

**Corridor of Interest** has the meaning given to it in Part 1 of Schedule 1.

**Crossing Consents** means any Authority Permissions, contractual or other types of consents or agreements required to be obtained or entered into in order to permit the construction of the Greek Facilities over, under or through any existing infrastructure, including any pipeline, cable, road, network or railway.

**Crossing Infrastructure** means any infrastructure (including any pipeline, cable, road, network or railway) that crosses or is proposed to cross any of the Greek Facilities (including the pipeline).

**Discriminatory Change of Law** means any Change of Law which:

- (a) requires the specification, operation, maintenance or decommissioning of all or part of the Greek Facilities, the Natural Gas to be Transported through it or the performance of the Implementation Contracts (in each case, as applicable) to be in accordance with standards or outcomes that are higher than those generally required in the State; and/or
- (b) discriminates against the Project Investor or any other Project Participant specifically.

**Dispute** has the meaning given to it in Clause 24.1.

**Double Tax Treaty** means any treaty or convention, to which the State is a party, relating to the avoidance of double taxation with respect to taxes on income or capital, including for the avoidance of doubt, the Convention between the Swiss Confederation and the Hellenic Republic for the Avoidance of Double Taxation with respect to Taxes on Income (concluded at Berne on 16 June 1983) and ratified by virtue of Greek law 1502/1984, as amended and supplemented from time to time.

**Effective Date** has the meaning given to it in Clause 2.2.

**Energy Charter Treaty** means the Energy Charter Treaty as opened for signature in Lisbon on 17 December 1994 and in force as of 16 April 1998.

**Entity** means any company, corporation, limited liability company, joint stock company, partnership, limited partnership, joint venture, unincorporated joint venture, association, trust or other juridical entity, organisation or enterprise duly organised by treaty or under the laws of any state or any subdivision thereof.

**Environmental and Social Policy** means the social and environmental and environmental performance requirements set out in the environmental and social policy issued by the European Bank for Reconstruction and Development in May 2008, as amended from time to time.

**Ephorate MoU** has the meaning given to it in Clause 16.7(b)(ii).

**Espoo Convention** means The United Nations Commission for Europe Convention on Environmental Impact Assessment in a Transboundary Context (Espoo, 1991), as in force in the Hellenic Republic.

**EURIBOR** means, for any day on which clearing banks are customarily open for business in London, the London interbank fixing rate for 3-months euro deposits, as quoted on Reuter's EURIBOR page on that day or, if the Reuter's EURIBOR page ceases to be available or both cease to quote such a rate, then as quoted in the London Financial Times, or if neither such

source is available or ceases to quote such a rate, then such other source, publication or rate selected by the Project Investor, acting reasonably.

**Excepted Property** means:

- (a) within Greek Territory, assets or property of the State which are, as at the Signing Date, not subject to enforcement pursuant to article 4, par. 1 of Greek Law 3068/2002 (non-private property of the State);
- (b) outside of Greek Territory:
  - (i) premises of diplomatic missions of the State, as defined in the Vienna Convention on Diplomatic Relations signed in 1961;
  - (ii) consular premises of the State, as defined in the Vienna Convention on Consular Relations signed in 1963;
  - (iii) property which is used or intended for use in the performance of the functions of the diplomatic mission of the State or its consular posts, special missions, missions to international organisations or delegations to organs of international organisations or to international conferences;
  - (iv) assets and property of the State which are used for the performance of state functions;
  - (v) property of a military character or used or intended for use in the performance of military functions;
  - (vi) property forming part of the cultural heritage of the State or part of its archives and not placed or intended to be placed on sale; and
  - (vii) property forming part of an exhibition of objects of scientific, cultural or historical interest and not placed or intended to be placed on sale; and
- (c) both within and outside of Greek Territory, property of the central bank of the State or any other State Authority that assumes the functions of the central bank of the State from time to time,

where "property" includes accounts, bank deposits, cash, revenues, securities and rights, including rights against third parties.

**Excluded Change of Law** means any act or action which is undertaken in order to ratify, implement or otherwise bring into effect:

- (a) any amendment, modification or replacement of the Constitution;
- (b) any article of the Community Treaties or any regulation, directive or other law, decision or principle of the European Union which is directly enforceable in the Hellenic Republic or which the State is obliged to apply under the Community Treaties;
- (c) any obligation undertaken by the Hellenic Republic under the World Trade Organisation agreements, including the General Agreement on Tariffs and Trade, the General Agreement on Trade in Services, Trade-Related Aspects of Intellectual Property Rights, or other such agreements;

- (d) any amendment of general application to any Double Taxation Treaty;
- (e) any provision of a present or future international treaty (including, for the avoidance of doubt, any international agreement, protocol, covenant, convention, exchange of letters or like instrument), to which the Hellenic Republic is or shall become a party in the field of peace and security, defence and/or military cooperation, protection and preservation of cultural heritage, environment (including trans-boundary waters) and human rights obligations, in particular with respect to social (including social security), labour, health and safety standards and regulations;
- (f) the changes to or exemptions from Greek Law made directly by this Agreement, including those referred to in Clause 20;
- (g) any changes in the required premia or contributions to be made by employees in connection with state health insurance, state social security or otherwise arising out of any labour requirement; or
- (h) changes to Greek Law concerning labour matters, but only to the extent that such changes are of general application to all Persons acting within the Hellenic Republic.

**Expropriation** means any nationalisation or expropriation, or any measure having an effect equivalent to nationalisation or expropriation, including:

- (a) nationalising or expropriating the assets of a Project Participant;
- (b) taking of property or rights, or limiting of the use, enjoyment or exercise thereof, in a matter which is equivalent to nationalisation or expropriation, including nationalising or expropriating through the ownership of equity or equivalent interests therein;
- (c) the revocation of any material Authority Permission which is equivalent in effect to nationalisation or expropriation;
- (d) measures or effects which taken individually or separately may not constitute nationalisation or expropriation but when taken together are equivalent to nationalisation or expropriation; and
- (e) measures or effects in relation to any Tax which whether alone or in aggregate are equivalent to nationalisation or expropriation.

**Fair Market Value** means the value of a Project Participant's Investment to the extent that such Investment is taken, diminished, devalued, damaged or otherwise detrimentally affected as a result of the Expropriation, taking into account that Project Participant's business and investments, all as related to or affected by the Project, and determined on the basis of an ongoing concern utilising the discounted cash flow method, assuming a willing buyer and willing seller in a non-hostile environment and disregarding all unfavourable circumstances (including any diminution of value) leading up to or associated with the Expropriation, and in determining the said value, the principle of indemnification shall apply, with values determined as of the time immediately prior to the Expropriation. The discount rate to be used for the purposes of calculating the discounted cash flow shall be the weighted average cost of capital of the relevant Project Participant.

**Force Majeure** has the meaning given to it in Clause 21.2.

**Foreign Capital Protection Law** means Greek Law LD 2687/1953.

**Greek Facilities** means that part of the Pipeline System located or to be located in Greek Territory.

**Greek Income Tax Law** means Greek Law 2238/1994.

**Greek Law** means the laws of the State binding and legally in effect from time to time, including the Constitution, European Union law effective in the Hellenic Republic, all other laws, codes, decrees, by-laws, regulations, communiqués, declarations, principle decisions, orders, normative acts and policies, all international agreements to which the State is party together with all domestic enactments, laws and decrees for ratification or implementation of such international agreements, this Agreement, any law implementing this Agreement, the Intergovernmental Agreement and prevailing judicial interpretations of all such legal instruments.

**Greek Network Tie-in** means, collectively, the tie-in point or points in the Hellenic Republic being the connection between the Pipeline System and other Greek Natural Gas transmission systems and/or Greek distribution networks.

**Greek Territory** means the territory of the Hellenic Republic, including territorial sea and national airspace, as well as the maritime areas, over which the Hellenic Republic exercises or shall exercise sovereignty, sovereign rights or jurisdiction in accordance with international law.

**Greek VAT Code** means Greek Law 2859/2000, incorporating Vat Council Directive No. 2006/112/EC.

**IFRS** means:

- (a) those International Financial Reporting Standards issued or adopted by the International Accounting Standards Board (**IASB**) (including, for the avoidance of doubt, International Accounting Standards issued by the International Accounting Standards Committee that have been adopted by the IASB);
- (b) those guidance notes and interpretations relating to the standards referred to in paragraph (a) developed by the International Financial Reporting Interpretations Committee or the Standing Interpretations Committee that have been approved or adopted by the IASB; and
- (c) all conventions, rules and procedures of international accounting practice which are regarded from time to time as permissible by the IASB.

**Implementation Contracts** means all existing and future agreements, contracts and other documents relating to the Project to which the Project Investor is party which are not the Project Agreements, including agreements with other Interest Holders, Lenders, Contractors and Shippers.

**Independent Authority** means any authority of the State which is legally independent from the central government of the State and which is not subject to the control or direction (whether in accordance with Greek Law or by convention or practice) of the central government of the State, including, as at the Signing Date, RAE.

**Independent Authority Decision** means a decision or direction made by an Independent Authority.



**Interconnection Agreement** has the meaning given to it in Clause 7.2.

**Interconnector Turkey-Greece** means the pipeline running from Karacabey in the Republic of Turkey via a border-crossing point near Kipoi in the Hellenic Republic to Komotini in the Hellenic Republic, being owned and operated by BOTAS Petroleum Pipeline Corporation for the infrastructure within the Republic of Turkey and being owned and operated by DESFA S.A. for the infrastructure within the Greek Territory.

**Interest Holder** means:

- (a) the Project Investor;
- (b) any Person holding any form of direct or indirect equity or other ownership interest in the Project Investor; or
- (c) any Affiliate, successor or permitted assignee of any Person referred to in paragraph (a) or (b) above.

**Intergovernmental Agreement** means the intergovernmental agreement signed in Athens on 13 February 2013 between the Government of the Hellenic Republic, the Government of the Republic of Albania and the Government of the Italian Republic concerning the Trans Adriatic Pipeline.

**Investment** for the purposes of this Agreement and any arbitration pursuant to Clause 24 herein, has the meaning ascribed to it by the Energy Charter Treaty in article 1(6) of the Energy Charter Treaty.

**ITG Interim Use Agreement** has the meaning given to it in Clause 7.1(c)(ii).

**Land** means:

- (a) all land, foreshores, seabeds, riverbeds and lakebeds;
- (b) the water columns above all seabeds, riverbeds and lakebeds;
- (c) the air space above and subsurface areas below all of the foregoing; and
- (d) all other geographical locations.

**Lender** means any financial institution (including commercial banks, multilateral lending agencies, bondholders, guarantors (other than Shareholders) and export credit agencies) or other Person providing any indebtedness, loan, financial accommodation (including any hedging or other derivative arrangement), extension of credit or other financing to any Interest Holder or insurance in respect thereof in connection with the Pipeline System (including any refinancing thereof), and any successor or permitted assignee of any such financial institution or other Person.

**Local Authorities** means organisations of local self government, as defined in article 102 of the Constitution.

**Loss or Damage** means any loss, cost, injury, liability, expense (including interest, penalties, reasonable attorneys' fees and reasonable disbursements), charge, penalty or damage suffered or incurred by a Party or Person, including any amounts paid or payable in respect of any litigation, proceeding or claim and, with respect to the Project Investor, any amounts payable under any Implementation Contract.

**Ministry MoU** has the meaning given to it in Clause 16.7(b)(i).

**Natural Gas** means any hydrocarbons that are extracted from the sub-soil in their natural state and are gaseous at normal temperature and pressure.

**New HGA** means any host government agreement in respect of the Project between the Project Investor and a sovereign state other than the Republic of Albania or the Hellenic Republic.

**Non-State Land** means any Land in Greek Territory other than State Land.

**OECD** means the Organisation for Economic Co-operation and Development.

**OECD Model Tax Convention** means the Model Tax Convention on Income and Capital of the OECD.

**Offshore Section** means Project Activities carried on in that part of the Adriatic Sea lying between the Italian Republic and the Republic of Albania, its bed and subsoil, the water column and the air space above it, which does not form part of the territorial sea of the Italian Republic, the Republic of Albania or the Hellenic Republic, determined in accordance with public international law.

**Operating Expenses** mean all actual expenses incurred by the Permanent Establishment in the State as accounted for above Earnings before Tax (EBT) in the permanent establishment's profit and loss account based on IFRS to be drawn up for purposes of Taxation in the State. This includes all expenses incurred by the Permanent Establishment in the State as well as all expenses allocated to the Permanent Establishment in the State by the Project Investor and does not include any income tax expenses.

**Party** means each of the parties to this Agreement.

**Permanent Establishment** has the meaning set out in the relevant Double Tax Treaty. If at any time no such treaty exists then "Permanent Establishment" shall have the same meaning as in the most recent version as at the date of execution hereof of the Organisation for Economic Co-operation and Development "Model Tax Convention on Income and Capital".

**Permanent Establishment in the State** means the Permanent Establishment of the Project Investor in the Hellenic Republic.

**Person** means any natural person or Entity.

**Pipeline System** means the Natural Gas pipeline system with a yearly capacity of 10 BCM (expandable to 20 BCM) intended to run from the border between the Hellenic Republic and the Republic of Turkey, crossing the Hellenic Republic and the Republic of Albania, to the vicinity of Lecce in the Italian Republic, including all physical assets associated with that pipeline system, including all plant, equipment, machines, pipelines, tanks, compressor stations, fibre optic cables and other ancillary physical assets but excludes any other trunk pipelines to which that pipeline system may be interconnected.

**Project** means the evaluation, development, design, construction, installation, financing, refinancing, ownership, insuring, operation (including the Transport of Natural Gas through the Pipeline System), repair, replacement, refurbishment, maintenance, expansion, extension (including laterals) and, at the relevant time, decommissioning of the Pipeline System.

**Project Activities** means the activities conducted or to be conducted by the Project Participants in connection with the Project.

**Project Agreement** means the ITG Interim Use Agreement, the Ministry MoU, each TSO Agreement, Ephorate MoU and Interconnection Agreement, and any agreement, contract, licence, concession or other document, other than this Agreement and the Intergovernmental Agreement to which, on the one hand, any State Component and, on the other hand, any Project Participant are or later become a party relating to the Project Activities, as any such agreement, contract or other document may be extended, renewed, replaced, amended or otherwise modified from time to time in accordance with its terms.

**Project Investor** means Trans Adriatic Pipeline AG, a corporation organised and existing under the laws of the Swiss Confederation.

**Project Investor Representative** has the meaning given to it in Clause 15.2(a).

**Project Land** means all the Land that is necessary for the implementation of the Project, including the Required Project Land (and, prior to the Required Project Land being identified pursuant to Part 1 of Schedule 1, the Corridor of Interest) and such other Land referred to or identified in, or pursuant to, Part 1 of Schedule 1.

**Project Participant** means each Interest Holder, Contractor, Shipper and Lender.

**Public Access Road Works** means those works to be undertaken by or on behalf of the Project Investor to upgrade certain public roads for the purpose of facilitating the Project Activities.

**RAE** means the Greek Regulatory Authority for Energy, namely the independent administrative authority that monitors the energy market in Greece or any authority that may, at any time, substitute RAE.

**Relevant Rights** means all those unencumbered rights of examination, testing, evaluation, analysis, inspection, construction, use, possession, occupancy, control, ownership, easement, assignment and enjoyment with respect to the Project Land in Greek Territory as are required to carry out the Project Activities.

**Required Project Land** has the meaning given to it in Part 1 of Schedule 1.

**Savings** means, in relation to any Change of Law, any savings or reduction of cost or expense, or increase in revenue or return, directly resulting from, or otherwise directly attributable to, that Change of Law, which is enjoyed or realised by the Project Investor directly in relation to the Project Activities, including a reduction or saving in capital costs, the costs of operation and maintenance or the costs of Taxes imposed on or payable by the Project Investor.

**Second Period Paid Amount** has the meaning given to it in Clause 12.7(a)(i).

**Second Period SD Amount** has the meaning given to it in Clause 12.7(a)(ii).

**Second Period Tax Code** has the meaning given to it in Clause 12.5(b).

**Second Tax Period** has the meaning given to it in Clause 12.5(b).

**Signing Date** means the date that this Agreement is executed by the Parties.

**Signing Date Tax Code** has the meaning given to it in Clause 12.5(a).

**Shipper** means any Person which has a legal entitlement (whether arising by virtue of any contract or otherwise) to Transport Natural Gas through all or any portion of the Pipeline System.

**State** means the Hellenic Republic.

**State Aid Clearance** means a decision of the European Commission that this Agreement and the obligations of the State under it do not constitute unlawful state aid within the meaning of the Community Treaties, or that, in the event that such measures amount to or contain state aid, such aid is compatible having regard to the Community Treaties.

**State Authority** means the central government of the State, including any organs, instrumentalities, branches and administrative subdivisions thereof, and any and all central, decentralised, regional, municipal, local and provincial authorities or bodies (but, for the avoidance of doubt, shall exclude any Local Authority or Independent Authority) of the State and any constituent element of the foregoing.

**State Component** means the State, the State Entities and the State Authorities and any Persons acting on behalf of, and all successors or permitted assignees of, any or all of the foregoing.

**State Entity** means any Entity in which, directly or indirectly, the State or any other State Authority has a controlling equity or ownership interest or similar economic interest, or which the State directly or indirectly controls. For purposes of this definition, **control** shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an Entity, whether through the ownership of a majority or other controlling interest in the voting securities, equity or other ownership interest in an Entity, by law or by agreement between Persons conferring such power or voting rights.

**State Land** shall mean any Land in Greek Territory which is owned or fully controlled by any State Component or Local Authority, but not, for the avoidance of doubt, any Non-State Land in Greek Territory.

**State Representative** has the meaning given to it in Clause 15.1(a).

**TANAP** means the Trans-Anatolian Pipeline, commencing at the border between the Republic of Georgia and the Republic of Turkey and ending, for the purposes of the Project, at the border between the Republic of Turkey and the Hellenic Republic.

**Taxation Dispute** means a dispute which primarily relates to the proper application of Greek Law and this Agreement in relation to the assessment of, and payment by, a Project Participant of Tax in accordance with Greek Law and not, for the avoidance of doubt, a dispute which relates to a breach of this Agreement, a Change of Law, an Expropriation or the application, implementation or interpretation of the APA.

**Taxation Dispute Resolution Process** has the meaning given to it in Clause 24.9.

**Tax Law of the State** means all Greek Laws relating to Tax, including the Double Tax Treaties.

**Taxes** means all existing and future levies, duties (including excise duties), customs duties (meaning duties implemented within the European Union according to Council Regulation (EEC) No. 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff), imposts, payments, fees, penalties, assessments, taxes (including VAT or sales taxes), charges, contributions and levies deemed to provide a benefit ("*antapodotika teli*" in Greek) payable to or imposed by a state, any organ or any subdivision of a state, whether central or local, or any other

body having the effective power to levy any such charges within the territory of a state, and **Tax** shall mean any one of them and **Taxation** shall be construed accordingly.

**Ten Year COD Date** means the first 31 December to occur following the tenth anniversary of the Commercial Operations Date.

**Third Period Paid Amount** has the meaning given to it in Clause 12.8(a)(i).

**Third Period SD Amount** has the meaning given to it in Clause 12.8(a)(ii).

**Third Period Tax Code** has the meaning given to it in Clause 12.5(c).

**Third Tax Period** has the meaning given to it in Clause 12.5(c).

**Transport** means carriage, shipping or other transportation or transmission of Natural Gas via any legal arrangement whatsoever, including Transit as defined in article 7(10)(a) of the Energy Charter Treaty.

**TSO** means any Entity which acts as a transmission system operator in respect of any energy or power infrastructure located within Greek Territory.

**TSO Agreements** means the agreements, from time to time, between the Project Investor and any TSO.

**Twenty-Five Year COD Date** means the first 31 December to occur following the twentieth-fifth anniversary of the Commercial Operations Date.

**Twenty Year COD Date** means the first 31 December to occur following the twentieth anniversary of the Commercial Operations Date.

**VAT** means value added tax and any other similar Tax applicable to the supply, importation or intra-community acquisition of goods and services, Relevant Rights, works, services and/or technology within the territory of a state.

**VAT Rate** means the VAT rate applicable in the Hellenic Republic from time to time.

**Year** means a period of 12 consecutive months, according to the Gregorian calendar, starting on 1 January, unless another starting date is expressly indicated in the relevant provisions of this Agreement.

## .2 Interpretation

- a) The division of this Agreement into clauses, subclauses and other portions and the insertion of headings is for convenience of reference only and shall not affect the construction or interpretation hereof.
- b) The terms "this Agreement", "hereof", "herein" and "hereunder" and similar expressions refer to this Agreement and not to any particular Clause, Subclause or other portion hereof.
- c) Unless otherwise indicated, all references to a "Clause", "paragraph", "Subclause" or "Schedule" followed by a number or a letter refer to the specified Clause, paragraph, Subclause or Schedule of this Agreement.

- (d) Unless otherwise indicated, references to any date or time of day in this Agreement are to Central European Time and a reference to a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later.
- (e) If a period of time is described in this Agreement as being calculated from a given day or the day of an actual event, it is to be calculated exclusive of that day.
- (f) Where an expression is defined in this Agreement, another part of speech or grammatical form of that expression has a corresponding meaning.
- (g) A reference in this Agreement to any political or statutory body, organisation, ministry or similar entity shall include a reference to that political or statutory body, organisation, ministry or similar entity as reorganised, reconstituted, replaced or renamed from time to time.

### 1.3 Construction

- (a) Unless otherwise specifically indicated or the context otherwise requires, words importing the singular shall include the plural and vice versa and words importing any gender shall include all genders, and "include," "includes" and "including" shall be deemed to be followed by the words "without limitation".
- (b) Provisions of this Agreement which include the words "to be agreed", "notified", "permitted", "consented to", "decided", "approved", "approval" or cognate words require the relevant agreement, notification, permission, consent, decision or approval to be committed to writing and signed by a duly authorised representative of the relevant Party or Parties.

### 1.4 Documents and laws

- (a) A reference to this Agreement or another instrument includes any extension, renewal, amendment, modification, variation or replacement of either of them.
- (b) A reference in this Agreement to a law is a reference to a law of the State unless otherwise specified.
- (c) A reference in this Agreement to an international treaty, decree, formal law, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them whether made before or after the Signing Date.

## 2. EFFECTIVE DATE

2.1 Without prejudice to Clause 2.5, the effectiveness of this Agreement is subject to:

- (a) this Agreement being executed by the Parties;
- (b) the Intergovernmental Agreement being ratified by the State's Parliament, published in the Government Gazette of the Hellenic Republic and entering into force in accordance with its terms;
- (c) the law of the State's Parliament that ratifies this Agreement being published in the Government Gazette of the Hellenic Republic;
- (d) State Aid Clearance being obtained, provided that if State Aid Clearance is granted subject to modifications being made to this Agreement or subject to any other conditions, those modifications or conditions have been accepted in writing by the Project Investor; and

- (e) the Effective Date occurring in accordance with Clause 2.2.
- 2.2 If either Party considers that all of the pre-conditions set out in Clause 2.1 (other than the pre-condition described in Clause 2.1(e)) have been met, it shall notify the other Party. If the other Party agrees that all of the pre-conditions set out in Clause 2.1 (other than the pre-condition described in Clause 2.1(e)) have been met, it shall confirm its agreement by notice to the first Party, the date of that notice to be the Effective Date. Without prejudice to Clause 2.5, on the Effective Date this Agreement shall become effective and enter into force.
- 2.3 Promptly following the Signing Date, the State shall:
- (a) present this Agreement to the State's Parliament for ratification and/or adoption in order to make this Agreement effective as part of Greek Law;
  - (b) take all steps necessary to present drafts of enabling legislation and other laws as may be necessary to make this Agreement, and in particular, the rights, guarantees, exemptions, grants, privileges, standards, waivers and indemnifications of legal liability applicable to the Project effective as part of Greek Law;
  - (c) use its best endeavours to obtain as soon as practicable any such ratification, including the publication, of the Agreement as well as the enactment of any such legislation prior to or along with such ratification and/or adoption; and
  - (d) use its best endeavours to obtain State Aid Clearance.
- 2.4 The State shall, from time to time and upon the request of the Project Investor, respond in writing to the Project Investor's questions as to the State's progress in relation to its fulfilment of its obligations under Clause 2.3.
- 2.5 Notwithstanding that this Agreement shall become effective on the Effective Date, Clauses 1, 2, 15, 23, 24, 25, 27, 31, 34 and 35 shall become effective and commence upon the Signing Date.
- 2.6 Without limiting Clause 2.5, neither Party shall have any liability to the other should the Effective Date of this Agreement not occur for any reason.

### **3. RELATIONSHIP WITH TREATIES AND LAWS**

#### **3.1 Relationship with the Intergovernmental Agreement and the APA**

- (a) The Parties acknowledge that this Agreement is the "Host Government Agreement" between the Hellenic Republic and the Project Investor referred to in the Intergovernmental Agreement.
- (b) This Agreement is entered into:
  - (i) in execution and implementation of, and conjunction with, the obligations of the State under the Intergovernmental Agreement and the APA (notwithstanding that the APA may not be in force as at the Effective Date);
  - (ii) in elaboration of the principles and undertakings set out in the Intergovernmental Agreement; and
  - (iii) for the purpose, amongst other things, of implementing into Greek Law the State's obligations, agreements and undertakings under or in connection with the Intergovernmental Agreement and the APA (notwithstanding that the APA may not be in force as at the Effective Date).

(c) The State represents and warrants that:

- (i) it has accomplished all ratifications and completed all parliamentary, legislative and other actions and enactments required by Greek Law to cause the Intergovernmental Agreement to be effective and otherwise endow the Intergovernmental Agreement as binding on the State under international law and Greek Law;
- (ii) to the extent such actions have not been completed on the Effective Date, it will promptly after the APA is concluded accomplish all actions and enactments required by Greek Law to cause the APA to be effective and otherwise endow the APA as binding on the State and enforceable by the Project Investor under Greek Law;
- (iii) it has completed or it will complete promptly all parliamentary, legislative and other actions and enactments required by Greek Law to cause the terms of this Agreement and the various grants and obligations of the State Components under this Agreement in favour of the Project Participants to become effective in the State as part of Greek Law and as the binding obligations of the State Components; and
- (iv) without prejudice to its other obligations under this Agreement:
  - (i) it will facilitate, enable and support the implementation of the Project and provide transparent and non-discriminatory conditions for the implementation and execution of the Project;
  - (ii) it agrees that the transport of Natural Gas for the Project shall be performed in accordance with the provisions of the Intergovernmental Agreement and European Union law relating to the same and without imposing any unreasonable delays, restrictions or charges;
  - (iii) it will not, except through a competent authority pursuant to EU regulation 994/2010, on Security of Gas Supply, interrupt, curtail, delay or otherwise impede the (forward and/or reverse) flow of Natural Gas through the Pipeline System;
  - (iv) if any event occurs or any situation arises which gives reasonable grounds to believe that a threat to interrupt, curtail or otherwise impede any aspect of the Project (other than the flow of Natural Gas through the Pipeline System) exists in respect of Greek Territory, it shall use all lawful and reasonable endeavours to eliminate that threat; and
  - (v) if any event occurs or any situation arises which interrupts, curtails or otherwise impedes any aspect of the Project in Greek Territory, it shall promptly give notice to the Project Investor of that event or situation, give reasonably full details of the reasons for the event or situation and (except in the case of interruption, curtailment or impeding of the flow of Natural Gas through the Pipeline System) shall, to the extent within its scope of influence, use all lawful and reasonable endeavours to eliminate the event or situation, to the extent that event or situation arises in Greek Territory, and shall promote the restoration of the affected aspect of the Project at the earliest possible opportunity.



### 3.2 Relationship with Greek Law

- (a) The Parties hereby acknowledge and agree that it is their mutual intention that as at the Effective Date, and taking into account those exemptions from and amendments to Greek Law contemplated by this Agreement (including those referred to in Clause 20):
- (i) this Agreement shall form part of Greek Law and, among other things, shall be the Greek Law that implements the State's obligations, agreements and undertakings under or in connection with the Intergovernmental Agreement; and
  - (ii) no Greek Law (including the interpretation thereof by any State Authority and the application procedures of any State Authority), other than the Constitution, principles of public international law enforceable in the Hellenic Republic and any international treaty that is binding on the Hellenic Republic, that is contrary to, or inconsistent with, the terms of the Agreement or any other Project Agreement shall limit, abridge or affect adversely the rights granted to the Project Investor or any other Project Participants under this Agreement or any other Project Agreement or otherwise amend, repeal or take precedence over the whole or any part of this Agreement or any other Project Agreement.
- (b) Notwithstanding the status that this Agreement shall have under Greek Law (including by virtue of Clause 3.1(b)), nothing in this Agreement shall limit or otherwise affect the rights and powers of the State to implement any Excluded Change of Law.

### 3.3 Relationship with the Community Treaties

No provision of this Agreement derogates, or shall require the State, any other State Component or any Independent Authority to derogate, from any requirement under the Community Treaties, including, for the avoidance of doubt, any requirement of any European Union law made under the Community Treaties.

### 3.4 Relationship with required Authority Permissions

The State confirms that those Authority Permissions listed in Schedule 3 are the key Authority Permissions required for the Project. For the avoidance of doubt, the listing in Schedule 3 of the key Authority Permissions required for the Project does not affect the Project Investor's obligations under Greek Law (including European Union law effective in the Hellenic Republic), but subject to the provisions of this Agreement, to obtain all Authority Permissions required for the Project whether or not they are listed in Schedule 3.

### 3.5 Relationship with the Energy Charter Treaty

The Parties agree that the Project, the rights of the Shippers under gas transportation agreements or capacity reservation agreements with the Project Investor and the rights of the Project Participants under this Agreement shall each be regarded as an "Investment" in the Hellenic Republic in the sense of article 1(6) of the Energy Charter Treaty and that, without limitation, the Persons listed below, in the capacities indicated below, shall be regarded as "Investors" in the sense of article 1(7) of the Energy Charter Treaty with respect to the same and the State shall not seek to assert otherwise, so long as those Persons have, at the relevant time, been notified to the State by the Project Investor under Clause 4.7.

### *Investors*

- (a) The Project Investor, as owner and developer of the Pipeline System, including the Greek Facilities;
- (b) each direct and indirect shareholder of the Project Investor from time to time which is incorporated in a state which is a contracting party to the Energy Charter Treaty; and
- (c) each Shipper (in its capacity as such) which is a party to a gas transportation agreement or capacity reservation agreement with the Project Investor from time to time which is incorporated in a state which is a contracting party to the Energy Charter Treaty.

### **3.6 Relationship with other treaties**

Nothing in this Agreement or in any of the Project Agreements shall deprive any Party, Project Participant, State Component or Independent Authority of its rights or any remedy to which it may be entitled, or affect any obligations such Persons or any State Component or Independent Authority may have from time to time under the Energy Charter Treaty, the Community Treaties or any other international treaty from time to time in force (including, for the avoidance of doubt, any international agreement, protocol, covenant, convention, exchange of letters or like instrument).

## **GENERAL OBLIGATIONS**

### **4. GENERAL**

- 4.1 The State acknowledges and agrees that the Project is a project of national importance and in the national and public interest of the Hellenic Republic.
- 4.2 The State agrees that a failure of any State Component to comply with the terms of this Agreement and any act by any State Component which is *ultra vires* or otherwise not in accordance with Greek Law shall be deemed to be a failure of the State to comply with the terms of this Agreement.
- 4.3 The Project Investor agrees that a failure of any Project Participant to comply with the terms of this Agreement which are applicable to that Project Participant shall be deemed to be a failure of the Project Investor to comply with the terms of this Agreement.
- 4.4 The Parties shall, and will ensure that each of the other State Components (in respect of the State) and Project Participants (in respect of the Project Investor) shall, actively and efficiently co-operate with each other in respect of the Project and shall abstain, and shall cause each other State Component (in respect of the State) and Project Participant (in respect of the Project Investor) to abstain, from any action having as its purpose the frustration, impediment or delay of the Project or of any Project Activities. The State will, in addition, use its best efforts to obtain any support from, and will actively seek the co-operation of, any Local Authorities, where that support or co-operation is necessary for such purpose.
- 4.5 For the purposes of the Project and subject to the terms of this Agreement and the Project Agreements, the State shall grant:
  - (a) to the Project Participants, the absolute and unrestricted right and privilege to implement and carry out the Project in accordance with Greek Law; and

- (b) to the Project Investor, the exclusive and unrestricted right and privilege to construct, own, possess and control the Greek Facilities in accordance with Greek Law.
- 4.6 The State shall, in a timely fashion, issue, give or cause to be given, in writing, all decrees, enactments, orders, regulations, rules, interpretations, authorisations, approvals and consents necessary or appropriate to enable and require each State Component to perform in a timely manner all of their obligations as provided by this Agreement.
- 4.7 The Project Investor shall, to facilitate the administration of this Agreement and each Project Agreement, notify the State, from time to time, of those Persons who are Project Participants and provide the State with written evidence of such status with respect to the Project. Failure to notify or provide written evidence of a Project Participant's status will have the effect of denying such status until such status and rights are notified by the Project Investor.
- 4.8 The State and each of the other State Components shall take all necessary measures to facilitate all Project Activities associated with the Transport of Natural Gas via the Pipeline System or any part thereof (including the Greek Facilities), consistent with the principle of freedom of transit, and without distinction as to the origin, destination or ownership of such Natural Gas and without imposing any unreasonable delays, restrictions or charges.
- 4.9 Except as otherwise expressly provided in this Agreement (including under Clause 3.3), or with the prior written consent of the Project Investor, neither the State nor any other State Component shall grant any rights to use the Greek Facilities or rights in connection with the Project Land or grant to any Person any other rights that are inconsistent or conflict, or may interfere, with the full exercise or enjoyment by each Project Participant of its rights under this Agreement or any of the Project Agreements.

## **5. PROJECT AGREEMENTS ENTERED INTO BY STATE AUTHORITIES AND/OR STATE ENTITIES**

- 5.1 The State shall ensure and guarantee (as primary obligor) the timely performance of the obligations and undertakings of each other State Component under each of the Project Agreements as and when such obligations and undertakings shall become due and performable according to the terms of the relevant Project Agreement.
- 5.2 The obligations of the State:
  - (a) under this Agreement, including its obligations under Clause 5.1, shall be unaffected by the privatisation, insolvency, liquidation, reorganisation or any change in the ownership, organisational structure, viability or legal existence of any State Authority and/or State Entity;
  - (b) under Clause 5.1, shall be unaffected by any act, omission, matter or other thing which, but for this provision, would reduce, release or prejudice any of its obligations under that Clause, including any amendment, variation, waiver, illegality, invalidity, insolvency or legal limitation to or in connection with any Project Agreement.

## **6. COMMITMENTS WITH RESPECT TO THE ACTIONS OF LOCAL AUTHORITIES**

- 6.1 Subject to the mandatory limitations imposed by Greek Law (including the Constitution), the State shall:
  - (a) cause the Local Authorities to comply with this Agreement as though the Local Authorities were State Authorities; and

- (b) perform its obligations under this Agreement as though the term "State Components" included all Local Authorities.

6.2 The Parties acknowledge the mandatory limitations imposed by Greek Law (including the Constitution) but agree that, notwithstanding those limitations, the State shall promptly take all legality control actions required to manage and procure that the Local Authorities act in a manner consistent with this Agreement.

## 7. THE EXISTING GREEK GAS NETWORK

### 7.1 Connection at the Greece-Turkey Border

- (a) The Parties acknowledge and agree that the Pipeline System, when constructed, is intended to interconnect with TANAP, when constructed, at the border between the Hellenic Republic and the Republic of Turkey.
- (b) The Parties further acknowledge and agree that the interface between TANAP and the Pipeline System will require the cooperation and facilitation of the State and, in that respect, the State shall use its reasonable endeavours to facilitate and establish any cross-border arrangements that may be necessary to support the interconnection between the Pipeline System and TANAP.
- (c) If the Project Investor reasonably believes that the commencement of commercial operation of TANAP may be delayed for any reason and, as a result of that delay, the Project Investor wishes to utilise, by way of a connection within Greek Territory and as an interim measure, the Interconnector Turkey-Greece for the purposes of transporting gas from the Turkish gas system to the Pipeline System:
  - (i) the Project Investor shall notify the State of the circumstances associated with the delay to the commencement of the commercial operation of TANAP and the basis upon which the Project Investor wishes to utilise the Interconnector Turkey-Greece, including in respect of the anticipated period of use and volumes of Natural Gas to be transported;
  - (ii) promptly following the Project Investor notifying the State pursuant to paragraph (i) above, the Parties shall, subject to Greek Law, agree in good faith the basis upon which the Project Investor may utilise the Interconnector Turkey-Greece for the purpose of transporting gas from the Turkish gas system to the Pipeline System, including with respect to the time period of that use, the volumes of Natural Gas to be transported, the terms governing such transportation and the levy or other fees payable by the Project Investor in respect of such usage. Any such agreement shall be documented in writing between the Parties or their nominees (the **ITG Interim Use Agreement**); and
  - (iii) in accordance with the terms of the ITG Interim Use Agreement, the State shall, subject to Greek Law, do all things reasonably necessary and within its power to enable the Project Investor to connect the Pipeline System to the Greek part of the Interconnector Turkey-Greece and thereafter receive Natural Gas from the Turkish gas system to the Pipeline System by way of the Interconnector Turkey-Greece.
- (d) In connection with Clause 7.1(c), the State acknowledges that under Regulation (EC) No 715/2009 of the European Parliament and of the Council of 13 July 2009 on Conditions for Access to the Natural Gas Transmission Networks and Repealing Regulation (EC) No 1775/2005, allocation of capacity in pipeline systems is to be made in an efficient manner and shall be compatible with market mechanisms. In view of the fact that the capacity of the Interconnector Turkey-Greece, with appropriate upgrades (noting that the State has no control over upgrades required in the Republic of Turkey), will be 11.0 BCMA (with load factor 0.9), the

Parties anticipate that the Project Investor will be granted appropriate rights to utilise the Interconnector Turkey-Greece in accordance with Greek Law and the ITG Interim Use Agreement.

## 7.2 Greek Network Tie-Ins

- (a) The Parties (or their nominees) shall, in good faith, negotiate, agree and enter into one or more interconnection agreements containing terms and conditions in respect of the construction and operation of the interconnection between the Greek Facilities and the domestic Greek gas transmission system and/or distribution networks and all related issues (each, an **Interconnection Agreement**). The Parties acknowledge and agree that there are likely to be several such interconnections and, consequently, several Interconnection Agreements.
- (b) No later than 120 days prior to the intended release by the Project Investor of the invitation to tender relevant to the pipeline construction in the Hellenic Republic, the Project Investor shall notify the State of the same. The State may, within 60 days of receiving the Project Investor's notification, nominate (without any requirement to meet any market criteria test) up to three locations for Greek Network Tie-Ins, such locations to be in addition to any locations for Greek Network Tie-Ins determined in accordance with the Project Investor's third party access exemption.
- (c) The Project Investor shall ensure that when the Greek Facilities are constructed, valved "T-pieces" to allow for interconnection are installed in the Pipeline System at each of those locations nominated by the State in accordance with Clause 7.2(b).

## 8. LOCAL SUPPORT

- 8.1 The Parties acknowledge that the Project represents a major investment in the Hellenic Republic that will create significant opportunities for Greek labour (both skilled and unskilled) and Greek contractors and further acknowledge the geographical advantage and local knowledge benefits that such labour and contractors will offer in respect of the Project.
- 8.2 The Project Investor shall, in accordance with the Community Treaties, the requirements of applicable World Trade Organisation agreements and other applicable law, ensure that the rules, procedures and qualification and evaluation criteria (including as to technical requirements) that it applies to the procurement processes that it conducts for the purpose of the Project Activities, including in respect of the construction and supply of materials for the Greek Facilities, encourage the use of Greek companies and labour throughout the Project supply chain by ensuring that there is no discrimination against Greek companies and, to the extent reasonably practicable, the Project Investor shall ensure that bidders are made aware of the benefits that Greek companies will offer in respect of the Project.

## 9. SECURITY

- 9.1 Without derogating from the provisions of the Energy Charter Treaty, the State shall, taking into account applicable international human rights standards, including the Guiding Principles for Business and Human Rights, as endorsed by the United Nations Human Rights Council on 16 June 2011, use its best endeavours to:
  - (a) ensure that there are no disruptions to the Project Activities; and
  - (b) protect the Project Activities in Greek Territory, the Greek Facilities and all Persons within Greek Territory involved in the Project Activities from Loss or Damage,

in each case caused by or which may result from war, sabotage, vandalism, blockade, revolution, riot, insurrection, civil disturbance, terrorism, kidnapping, commercial extortion, organised crime or any other destructive event.

9.2 The Project Investor shall cooperate with the State in order to allow the State to perform its obligations under Clause 9.1.

9.3 The State shall use all reasonable endeavours to assist the Project Investor to identify any unexploded ordnances that may be situated on or under, or in the immediate vicinity of, any Project Land. If during the performance of the Project Activities any unexploded ordnances (or items that could reasonably be considered to be unexploded ordnances) are discovered, the State shall procure the prompt removal of such items by the State's security forces following notice of the same being provided to the State.

9.4 **Crossing Infrastructure**

(a) If at any time any Person which is not a State Component wishes to install any Crossing Infrastructure, that Person shall be required to submit to the State an application for that installation. That Person shall not be entitled to install the relevant Crossing Infrastructure unless it receives the State's express consent.

(b) The State shall promptly notify the Project Investor of any application it receives for the installation of any Crossing Infrastructure for the Project Investor's consideration and comment, such comments to be provided within a reasonable period of time after the State's notification.

(c) The State shall not approve any application for the installation of any Crossing Infrastructure received pursuant to Clause 9.4(a) unless:

- (i) that application has first been notified to the Project Investor in accordance with Clause 9.4(b);
- (ii) the Project Investor has been provided with a reasonable period to comment on that application; and
- (iii) the State has taken into account the Project Investor's comments in reaching a decision as to whether to approve the application.

If the State elects to approve an application for the installation of any Crossing Infrastructure received pursuant to Clause 9.4(a), each such approval shall be made subject to the relevant Person entering into an undertaking in a form reasonably required by the Project Investor (including as to the credit and credit support of the relevant Person) pursuant to which the Project Investor will be held harmless in respect of any Loss or Damage arising in connection with the installation and operation of the Crossing Infrastructure.

(d) If at any time a State Component wishes to install any Crossing Infrastructure, that State Component shall apply directly to the Project Investor. The Project Investor shall consent to the installation of that Crossing Infrastructure provided that all relevant technical issues are agreed between the parties and the relevant State Component enters into an undertaking in a form reasonably required by the Project Investor pursuant to which the Project Investor will be held harmless in respect of any Loss or Damage arising in connection with the installation and operation of the Crossing Infrastructure.

## 10. PROJECT LAND

The Project Land shall be identified and certain rights in the Required Project Land shall be acquired in accordance with Schedule 1 and the Parties shall comply with their obligations in connection with Project Land as set out in Schedule 1.

## 11. ACCESS TO RESOURCES AND FACILITIES

At the request of the Project Investor and subject to any relevant standards described in this Agreement, the State and each of the other State Components shall exercise all reasonable endeavours to assist any Project Participant in obtaining, on Best Available Terms and to the extent within the reasonable control of the State Components, with respect to the Project:

- (a) readily available water of sufficient quality and quantity located proximate to the Project Land in order to perform hydrostatic and other testing of the Pipeline System;
- (b) without prejudice to Greek Law (including European Union law effective in the Hellenic Republic), including in respect of customs matters, goods, works, services (excluding labour and human resources) and technology as may be necessary or appropriate for the Project in the reasonable opinion of the Project Investor; and
- (c) without prejudice to Clauses 12, 13 and 16 and Greek Law (including European Union law effective in the Hellenic Republic), including in respect of customs matters, with respect to jurisdictions and authorities outside Greek Territory, obtaining those rights, licences, visas, permits, approvals, certificates, authorisations and permissions necessary or appropriate for the Project which have any form of relationship with the Hellenic Republic, including in respect of:
  - (i) storage and staging of lines of pipes, materials, equipment and other supplies destined for or exiting from Greek Territory;
  - (ii) all marine vessels sailing to or from Greek Territory in connection with the performance of Project Activities; and
  - (iii) the import and/or export or re-export of any goods, works, services or technology necessary for the Project.

## TAXES, IMPORT AND EXPORT, CURRENCY

### 12. TAXES

#### *General*

- 12.1 The State shall ensure that the treatment for Taxation purposes of Project Participants and each other Person with respect to any part of the Project or any related assets or activities will be no less favourable than that applicable to the State's nationals in the same circumstances under its general legislation relating to Taxation.
- 12.2 With respect to measures regarding any relevant Taxation or other payments, irrespective of their names or origin, the State shall co-operate with other states on a multilateral level to ensure a fair and transparent application of Taxation to the Project Participants and each other Person with respect to any part of the Project, or any related assets or activities in accordance with the spirit of the various bilateral double tax treaties concluded between the State and other states. The

State shall endeavour to minimise the incidence and complexity of formalities relating to Taxes and to decrease and simplify documentation requirements relating to Taxes.

- 12.3 The State confirms that, except as otherwise expressly set out in the APA, it will not impose any Taxation in respect of the whole or any part of Project carried on outside Greek Territory (including, inter alia, Project Activities carried on in that part of the Adriatic Sea lying between the Italian Republic and the Republic of Albania, its bed and subsoil and the air space above it, which does not form part of the territorial sea of the State, determined in accordance with public international law).
- 12.4 The State undertakes to:
- (a) comply with and fully implement the APA in accordance with its terms; and
  - (b) not amend, vary, suspend or terminate the APA without the prior written consent of the Project Investor except in those cases expressly provided for in the APA.

*Application to the Project Investor*

- 12.5 Subject to Clause 12.6 and except as otherwise expressly provided by or permitted under this Agreement, the Tax Law of the State:
- (a) as in force on the Signing Date, other than with respect to the VAT Rate (the **Signing Date Tax Code**), shall be valid and apply to the Project Investor until and including the Ten Year COD Date;
  - (b) as in force on the day after the Ten Year COD Date, other than with respect to the VAT Rate (the **Second Period Tax Code**), shall be valid and apply to the Project Investor from the day after the Ten Year COD Date until and including the Twenty Year COD Date (the **Second Tax Period**); and
  - (c) as in force on the day after the Twenty Year COD Date, other than with respect to the VAT Rate (the **Third Period Tax Code**), shall be valid and apply to the Project Investor from the day after the Twenty Year COD Date until and including the Twenty-Five Year COD Date (the **Third Tax Period**),

in each case, to the exclusion of all other Taxes during the relevant period.

- 12.6 Without prejudice to the remainder of this Clause 12 or Clause 17, the Project Investor shall be required to comply with the Tax Law of the State, as amended from time to time, in respect of the VAT Rate.
- 12.7 For each year of the Second Tax Period:
- (a) the Project Investor shall, within 30 days following the filing of its annual income tax return in relation to the relevant year, provide to the State a report setting out:
    - (i) all Taxes that have been incurred by the Permanent Establishment in the State during that year in accordance with the Second Period Tax Code (the **Second Period Paid Amount**);
    - (ii) all Taxes that would have been incurred by the Permanent Establishment in the State during that year had the Signing Date Tax Code been in place (the **Second Period SD Amount**); and



- (iii) a comparison between the Second Period Paid Amount and the Second Period SD Amount; and
- (b) if in respect of the relevant year:
  - (i) the Second Period Paid Amount is less than the Second Period SD Amount by more than 20% of the Second Period SD Amount, the Project Investor shall pay to the State such amount that is in excess of that 20% threshold within 60 days of the date of the report provided by the Project Investor under Clause 12.7(a); or
  - (ii) the Second Period Paid Amount is greater than the Second Period SD Amount by more than 20% of the Second Period SD Amount, the State shall pay to the Project Investor such amount that is in excess of that 20% threshold within 60 days of the date of the report provided by the Project Investor under Clause 12.7(a).

12.8 For each year of the Third Tax Period:

- (a) the Project Investor shall, within 30 days following the filing of its annual income tax return in relation to the relevant year, provide to the State a report setting out:
  - (i) all Taxes that have been incurred by the Permanent Establishment in the State during that year in accordance with the Third Period Tax Code (the **Third Period Paid Amount**);
  - (ii) all Taxes that would have been incurred by the Permanent Establishment in the State during that year had the Signing Date Tax Code been in place (the **Third Period SD Amount**); and
  - (iii) a comparison between the Third Period Paid Amount and the Third Period SD Amount;
- (b) if in respect of the relevant year:
  - (i) the Third Period Paid Amount is less than the Third Period SD Amount by more than 20% of the Third Period SD Amount, the Project Investor shall pay to the State such amount that is in excess of that 20% threshold within 60 days of the date of the report provided by the Project Investor under Clause 12.8(a); or
  - (ii) the Third Period Paid Amount is greater than the Third Period SD Amount by more than 20% of the Third Period SD Amount, the State shall pay to the Project Investor such amount that is in excess of that 20% threshold within 60 days of the date of the report provided by the Project Investor under Clause 12.8(a).

*Corporate income tax*

- 12.9 The Permanent Establishment in the State shall be subject to Greek income tax pursuant to Greek Income Tax Law as that Tax exists and is applied at the Signing Date, as modified by the provisions of this Agreement.
- 12.10 The allocation of income between the Project Investor and the Permanent Establishment in the State shall follow applicable OECD principles, including the 2008 commentary to art. 7 of the OECD Model Tax Treaty and the arm's length principle as laid down in the 2010 OECD Transfer

Pricing Guidelines, and shall be agreed between the Hellenic Republic and the Swiss Confederation as part of the APA.

- 12.11 Based on the allocation of functions, risks and tangible and intangible assets between the Project Investor and the Permanent Establishment in the State, under the arm's length principle the Permanent Establishment in the State will receive:
- (a) compensation on its Operating Expenses incurred, accrued and allocated in each fiscal year which compensation:
    - (i) in the case of depreciation on the Pipeline System and interest expenses incurred in connection with the construction, improvement or upgrading of the Pipeline System, shall be on a cost basis without any mark up; and
    - (ii) in the case of all other Operating Expenses, shall be on a cost plus oriented basis;
  - (b) as from the Commercial Operation Date onwards, an additional annual (being for 12 month fiscal periods) return as a percentage on the part of the book value of the Pipeline System as of the Commercial Operation Date, according to IFRS, attributable to the Greek Facilities over the entire Project life in each fiscal year. The aforesaid percentage will amount to a minimum of 3.9%; and
  - (c) if the book value of the Pipeline System, according to IFRS, attributable to the Greek Facilities should increase after the Commercial Operation Date, this higher value shall be the basis for the return according to Clause 12.11(b) as from the year onwards this increase becomes effective.
- 12.12 It is acknowledged that, notwithstanding any other provisions in this Agreement to the contrary, Double Tax Treaties shall have effect to give benefits with respect to Taxes related to the whole and any part of the Project Activities.

#### *Withholding tax*

- 12.13 No Taxes shall be imposed, withheld or deducted from or with respect to any remittance of profit from the Permanent Establishment in the State to the Project Investor.
- 12.14 No withholding Taxes will be imposed on management fees, headquarter costs (inclusive of Capital Expenditure and interest expenses) or any other amounts for services rendered abroad which are allocated from the Project Investor to the Permanent Establishment in the State.

#### *Taxation and Fees on Real Estate*

- 12.15 The Project Investor shall not be subject to the 15% special real estate tax (per Greek Law 3091/2002) and nor shall the Project Investor be required to file the respective annual tax returns.
- 12.16 In assessing real estate property tax in connection with the Project Investor, any value of the equipment shall be excluded from the taxable basis for determining the real estate property tax on the buildings.

*Value added tax*

12.17 The State acknowledges that VAT should not be a cost to the Project (either directly or by virtue of any reverse charge mechanism), which is in line with the principle of neutrality of VAT systems to provide businesses with a taxable business activity with a general right to recover input VAT.

12.18 Accordingly, the State agrees as follows:

- (a) The place of supply of the Natural Gas transportation services provided by the Project Investor to the Shippers shall be the place where the latter established their business, or if the services are provided to a fixed establishment of the Shipper located in a place other than the place where it has established its business, the place of supply of those services shall be the place where the fixed establishment is located.
- (b) Amounts charged by the Project Investor to the Permanent Establishment in the State shall not be subject to Greek VAT. Income allocated to the Permanent Establishment in the State by the Project Investor and amounts charged by the Permanent Establishment in the State to the Project Investor pursuant to Clauses 12.10 and 12.11, including construction costs, shall not be charged with Greek VAT and the Permanent Establishment in the State shall have the right to recover input VAT according to the Greek VAT Code provisions applied within the State on the basis that the Project Investor provides VAT-able Natural Gas transportation services to the Shippers.
- (c) The receipt of liquidated damages payments by the Project Investor (including through its Permanent Establishment in the State) will not give rise to a liability to account for VAT or trigger pro rata computations.
- (d) Consistent with applicable Greek Law, including European Union law effective in the Hellenic Republic (including the Greek VAT Code, Greek Law 2960/2001 (the Greek customs code) and EU Directive 2006/112/EC), the supply of services in connection with the Project which relates directly to the supply of goods placed under a suspensive customs regime, or which are rendered within such duly designated customs area whereby the goods remain under such a suspensive regime, are exempt from VAT.
- (e) With regard to VAT related issues in the case of import/export or intra-EU acquisitions of goods destined to be used for the construction or for the maintenance of the Pipeline System, or for any other purpose pertaining to this Agreement, the relevant provisions of applicable Greek Law (including European Union law effective in the Hellenic Republic) shall apply (including the Greek VAT Code, Greek Law 2960/2001 (the Greek customs code) and EU Directive 2006/112/EC).

*Miscellaneous*

12.19 All refunds of VAT by the tax administration of the State (including in respect of construction related VAT) shall be made within 180 days commencing on the Permanent Establishment submitting its VAT refund claim. If a refund is not made within that 180 day period, the tax administration must pay interest on the amount of the refund as follows:

- (a) where the refund is credited against another Tax liability, such interest accrues from the 181st day from the refund claim to the date of payment of Tax against which the credit is made; and
- (b) where the refund is being paid such interest accrues for the period from 180 days after the refund claim until the refund is paid.

The interest rate applicable in such circumstances shall be the interest rate referred to in the general provisions of Greek Law. Interest is payable in all circumstances and may not be waived by the State (including by the tax administration of the State) nor appealed, except to the extent there are errors in calculations of the relevant interest amounts or to the extent that the Tax liability to which it applies is changed. Without prejudice to Clause 28.3(b), such interest payments, as well as any other interest payments made under this Agreement, including pursuant to Clause 28.5, are subject to Greek Income Tax Law.

- 12.20 Consistent with Greek Law, the Permanent Establishment in the State shall be entitled to assign against a monetary consideration any right it may have in respect of a Tax related refund (including in respect of construction or other input VAT) to any third party, and that third party shall be entitled to receive the relevant refund, or set-off that refund against that third party's Tax liabilities at that third party's election. Such assignments of claims shall not be charged with Greek VAT or stamp duty. If such an assignment is made without any financial consideration, the payment of gift tax and the submission of certificate of art. 105 of Greek Law 2961/2001 will be required.
- 12.21 In respect of any compensation including any interest on such compensation paid or received under or in connection with this Agreement, the Project Investor, and not the Permanent Establishment in the State, shall be deemed as the payer or the recipient (as applicable) of that compensation.
- 12.22 Subject to this Agreement, the Project Participants and their respective employees, shall have no liability or responsibility to the State for any failure on the part of any other Project Participant to comply with the Tax Law of the State regarding Taxes relating to the whole or any part of the Project Activities.
- 12.23 The provisions of this Clause 12 shall not be changed during the period of this Agreement without the consent of both Parties. In no event shall any changes to this Clause 12 be retroactive.

### **13. IMPORT AND EXPORT**

- 13.1 Notwithstanding the definition of Taxes and without prejudice to current Greek Law (including European Union law effective in the Hellenic Republic) applicable to customs matters, all matters concerning customs duties in connection with the Project Activities are addressed solely in this Clause 13 to the exclusion of any provision of Clause 12 which, but for this Clause 13.1, would apply.
- 13.2 The State and each of the other State Components shall accord Natural Gas and other goods and services associated, directly or indirectly, with the Project Activities, treatment no less favourable in connection with their import into and/or export out of the State (as the case may be) than that which would be accorded to like goods and services of like origin which are not associated with the Project.
- 13.3 The State shall minimise the incidence and complexity of import and export formalities and decrease and simplify import and export documentation requirements in connection with the goods and/or services referred to above.
- 13.4 In determining the location of fiscal metering stations at the border between the Hellenic Republic and the Republic of Albania and at the border between the Hellenic Republic and the Republic of Turkey, the Parties agree and acknowledge that:

- (a) such location must enable the State to comply with European Union law effective in the Hellenic Republic, including with respect to customs matters; and
  - (b) single fiscal metering stations at each border, rather than a fiscal metering station on each side of each border, represent the optimal approach so as to avoid unnecessary capital expenditure for the Project.
- 13.5 The State shall use its best endeavours to accommodate the aspiration set forth in Clause 13.4(b) recognising that any such accommodation shall be subject to the requirements of European Union law as set forth in Clause 13.4(a) above.
- 13.6 Without prejudice to current Greek Law (including European Union law effective in the Hellenic Republic) applicable to customs matters, the provisions of this Clause 13 shall extend to fees, charges, formalities and requirements imposed by the State and/or any State Authority in connection with importation, transit and exportation with respect to any Project Activities, including, but not limited to those relating to consular transactions, such as consular invoices and certificates; quantitative restrictions; licensing; exchange control; statistical services; documents, documentation and certification; analysis and inspection; and quarantine, sanitation and fumigation.
- 13.7 The Parties agree that no excise duties on Natural Gas according to Greek Law 2960/2001 (National Customs Code), in conjunction with Greek Law 2093/1992 and Council Regulation (EEC) No. 2658/87, as it is in force, as well as Council Directive No. 2003/96/EC, shall be applicable to any part of the Project or any Project Activities at the stage of its transportation via the Greek Territory. For products that are subject to excise duties that are released for consumption in Greece or are received by other Member States where they have been released for consumption in order to be used at the stage of construction, operation or maintenance, the relevant excise duties shall be chargeable according to applicable Greek Law (including European Union law effective in the Hellenic Republic).

#### **14. FOREIGN CURRENCY**

- 14.1 The State confirms that, as at the Effective Date, the Project Participants have the right under Greek Law, *inter alia*:
- (a) to bring into, hold or take out of Greek Territory foreign currency and to open, maintain and operate, without restriction, foreign currency bank and other accounts in Greek Territory;
  - (b) to open, maintain and operate local currency bank and other accounts in Greek Territory;
  - (c) to exchange any currency at market rates or at official rates which are set at non-market rates;
  - (d) to purchase and/or convert local currency with and/or into foreign currency;
  - (e) to transfer, hold and retain foreign currency outside Greek Territory;
  - (f) to be exempt from all mandatory conversions, if any, of foreign currency into local currency or any other currency;
  - (g) to pay abroad, directly or indirectly, in whole or in part, in foreign currency, the salaries, allowances and other benefits received by any foreign employees;

- (h) to pay Contractors (whether local or foreign), directly or indirectly, in whole or in part, in foreign currency, for their goods, works, technology or services supplied to the Project; and
- (i) to make any payments provided for under any Project Agreement or Implementation Contract in foreign currency,

and the State shall ensure that the Project Participants shall at all times after the Effective Date have such rights under Greek Law with respect to the Project Activities.

- 14.2 The State shall take all steps and measures required to ensure that it and each other State Component has available to it at all times sufficient Convertible Currency and effective means of payment to transfer to the relevant Person full value at the relevant time.

## IMPLEMENTATION

### 15. REPRESENTATIVES

#### 15.1 State Representative

- (a) The State shall appoint within 30 Business Days of the Signing Date its representative for all matters arising in connection with this Agreement and who shall be authorised to give notices to and otherwise communicate with the Project Investor on behalf of the State (the **State Representative**). The Parties acknowledge that the State shall have the right, upon reasonable notice to the Project Investor, to substitute the State Representative.
- (b) The Project Investor shall be entitled to rely upon the communications, actions, information and submissions of the State Representative as being the communications, actions, information and submissions of the State.

#### 15.2 Project Investor Representatives

- (a) The Project Investor shall appoint within 30 Business Days of the Signing Date one or more representatives, committees, or other organisational or functional bodies by or through whom the Project Investor may act with the intention of facilitating the method and manner of the Project Investor's timely and efficient exercise of its rights and/or performance of its obligations under this Agreement (the **Project Investor Representative(s)**).
- (b) Upon the appointment of the Project Investor Representative(s), the State shall be entitled to rely upon the communications, actions, information and submissions of a Project Investor Representative in respect of that Project Investor Representative's notified area of authority as being the communications, actions, information and submissions of the Project Investor. The Parties further acknowledge that the Project Investor shall have the right, upon reasonable notice to the State, to remove, substitute or discontinue the use of one or more Project Investor Representative(s), provided that there shall always be at least one Project Investor Representative.

### 16. AUTHORITY PERMISSIONS

- 16.1 Upon the request of any Project Participant in relation to a specific Authority Permission or a specific Project Activity, the State shall promptly provide written detailed descriptions of all the documentation or other information required to be submitted in order to obtain that specific Authority Permission or those Authority Permissions associated with that specific Project Activity (as the case may be).

## 16.2 The State shall:

- (a) on a priority basis within the relevant timeframe prescribed by Greek Law (or, where no such time period is prescribed, within 60 days of the submission of the relevant application); and
- (b) subject to the relevant Project Participant's application satisfying the mandatory requirements to be fulfilled in order for the Authority Permission to be granted (including the payment of any mandatory fees and charges associated with the provision of that Authority Permission),

provide each Authority Permission necessary as a mandatory requirement of Greek Law or appropriate in the reasonable opinion of the Project Investor to enable it and all other Project Participants to carry out the Project Activities in a timely, secure and efficient manner and/or to exercise their rights and fulfil their obligations in accordance with this Agreement and the Project Agreements.

## 16.3 The State's obligations under Clause 16.2 apply with respect to all Authority Permissions, including in relation to:

- (a) customs clearances;
- (b) import and export licences;
- (c) visas, labour permits and residence permits;
- (d) rights and licences, in accordance with relevant Greek Law, to operate communication and telemetry facilities (including the dedication of a sufficient number of exclusive radio and telecommunication frequencies as requested by the Project Investor to allow the uniform and efficient operation of the Pipeline System within and outside Greek Territory) for the secure and efficient conduct of Project Activities;
- (e) rights to establish such branches, Permanent Establishments, Affiliates, subsidiaries, offices and other forms of business or presence in Greek Territory as may be reasonably necessary in the opinion of any Project Participant to properly conduct the Project Activities, including the right to lease or, where appropriate, purchase or acquire any real or personal property required for Project Activities or to administer the businesses or interests in the Project;
- (f) rights to operate vehicles and other mechanical equipment, and in accordance with relevant Greek Law (including European Union law effective in the Hellenic Republic), the right to operate aircraft, ships and other watercraft in Greek Territory;
- (g) environmental and safety approvals;
- (h) approvals for the construction and operation of the Greek Facilities;
- (i) any crossing of any existing infrastructure or regulated geographic features by any part of the Greek Facilities, including any roads, railways or rivers;
- (j) the implementation of the Public Access Road Works;

- (k) the temporary relocation of any existing infrastructure or regulated geographic feature, including any roads, railways or rivers, for the purpose of undertaking any Project Activities in Greek Territory;
  - (l) waste management permits, including in relation to the handling of contaminated soil and materials and the creation of disposal facilities where no, or insufficient, land fill capacity is available in the relevant area; and
  - (m) water use (including in relation to water withdrawal and the lowering of ground water) and wastewater treatment permits.
- 16.4 Subject to Clause 3.3 and the relevant domestic legislation, the State shall, or shall procure that the relevant State Authority shall at the request of a Project Participant and to the extent reasonably practicable, seek to combine multiple Authority Permissions into a single Authority Permission where such multiple Authority Permissions relate to the same or similar subject matter.
- 16.5 With the exception of permits referring to environmental protection legislation, the Espoo Convention and subject to Clause 3.3, in the event that a Project Participant has complied with the mandatory requirements provided by Greek Law in making its application for any Authority Permission, and the competent State Authority has not responded to that Project Participant within the period referred to Clause 16.2, the application of that Project Participant shall be deemed to be approved and the competent State Authority shall have no power to review that deemed approval other than on the basis of fraud, immediate safety concerns, national security or compelling (*epitaktiko*) public interest.
- 16.6 With the exception of permits referring to environmental protection legislation and subject to Clause 3.3, where a State Authority has provided an opinion or ruling in respect of the procedure for the approval of the environmental terms for the Project, that State Authority shall not be required to provide an opinion on subsequent Authority Permissions or permitting stages on similar issues.
- 16.7 **Archaeological Authority Permissions**
- (a) In any case where, by operation of Greek Law or by decision of any State Authority, there is a requirement in connection with the Project for the issuance of a decision by the Central Archaeological Council on how to deal with antiquities found during the works for the implementation of the Project, such decision shall be issued by the Central Archaeological Council and notified by the Central Archaeological Authority within two months of the application of the Project Investor for that decision.
  - (b) In derogation from Greek Law 4072/2012, the Project Investor shall enter into:
    - (i) a memorandum of understanding, in the form set out in Schedule 5, with the Ministry of Culture in respect of the overall approach to be taken in respect of those archaeological works that may be required as a result of the Project (the **Ministry MoU**). It is intended that this memorandum of understanding shall be signed by the parties to it after the issuance of the installation permit of the Greek Facilities but before the commencement of the construction of the Greek Facilities; and
    - (ii) special memoranda of understanding with each Ephorate in respect of those archaeological works that, as a result of the Project, may be required in that



Ephorate's jurisdiction (each, an **Ephorate MoU**). Each Ephorate MoU shall be in substantially the same form as that set out in Schedule 4.

- (c) If, for the purpose of the Project, trial excavations in respect of archaeological works are required either as part of the environmental terms approval for the Project or as a requirement of any competent archaeological State Authority, the competent local Ephorate shall agree with the Project Investor the time, location, budget and nature of those trial excavations such that the Project Investor will be able to commence those trial excavations under the supervision of the competent Regional Services of the General Secretariat of the Ministry of Education, Religious Affairs, Culture and Sports within 45 days of its relevant application.

#### 16.8 Crossing Consents

- (a) The State shall facilitate the conclusion and granting of all Crossing Consents to the Project Investor required or desirable for the performance of the Project Activities. The State's facilitation shall include assistance:
  - (i) during the design phase of the Project, if the Project Investor applies to the relevant owner or operator in order to establish that Crossing Consent; and
  - (ii) during the construction phase of the Project, if the construction Contractor proposes a detailed crossing design for approval and submits it to the owner or operator of the existing infrastructure in order to obtain the relevant Crossing Consent.
- (b) By way of deviation from any existing provisions of Greek Law on the crossing of existing infrastructure, the approval from the company, State Component or Independent Authority which owns or operates any existing infrastructure (including any pipeline, cable, road, network or railway) in relation to Crossing Consents shall be granted within a 30 day period, provided that the reasonable technical requirements of the relevant company, State Component or Independent Authority are met.
- (c) In relation to Greek Law 2971/2001, and notwithstanding the foregoing provisions of this Clause 16.8, the crossing of all rivers and riverbanks, as well as any riparian zone, required or desirable for the performance of the Project Activities shall be permitted by way of a single crossing permit provided by the competent State Authority. Any procedures provided for under Greek Law 2971/2001 in relation to crossing and/or granting of riparian zones shall have a maximum duration of one month.

#### 16.9 Re-routing of the Greek Facilities

If for any reason it becomes necessary to alter the route of the Greek Facilities (including the route of the pipeline or the location of any above ground facilities), the State shall use its best endeavours to expedite the granting or amendment of all Authority Permissions affected by that alteration so as to maintain the Project's delivery schedule.

### 17. CHANGE OF LAW

#### 17.1 Changes of Law that lead to Loss or Damage

- (a) If any Change of Law has the effect of impairing, conflicting or interfering with the implementation of the Project, or limiting, abridging or adversely affecting the value of the Project or any of the rights, indemnifications or protections granted or arising under this Agreement or any Project

Agreement or of directly imposing any other Loss or Damage on the Project Investor, the Project Investor shall, within one year of the date when it could with reasonable diligence have become aware of the effect of the Change of Law upon the Project, give notice thereof in writing to the State.

- (b) Without prejudice to Clause 17.5, the State shall compensate the Project Investor for the Loss or Damage it incurs as a result of the Change of Law. Such compensation shall, if the relevant Project Investor so requires, be paid in the Convertible Currency nominated by the Project Investor and shall take the form of:
  - (i) to the extent that the Change of Law imposes any Loss or Damage that requires Capital Expenditure, the State shall compensate that Loss or Damage to the Project Investor promptly following the Project Investor's written demand for the same; and
  - (ii) to the extent that the Change of Law imposes any Loss or Damage that does not require Capital Expenditure, the State shall reimburse the Project Investor a financial sum that compensates the Project Investor against the Loss or Damage either, at the Project Investor's election:
    - (i) immediately as a lump sum, if the Project Investor is able to calculate on a reasonable basis the Loss or Damage incurred or likely to be incurred by the Project Investor during the life of the Project and provide reasonable evidence of the basis of such calculation to the State;
    - (ii) in the form of advance annual payments to the Project Investor during the remaining life of the Project, with the amount of such payments to be adjusted yearly to reflect the actual Loss or Damage caused by the Change of Law; or
    - (iii) on an ongoing basis promptly as and when such Loss or Damage is incurred.

## 17.2 Changes of Law that lead to Savings

If, as a result of any Change of Law, the Project Investor is able to realise Savings in connection with the Project, and the Project Investor in fact realises such Savings, then the Project Investor shall, if so requested in writing by the State (such request to be made no later than one year after the State could, with reasonable diligence, have become aware of the effect of the relevant Change of Law), compensate the State for one-half of the amount of such Savings. Such compensation shall, if the State so requires, be paid in Convertible Currency and shall, at the option of the Project Investor, take the form of:

- (a) reimbursement to the State of one-half of the Savings realised by the Project Investor as a result of the Change of Law, promptly as and when such Savings are realised; or
- (b) reimbursement to the State of one-half of the Savings realised by the Project Investor as a result of the Change of Law, in the form of equal annual payments to the State during the remaining expected life of the Project. In this case, such payments shall bear interest at the Agreed Interest Rate. Such interest shall accrue from the date(s) when the relevant Savings are realised by the Project Investor to the date(s) when payments are made to the State.

## 17.3 Thresholds for Change of Law compensation

- (a) Neither Party shall have any obligation to the other Party to pay compensation pursuant to Clause 17.1 or 17.2 (as applicable) in any calendar Year unless the aggregate Loss or Damage