

(1) ICGB AD

- and -

(2) AVAX S.A.

DEED OF VARIATION

in respect of the EPC Contract relating to the design, procurement and construction of the natural gas Interconnector Greece-Bulgaria (IGB Project) dated 10 October 2019

[REVISED DRAFT 11 NOVEMBER 2020]



THIS DEED OF VARIATION is delivered on

BETWEEN:

- (1) **ICGB AD**, a company established and existing under the laws of the Republic of Bulgaria, having its registered seat at 13 Veslets Street, 1000 Sofia, Bulgaria, with UIC 201383265, represented by its Executive Officers Ms Teodora Georgieva-Mileva and Mr Konstantinos Karayannakos ("**Employer**" which term includes its legal successors and permitted assignees) of the one part; and
- (2) **AVAX SOCIETE ANONYME-CONTRACTING-TOURIST-COMMERCIAL-INDUSTRIAL-BUILDING MATERIALS AND EQUIPMENT with distinctive title AVAX S.A.**, General Commercial Registry (G.E.M.I.) Nr: 913601000, V.A.T. Registration Nr.: EL 094183623, whose registered office is situated at 16 Amaroussiou-Halandriou str, 151 25, Maroussi, Athens Greece ("**Contractor**" which term includes its legal successors and permitted assignees) of the other part.

Collectively referred to as the "Parties", and each a Party.

WHEREAS:

- A** The Employer and the Contractor entered into a contract relating to the design, procurement and construction of the natural gas Interconnector Greece-Bulgaria (IGB Project) which will directly connect the national gas transmission systems of the Republic of Greece and the Republic of Bulgaria dated 10 October 2019 (the "**EPC Contract**").
- B** Pursuant to Sub-Clause 14.4.3.3(a) of the EPC Contract, the Employer has accumulated and will continue to accumulate Taking-Over Retention Money (as defined in the EPC Contract) from amounts claimed by the Contractor under Sub-Clause 14.4.1 of the EPC Contract.
- C** The Parties have agreed that the Contractor can provide one or more bank guarantees in substitution for the continued accumulation of Taking-Over Retention Money by the Employer.
- D** The Parties are entering into this Deed of Variation for the purpose of recording the agreement reached and the necessary variations to the EPC Contract pursuant to Sub-Clause 1.18 of the EPC Contract.
- E** The Parties further acknowledge that this Deed of Variation falls within the scope of Art. 116, para (1) p.7 of the PPA but does not amount to a substantial amendment as defined therein and in particular 1) this Deed of Variation does not introduce conditions which, had they been part of the public procurement award procedure, would have attracted additional participants in the procedure, would have allowed for the admission of participants other than those initially selected, or would have led to the acceptance of a tender other than that originally accepted; 2) the Deed of Variation does not entail benefits to the Contractor which were not known to the rest of the participants in the procedure as it keeps the the concept of retention associated with the issue of the Taking-Over Certificate but replaces only the format in which it will be provided; 3.) the Variation does not affect the subject-matter or extent of the public procurement contract and it is therefore legally admissible and valid.



1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Deed of Variation, save where defined otherwise herein or save where the context otherwise requires, defined terms in the EPC Contract (including those defined terms in Sub-Clause 1.1) shall apply and have effect in relation to the words and expressions used in this Deed of Variation and the interpretation and construction of this Deed of Variation.

1.2 Interpretation

In this Deed of Variation, except where the context otherwise requires the provisions of Sub-Clause 1.2 of the EPC Contract shall apply as if set out in full herein.

2. COMMENCEMENT

2.1 This Deed of Variation shall be effective from the date of its execution by both Parties.

3. PRECEDENCE OF DOCUMENTATION

3.1 This Deed of Variation and the EPC Contract shall be read together and interpreted as a single agreement. Subject to clause 3.2 and unless expressly stated to the contrary herein, in the event of any inconsistency between the provisions of this Deed of Variation and the EPC Contract, this Deed of Variation shall take precedence.

3.2 The variations of the terms of the EPC Contract made by this Deed of Variation are otherwise without prejudice to the Contractor's obligations under the EPC Contract and the rights and remedies of the Employer under the EPC Contract.

4. VARIATION

4.1 The Parties agree that the EPC Contract is hereby amended pursuant to Sub-Clause 1.18 of the EPC Contract to give effect to the amendments set out in the Schedule to this Deed of Variation.

4.2 The Parties confirm that save as expressly amended by this Deed of Variation the EPC Contract shall continue in full force and effect.

5. ENTIRE AGREEMENT

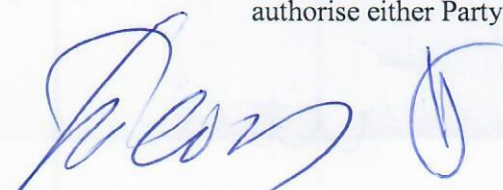
This Deed of Variation constitutes the entire agreement between the Parties in connection with the subject matter of this Deed of Variation and supersedes all prior representations, communications, negotiations and understandings concerning the subject matter of this Deed of Variation.

6. COSTS AND EXPENSES

Each Party shall bear its own costs and expenses (including advisers' fees and expenses) in connection with the preparation, negotiation, execution and completion of this Deed of Variation.

7. NO AGENCY

Nothing contained in this Deed of Variation is intended to or shall be construed as creating a partnership, agency, joint venture or legal relationship of any kind between the Parties that would impose liability upon one Party for the act or failure to act of the other Party, or to authorise either Party to act as agent for the other.



8. THIRD PARTY RIGHTS

This Deed of Variation shall not and shall not purport to confer on any third party any benefit or right to enforce any term of the Deed of Variation whether by way of the Contracts (Rights of Third Parties) Act 1999 or otherwise.

9. COUNTERPARTS

This Deed of Variation may be executed in any number of counterparts, and by the Parties as separate counterparts but will not be effective until each Party has executed at least one counterpart. Each counterpart shall constitute an original of this Contract, but all the counterparts shall together constitute one and the same Contract.

10. DISPUTE RESOLUTION

The provisions in Clause 20 (*Claims, Disputes and Arbitration*) of the EPC Contract shall apply in respect of any dispute arising out of or in connection with this Deed of Variation.

11. GOVERNING LAW AND JURISDICTION

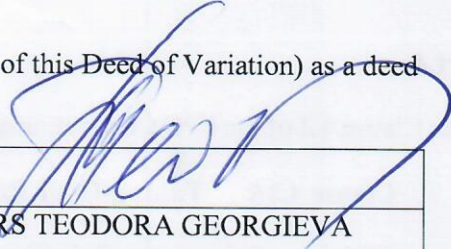
The Deed of Variation and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in all respects in accordance with the laws of England and Wales.

Two handwritten signatures in blue ink, one large and one smaller, located at the bottom left of the page.Handwritten initials 'ct' in blue ink, located at the bottom right of the page.

IN WITNESS WHEREOF the Parties hereto have caused this Deed of Variation to be executed as a deed on the day and year stated above.

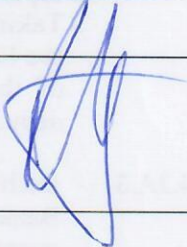
AUTHORISED SIGNATORY OF THE EMPLOYER

Executed (but not delivered until the date written at the start of this Deed of Variation) as a deed by an authorised signatory of **ICGB AD**

Signature:	
Name (block capitals):	MRS TEODORA GEORGIEVA
Title:	Executive Officer
Place of Signing:	

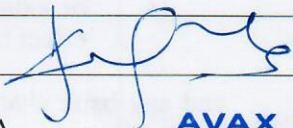
AUTHORISED SIGNATORY OF THE EMPLOYER

Executed (but not delivered until the date written at the start of this Deed of Variation) as a deed by an authorised signatory of **ICGB AD**

Signature:	
Name (block capitals):	MR KONSTANTINOS KARAYANAKOS
Title:	Executive Officer
Place of Signing:	

AUTHORISED SIGNATORY OF THE CONTRACTOR

Executed (but not delivered until the date written at the start of this Deed of Variation) as a deed by an authorised signatory of **AVAX S.A.**

Signature:	
Name (block capitals):	MR KONSTANTINOS MITZALIS
Title:	Managing Director
Place of Signing:	

Authorized by:
Minutes of the meeting of the Board of Directors of AVAX S.A.

DATED: 11.11.2020

AVAX S.A.
GENERAL CONTRACTORS
16. AMAROUSSIU-HALANDRIOU STREET
151 25 MAROUSSI - ATHENS - GREECE
TEL. (+30) 210 6375000 - FAX: (+30) 210 6104380
V.A.T. Registration Nr: EL 094183623
General Commercial Registry
(G.E.MI.) Nr: 913601000

SCHEDULE

AMENDMENTS TO THE EPC CONTRACT

Part A

After Clause 4.2 of the EPC Contract, insert a new Clause 4.2A as follows:

Clause 4.2A Taking-Over Retention Bank Guarantee

- 4.2A.1 Subject to Sub-Clause 14.4.4, in respect of an Interim Certificate, the Contractor may provide a bank guarantee ("**Taking-Over Retention Bank Guarantee**") in substitution for all or part of the Taking-Over Retention Money to be deducted pursuant to that Interim Certificate or the Taking-Over Retention Money that has been already deducted pursuant to any Interim Certificate .
- 4.2A.2. The Contractor shall ensure that each Taking-Over Retention Bank Guarantee provided by it is at all times valid and enforceable and fully recoverable in accordance with its terms until the date on which it is released by the Employer pursuant to Sub-Clause 4.2A.4. The Contractor may, instead of providing a separate Taking-Over Retention Bank Guarantees, increase the value of a Taking-Over Retention Bank Guarantee, which has already been provided to the Employer by the Contractor pursuant to Sub-Clause 4.2A.3, by all or part of the Taking-Over Retention Money which would otherwise have been deducted pursuant to an Interim Certificate.
- 4.2A.3 Each Taking-Over Retention Bank Guarantee shall be provided by an Approved Bank and the Contractor shall provide to the Employer an original of each bank guarantee issued in favour of the Employer, the contents and form of which shall be subject to the prior approval of the Employer, and which shall meet the following requirements::
- 4.2A.3.1 be an unconditional and irrevocable bank guarantee issued by an Approved Bank which obliges the issuing bank to pay upon first written demand by the Employer, stating a default of the Contractor or any other grounds for enforcing the Taking-Over Retention Bank Guarantee under this Contract, regardless of the objections of the Contractor or third persons;
- 4.2A.3.2 be on such terms that the Approved Bank will pay within five (5) business days to the Employer the sum of the due payment or part thereof as stated by the Employer in a written request; and
- 4.2A.3.3 be valid until the date which is sixty (60) days following the date on which the Contractor has become entitled to receive the Taking-Over Certificate and, if required, the bank guarantee validity shall be extended or it shall be replaced with a new one in order to give effect to this requirement,

and any bank charges for issuing and maintaining the Taking-Over Retention Bank Guarantee, as well as administering a demand by the Employer on a Taking Over Retention Bank Guarantee where there are grounds for that, shall be at the expense of the Contractor.

AX S.A.
CONTRACTORS
251 ATHENS GREECE
TAX (+30) 210 918420
V.A.T. Registration No. 21 9947394
Official Commercial Registry
IC 141119121



- 4.2A.4 The Employer shall release the Taking-Over Retention Bank Guarantees after sixty (60) days following the date the Contractor has become entitled to receive the Taking Over Certificate pursuant to this Contract provided that a claim pursuant to Sub-Clause 4.2A.6 has not been notified under a Taking-Over Retention Bank Guarantee prior to the expiry of such period.
- 4.2A.5 The release of the Taking-Over Retention Bank Guarantees shall be effected by returning each original to the Contractor's Representative or another authorised person.
- 4.2A.6 The Employer may enforce a Taking-Over Retention Bank Guarantee in the following circumstances:
- 4.2A.6.1 where the Contractor has failed to satisfy the conditions identified in Sub-Clause 10.1.1 for issue of a Taking-Over Certificate within the Time for Completion; or
 - 4.2A.6.2 where the Contractor has failed to remedy a defect for which he is responsible under the Contract in accordance with the requirements of the Contract; or
 - 4.2A.6.3 where the Employer is entitled to terminate under Sub-Clause 15.2 (*Termination by Employer*), irrespective of whether notice of termination has been given

4.2A.7. Where Taking-Over Retention Money has been deducted and retained by the Employer before or after the date on which this Deed of Variation has become effective, the Contractor may at any time provide a valid Taking-Over Retention Guarantee to secure the release and payment of the retained money by the Employer to the Contractor. The Employer shall pay the relevant Taking-Over Retention Money to the Contractor together with the next bi-monthly payment following receipt by the Employer of the corresponding Taking-Over Retention Guarantee from the Contractor.

4.2A.8. The submission of a valid Taking-Over Retention Guarantee pursuant to Sub-Clause 4.2A.3 by the Contractor shall be a condition precedent solely for the release of Taking-Over Retention Money and shall not otherwise affect the payment procedure which shall proceed as provided for in the Contract

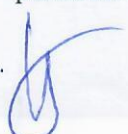

Part B

Insert the following new definition in Sub-Clause 1.1 of the EPC Contract:

- (i) **"Taking-Over Retention Bank Guarantee"** shall have the meaning given in Sub-Clause 4.2A.1;

Amend the clauses of the EPC Contract listed below as follows:

- (ii) In Sub-Clauses 14.4.5, after "valid VAT Invoice" in lines 1 and 6, insert "(and, if required by the Contractor pursuant to Clause 4.2A.1, a valid Taking-Over Retention Bank Guarantee in substitution for all or part of the Taking-Over Retention Money to be deducted pursuant to the Interim Certificate)". After "valid invoice" in lines 4 and 7, insert "(and, where required by the Contractor pursuant to Clause 4.2A.1, said valid Taking-Over Retention Bank Guarantee)".



- (iii) In Sub-Clauses 14.4.6, after “valid VAT Invoice” in line 1, insert “(and, where required by the Contractor pursuant to Clause 4.2A.1, a valid Taking-Over Retention Bank Guarantee)”.
- (iv) In Sub-Clause 15.2.1.13, after “or Advance Payment Guarantee” insert “or Taking-Over Retention Bank Guarantee(s)
- (v) In Sub-Clause 15.2.1.14, after “or Advance Payment Guarantee” in line 2 insert “or Taking-Over Retention Bank Guarantee(s)”, and after “and/or Advance Payment Guarantee” in line 2 insert “and/or Taking-Over Retention Bank Guarantee”.

