δυναμικότητας (σχετικό 11). Ενώ, τον Ιανουάριο του 2020 οι τρεις Διαχειριστές σύμφωνα με τον Κανονισμό CAM, διεξήγαγαν από κοινού δημόσια διαβούλευση επί σχεδίου πρότασης έργου επαυξημένης δυναμικότητας.

Επειδή, οι Ρυθμιστικές Αρχές Ενέργειας ενέκριναν, με το υπ' αριθμ. σχετικό 13, την πρόταση των τριών Διαχειριστών TAP, SRG και ΔΕΣΦΑ για το έργο επαυξημένης δυναμικότητας, στην οποία κατέληξαν από κοινού με στόχο την ικανοποίηση των μη δεσμευτικών αιτημάτων δέσμευσης δυναμικότητας που υποβλήθηκαν στην πρώτη φάση της διαγωνιστικής διαδικασίας.

Επειδή, η ΡΑΕ με την 426/2021 Απόφασή της (σχετικό 13) έκρινε απαραίτητες δύο αλλαγές στο τμήμα της πρότασης του έργου που αφορά στον Διαχειριστή του ΕΣΦΑ. Η πρώτη αφορά στην τιμή του παράγοντα f κατά το άρθρο 23 του Κανονισμού CAM και η δεύτερη στα κριτήρια που πρέπει να πληρούν τα χρηματοπιστωτικά ιδρύματα για την έκδοση των εγγυητικών επιστολών που αφορούν στην διαδικασία του έργου επαύξησης.

Επειδή, στην εγκεκριμένη πρόταση έργου επαυξημένης δυναμικότητας για το τμήμα αυτής που αφορά στο Διαχειριστή του ΕΣΦΑ προσδιορίζεται, μεταξύ άλλων, η διαδικασία που θα

ακολουθηθεί σε περίπτωση θετικής έκβασης της οικονομικής αξιολόγησης των δεσμευτικών προσφορών των ενδιαφερομένων χρηστών μεταφοράς για δέσμευση επαυξημένης δυναμικότητας, η οποία περιλαμβάνει τη σύναψη Σύμβασης Επαυξημένης Δυναμικότητας στο σημείο διασύνδεσης «Νέα Μεσημβρία» μεταξύ του χρήστη μεταφοράς, στον οποίο θα κατανεμηθεί δυναμικότητα και του Διαχειριστή του ΕΣΦΑ, ΔΕΣΦΑ.

Επειδή, σύμφωνα με το άρθρο 71 του νόμου 4001/2011, «1. Για τη δέσμευση δυναμικότητας του ΕΣΦΑ συνάπτονται Συμβάσεις μεταξύ του ΔΕΣΦΑ ΑΕ και των Χρηστών, σύμφωνα με τις διατάξεις της περίπτωσης α` της παραγράφου 2 του άρθρου 68.»

Επειδή, σύμφωνα με την παράγραφο 2 του άρθρου 68 του νόμου 4001/2011, «Στο πλαίσιο των ανωτέρω υποχρεώσεων ο ΔΕΣΦΑ ΑΕ: (α) Παρέχει στους Χρήστες πρόσβαση στο ΕΣΦΑ με τον πλέον οικονομικό, διαφανή και άμεσο τρόπο και για όσο διάστημα επιθυμούν, χωρίς να θέτει σε κίνδυνο την ομαλή και ασφαλή λειτουργία του ΕΣΦΑ. Για το σκοπό αυτόν συνάπτει με τους Χρήστες Συμβάσεις Μεταφοράς, Συμβάσεις Χρήσης Εγκατάστασης ΥΦΑ και Συμβάσεις Χρήσης Εγκατάστασης Αποθήκευσης, σύμφωνα με πρότυπες συμβάσεις, οι οποίες καταρτίζονται και δημοσιεύονται από το ΔΕΣΦΑ ΑΕ στην ιστοσελίδα του, μετά από έγκριση της ΡΑΕ.»

Επειδή, η Πρότυπη Σύμβαση Μεταφοράς (σχετικό 9) που προβλέπει ο Κώδικας Διαχείρισης ΕΣΦΑ (σχετικό 8) αφορά στη δέσμευση δυναμικότητας από Χρήστη Μεταφοράς αλλά δεν καλύπτει την περίπτωση δέσμευσης δυναμικότητας που προκύπτει από επαύξηση του Συστήματος Μεταφοράς κατά τα οριζόμενα στο άρθρο 28 παρ. 3, υπό στοιχείο (β), του Κανονισμού CAM.

Επειδή, με το υπ' αριθμ. 12 σχετικό ο Διαχειριστής υπέβαλε προς έγκριση στη Ρυθμιστική Αρχή Ενέργειας τη Σύμβαση Επαυξημένης Δυναμικότητας που σχετίζεται με τη δεσμευτική φάση της διαδικασίας επαύξησης δυναμικότητας στο σημείο διασύνδεσης «Νέα Μεσημβρία».

Επειδή, η Αρχή, με το υπ' αριθμ. 14 σχετικό της, υπέβαλε στο Διαχειριστή τα σχόλια και τις παρατηρήσεις της επί του κειμένου της Σύμβασης Επαυξημένης Δυναμικότητας, τα οποία συζητήθηκαν σε τηλεδιάσκεψη με το Διαχειριστή στις 28.05.2021.

Επειδή, ο Διαχειριστής, με το υπ' αριθμ. σχετικό 15, υπέβαλε την τελική του πρόταση για τη Σύμβαση Επαυξημένης Δυναμικότητας, λαμβάνοντας υπόψη τα σχόλια της Αρχής σχετικά με τους όρους λύσης της σύμβασης ιδίως τις προϋποθέσεις που πρέπει να εκπληρωθούν για να τεθεί σε ισχύ η σύμβαση σύμφωνα με την πρόταση έργου επαυξημένης δυναμικότητας των Διαχειριστών ΤΑΡ, SNAM και ΔΕΣΦΑ (σχετικό 13), τις εγγυήσεις και τις αποζημιώσεις.

Επειδή, η σύμβαση επαυξημένης δυναμικότητας περιλαμβάνει τα ακόλουθα:

- α) το αντικείμενο, τη διάρκεια και τις περιπτώσεις λήξης αυτής
- β) υποχρεώσεις των συμβαλλομένων μερών σχετικά με τη διάθεση και τη δέσμευση δυναμικότητας και την ενημέρωση για την εξέλιξη των εργασιών κατασκευής
- γ) υποχρέωση προσκόμισης εγγυητικής επιστολής από το Χρήστη προς το Διαχειριστή, το ύψος της εγγυήσης, τις περιπτώσεις που αυτή καταπίπτει καθώς και τη διαδικασία επιστροφής της.
- δ) προβλέψεις περί ευθύνης, υποκατάστασης, περιπτώσεων ανωτέρας βίας καθώς και ρήτρες εμπιστευτικότητας.

Επειδή, η πρόταση του Διαχειριστή σχετικά με τα χρηματοπιστωτικά ιδρύματα που θα εκδίδουν τις εγγυήσεις είναι σύμφωνη με τα προβλεπόμενα στην απόφαση 426/2021 της Αρχής (σχετικό 13).

Για τους παραπάνω λόγους

Αποφασίζει

Την έγκριση της Σύμβασης Επαυξημένης Δυναμικότητας «Form of Gas Transportation Agreement relating to the Binding Phase of the Incremental Capacity Process at the Interconnection Point “Nea Mesimvria” between DESFA SA and ...», που θα συνάψει ο ΔΕΣΦΑ με τους επιτυχόντες στο δεσμευτικό στάδιο προσφορών της διαδικασίας επαύξησης δυναμικότητας στο σημείο διασύνδεσης «Νέα Μεσημβρία», η οποία προσαρτάται στην παρούσα Απόφαση και αποτελεί αναπόσπαστο τμήμα αυτής.

Κατά της παρούσας απόφασης χωρεί αίτηση αναθεώρησης, η οποία ασκείται μέσα σε τριάντα (30) ημέρες από τη δημοσίευση ή την κοινοποίηση της απόφασης, σύμφωνα με τη διάταξη της παραγράφου 2 του άρθρου 32 του ν. 4001/2011.

Αθήνα, 3.6.2021
Ο Πρόεδρος της ΡΑΕ

Επικ. Καθ. Αθανάσιος Δαγούμας

ΠΑΡΑΡΤΗΜΑ Α

**Form of
Gas Transportation Agreement**

relating to

the Binding Phase of the Incremental Capacity Process

at the Interconnection Point “Nea Mesimvria”

between

DESFA SA

- and -

[COMPANY: name of the Participant]

[●] 2021

THIS GAS TRANSPORTATION AGREEMENT (“**Agreement**”) is made on the.....2021 by and between:

- (1) Hellenic Gas Transmission System Operator Société Anonyme, a company incorporated and existing under the laws of the Hellenic Republic, having its headquarters and registered office at 357-359 Messogion Avenue, Halandri, GR-152 31, registered under the Business Registry number (GEMI) 7483601000 (“**DESFA**”), duly represented by [●]; and
- (2) [●], a company incorporated and existing under the laws of [●], having its headquarters and registered office at [●], registered under the Business Registry number [●] (the "**Company**"), duly represented by [●];

The above parties may also be referred as “**Party**” and collectively as “**Parties**”.

WHEREAS

- A. DESFA intends to implement the appropriate infrastructure developments of the DESFA’s System in order to offer incremental capacity at the Interconnection Point Nea Mesimvria according to the Project Proposal (“**DESFA Part of the Project**”).
- B. TAP AG intends to implement the appropriate infrastructure developments of the TAP System in order to offer incremental capacity, inter alia, at the Interconnection Point Nea Mesimvria according to the Project Proposal.
- C. The Company is a Transmission User and has concluded with DESFA the Transmission Framework Agreement number *[insert TFA number]*.
- D. The Company has successfully participated in the Binding Phase of the Incremental Capacity Process according to the Project Proposal and the Binding Phase notice and has been Allocated Capacity at DESFA’s Side of the Interconnection Point Nea Mesimvria (“**IP Nea Mesimvria**”) pursuant to the Transportation Confirmation number [●].
- E. DESFA intends to provide the Allocated Capacity to the Company at the IP Nea Mesimvria, starting from the Commercial Operation Date, pursuant to applicable Greek Law in force at the time of Commercial Operation Date, subject to the terms of this Agreement.

IT IS HEREBY AGREED as follows:

Article 1 Definitions and Interpretation

For the purposes of this Agreement, the definitions provided for in Law 4001/2011, the Network Code, the Tariff Regulation, the Framework Transmission Agreement and the Project Proposal shall apply. In addition, the following capitalized terms and expressions, when used in this Agreement shall have the following meaning:

1.1. Definitions

Allocated Capacity shall mean the capacity allocated to the Company after the positive outcome of the Binding Bidding Phase and of the Economic Viability Test notified to the Company by means of a Transportation Confirmation. Said capacity may include any potential prolongation of the commitment to a maximum of twenty (20) years according to paragraph E.7 IV. c. of the Project Proposal provided, however, that the initial Economic Viability Test for DESFA is positive.

Transportation Confirmation shall mean the formal notification of DESFA to the Company of its Allocated Capacity according to the Economic Viability Test results after the closing of the Bid Submission Window attached in Annex I.

Bank Guarantee (or “GTA Guarantee”) shall mean the letter of bank payment guarantee provided by the Company for the proper performance of this Agreement, for the amount and the duration provided for in Article 4, having the form attached to in Annex II.

Business Day shall mean any day that is not a Saturday, Sunday or public holiday in the Hellenic Republic.

CAM NC means Regulation (EU) no 2017/459.

Capacity shall mean transmission capacity as defined in Regulation (EC) 715/2009.

Competent Authority means any national, supranational, regional or local government or governmental or administrative, fiscal, judicial or government-owned body, department, commission, authority, tribunal, court of law, agency, inspectorate, ministry, official or public or statutory person having or asserting jurisdiction over any of the Parties or either of their assets/property or their operation.

Confidential Information shall have the meaning assigned to it in Article 8.

Consequential Loss shall mean any consequential, incidental or indirect damages, including loss of opportunity, damage to reputation, loss of profits or economic loss however caused whether under this Agreement or in tort (including negligence).

Commercial Operation Date (“or COD”) shall mean the Gas Day that DESFA Notifies to the Company (as at the date of that Notice) as being the date on which it is ready to commence commercial operation of the DESFA Part of the Project and which thereafter will be published on DESFA's website.

DESFA System shall mean the National Natural Gas Transmission System.

Effective Date shall mean the date that this Agreement has been executed by both Parties.

Economic Viability Test (or “EVT”) shall have the meaning assigned to it in definition no 22 of Annex II of the Project Proposal.

Force Majeure shall have the meaning assigned to it in Article 7.

Gas Year shall mean a time period of twelve consecutive months, starting at 7.00 am on October 1st of a year and ending at 7.00 am on October 1st of the subsequent year.

Gas Transportation Agreements (or “GTA”) means the agreements executed between the Participants and the TSO’s, as the case may be, for the capacity allocated to them after the positive outcome of the Binding Bidding Phase and of the Economic Viability Test.

GTA Assignee shall mean a Transmission User registered in the National Natural Gas System Users Registry of the RAE and having signed a Transmission Framework Agreement with DESFA, to whom the Company is entitled to assign this Agreement pursuant to Article 6.

Incremental Capacity Process shall have the meaning assigned to it in definition no 36 of Annex II of the Project Proposal.

Incremental Capacity Project shall have the meaning assigned to it in definition no 37 of Annex II of the Project Proposal.

Law means all federal, national or state legislation, statutes, ordinances and other laws, and regulations, by-laws, decisions and administrative acts of legally constituted Competent Authority or standards lawfully imposed by any such Competent Authority.

Long Stop Date means the date falling fifteen (15) months after 30.09.2021 pursuant to Article 3.3.

National Natural Gas Transmission System (or “NNGTS”) means the gas transmission network of DESFA as defined in Article 67 of Law 4001/2011.

Network Code means the network code of the National Natural Gas System as defined in Article 69 of Law 4001/2011 and in force at any given time.

Notice shall have the meaning assigned to it in Article 12.3.

Project Proposal shall mean the document jointly prepared by Snam Rete Gas, TAP and DESFA in accordance with the provisions set in Article 28 of the CAM NC for the Incremental Capacity Project of the involved TSO’s, approved by RAE with its decision No. 426/2021.

RAE means the Hellenic Regulatory Authority for Energy.

TAP shall mean the Trans Adriatic Pipeline.

TAP System shall mean the gas transmission network of TAP AG.

Tariff Regulation means the tariff regulation of the National Natural Gas System as defined in Article 88 of Law 4001/2011 and in force from time to time.

Ten Year Development Plan (or “TYDP”) shall have the meaning assigned to it in definition no 60 of Article 1 of the Network Code.

Termination Date means the date on which this Agreement expires or terminates as per Article 3.

TFA Guarantee means the guarantee required for the Approved Firm Service Application(s) of Article 2.3 according to the relevant provisions of the TFA and notably Article 21H of Chapter 3A of the Network Code, whereas the Year of the auction is deemed as the Year which includes the start of the Gas Year within which the COD lies.

Transmission Framework Agreement (or "TFA") means the standard agreement for accessing the National Natural Gas Transmission System as defined in Article 68 of Law 4001/2011 and in force at any given time.

Transmission User shall have the meaning assigned to it in definition no 87 of Article 1 of the Network Code.

TSO shall mean transmission system operators, being TAP, Snam Rete Gas and DESFA (as relevant).

1.2. Interpretation and references

1.2.1 In this Agreement, except where the context requires otherwise:

- (a) words indicating one gender include all genders;
- (b) words indicating the singular also include the plural and words indicating the plural also include the singular;
- (c) the terms "including" and "in particular" in this Agreement shall be read and understood as "including, but not limited to";
- (d) provisions including the word "agree", "agreed" or "agreement" or "approved" or "approval" or "consent" or "consented" require the agreement or approval to be recorded in writing; and
- (e) "written", "written form" or "in writing" means hand-written, type-written, printed or electronically made including emails and facsimiles, unless specifically provided otherwise in this Agreement.
- (f) The marginal words and other headlines shall not be taken into consideration in the interpretation of this Agreement.
- (g) References in this Agreement to Articles and Annexes are to Articles and Annexes of this Agreement.
- (h) References to Natural Gas by quantity, mean a reference to the amount of Natural Gas in energy in kWh.

1.2.2 The Annexes constitute an integral part of this Agreement.

1.2.3. The Agreement is made up of the body this Agreement and its Annexes. In the event of any conflict or inconsistency between anything in the body of this Agreement and the Annexes, the body of this Agreement prevails to the extent of the inconsistency.

Article 2 Scope of the Agreement and Obligations of the Parties

2.1. Following the positive outcome of the Binding Bidding Phase and of the EVT for the incremental capacity offered at the IP Nea Mesimvria according to the Project Proposal, the Parties with this Agreement undertake:

- (a) DESFA to make available the Allocated Capacity at the IP Nea Mesimvria starting from the COD as per Article 2.2, subject to Articles 3.2, 3.3 and 5.5.
- (b) The Company to provide to DESFA the Bank Guarantee for the proper performance of all its obligations under this Agreement and maintain it throughout the term of this Agreement pursuant to Article 3.1.

(c) The Company to book the Allocated Capacity under the Transmission Framework Agreement number [●] pursuant to the terms of this Agreement and applicable Law.

2.2. The COD is hereby set to be the 01.10.2027 in accordance with the Project Proposal and the Binding Phase notice.

2.2.1. The Company shall be deemed to have accepted that in case any of the authorizations, permissions, easements or any other relevant land rights necessary for the construction phase of the Incremental Capacity Project are not obtained or delayed then the execution times for the implementation of the Incremental Capacity Project by all TSO's involved shall be considered correspondingly extended and DESFA shall be entitled to also extend the COD and shall have no liability whatsoever to the Company in connection with such delays.

2.2.2. In the event of a delay pursuant to Article 2.2.1. above, no later than thirty (30) Days from becoming aware of the delay, DESFA shall notify the Company in writing both of the delay and of the permitted extended COD.

2.3. As of the fifteenth (15) day before the COD, DESFA shall unilaterally issue the respective Approved Firm Service Application(s) in accordance with the Network code and especially its article 8, on the basis of the Allocated Capacity included in the Transportation Confirmation as per Annex I. The Company acknowledges and hereby agrees that such Approved Firm Service Application(s) shall be deemed as Approved Firm Service Application(s) under the Transmission Framework Agreement number [●] and shall have all legal effects thereof under the Network Code, Tariff Regulation and applicable Law.

2.4 As of the announcement of the Final Investment Decision date by DESFA the Company shall be liable to DESFA for all applicable transmission charges for the Allocated Capacity with start date from the COD and for full duration for which such Capacity has been allocated to the Company pursuant to the provisions of the Tariff Regulation as well as any premium applicable in case of successful participation in an auction among bidders with Equal Marginal Bids. Any amount paid by the Company in the context of the Transmission Framework Agreement number [●] in regard of the Allocated Capacity shall be considered as payment against the amount owned by the Company under this Agreement. Any outstanding amount under this Agreement (i.e. not paid in the context of the Transmission Framework Agreement number [●] after its termination for any reason) shall continue to be owed to DESFA by the Company and shall be paid upon simple demand by DESFA. DESFA shall also be entitled to make a claim under the Bank Guarantee.

2.5. The Parties shall be bound by the provisions of the Project Proposal and the Binding Phase notice throughout the duration of this Agreement and the Transmission Framework Agreement number [●]. In the event of any discrepancy between this Agreement and the Project proposal, this Agreement prevails over the Project Proposal.

Article 3 Term and termination

3.1. This Agreement starts on the Effective Date and shall remain in force until terminated pursuant to Articles 3.2, 3.3 and 3.5, subject to Article 3.6 below.

3.2. This Agreement shall be terminated at the earlier to occur of:

(a) written Notice by DESFA at the last day of the sixth month succeeding the end of the first Gas Year for which Capacity has been allocated to the Company according to the Transportation Confirmation attached in Annex I;

(b) written Notice by DESFA in case any of the Participants that have been Allocated Capacity at the IP Nea Mesimvria, upon successful participation in the Binding Bid Phase of the Incremental Capacity Process, have not executed their respective GTAs with either DESFA or TAP by 30.09.2021, as the former notified by the latter by said date in regard to the execution of the GTAs relevant to TAP.

(c) written Notice by a Party in case the other Party enters into insolvency, bankruptcy, reorganization or similar proceedings under applicable Law, and is unable to pay its debts within the meaning of the applicable insolvency legislation or ceases to pay its debts as they fall due.

3.3 This Agreement shall become fully effective upon the fulfillment, to the satisfaction of DESFA and TAP, of all the conditions precedent described in the Project Proposal. For the avoidance of doubt, DESFA is entitled not to proceed with the Incremental Capacity Project, by the Long Stop Date, due to the fact that any of the conditions precedent provided for in the Project Proposal and specified herein have not been met or waived by DESFA. Without prejudice to Article 3.2 above, this Agreement shall terminate ipso jure in case any of the following conditions precedent has not been met to the satisfaction of DESFA:

(i) DESFA Part of Project has not been unconditionally included in DESFA's approved Ten Year Development Plan and DESFA has not proceeded with a Final Investment Decision by the Long Stop Date; or

(ii) The relevant GTAs between the Company and all concerned TSOs (TAP and DESFA, in case of Nea Mesimvria Interconnection Point) does not, for any reason, become fully effective by the Long Stop Date; or

(iii) TAP has decided not to proceed with the Incremental Capacity Project, and has notified DESFA by the Long Stop Date, due to the fact that the Conditions Precedent specific for TAP as described in the Project Proposal have not been met or waived by TAP.

3.4. In case of early termination of this Agreement as per Articles 3.2 and 3.3 above, DESFA shall be entitled to recover the actual costs it incurred for the Incremental Capacity Process up to the Termination Date calculated in accordance with the relevant provision of the Project Proposal. The Company shall pay the charges invoiced by DESFA for such costs within twenty (20) days from DESFA's Notice. DESFA shall be entitled to make a claim under the Bank Guarantee if said invoices are not duly and timely payed by the Company.

3.5. Without prejudice to any other right, remedy or power contained in this Agreement or at Law, either Party may terminate this Agreement if the other Party is in material breach of any of its obligations herein. Material breach shall be the failure by either Party to perform any of its obligations resulting from or arising out of or in connection with this Agreement. Where such breach is capable of remedy, the non-defaulting Party is entitled to seek remedy by notifying a written Notice to the defaulting Party. If the notified Party fails to remedy such breach within the deadline set in the Notice, the non-defaulting Party may terminate this Agreement and claim indemnity for damages, compensation of costs or otherwise pursuant to Article 5 and shall also be entitled to make a claim under the Bank Guarantee.

3.6. Upon termination of this Agreement the Parties shall have no further obligations on the Termination Date, but termination shall not affect:

(a) the provisions of the Agreement as they relate to the payment of any sum due by one Party to the other Party in relation to this Agreement; and

- (b) the rights and obligations of the Parties pursuant to Articles 2.4. (Scope of the Agreement and Obligations of the Parties), 8 (Confidentiality), 11 (Governing Law and Dispute Resolution) and 12.3 (Notices) that shall continue in full force and effect; and
- (c) a Party's right to claim for a breach of the other Party's obligations in relation to this Agreement if that breach occurred before termination.

Article 4 Guarantee

- 4.1. The Company presented to DESFA a Bank Guarantee, on first demand, issued by any Greek financial institute supervised by the ECB (systemic Banks, namely any of Alpha Bank, Eurobank, National Bank of Greece and Piraeus Bank), or any Greek branch of an internationally reputable bank - or any internationally reputable bank - with a minimum credit rating of A- at Standard and Poor's or A3 at Moody's, which has been approved in advance by DESFA, for an amount of [●] € ([●] Euros) and for the duration provided for in Article 3.2.(a), i.e. until [DD/MM/YYYY], the Bank Guarantee itself attached in Annex II. The Bank Guarantee has the form provided for in the Binding Phase notice and its amount has been calculated in accordance with the relevant provisions of the Project Proposal.
- 4.2. Thirty (30) days before the COD, the Company shall present to DESFA the TFA Guarantee for the Approved Firm Service Application(s) pursuant to Article 2.3.
- 4.3. The Company is entitled to request the reduction of its GTA Guarantee up to an amount of the TFA Guarantee, subject to Article 4.2.
- 4.4. The Company undertakes to keep the GTA Guarantee in full force and effect up to the Termination Date and for the amount provided for in Article 4.1, subject to Article 4.3.
- 4.5. The GTA Guarantee shall be returned to the Company upon:
- (a) the last day of the sixth month succeeding the end of the first Gas Year of the Allocated Capacity, subject to the duly and timely payment by the Company of the applicable charges as invoiced by DESFA for that Gas Year according to the Framework Transmission Agreement number [●], the Network Code and the Tariff Regulation; or
- (b) the sixty (60) day after 30.09.2021 pursuant to Article 3.2.(b); or
- (c) the sixty (60) day after the settlement of DESFA's actual cost as per Article 3.4; or
- (d) the sixty (60) day after the Long Stop Date pursuant to Article 3.3.
- unless DESFA has raised claims under the GTA Guarantee prior to such date for the reasons provided for in Articles 2.1c) and 2.4 as well as in Articles 3.4 and 3.5, in which case the GTA Guarantee shall remain in force until DESFA's claim has been fully and unconditionally satisfied or settled, in accordance to Article 5.

Article 5 Liability

- 5.1. The Company shall indemnify and hold DESFA harmless as of the Effective Date up to the Termination Date for any direct loss, claim, cost, charge, expense, liability and/or damage resulting from or arising out of or in connection with this Agreement or the performance or non-performance or the material breach of its obligations under this Agreement.
- 5.2. (a) DESFA shall indemnify and hold the Company harmless as of the Final Investment Decision up to the Termination Date for any direct loss, claim, cost, charge, expense, liability and/or damage resulting from or arising out of or in connection with this Agreement or the performance or non-performance or the material breach of its obligations under this Agreement.

(b) DESFA shall be not be liable to the Company as of the Effective Date up and until the Long Stop Date for any direct loss, claim, cost, charge, expense, liability and/or damage resulting from or arising out of or in connection with this Agreement or the performance or non-performance of its obligations under this Agreement or otherwise in connection with the Incremental Capacity Project with the exception of cases of willful misconduct or gross negligence.

5.3. In no event shall either Party be liable to the other Party as of the Effective Date up to the Termination Date for any Consequential Loss resulting from or arising out of or in connection with this Agreement or the performance or non-performance or any breach of its obligations under this Agreement or otherwise in connection with the Incremental Capacity Project.

5.4. As of the date on which DESFA will take the Final Investment Decision for the DESFA part of the Project up and until COD or its permitted extension pursuant to Article 2.2.1, DESFA's aggregate liability to the Company for any matters arising under or in connection with this Agreement or otherwise in connection with the Incremental Capacity Project, with the exception of cases of willful misconduct or gross negligence, shall not exceed in the aggregate of one million (1.000.000€) euros.

5.5. The Company hereby expressly acknowledge that if:

(a) the Company terminates this Agreement prior to date mentioned in Article 3.2.(a) for reason non-attributable to DESFA or

(b) the implementation of the DESFA Part of the Project becomes no longer economically viable for reasons attributable to the Company;

the Company shall be held liable to DESFA and shall be obliged to pay to DESFA all actual costs incurred by DESFA up to that time for the implementation of the Incremental Capacity Project and the construction of the DESFA Part of the Project as well as any amounts DESFA may be required to pay to third parties as a result of the events mentioned in (a) and (b) above. For the avoidance of doubt, DESFA will be fully reimbursed for the actual costs incurred and the amounts that it may be required to pay to third parties, as per above, once.

Article 6 Succession and Assignment

6.1. Neither DESFA nor the Company may assign this Agreement in whole or part to a third party without the prior written consent of the other Party.

6.2. Following a written consent by DESFA, the Company may assign to an GTA Assignee the rights and obligations of the Company in connection with this Agreement, whether in whole or in part, provided that such GTA Assignee fulfill the requirements of the Network Code, the Project Proposal and this Agreement at the time of the assignment.

6.3. For the assignment to take place, the GTA Assignee shall provide a Bank Guarantee the amount of which shall be equal to the maximum annual capacity charge of all Gas Years of the Allocated Capacity assigned and for the duration provided for in Article 3.2.(a). Until the required Bank Guarantee have been presented to DESFA by the GTA Assignee the assignment shall have no legal effect.

6.4. Failure to provide consent to a request for assignment shall entail rejection of the assignment and does not give rise to a right for either Party to terminate this Agreement or claim for any loss, damage, cost or expense whatsoever.

6.5. This Agreement shall inure to the benefit of and be binding upon the respective successors and permitted assigned of the Parties.

Article 7 Force Majeure

7.1. An event of Force Majeure means any event or circumstance (or any combination of events and/or circumstances) outside the reasonable control, directly or indirectly, of the Party affected, but only if and to the extent that:

- (a) such event(s) and/or circumstance(s) could not be prevented, avoided or removed by such Party;
- (b) such event(s) and/or circumstance(s) causes or results in a failure by such Party to perform its obligations under this Agreement; and
- (c) such event(s) and/or circumstance(s) are not substantially attributable to the other Party.

7.2. Force Majeure may include, but is not limited to, event(s) or circumstance(s) of the kind listed below, so long as conditions (a) to (c) above are satisfied:

- (a) war, hostilities (whether war be declared or not), invasion, act for foreign enemies;
- (b) rebellion, acts of terrorism, revolution, insurrection, military or usurped power, or civil war;
- (c) natural catastrophes such as an earthquake, a hurricane, a typhoon or volcanic activity;
- (d) governmental measures and other rules issued by Competent Authority in relation to pandemics or epidemics.

7.3. The Company further acknowledge that event(s) or circumstance(s) of Force Majeure for DESFA may include, so long as conditions (a) to (c) of Article 7.1. are satisfied:

- (a) breakage, fire, freezing, explosion, mechanical breakdown, or other damage or malfunction of machinery or equipment necessary for the construction and operation of the DESFA Part of Project; or
- (b) archaeological or historical or cultural heritage investigations or discoveries on the route of the DESFA Part of Project; or
- (c) court proceedings that delay the award of a contract for the construction of DESFA Part of the Project; or
- (d) the delay due to bankruptcy or other major default of a contractor selected by DESFA for the construction of the DESFA Part of the Project.

7.4. Notwithstanding the provisions above, any or all of the following events and circumstances shall not constitute an event of Force Majeure:

- (a) changes in market conditions, including changes that directly or indirectly affect the demand for or price of Natural Gas, such as loss of customers or loss of market share; or
- (b) changes in shareholding or business strategy; or
- (c) failure or inability to perform due to change to applicable Capacity charges; or
- (d) the unavailability or lack of funds or failure to indemnify the other party or to pay money when due.

7.5. If a Party is or will be prevented from performing any of its obligations under this Agreement by Force Majeure, then it shall give Notice to the other Party of the event(s) of circumstance(s) constituting the Force Majeure and shall specify the extent of the obligations, the performance of which is or will be prevented, impeded and/or delayed. The Notice shall be given as soon as reasonably practicable (to the extent that such Information is available to the affected Party) of the relevant event(s) or circumstance(s) constituting Force Majeure, otherwise the affected Party is prevented from claiming Force Majeure in respect to the respective event(s) or circumstance(s), unless the other Party is aware of the Force Majeure and the extent of its effects on

the affected Party's performance. The Party shall, having given Notice, be excused from performance of such obligations for so long as such Force Majeure prevents it from performing them.

7.6. Notwithstanding the above, the affected Party the above shall give Notice as soon as reasonably practicable to the other Party (to the extent that such Information is available to the affected Party) of:

- (a) the steps being taken by the affected Party to remove or mitigate the effect of the Force Majeure and to carry out its obligations under this Agreement;
- (b) upon it becoming aware of any material developments or additional material Information relating to the Force Majeure and its effects;
- (c) the anticipated date of resumption of performance of its obligations under this Agreement;

and, to the extent that such Information is not available at the time a Notice is given, the affected Party shall provide such Information to the other Party as soon as it becomes available to it.

7.7. Neither Party shall be held responsible for any non-performance and/or delay in the performance of the Agreement if and to the extent it is caused by Force Majeure.

Article 8 Confidentiality

8.1. The Parties already acknowledge and are bound by the confidential nature:

- (a) of all the information exchanged and/or the documents and data communicated or to be communicated to them during the term of the Agreement, and which are related to the Agreement and its performance; and
- (b) they undertake the duty to use such information, documents and data only for the purposes of the Agreement and to refrain from disclosing them in part or in whole to third parties.

8.2. The confidentiality undertakings under this Agreement do not apply to the extent that:

- (a) Confidential Information is already in possession of the public or becomes available to the public other than through the act or omission of the receiving Party in breach hereof; or
- (b) a Party can document that it was already legally and without other confidentiality limitations in possession of the Confidential Information before it was disclosed; or
- (c) is required to be disclosed by the Parties to RAE or another Competent Authority or in order for the Parties to comply with the requirements of the applicable Law or following RAE's or Competent Authority's decisions.

8.3. Subject to any restriction applicable to it according to applicable Law, a Party may disclose Confidential Information without the other Party's prior written consent to the following persons:

- (d) professional advisers retained by such Party, if and to the extent required in order to enable the disclosing Party to perform its obligations under this Agreement;
- (e) banks or other financial institutions to finance such Party and/or to provide project finance in relation to the DESFA Part of the Project or the issuance of assurances regarding the DESFA Part of the Project; and
- (f) shareholders of DESFA for the purposes of taking the Final Investment Decision;

8.3. Each Party shall take all necessary and appropriate measures and procedures (in particular towards its representatives, employees, advisers and authorized agents) to enforce and maintain the protection of Confidential Information and to prevent any disclosure of it.

8.4. The above obligations shall be binding upon the Parties during the term of the Agreement as well as for a period of five (5) years after its termination in any way whatsoever.

Article 9 Anticorruption policy and Code of Ethics

9.1 Each Party declares that it is acquainted with and shall fully comply with the Laws on the prohibition of bribery and any other anti-corruption Law applicable to the Parties.

9.2 The Company acknowledges DESFA's Code of Ethics (the "Code"), as published on DESFA's site, which shall be fully applicable to this Agreement, and the Company shall comply with the relevant provisions of the Code, including conflicts of interest. The Company further acknowledges that DESFA's Anticorruption Policy, as published on DESFA's site shall be applicable to them and that it shall comply with its provisions. The Company shall not violate or knowingly permit anyone to violate the Code's prohibition on bribery or any applicable anti-corruption laws, regulations, policies and procedures in performing under this Agreement. If the Company breaches this Article, DESFA may immediately terminate this Agreement.

Article 10 Representation and Warranties

10.1. The Company has the power to enter into, deliver and perform, and has taken all necessary action to authorize its entry into, delivery and performance of this Agreement.

10.2. The obligations expressed to be assumed by the Company pursuant to this Agreement are legal, valid, binding and enforceable.

10.3. The entry into, delivery and performance by the Company of this Agreement does not conflict with any agreement or instrument binding upon it or any of its assets to an extent or in a manner which has or is reasonably expected to have a material adverse effect.

10.4. All authorizations which are required to be obtained by the Company on or before the date on which this representation have been obtained by the Company.

10.5. No Default with respect to the Company has occurred and is continuing or might reasonably be expected to result from its entry into or performance of this Agreement.

10.6. No litigation, arbitration or administrative suit or proceeding against the Company which, if adversely determined, would have or would reasonably be expected to have a material adverse effect, is:

- (a) current; or
- (b) pending before any court, arbitral or other tribunal, administrative or regulatory body, as the case may be; or
- (c) so far as the Company is aware, by reason of receipt of a letter/ formal written notice before action or similar, threatened against the Company.

Article 11 Governing Law and Dispute Resolution

11.1. This Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by the laws of Greece.

11.2. Any dispute which may arise between the Parties in interpreting or implementing the Agreement and which may not be amicably resolved, the courts exclusively competent to resolve said dispute shall be the Courts of Athens.

Article 12 Miscellaneous

12.1. Language

The language of this Agreement and the transactions envisaged by it shall be English and all Notices, demands, requests, statements, certificates or other documents or communications shall be in English unless otherwise mandatorily required by any Competent Authority or agreed in writing (in which case a certified English translation shall be delivered by the responsible Party, at its own cost, to the other Party). If this Agreement or any related documents are translated into another language, the English version shall prevail.

12.2. Data Protection

The Parties shall process personal data exchanged under the Agreement during and for its performance (hereinafter referred to as "Personal Data") in accordance with the provisions of applicable legislation and today those of Regulation (EU) 2016/679 (hereinafter "General Regulation"). Personal data shall not be transmitted, disclosed or communicated to third parties, nor shall they be subject to any other processing for purposes other than the execution of the Agreement, except in cases of legal obligation or explicit consent of the data subject. The Company declares to have implemented relative data protection measures in compliance with the General Regulation. DESFA has implemented the data protection policy publicly available on DESFA's corporate website.

12.3. Notices

Any notice or other communication from one Party to any other Party which is required or permitted to be made under the provisions of this Agreement shall be made in writing and delivered by hand, email, pre-paid recorded delivery, pre-paid special delivery or courier to the other Party at the address and marked for the attention of the person(s) designated below:

(a) if to DESFA:

Address:

Email:

Tel. number:

Marked for the attention of:

(b) if to the Company:

Address:

Email:

Tel. number:

Marked for the attention of:

12.4. Agent for Service of Process

12.4.1. The Company irrevocably appoints *[to be completed as appropriate]* as its agent under this Agreement for service of process in any proceedings before the competent courts of law or other Competent Authority in relation to any dispute in the context of this Agreement.

12.4.2. The company agrees that failure by a process agent to notify it of any process will not invalidate the relevant proceedings.

12.4.3. The service of process provisions set out herein shall not affect any other method of service allowed by Law.

12.5. Amendment

This Agreement may only be amended or modified by agreement in writing and signed by a duly authorized representative of each Party.

12.6. Severability

If any Article of this Agreement is held to be or becomes void or otherwise unenforceable for any reason under applicable Law, that Article shall be deemed omitted from this Agreement and the validity and enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired as a result of that omission and the Parties shall meet to negotiate in good faith and seek to agree a mutually satisfactory valid and enforceable provision to replace the omitted provision.

12.7. Waivers

The failure by any Party to exercise, or the delay by any Party in exercising any right, power, privilege or remedy provided under this Agreement shall not constitute a waiver of the right, power, privilege or remedy.

This Agreement has been signed in [2 (two)] original counterparts, each Party acknowledging receipt of its counterpart.

Signed for DESFA

By:

Title:

Signed for [name of the Company]

By:

Title:

ANNEX II
Form of Letter of Bank Guarantee

Athens,/...../2021

From:

[Bank name / address]

To:

The HELLENIC GAS TRANSMISSION SYSTEM OPERATOR SOCIETE ANONYME

NUMBER

EURO: #..... €

Dear Sirs or Madam,

We refer to the Gas Transportation Agreement dated [●] and made between [*“Company’s name”*] with the distinctive title [*“.....”*] (hereinafter the Company) and the company under the company name “HELLENIC GAS TRANSMISSION SYSTEM OPERATOR SOCIETE ANONYME” with the distinctive title “DESFA” (hereinafter DESFA) by and upon order of the Company. The terms used in this letter of guarantee shall, save where the context otherwise requires, have the meanings given in the Gas Transportation Agreement dated [●].

We hereby expressly, irrevocably and unreservedly guarantee, on behalf of the Company, to pay to DESFA, hereby expressly and unreservedly waiving the exception of claiming the benefit of option as well as our rights deriving from Articles 853, 855 et seq. and 866 of the Greek Civil Code, any amount up to the aggregate maximum amount of [*Bank Guarantee amount in EUR (€)*] for the timely and due payment by the Company of its obligations resulting from or arising out of or in connection with the Gas Transportation Agreement dated [●].

The amount mentioned above shall be kept at your disposal and shall be paid, on first demand, without any deduction or set-off of any kind or objection and offering no excuse, in whole or in part, upon the receipt of your simple written payment demand and upon return of guarantee, without having to substantiate your demand. Payment under this guarantee shall be made by wire transfer of immediately available funds to the account specified in your payment demand.

If we receive a partial payment demand as per above, then this guarantee shall be forfeited for that part of the primary debt that remains unpaid, which shall be immediately paid to you as per above, and this letter of guarantee shall be returned to you and remain valid thereafter for the remaining amount covered. Our above obligation shall remain in force and we shall have no right to refuse payment and no right to raise any objections, either on our behalf or on the behalf of the Company in favor of which this letter of guarantee is being issued or on behalf of any third party. DESFA shall not be incurred with taxes, levies or any charge related to a call on this letter of guarantee.

This Letter of Guarantee shall remain valid strictly until, 12:00 hours; past this deadline and provided that we have not been made aware of any claims by you over the amount of the guarantee, as mentioned above, this letter of guarantee shall automatically become null and void. We also certify that all letters of guarantee that have been issued by us and are in force which are addressed to the Hellenic Republic, legal entities of public law, legal entities of private law etc., including also present

guarantee letter, doesn't exceed the upper limit for our Bank regarding the provision of guarantees, stipulated by the applicable legislation.

The present letter of guarantee shall be governed by the Greek Law; the Courts of Athens are exclusively competent to resolve any conflict arising therefrom.

[name of issuing bank],

In witness whereof, this Guarantee has been executed and delivered as a deed on the above-mentioned date.