


**Binding Phase Notice of DESFA
for the offer of Incremental Capacity
at Nea Mesimvria Interconnection Point**

17 May, 2021

*This document is drafted and published at the websites of DESFA in accordance with article 28 (3) of
Regulation (EU) No 2017/459 of 16 March 2017.*

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This document is elaborated and published by  **DESFA**

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Disclaimer

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Preamble

Considering that:

- Commission Regulation (EU) 2017/459 of 16 March 2017 establishing a network code on Capacity Allocation mechanisms in gas transmission systems (Regulation, also referred to as CAM NC and NC CAM) establishes a harmonized European Union wide process for the offer of incremental capacity between Member States.
- Following the launch of the Incremental Capacity Process on the 1st of July 2019, DESFA has received non-binding demand indications and produced a joint Demand Assessment Report (DAR), together with TAP and SRG, which was published on the 21st of October 2019 with the conclusion that there was sufficient indicative demand to initiate an Incremental Capacity Project.
- In January 2020, SRG, DESFA and TAP in accordance with the provisions set out in article 27(3) of CAM NC, jointly launched a public consultation on the draft Project Proposal, written with the purpose to meet the received indicative non-binding demand requests.
- The Project Proposal has been jointly prepared by DESFA, TAP and SRG in accordance with the provisions set out in article 28 of the CAM NC and constitutes a Project Proposal for the Incremental Capacity Project of the said TSOs. In line with the provisions of article 28 of CAM NC, the Project Proposal was submitted to the Greek, Italian and Albanian NRAs for their evaluations and finally as approved by the Hellenic Regulatory Authority for Energy (RAE) by its Decision no 426/2021.
- For the purpose of this Binding Phase Notice, the Incremental Capacity Process concerns Nea Mesimvria Interconnection Point where incremental capacity is offered jointly by DESFA and TAP as a bundled capacity product.

Article 1 – Definitions, interpretation and references

1.1. All capitalized terms in this Binding Phase Notice, unless otherwise stipulated herein, shall have the meaning provided for in the Project Proposal and the Form of Gas Transportation Agreement as approved by Hellenic Regulatory Authority for Energy (RAE)¹ (Annex VI) and in the National Natural Gas System Network Code (FEK² B' 4799/30.10.2020).

¹ Hellenic Regulatory Authority for Energy relevant decision is still pending.

² Hellenic Government Gazette.

- 1.2. Present Binding Phase Notice prepared and published by DESFA, is considered as integral part of the Joint Notice prepared and published jointly by DESFA, TAP and SRG. Each reference to the Joint Notice must be considered as a reference to this Binding Phase Notice too.
- 1.3. The Binding Phase Notice of DESFA is made up of the notice and its Annexes, that constitutes an integral part of this Binding Phase Notice.
- 1.4. References in this Binding Phase Notice to Articles and Annexes are to Articles and Annexes of this Agreement.

Article 2 - Description of the incremental capacity project and cost estimation

- 2.1. Nea Mesimvria Interconnection Point (hereinafter the Nea Mesimvria IP) connects the National Natural Gas System of DESFA (hereinafter the DESFA System) with TAP pipeline. Non-binding demand indications at Nea Mesimvria IP are described in detail in the Demand Assessment Report and the Project Proposal. The maximum incremental capacity requested by the interested parties is equal to 169,471,096 kWh/day for the period 2023-2030. The demand indications received by DESFA were enough to initiate the design phase of an Incremental Capacity Project in accordance with para.2 of article 26 of NC CAM.
- 2.2. A new pipeline of 30" diameter from Nea Mesimvria to Patima node (≈390 km) is needed in order to offer the incremental capacity as a firm product. This new pipeline will be placed in parallel with the existing one, where possible, in order to minimize the cost of the project, the environmental effect and the requested time for the construction of the project. A new metering station shall be installed in Nea Mesimvria entry point in order to handle the increased flow. A new compression unit is needed to be installed at Ampelia Compressor Station (CS).
- 2.3. The cost of the relevant project, is estimated at €394 million.
- 2.4. Regarding the Offer Level of incremental capacity at Nea Mesimvria IP, and based on the preliminary technical studies, DESFA estimated that the duration of the activities from the design, until the commissioning of the projects needed will be approximately 6 years (72 months) after the positive outcome of the EVT, the conclusion of the Incremental Capacity Process and the Gas Transportation Agreements with the respective TSOs.

Article 3 - Incremental Capacity Offer Level at Nea Mesimvria IP

- 3.1. The Offer Level in the table below provides an overview of offered incremental capacity at Nea Mesimvria IP. That capacity can be allocated as long-term capacity.

Incremental Capacity offered at Nea Mesimvria Interconnection Point		
	Offered Capacity (kWh/d)	Type of capacity (Entry/Exit and TSO offering capacity)
Starting date	Q4-2027	Bundled capacity. Exit at TAP's System and entry at DESFA's System
Capacity	169,471,096	

- 3.2. Taking into account that according to TAP specific regulatory framework, bundled capacity from DESFA and TAP can be offered only until the 14th November 2045, DESFA shall offer 18 (eighteen) yearly Firm Capacity Products, with the earliest possible starting date in Q4-2027, at the DESFA side of the IP in the direction from TAP to DESFA System, expressed in kWh/Gas Day. Incremental capacity will be offered as bundled products to Participants for a minimum duration of 5 (five) consecutive gas years, and the latest possible end date. Demand requests of shorter duration will also be evaluated in the allocation process, subject to the restrictions described in the Project Proposal.
- 3.3. For incremental capacity offered by SRG and TAP in the frame of that Incremental Capacity Process, the interested parties must refer to the Project Proposal.
- 3.4. In line with the provisions of article 8 of the CAM NC, an amount of 10% of the capacity actually built will be set aside to be offered as short-term capacity and in addition to the capacity included in the table in 3.1 above.
- 3.5. Each Gas Year, for which incremental Capacity is requested, is considered as a distinct Product. Participants shall declare the Capacity requested in the Binding Bid Form attached in Annex II.
- 3.6. Participants must also declare, in the Binding Bid Form, whether they accept, or not, the allocation of a capacity lower than the capacity requested with their Binding Bid, in case there will not be sufficient capacity available to be allocated to all Participants in accordance with their requests.

Article 4 - Provisional Timeline

- 4.1. The Binding Bidding Phase commences with the publication of the Joint Notice on the websites of DESFA, TAP and SRG, in the 17th of May 2021. The Binding Bidding Phase of DESFA comprise the

Information Phase and the Binding Bidding Phase as per Article 5.

- 4.2. The entities interested in participating in the Binding Bidding Phase are requested to register in order to participate, subject to the requirements described in this notice.
- 4.3. The Bid Submission Window will open in July 2021, to all interested parties, including those that have not submitted a non-binding demand indication during the non-binding phase, and as described in detail in the Project Proposal and the Joint Notice.
- 4.4. After the end of the Bid Submission Window, DESFA will proceed with the bid evaluation, the Preliminary Capacity Allocation and the Economic Viability Test (hereinafter the EVT), entering into Gas Transportation Agreements (hereinafter the GTAs) with the successful Participants, as further described in Article 7 and the Project Proposal.

Article 5 – Registration and Bid submission

- 5.1. All Interested entities are invited to register during the Registration Period and submit binding bids during the Bid Submission Window for the allocation of incremental capacity at DESFA side of Nea Mesimvria IP in accordance with the Project Proposal and present notice.
- 5.2. Only entities having a signed and valid the Standard Framework Transmission Agreement with DESFA as per the applicable legislation (hereinafter the Transmission Users), can be registered and submit binding bids to DESFA in this Binding Bidding Phase. In this respect, the Applicant should have to be registered to RAE's User Registry in accordance with article 72 of Law 4011/2011 and the relevant regulation (FEK B' 451/16.04.2010) and should have signed a Standard Framework Transmission Agreement with DESFA in accordance with article 6A of the National Natural Gas System Network Code, as in force.

Registration Period

- 5.3. During the Registration Period, Applicants that are Transmission Users will have to submit to DESFA, up and until the deadline set in Article 5.4, a filled-in Registration Form according to Annex I. Applicants should be potentially enabled to operate on a jointly identified capacity booking platform if so decided by the TSOs concerned, as indicated in the Project Proposal and the Joint Notice. Registration Forms submitted by Applicants that do not fulfill the criteria of Article 5.2 shall not be accepted.

All documents to be submitted to DESFA under this Registration Period should be submitted in DESFA's Protocol service (Secretariat Unit) in the following address or via courier or registered mail to the following address:

DESFA S.A.
357-359 Messogion Ave.
GR - 152 31 HALANDRI, GREECE
General Document Centre, T: +30 213 088 4278, +30 213 088 4286
to the attention of Commercial Services Division

- 5.4. The Registration Deadline is set to be 13:30, local time (CET +1), on 23rd of June 2021. The Information Phase closes at the beginning of day, local time (CET +1), on 17th of July 2021.
- 5.5. No later than 20 (twenty) Days before the expiration of the Registration Deadline, requests for clarifications exclusively regarding the provisions of the Joint Notice or the Project Proposal, can be addressed to the following email address: market-test@desfa.gr . Within 5 (five) Business Days from its receipt, DESFA shall provide said clarifications by uploading them, if necessary, to DESFA's website without disclosing the requesting Applicant's identity.
- 5.6. Applicants have to submit along with their Registration Form the documents provided for in Annex I, the Binding Bid Guarantee as per Article 5.13 and a signed Non-Disclosure Agreement in the form of Annex VII, in two copies. The Registration Form, along with its accompanying documents, should be submitted in a sealed package, up until the Registration Deadline, on which shall be mentioned:
 - "Registration Form for the Incremental Capacity Process at Nea Mesimvria Interconnection Point"
 - Applicant's company name, business residence, telephone number and e-mail address.
- 5.7. Applicants shall submit the documents of Article 5.6 not later than the Registration Deadline. After the Registration Deadline, no additional document shall be accepted for any reason. For the timely submission of the Registration Form, the date and time of its submission in the DESFA Protocol shall be taken into account and not the date of sending the Registration Form. In case of submission by courier, DESFA is not responsible for the timely submission of the Registration Form or any other document whatsoever. Registration Form and related documents submitted later than the Registration Deadline shall not be accepted by DESFA, regardless of the reason for the late submission.
- 5.8. In case of submission of private documents, including the Registration Form, are required to bear a

certificate of authenticity of the signature of the signatory from a competent authority. The submitted documents coming from a foreign country shall also bear the note of the Hague Convention (Apostille) and must be submitted in an official translation into the Greek language.

Documents bearing authorized electronic signatures may be submitted as hard copies following the provisions of law 4727/2020. Specifically, printed original electronic public document or electronic exact copy or digitized electronic copy are accepted in accordance with the provisions of the article 14 of law 4727/2020. Printed private documents, issued by natural or legal persons or legal entities, using an authorized electronic signature or an approved electronic stamp are accepted if they are certified as true copies of the electronic documents in accordance with the article 15 of law 4727/2020.

- 5.9. After the end of the Registration Period, DESFA shall evaluate the validity and completeness of the documents submitted.
- 5.10. Within 10 (ten) Business Days after the Registration Deadline, DESFA shall address to each Applicant a notification either confirming completeness and the validity of the documents submitted, or otherwise rejecting, informing also RAE, the participation in the process. DESFA shall also sign and return the Non-Disclosure Agreements to all Applicants who have not been excluded from the incremental capacity process.
- 5.11. Where an Applicant disputes the terms of the rejection notification, that applicant may seek remediation by filing an appeal letter duly signed by the legal representative of the Applicant, within 4 (four) Days from the receipt of the rejection notification, either by courier or registered mail at the address specified in Article 5.3, or in electronic form to following email address: market-test@desfa.gr.
- 5.12. Within 5 (five) Days from receipt, DESFA shall examine any submitted appeal letter and inform the Applicant and RAE on its decision by issuing an appeal notification. Such decision shall be duly substantiated.
- 5.13. Applicants shall be required to present to DESFA alongside with the registration documents, a bank guarantee (hereinafter the Binding Bid Guarantee) as described in the Project Proposal and in the form of Annex III, calculated in accordance to Annex V. In case the Binding Bid Guarantee does not comply with the terms of the Project Proposal and/or of present notice or is not valid, Applicant shall not be eligible to participate to the Binding Bidding Phase. Applicants having received by DESFA a notification confirming completeness and the validity of the documents submitted and having timely

presented to DESFA the required Binding Bid Guarantee shall be eligible to participate to the Binding Bidding Phase.

Binding Bidding Phase

5.14. Applicants that are found eligible to participate in the Binding Bidding Phase (the Participant) shall submit to DESFA the Binding Bid Form, which is included in the Binding Bid, in the form of Annex II, duly completed and signed by registered mail, or courier according to Article 5.18 to the address specified in Article 5.19, which should be received up until the end of the Bid Submission Window specified in Article 5.15. After the expiration of the Bid Submission Window, no additional bids shall be accepted for any reason. The deadline for submitting the Binding Bid Form shall take into account the date and time of its submission in the DESFA Protocol and not the date of sending the Binding Bid Form. In case of submission by courier, DESFA is not responsible for the timely submission of the Binding Bid Form or for the content of the envelopes.

5.15. The Bid Submission Window is set to open on 09:00, local time (CET + 1), of the 17th of July 2021 and to expire on 13:30, local time (CET +1), of the 20th of July 2021.

5.16. No later than 25 (twenty-five) Days before the expiration of the Bid Submission Window, requests for clarifications by the Participants exclusively for the Binding Bidding Phase in accordance with the provisions of this Binding Bidding Notice and the Project Proposal can be addressed to the following email address: market-test@desfa.gr

Within 5 (five) Business Days from its receipt, DESFA shall provide said clarifications by uploading them, if necessary, to DESFA's website without disclosing the requesting Participant's identity.

5.17. Binding Bid Form shall be submitted in a sealed package, up until the end of the Bid Submission Window, on which shall be mentioned:

- "Binding Bid for the allocation of Incremental Capacity at Nea Mesimvria Interconnection Point"
- Participant's company name, business residence, telephone number and e-mail address.

5.18. The sealed package shall contain the Binding Bid Form, which is included the Binding Bid, in the form of Annex II and shall bear a certificate of authenticity of the signature of the signatory from a competent authority. The submitted documents coming from a foreign country shall also bear the note of the Hague Convention (Apostille) and must be submitted in an official translation into the Greek language. For any other documents submitted in this regard, provisions of Article 5.8 apply.

- 5.19. All documents to be submitted to DESFA under this Binding Bidding Phase should be submitted in DESFA's Protocol service (Secretariat Unit) in the following address or via courier or registered mail to the following address:

DESFA S.A.
357-359 Messogion Ave.
GR - 152 31 HALANDRI, GREECE
General Document Centre, T: +30 213 088 4278, +30 213 088 4286
to the attention of Commercial Services Division

- 5.20. After the end of the Bid Submission Window, DESFA will assess the received Binding Bids for completeness and compliance with respective requirements. Those Binding Bids that are accepted at this stage will be considered as part of the preliminary capacity allocation procedure according Section E.4 of the Project Proposal.
- 5.21. In case of rejection of a Binding Bid, DESFA will notify and justify the reasons for rejection to the relevant Participant, to RAE and to TAP within 5 (five) business days from the end of the Bid Submission Window.
- 5.22. In case of equal marginal bids, according to section E.5 of the Project Proposal, DESFA and TAP will invite Participants with equal marginal bids (EMB Bidders) to submit new binding bids only to TAP. TAP will inform DESFA about aforementioned bid submission. For any further information please refer to the TAP Notice for the Binding Biding Phase (Market tests › Trans Adriatic Pipeline (TAP) (tap-ag.com)).
- 5.23. Binding Bids will be processed subject to the Participants meeting the requirements set out in section E.1 of the Project Proposal. Participants may submit more than one Binding Bid. Binding Bids submitted by the same Participant may vary by duration of capacity requested and capacity amount. As a basic rule, in a single Binding Bid, Participants may specify only one value of incremental capacity for all gas years requested. A Binding Bid may however indicate a ramp-up over the first two years of the period to which the Binding Bid relates, with a minimum value for the first gas year of 40% of capacity and 70% for the second gas year. Should Participants wish to profile their capacity request further, then they should submit separate Binding Bids. It is noted that Binding Bids by Participants will be accepted only within the limits of the guarantees which will have been presented to DESFA. In the event of congestion, a ranking will be performed on the basis of the Net Present Value of incremental revenues from each Binding Bid per unit of annual capacity requested as further specified in Section E.4 of the Project Proposal.

- 5.24. Participation in the Binding Bidding Phase shall be deemed as unreserved acceptance by the Participant of the terms and provisions of the Project Proposal, the Joint Notice, and all related documents, and as complete knowledge of their contents and of the Greek legislation applicable to Nea Mesimvria IP.
- 5.25. Any omission to submit the Binding Bid Form, according to the Project Proposal and the Joint Notice, as well as the omission of a signature on any document submitted to DESFA does not entitle the Participant to invoke this fact in its favor in any way. The Participant shall be responsible for and be bound by its Binding Bid as submitted.
- 5.26. All costs associated with the participation in the Incremental Capacity Process shall be entirely borne by the respective Participant, as the case may be. An exclusion from the Incremental Capacity Process, including present Binding Bidding Phase shall not give any right to the respective Participant to claim reimbursement of any costs associated with the participation in the Incremental Capacity Process and this Binding Bidding Phase.

Article 6 - Economic Test Parameters

Please refer to Annex V.

Article 7 - Capacity Allocation and GTA signing

- 7.1. The capacity allocation of the incremental capacity shall follow the rules described in section E.4 of the Project Proposal. In case of the existence of Equal Marginal Bids (EMB), the rules described in section E.5 of the Project Proposal shall also apply. In such case the bank guarantee provided by the Participant, must be amended as described in section E.5 of the Project Proposal.
- 7.2. The EVT at DESFA side of Nea Mesimvria IP will be carried out according to the procedure described in section E.6 of the Project Proposal. For DESFA, the EVT will take into account the parameters of Annex V, and the present value of binding commitments of Participants. DESFA will jointly communicate with TAP and SRG, the EVT results to the Participants no later than the 31st of August.
- 7.3. DESFA shall proceed to the evaluation of the Binding Bids, and following a positive EVT, shall invite the Participants to which capacity shall have been allocated to sign GTAs by sending a Transportation Confirmation to each Participant. The Form of the Transportation Confirmation can be found as an

Annex to the GTA.

- 7.4. Where a Participant disputes the terms of the Transportation Confirmation, that Participant may seek remediation. In such case the procedure described in 5.11, 5.12 applies. If that process results in an outcome which affects other Participants, DESFA shall notify the affected Participants (if any), by sending them a revised Transportation Confirmation.
- 7.5. Within 30 (thirty) days from communication of the EVT results and according to the specific provisions of section E.7 of the Project Proposal and the terms of the GTA in Annex VI as approved by RAE, each successful Participant will be required to execute the GTA and to provide a GTA Guarantee to DESFA.
- 7.6. 5 (Five) days before the execution of the GTA, the successful Participant must provide to DESFA a GTA Guarantee according to section E.7 of the Project Proposal and Annex VI. The Form of the GTA Guarantee can be found as an Annex to the GTA.
- 7.7. Failure of a successful Participant to provide a GTA Guarantee and/or sign a GTA, following DESFA's invitation, said Participant shall be excluded from the Incremental Capacity Process and shall pay a penalty to DESFA equal to the value of the Binding Bid Bank Guarantee described in Section E.1. of the Project Proposal in DESFA's part. If not, DESFA shall forfeit the Participants Binding Bid Guarantee.
- 7.8. The allocation of less capacity than the one requested in the Binding Bidding Form, is not a valid reason for a Participant to withdraw from the incremental capacity process without forfeit of his Binding Bid Guarantee, if such Participant has declared, in the Binding Bid Form, that he accepts the capacity reduction.

Article 8 - Notices

- 8.1. Any notice to be given hereunder, shall be in writing and (unless expressly specified herein) may be given by delivering the same by hand or by sending a letter by pre-paid post, courier service or by email to the relevant address set out in this Binding Bidding Notice or such other address as the relevant party may notify to the other party from time to time.
- 8.2. Communications between the parties shall be in the English language. Business Day means any day that is not a Saturday, Sunday or public holiday in Greece.
- 8.3. Save and except in the case of a notice requiring a response within a fixed time period, any notice given as aforesaid shall be deemed to have been received:

- i. in the case of delivery by hand, when delivered with an appropriate registration; or
 - ii. in the case of registered post, on the date of registered delivery to DESFA's premises;
 - iii. in the case of email to the valid email address of the other party, when provided via electronic transmission system, on the same Business Day provided that such email was transmitted during or before normal business hours on the Business Day in question. Otherwise it shall be deemed to have been received the next Business Day following the date of transmission.
- 8.4. Any notice which requires a response from its recipient within a fixed time period shall be sent by hand or registered or recorded delivery post or fax or e-mail and shall be deemed to have been received:
- i. in the case of delivery by hand, when delivered; or
 - ii. in the case of delivery by registered or recorded delivery post, at the time and date recorded at delivery; or
 - iii. in the case of email delivery, when delivered via electronic transmission system to the valid email address of the other party,
- and the calculation of any periods required for response shall run from such delivery date, provided that such delivery falls into the Business Day, failing which the first Business Day following the date of transmission shall apply.

Article 9 - Force Majeure

"Force Majeure" shall have the meaning assigned to it in article 104 of DESFA's National Natural Gas System Network Code.

Article 10 - Liability

No party shall be liable to the other parties for any damage arising out of or in connection with this incremental capacity process unless such damage is the result of a willful misconduct or arises from the gross negligence of the Party concerned. For the avoidance of doubt, the right of DESFA to terminate the Incremental Capacity Process pursuant to the provisions of the Project Proposal, does not give rise to any liability whatsoever on the part of DESFA.

Article 11 - Anti-Bribery Policy

Participants acknowledge DESFA's Code of Ethics (the "Code"), as published on DESFA's site, which shall be fully applicable to this incremental capacity process, and the Participants shall comply with the relevant provisions of the Code, including conflicts of interest. Participants further acknowledge that DESFA's Anticorruption Policy, as published on DESFA's site, shall be applicable to them and that they shall comply with its provisions. Participants 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 participating in this incremental capacity process. If any Participant breaches this Article, DESFA may immediately reject its participation.

Article 12 - Personal Data

DESFA and Participants shall process personal data exchanged during the Incremental Capacity Process and for its purpose (hereinafter referred to as "Personal Data") in accordance with the provisions of applicable legislation and today those of Regulation 2016/679/EU (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 conduct of the Incremental Capacity Process, except in cases of legal obligation or explicit consent of the data subject. Participants declare 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 website³.

Article 13 - Governing Law and Dispute resolution

For any dispute or disagreement arising out of or in connection with the Binding Bidding Phase in regard to Nea Mesimvria Interconnection Point in accordance with present Binding Phase Notice shall be governed by the laws of Greece. The courts exclusively competent to resolve said dispute or disagreement, which may not be amicably resolved, shall be the courts of Athens.

³ <https://www.desfa.gr/regulatory-framework/compliance/prostasia-prosopikwn-dedomenwn>

Annex I - Registration Form

Send to:

DESFA
Commercial Services Division
market-test@DESFA.GR
357-359 Messogion Ave.,
Athens, 15231, Greece
www.desfa.gr

General information:

Name of the Applicant: _____
Registered address: _____
Contact address of the Applicant: _____
Register number in the NNGS Users' Registry under article 72 of
Law 4001/2011: _____
Standard Framework Transmission Agreement no _____
Contact person: _____
Position: _____
Telephone(s): _____
E-mail: _____

1. By signing this Registration Form, the Applicant confirms and agrees that:
 - a. Has studied, fully understands and accepts all terms contained in the 2019 Incremental Capacity Process as set out in the Project Proposal and the Joint Notice, including DESFA's Binding Bidding Notice.
 - b. Has studied, fully understands, accepts and complies with the provisions of Regulation (EU) 2017/459 (OJEU L72/17.3.2017), as well as with the Hellenic applicable legislation for gas transmission and especially Law 4001/2011, as in force and DESFA's National Natural Gas System Network Code (FEK B' 4799/2020).
 - c. This Registration Form, including all documents and data submitted by the Participant in this context can be shared with the concerned TSOs for the assessment of the demand for incremental capacity at their joint Interconnection Points.
2. Applicant also submits with this Registration Form the following documents:
 - a. Hellenic Regulatory Authority of Energy (RAE) decision for its registration to the RAE's Users Registry;
 - b. Declaration by virtue of which the Applicant, as legally represented, declares that the Applicant has signed with DESFA the Standard Framework Transmission Agreement no []⁴ and that the legalization documents listed in annex I of said Agreement as submitted by the Applicant in this regard haven't been amended, revoked and are still valid as per Annex IV.
In case that one or more of the documents submitted in the context of the relevant Standard Framework Transmission Agreement have been amended, revoked or are no longer valid, as per Annex IV (section A), the updated/new documents, namely []⁵.

⁴ To complete the number of the Standard Transmission Agreement signed with DESFA

⁵ To be completed by Applicant with specific reference of the documents submitted, if applicable

- c. The legally binding document for the participation to this Binding Bidding Phase as per Annex IV (section B), namely []⁶.
- d. The documents required in Annex IV (section C), namely extract of []⁷
- e. Binding Bid Guarantee no [], dated []⁸ in the form and for the amount provided for in the DESFA's Binding Phase Notice and the Project Proposal.
- f. Declaration by virtue of which the Applicant, as legally represented, declares that all submitted data and information with this Registration Form and the documents accompanied it, including the information hereinabove, are true and genuine.

Date: _____

Signature: _____

⁶ To be completed by Applicant with specific reference of the documents submitted, as the case may be

⁷ To be completed by Applicant with specific reference of the documents submitted

⁸ To complete the number and date of the bank guarantee

Annex II - Binding Bid Form

To

DESFA

Commercial Services Division

market-test@DESFA.GR

357-359 Messogion Ave.,

Athens, 15231, Greece

www.desfa.gr

Binding Bid Form for the participation to the Binding Bidding Phase of the 2019 Incremental Capacity Process carried out jointly by Snam Rete Gas (SRG), Trans Adriatic Pipeline (TAP) and the Operator of the National Natural Gas Transmission system of Greece (DESFA).

The undersigned in his/her capacity as acting in the name and on behalf of incorporated under the laws of, having its headquarters and registered office at, registered under the registration number(hereinafter the Company);

Declares

To have submitted, or will submit also to TAP, an identical Binding Bid for the incremental capacity requested at the Nea Mesimvria Interconnection Point.

Accepts and recognizes that

- The Capacity Allocation referred to in the Incremental Capacity Process is subject to the positive outcome of the Economic Viability Test (EVT) of the TSOs concerned;
- In case of a negative outcome of an EVT, the concerned TSOs shall return any bank guarantees submitted as part of the registration (in the Information Phase) and no transmission capacity will be contractually allocated;
- In case of a positive outcome of the EVT the Company shall transmit to the TSOs concerned the respective bank guarantees and enter into a GTA and as described in Section E.7 of the Project Proposal and the terms of the Joint Notice;
- In case the Company is not allocated incremental capacity after a positive EVT, the Binding Bid Guarantee shall be returned;
- In case the Company is allocated capacity but the GTA between DESFA and the Company does not, for any reason, become fully effective, DESFA will allocate the actual costs incurred for the Incremental Capacity Process up to that point to each Participant, including the Company, to which capacity has been allocated, on a pro rata basis calculated on the basis of the amount of their Binding Bid guarantee

as a proportion of the aggregate value of bank guarantees received by DESFA. The pro rata cost attributable to the Company shall be paid by the Company and, if not paid, may be recovered by DESFA under the relevant bank guarantee(s) as per Article 7.7 of the Binding Phase Notice of DESFA;

- Binding Bid by the Company will be accepted only within the limits of the guarantees which will have been presented to DESFA according to the provisions of the Project Proposal;
- By submitting the Binding Bid Form to DESFA, the Company agrees to the process outlined in the Joint Notice, including the process regarding the overall Project Proposal and the potential liability of the Company for a pro rata share of the costs incurred by the respective TSOs for the Incremental Capacity Process up to that point;
- By submitting this Binding Bid Form to DESFA, the Company accepts that said request will constitute an irrevocable commitment to enter a GTA with DESFA, subject to the successful outcome of the EVT;
- All the information present in this Binding Bidding Form can be shared with the concerned TSOs for the assessment of the demand for incremental capacity at their joint Interconnection Points;
- All the communication about this procedure must be sent to the address mentioned here above. All submitted data and information, including the information herein, are true and genuine;
- Any statement of possession of requirements (requests, commitments, declarations or acceptances), as well as any request/communication or expression of will, made by the Company, including via the relevant functionality of DESFA's website or a potentially jointly identified capacity booking platform, constitutes a formal obligation and commitment on the part of the Company, which accepts – even in respect of third parties – any and all liability arising from any breaches/errors or omissions.

And hereby submits

The following Binding Bid for the booking of incremental capacity at the DESFA side of the Nea Mesimvria Interconnection Point in the context of the 2019 Incremental Capacity Process:

BINDING BID

COMPANY	CONTACT PERSON
COMPANY NAME:	SURNAME (*):
SHARE CAPITAL (*):	NAME (*):
REGISTERED OFFICE ADDRESS (*):	PHONE/MOBILE (*):
VAT NUMBER (*):	EMAIL ADDRESS (*):

() Confidential data used for internal evaluation. These data will not be published.*

Firm Capacity* in DESFA's System					
	Entry Point ^[1]	Requested Capacity in kWh per Gas Day	Requested Start Date	End date	Capacity Reduction Acceptable
1.	Nea Mesimvria [Do not change this field. DESFA offers only entry capacity at Nea Mesimvria Interconnection Point with TAP]	[Capacity must be equal or less than the Offer Level at Nea Mesimvria as described in 3.1 and the Project Proposal]	[Insert start of the Gas Year of capacity request. That date cannot be before the E-COD specified for Nea Mesimvria IP, as published in the Project Proposal]	[Insert end of the Gas Year of capacity request. That date cannot lay beyond the end of Gas Year 2044 - 2045]	[Yes/No] [Delete as appropriate. If yes, please set out maximum reduction acceptable]
2.					
3.					

*As a basic rule, Participants may specify only one value of incremental capacity for all gas years requested, so only line one must be filled. A Binding Bid may however indicate a ramp-up over the first two years of the period to which the Binding Bid relates, with a minimum value for the first gas year of 40% of capacity and 70% for the second gas year. In such case Participants are requested to fill also lines two and three. Should Participants wish to profile their capacity request further, then they should submit separate Binding Bids.

[Place / date]

[Stamp of the Company and Signature]

^[1] The Participant is obliged to submit also a Binding Bid to TAP, indicating the identical amount of capacity requested, as exit capacity in Nea Mesimvria Interconnection Point.

Annex III - Binding Bid Guarantee Form

TO: HELLENIC GAS TRANSMISSION SYSTEM OPERATOR (DESFA) S.A.
357-359 MESSOGION AVE.
152 31 HALANDRI
GREECE

LETTER OF GUARANTEE No. :

DATE :

Dear Sirs,

We beg to inform you that, waiving expressly and unreservedly all benefits and rights deriving from Articles 852-857, 859-864 and 866-869 of the Greek Civil Code, we hereby expressly, irrevocably and unreservedly guarantee as direct debtor in favor of your Participant (a).....

Having its seat in (b).....

Up to the sum of (c).....

For the participation of said Participant in the Binding Bidding Phase having a Binding Bid Deadline (DAY - MONTH) of (YEAR) (d) in accordance with the Project Proposal approved by the Hellenic Regulatory Authority for Energy Decision no 426/2021 and Joint Notice of Trans Adriatic Pipeline AG, Snam Rete Gas S.p.A. and DESFA for the 2019 Incremental Capacity Process published in their respective websites. The terms used in this Letter of Guarantee shall, save where the context otherwise requires, have the meanings given in the Project Proposal and the Joint Notice.

The above Guarantee refers to all the obligations deriving from the participation in the aforementioned Binding Bidding Phase up to the signing of the relative Gas Transportation Agreement by Participant in accordance with the provisions of the above Project Proposal and Joint Notice, but in no event whatsoever does it refer to the obligations deriving from the performance of such a Gas Transportation Agreement.

In the event, as a consequence of the above Guarantee, you will decide that the said Participant is in default with regard to any obligation assumed by him in connection with his participation in the above Binding Bidding Phase, we are hereby assuming the obligation to pay forthwith to you, on first demand, without any objection whatsoever, the guaranteed sum according to your instruction and within 3 (three) working days upon your simple demand, without any authorization, action or consent of the Participant hereinabove mentioned being required for such payment, nor any opposition, exception, objection by above Participant. DESFA shall not be incurred with taxes, levies or any charge related to a call on this Letter of Guarantee.

We further declare that our present guarantee shall remain in full force and effect, until 30 November 2021; 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, including also present Letter of Guarantee, 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.

Note: On blank spaces to be inserted:

- a. THE BUSINESS TRADE NAME OF THE PARTICIPANT
- b. THE ADDRESS OF PARTICIPANT'S SEAT TO BE INSERTED HERE
- c. THE AMOUNT OF BINDING BID GUARANTEE IS TO BE INSERTED HERE
- d. BINDING OFFER DEADLINE FOR THE SUBMISSION OF THE BIDS IS TO BE INSERTED HERE

Annex IV – Legalization documents submitted with the Registration Form

The Applicant is obliged to submit along with the Registration Form of Annex I, the following documents:

A. For the purposes of this Binding Bidding Phase, if one or more of the documents submitted in the context of the relevant Standard Framework Transmission Agreement signed with DESFA have been amended, revoked or are no longer valid, the Applicant shall submit to DESFA the updated legalization documents in hardcopy or electronic form, as the case may be. When submitting the updated/new documents, the Applicant must also submit a declaration by its legal representative confirming that the rest of the documents already submitted are still in force and have not been amended or revoked.

B. Unless it emerges by the legalization documents already submitted in the context of the Standard Framework Transmission Agreement, the legally binding documents whereby its legal representative(s) is (are) vested with the powers and authorities to act in the name and on behalf of the Applicant in order to submit the Registration Form, the Binding Bid Form, the Binding Bid Guarantee and any other documents or notices or confirmation as may be required, and to sign in the name and on behalf of the Applicant the Gas Transportation Agreement with DESFA, following the positive outcome of the Economic Viability Test, carry into effect and perform the Gas Transportation Agreement with DESFA as well as any obligations in connection with or pursuant to said agreement and deliver any other documents whatsoever.

C. Extracts from Judicial records, or failing this, equivalent documents issued by competent judicial or administrative authorities in the country of origin and/or the country where the Applicant is registered, are enclosed, proving that:

- i. Participant is not bankrupt, under liquidation, bankruptcy, obligatory administration or winding up, compromise, or any other similar situation resulting from a similar procedure, as provided by National Legislation.
- ii. Applicant is not the subject of proceedings for a declaration of bankruptcy, obligatory administration or winding up, compromise or any other similar situation or resulting from any other similar procedure as provided by National Legislation.

D. All foreign documents must be submitted in an official translation, under the Greek Law, into the Greek language.

Annex V - Economic test parameters for DESFA & estimated value of the annual capacity charge

This Annex describes the approved level of the user commitments (f-factor) to be considered in the execution of the EVT envisaged in articles 22 and 24 of the Regulation 2017/459 (NC CAM).

DESFA, consistent with the tariff regulatory framework in place, applies floating applicable payable price derived from its reference price methodology, also to incremental capacity.

Economic test parameters for DESFA:

i Reference Price (Art. 22(1) lit. a No. i NC CAM)

The tariff for the allocated capacity shall be governed by the principles and methodology detailed in the Greek Tariff Regulation as in force at any given time. Consistently with the current tariff regulatory framework, DESFA considers applying a floating reference price. The inclusion of the Project in DESFA's RAB will lead to **an estimated tariff equal to 5.6272677 €/ (kWh/h)/y being the Reference Price for DESFA's calculations for the EVT, but also used in the calculation of guarantees required by DESFA.** For the avoidance of doubts, the reference price effectively applied will be finally determined according to the provisions of the regulatory framework in place at the time of the transmission service and considering the actual costs incurred by the TSO.

ii Mandatory minimum premium (Art. 22 (1) lit. a. No. ii NC CAM)

No mandatory premium is envisaged.

iii Present value of estimated increase in allowed revenue (Art. 22 (1) lit. b NC CAM)

The present value of the estimated increase in DESFA's allowed revenue is 325,281,535€.

iv F-factor (Art. 22 (1) lit.c NC CAM)

The preliminary level of user commitments (f-factor) proposed for the individual EVT on DESFA side is 0.75

Annex VI - Pro-forma GTA and GTA Guarantee

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 Regulatori Energetici (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 (AEEG), 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 AEEGSI 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), 2 39/2017 (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 ΑΕΕΓΣΙ 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 εγγύησης, 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

Androniki Sereti

10.06.2021 11:27

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 paid 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:

[illegible]

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.

Annex VII - Non-Disclosure Agreement

This Agreement is entered into force on [...] ("**Effective Date**"), between

The Société Anonyme under the Hellenic Gas Transmission System Operator, hereinafter referred to as "**DESFA**", incorporated under the laws of, having its headquarters and registered office at, registered under the registration numberduly represented by....., and

The, hereinafter referred to as "....." incorporated under the laws of, having its headquarters and registered office at, registered under the registration number(duly represented by.....,
each called the "Party" and collectively the "Parties".

WHEREAS

(A) DESFA is the operator of the National Natural Gas Transmission System (the "NNGS") on the territory of the Hellenic Republic;

(B) In regard to the Binding Bidding Phase for the 2019 Incremental Capacity Process carried out jointly by Snam Rete Gas (SRG), Trans Adriatic Pipeline (TAP) and DESFA, DESFA issued an invitation to interested entities to submit binding requests for booking transmission Capacity at DESFA side of the Nea Mesimvria IP according to the Project Proposal approved by RAE by its decision no (Project Proposal) and the necessary information provided by DESFA and in the Joint Notice;

(C) [.....] intends to participate to the Incremental Capacity Process as a Participant according to the Project Proposal, and the Joint Notice;

(D) In connection with the Incremental Capacity Process according to the Project Proposal, the Joint Notice and the Notice it may be necessary for each Party, to disclose to the other Party or the concerned TSO's information a Party considers to be confidential, which may be communicated orally, in document form, by demonstration or otherwise;

(E) the Parties agree to undertake obligations regarding non-disclosure and utilization of Confidential information ("**Agreement**").

THEREFORE, the Parties agree as follows:

1. DEFINITIONS

1.1. All capitalized terms in this Agreement have the meaning provided for in the Project Proposal approved by decision no 426/2021 of the Hellenic Regulatory Authority for Energy, the Joint Notice and the DESFA Binding Phase Notice.

1.2. In addition, the following capitalized terms and expressions, when used in this Agreement shall have the following meaning:

(a) **“Confidential Information”** means the information and materials disclosed, during the participation in the Incremental Capacity Process according to the Project Proposal, and the Joint Notice and subsequently, directly or indirectly, either orally, visually or in writing, by the Disclosing Party to the Recipient for the purposes or the opportunity of the Incremental Capacity Process, provided that such information has been either:

(i) with regard to written information and other tangible information, clearly marked as “Confidential” or “Business Secret” prior to or at the time of disclosure;

(ii) with regard to information disclosed orally or visually, clearly identified as confidential prior to, at the time of or immediately after the disclosure.

Without limiting the generality of the foregoing, Confidential Information includes information and materials related to the Incremental Capacity Process; and financial and business information and any information relating to the business, business plans, strategies and commercial information of a Party.

(b) **“Disclosing Party”** means the Party disclosing Confidential Information,

(c) **“TSO’s”** means the concerned TSO’s in the Incremental Capacity Process, namely Snam Rete Gas (SRG), Trans Adriatic Pipeline (TAP) and DESFA.

(d) **“Recipient”** means the Party receiving Confidential Information.

2. DISCLOSURE

2.1. The Recipient undertakes to hold Disclosing Party’s Confidential Information in strict confidence and shall not at any time disclose or make available any such Confidential Information to any third party, except as specifically authorized in advance by Disclosing Party in writing.

2.2. The Recipient undertakes not to use any of Disclosing Party’s Confidential Information for any purpose other than the Incremental Capacity Process according to the Project Proposal, the Joint Notice and the Notice. Recipient agrees that this provision includes a prohibition against the direct or indirect use of any of Disclosing Party’s Confidential Information to develop, enhance or add features to any product, service, technology or software or use such to disclose to, advice, assist or consult with any gas supplier, gas shipper, gas network user or competitor of the Disclosing Party.

2.3. The Recipient undertakes to use all reasonable precautions to prevent the unauthorized disclosure or use of Disclosing Party’s Confidential Information and shall ensure proper and secure storage of all such Confidential Information and any copies thereof to at least the same standard as the Recipient keeps its own Confidential Information.

2.4. The Recipient may disclose Disclosing Party's Confidential Information:

- (a) to the Recipient's regulatory authority (i.e. Hellenic Regulatory Authority for Energy) or the European Commission, in accordance with the provisions of the Recipient's national legislation and the provisions of European Union law;
- (b) to the Recipient's auditors, professional advisers and financial institutions and any other person having a legal right or duty to have access to or knowledge of such Confidential Information in connection with the business of the Recipient;
- (c) to the Recipient's directors and members of its corporate bodies and its employees and agents for the purposes of obtaining any relevant corporate authorization required under its governance rules in connection with the Incremental Capacity Process;
- (d) if the Recipient is required to disclose by applicable law or order of a court of competent jurisdiction or other government body, department or agency;
- (e) to the concerned TSO's.

2.5. Regarding clause 2.4. (b) and (c) the Recipient may disclose Disclosing Party's Confidential Information, only to the extent necessary to perform their respective duties and in such event shall inform each of said auditors, professional advisers, persons or bodies, directors, employees and agents of the confidential nature of the Confidential Information and the Recipient's obligations in respect thereof. If the Recipient discloses information in accordance with clause 2.4. (b) and (c) above, it shall assume full responsibility for any breach by such auditors, professional advisers, persons or bodies, directors, employees and agents of the terms of this Agreement.

2.6. Regarding to the clause 2.4. (a) and (d) the Recipient shall if reasonably possible first inform the Disclosing Party in writing before any disclosure under such order or obligation is made if lawfully permitted to do so.

3. EXCLUSIONS

The obligations of confidentiality in Clause 2 above shall not apply to any information that:

- (a) is at the date of its disclosure generally known or widely available to the public, or which subsequently becomes generally known or widely available to the public other than by an act or failure to act on the part of the Recipient or persons for whom the Recipient has assumed responsibility under this Agreement;
- (b) was known by the Recipient prior to receiving such information or materials from the Disclosing Party;
- (c) at any time after the Effective Date has been acquired by the Recipient from any third party who did not acquire such information directly or indirectly from the Disclosing Party or any of its employees;

(d) was or is independently developed by the Recipient, its employees, agents, consultants or other representatives without the use of Confidential Information.

4. OWNERSHIP OF CONFIDENTIAL INFORMATION

Nothing in this Agreement shall be construed to grant Recipient any rights, by license or otherwise, to any Confidential Information, except as strictly necessary to fulfil the Incremental Capacity Process.

5. PERSONAL DATA

The Parties shall process personal data exchanged during the Incremental Capacity Process and under this 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 2016/679/EU (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 website¹.

6. TERM

6.1. This Agreement shall come into force on the Effective Date and shall expire without notice three (3) years after the Effective Date, unless mutually terminated earlier by the Parties. This agreement also applies to any and all successors of the Parties.

6.2. The obligations set forth in this Agreement shall survive termination or expiry for two (2) years.

7. GOVERNING LAW AND JURISDICTION

This Agreement shall be governed by and construed exclusively in accordance with the Laws of the Hellenic Republic. Any disputes arising out of or in connection with this Agreement (including its interpretation) shall be referred to the courts of Athens.

8. LIABILITY

8.1. Neither Party shall be liable to the other Party by way of indemnity as a result of breach of contract for any loss, damage or costs resulting from or arising out of or in connection with this Agreement, except where such loss, damage or costs arises out of or results from the willful misconduct or gross negligence of this Agreement by such Party.

¹ <https://www.desfa.gr/regulatory-framework/compliance/prostasia-prosopikwn-dedomenwn>

8.2. In no event shall either Party by way of indemnity as a result of breach of contract be liable to the other Party for any indirect or consequential losses, loss of contract, loss of profit, loss of opportunity, or loss of goodwill arising out of or in connection with this Agreement and each Party hereby releases the other Party from any liability for loss or damage as above.

9. MISCELLANEOUS

9.1. If any clause contained in this Agreement is, for any reason, held to be invalid or unenforceable, in any respect, such unenforceability will not affect the validity of the remaining Agreement.

9.2. Any modifications to this Agreement are only valid if in writing and duly signed by both Parties.

9.3. Any notice or other communication to be given under or in connection with this Agreement shall be in the Greek or the English language in writing and executed by or on behalf of the Party giving it and marked for the attention of the other Party. A notice may be delivered personally, by registered mail or courier to the address provided hereof:

Name: Hellenic Gas Transmission System Operator S.A.
Address: Messogion 357-359
For the attention of: Commercial Services Division

Name: [Participant]
Address:
For the attention of:
with a copy to:

9.4. This Agreement has been entered into in two (2) counterparts each an original and of equal value upon the date stated at the beginning of this Agreement.

Signed for and on behalf of

**For the Hellenic Gas Transmission System
Operator (DESFA) :**

For the [...]

Signature

Signature

Name.....

Name.....

Title

Title

(End of document)