

- (c) Upon any such rejection of LNG pursuant to Clause 5 title and risk in the cargo concerned shall revert to Seller.

5.3 Verification.

The verification of the quality of LNG for the purpose of determining whether it meets the above specifications shall be carried out in accordance with the provisions of Clause 12. Analysis of the constituent elements described in Clause 5.1(b) and Clause 5.1(c) shall be made pursuant to Clause 12.4. Calculation of Gross Heating Value (Mass) shall be made pursuant to Clause 12.5. Calculation of Gross Heating Value (Volumetric) shall be made pursuant to Part 1 of Attachment C.

CLAUSE 6 - PRICE6.1 General

- (a) The Contract Price shall be calculated and expressed in US Dollars to the nearest one-one hundredth of a cent (four places after the decimal point) per MMBtu. The Annual Reconciliation Amount shall be expressed in US Dollars.
- (b) The Contract Price and Annual Reconciliation Amount shall be calculated by reference to sales of LNG and Regasified LNG (whether purchased from Seller or other LNG suppliers) by Buyer or any Marketing Affiliate to customers at delivery points within the states of Massachusetts, Connecticut, Vermont, Rhode Island, New Hampshire and Maine ("New England Market Area") from the Receiving Facilities. For the avoidance of doubt, nothing in this Clause 6 shall be construed to limit Buyer's right to resell LNG or Regasified LNG (whether purchased from Seller or other LNG suppliers) outside the New England Market Area, it being understood between the Parties that the provisions of this Clause 6 are intended only to establish the prices to be paid by Buyer to Seller for quantities of LNG purchased under this Agreement, wherever Buyer may resell such LNG or Regasified LNG.
- (c) For purposes of this Clause 6:-
- (i) "Long Term Contract" shall mean a contract for sale by Buyer, or by its Marketing Affiliate, of LNG or Regasified LNG (whether purchased from Seller or other LNG suppliers) to be delivered over a period of 3 (three) years or more;
- (ii) "Short Term Contract" shall mean a contract for sale by Buyer, or by its Marketing Affiliate, of LNG or Regasified LNG (whether purchased from Seller or other

LNG suppliers) to be delivered over a period of more than 1 (one) Month but less than 3 (three) years;

(iii) "Spot Sale Contract" shall mean a contract for sale by Buyer, or by its Marketing Affiliate, of LNG or Regasified LNG (whether purchased from Seller or other LNG suppliers) to be delivered over a period of 1 (one) Month or less.

(d) For purposes of this Clause 6 and Clause 7, Marketing Affiliate shall mean any Buyer's Affiliate, including Distrigas of Massachusetts Corporation ("DOMAC"), which purchases from Buyer LNG or Regasified LNG (whether Buyer purchased such LNG or Regasified LNG from Seller or other LNG suppliers) and resells such LNG or Regasified LNG. Any other Buyer's Affiliate which purchases from a Marketing Affiliate LNG or Regasified LNG (whether purchased from Seller or other LNG suppliers) and resells such LNG or Regasified LNG shall be deemed to be an End User Affiliate for purposes of this Clause 6. For purposes of this Clause 6 and Clause 7, a Marketing Affiliate shall be deemed not to be a customer of Buyer.

#### 6.2 Contract Price.

For any Month during the term of this Agreement, the Contract Price shall be determined by multiplying the greater of the Monthly Buyer's Sales Price or the Monthly Reference Price by the Net Back Fraction; provided, however, that during the Initial Supply Period, the Contract Price shall be determined by multiplying the Monthly Buyer's Sale Price by the Net Back Fraction and provided further with respect to any Stand-alone Long Term Contract Allotment, the Contract Price shall be determined as set forth in Clause 6.9.

### 6.3 Net Back Fraction.

The Net Back Fraction ("NBF") for any value of Monthly (or Annual) Buyer's Sales Price or Monthly (or Annual) Reference Price or any Stand-alone Long Term Contract Price (herein referred to collectively as "Applicable Price") shall be as follows:-

(a) for values of Applicable Price of US\$6.0000 per MMBtu or less, the NBF shall equal 0.64;

(b) for values of Applicable Price ("AP") between US\$6.0001 and US\$11.9999 per MMBtu, inclusive, the NBF shall equal:-

$$0.64 + [(AP - 6.0000) \times 0.0066667];$$

(c) for values of Applicable Price of US\$12.0000 or more, the NBF shall equal 0.68.

### 6.4 Monthly Buyer's Sales Price.

(a) The Monthly Buyer's Sales Price for any Month shall be the amount obtained by dividing TP by TN for that Month. The values of TP and TN shall be determined as follows:-

(i) TN shall equal the total number of MMBtus of LNG or Regasified LNG (whether purchased from Seller or other LNG suppliers) which are sold by Buyer or any Marketing Affiliate to customers at delivery points within the New England Market Area during that Month; provided however, that TN shall not include quantities attributable to any Stand-alone Long Term Contract Allotment, quantities to be otherwise excluded from this calculation pursuant to Clause 6.9, quantities sold to End User Affiliates to be excluded from this calculation pursuant to Clause 6.8, or quantities to be

excluded from this calculation pursuant to Clause 6.4(c); and

(ii) TP shall equal the total proceeds accrued to Buyer or any Marketing Affiliate from those sales included in the calculation of TN for that Month, provided that any supply reservation payments, demand charges, exchange premiums and payments of a similar nature shall be included in TP as they accrue to Buyer or its Marketing Affiliate during such Month for any sales by Buyer and its Marketing Affiliates in any Month of LNG or Regasified LNG (whether purchased from Seller or other LNG suppliers) to customers at delivery points within the New England Market Area, minus any Transportation Costs as calculated below.

(b) Transportation Costs shall mean the total sum, if any, payable by Buyer, with respect to those sales included in the calculation of TN, for transportation (including transportation by exchange or displacement and transportation of LNG (whether purchased from Seller or other LNG suppliers) by truck (lorry)) between the tailgate of the Receiving Facilities and any other delivery point within the New England Market Area for deliveries of such sales to customers during the Month at such delivery point, provided however that Transportation Costs for deliveries transported by intra- and inter-state pipelines and local distribution companies shall be under tariffs, rate schedules or transportation agreements reflecting the type of gas supply service agreed between Buyer or any Marketing Affiliate and their respective customers; and provided further that Transportation Costs may include costs reasonably incurred for storage and regasification of LNG (whether purchased from Seller or other LNG suppliers) at LNG storage facilities other than the Receiving Facilities but shall not include costs associated with the receipt,

storage or regasification of LNG (whether purchased from Seller or other LNG suppliers) at the Receiving Facilities or the delivery of such LNG or Regasified LNG (whether purchased from Seller or other LNG suppliers) at the tailgate of the Receiving Facilities.

- (c) There shall be excluded from the determination of TN and TP any quantities and proceeds and associated Transportation Costs derived from any Long Term Contract with customer(s) of Buyer or any Marketing Affiliate which were entered into by Buyer or the Marketing Affiliate prior to the Date of First Commercial Supply under this Agreement and which provide for delivery (commencing prior to the Date of First Commercial Supply) to such customer(s) of specified quantities of natural gas derived from LNG delivered to Buyer under supply contract(s) with other LNG supplier(s) and as to which Buyer has agreed with such supplier(s) to allocate quantities on a basis comparable to that provided in Clause 6.9 below; provided however that if the maximum annual quantity deliverable pursuant to such contract(s) increases after the Date of First Commercial Supply or if the parties to such contract(s) agree after the Date of the First Commercial Supply to renew or extend the term of the contract(s), sales attributable to such increases, renewals or extensions shall be included in TN and TP or, at Buyer's sole discretion, shall be presented to Seller as a Stand-alone Long Term Contract Allotment pursuant to Clause 6.9.

#### 6.5 Monthly Reference Price.

The Monthly Reference Price shall not apply during the Initial Supply Period, but thereafter shall apply to, and be calculated for any Month during each full or any portion of a Contract Year. Subject to Clause 6.5(c) the Monthly Reference Price shall be determined as follows:-

- (a) For any Month in the period beginning November through February inclusive:-

$$\text{Monthly Reference Price} = (0.30 \times \text{PK}) + (0.15 \times \text{WS}) + \\ (0.20 \times \text{B}) + (0.35 \times \text{CD})$$

where:-

PK = the price in U.S. dollars of No. 2 distillate oil, computed on an MMBtu basis by multiplying by 7.2, the sum of 75% (seventy five per cent) of the arithmetic average of the high and low prices per gallon of "No. 2 Fuel Oil, Max 0.2% Sulfur, Contract Barges, NY Harbor" for the current Month, as published by "Platt's Oilgram", and 25% (twenty five per cent) of the arithmetic average of the high and low prices per gallon of "No. 2 Heating Oil, Spot Cargoes, NY Harbor" for the current Month, as published by "Platt's Oilgram". Monthly average price shall be computed in the same manner as in "Platt's Oilgram Monthly Price-Average Supplement."

WS = the arithmetic average of the commodity charge for gas in U.S. dollars per MMBtu to be delivered to Massachusetts utilities under the highest three rate schedules chosen from Algonquin WS-1, Conteval F-2, National Fuel F-3 and Boundary (as such schedules may be replaced from time to time), as reported by filings made by the interstate pipeline suppliers at the Federal Energy Regulatory Commission ("FERC") for the subject Month. The price for any rate schedule for a Month shall be computed as the weighted average of the price filed and in effect during each Day of such Month, multiplied by the number of Days such

price is in effect, the sum total then being divided by the total number of Days in such Month.

B = the price in U.S. dollars of No. 6 fuel oil, 0.3% sulfur grade computed on an MMBtu basis, by dividing by 6.38 the sum of 70% (seventy per cent) of the arithmetic average of the high and low prices per barrel of "No. 6 Fuel Oil, Max 0.3% Sulfur, Estimated Contract Cargo Delivered New York Harbor Prices" and 30% (thirty per cent) of the arithmetic average of the high and low prices per barrel of "No. 6 Fuel Oil, Max. 0.3% Sulfur, high pour, Estimated New York Spot Cargo Prices" and "No. 6 Fuel Oil, Max 0.3% Sulfur, low pour, Estimated New York Spot Cargo Prices" as published by "Platt's Oilgram" for the current Month; less the arithmetic average cost of transportation per MMBtu (as disclosed in filed tariffs or contracts provided to Seller from time to time) from the tailgate of the Receiving Facilities to such customer or customers in the northeastern United States as are capable of substituting natural gas produced from vaporized LNG for No. 6 fuel oil, 0.3% sulfur grade. Monthly average price shall be computed in the same manner as in "Platt's Oilgram Monthly Price-Average Supplement."

CD = the higher of the commodity gas price in U.S. dollars per MMBtu payable under Tennessee Gas Pipeline Rate CD-6 or Algonquin Gas Pipeline Rate F-1 (as such schedules may be replaced from time to time), as reported by filings made by Algonquin and Tennessee at FERC for the subject Month. The price for any rate schedule for a Month shall be computed as the weighted average of the price filed and in effect during each Day of such Month,



multiplied by the number of Days such price is in effect, the sum total then being divided by the total number of Days in such Month.

provided, however, that if  $(0.30PK + 0.20B)$  is greater than  $(1.25)(0.15WS + 0.35CD)$ , then  $(0.30PK + 0.20B)$  shall be deemed to equal  $(1.25)(0.15WS + 0.35CD)$ , and that if  $(0.30PK + 0.20B)$  is less than  $(0.75)(0.15WS + 0.35CD)$ , then  $(0.30PK + 0.20B)$  shall be deemed to equal  $(0.75)(0.15WS + 0.35CD)$ .

- (b) For any Month in the period beginning March through October inclusive:-

Monthly Reference Price = SG

where:-

SG = the arithmetic average of (i) the monthly average of the weekly average New England Spot City Gate Prices for sales of gas to gas utilities, as reported in "Natural Gas Intelligence Gas Price Index", and (ii) the average of the high and low monthly New England Spot City Gate Gas Price as reported in effect on the first day of the Month in "Inside F.E.R.C.'s Gas Market Report"; provided, however, that subject to determination under Clause 6.12 and correction at the Annual Reconciliation pursuant to Clause 6.6, if either of the above stated monthly spot prices shall not be available, then the other shall be used to determine SG; if neither monthly spot price shall be available, SG shall be taken as the sum of the average price of spot gas delivered to pipeline in Louisiana, USA and the average firm transportation rate from Louisiana to New England calculated at a 100% (one hundred per cent) load factor including

associated fuel costs. In such calculation of SG, the average price of spot gas delivered to pipeline in Louisiana shall be taken as the arithmetic average of (aa) the monthly average of the weekly average spot gas prices for gas delivered to Tennessee Gas Pipeline and Texas Eastern Transmission (Zone A) in North Louisiana for the Month as reported in "Natural Gas Intelligence Gas Price Index" and (bb) the average of the high and low spot gas prices for gas delivered to Tennessee Gas Pipeline and Texas Eastern Transmission in Louisiana as reported in effect on the first day of the Month in "Inside F.E.R.C.'s Gas Market Report". The firm transportation rate shall be taken as the average of (1) the firm transportation rate and associated fuel charges for transportation over 1,200 (one thousand two hundred) miles in effect on Tennessee Gas Pipeline for the Month of delivery computed at a 100% (one hundred per cent) load factor, and (2) the sum of the firm transportation rates and associated fuel charges for transportation on Texas Eastern Transmission (Zone A receipt and Zone D delivery) and Algonquin Gas Transmission for the Month of delivery, computed at a 100% (one hundred per cent) load factor.

- (c) During the Build-up Period, for any Month in the period beginning November through February inclusive, the Monthly Reference Price shall be 85% (eighty five per cent) of the formula set forth in Clause 6.5(a).
- (d) During the Build-up Period, for any Month in the period beginning March through October inclusive, the Monthly Reference Price shall be computed in accordance with the formula set forth in Clause 6.5(b).

6.6 Annual Reconciliation Amount.

(a) Promptly following the end of each Contract Year beginning with the Contract Year in which the Initial Supply Period ends, the Parties shall calculate:-

(i) the weighted average of the Monthly Reference Prices for each Month of the Contract Year (excluding Months in which there is a Force Majeure event at the Receiving Facilities), weighting each Month by the Adjusted Quantity, as determined below, (the "Annual Reference Price"); and

(ii) the weighted average of the Monthly Buyer's Sales Prices (adjusted to reflect actual quantities sold and proceeds receivable therefrom and Transportation Costs payable in connection therewith) for each Month of the Contract Year (excluding Months in which (aa) there is a Force Majeure event at the Receiving Facilities or (bb) Buyer and its Marketing Affiliates did not have any sales to customers within the New England Market Area), weighting each Month by the Adjusted Quantity, as determined below, ("Annual Buyer's Sales Price").

The Adjusted Quantity for any given Month shall be the arithmetic average MMBtus per Month of LNG loaded during the Contract Year minus the MMBtus of loaded LNG attributable in such Month to Stand-alone Long Term Contract Allotments.

(b) If the Annual Reference Price so calculated shall differ from the Annual Buyer's Sales Price so calculated, the aggregate price receivable by Seller for quantities loaded during the Contract Year (adjusted to exclude those quantities attributable to Stand-alone Long Term Contract Allotments) shall be recalculated by multiplying such total quantities loaded by the Net Back Fraction multiplied by the

higher of the Annual Reference Price or the Annual Buyer's Sales Price.

- (c) The difference, if any, between the aggregate revenue which shall have been paid to Seller in respect of such quantities prior to such recalculation and the aggregate revenue so recalculated shall be the Annual Reconciliation Amount. If the aggregate revenue which shall have been paid to Seller in respect of such quantities prior to such recalculation is less than the aggregate revenue so recalculated, the Annual Reconciliation Amount shall forthwith be paid by Buyer to Seller pursuant to Clause 7. If the aggregate revenue which shall have been paid to Seller in respect of such quantities prior to such recalculation is more than the aggregate revenue so recalculated, the Annual Reconciliation Amount shall forthwith be paid by Seller to Buyer pursuant to Clause 7.
- (d) Months in the Initial Supply Period shall be excluded from the calculation of Annual Reference Price and Annual Buyer's Sales Price. To the extent necessary, the Parties shall make corrective adjustments to the Monthly Buyer's Sales Price for each Month in the Initial Supply Period to reflect actual quantities sold and proceeds receivable therefrom and Transportation Costs payable in connection therewith. Any resulting difference in the aggregate revenue which should have been paid to Seller for LNG loaded during the Initial Supply Period shall be promptly paid by the appropriate Party to the other Party.

#### 6.7 Undertaking of Buyer.

- (a) Buyer shall throughout this Agreement diligently seek to maximise the proceeds under Clause 6.4(a)(ii) by negotiating or causing to be negotiated with customers terms and conditions (including price) which in Buyer's reasonable

commercial judgment are the most favourable available to Buyer in the New England Market Area and in the prevailing circumstances. This obligation to market diligently shall not be construed to require Buyer to charge any particular price or price-level to a customer or to limit Buyer's right to resell LNG or Regasified LNG (whether purchased from Seller or other LNG suppliers) outside the New England Market Area.

- (b) Buyer agrees that all sales by Buyer and its Marketing Affiliates will be undertaken as if they were arm's length transactions unaffected by other relations or transactions between Buyer or Marketing Affiliates and their customers.
- (c) If Buyer elects to enter into any agreement with a Marketing Affiliate for the purchase and resale of LNG or Regasified LNG (whether purchased by Buyer from Seller or from other LNG suppliers), Buyer shall cause such Marketing Affiliate to undertake the obligations of Clause 6.7(a) and Clause 6.7(b).
- (d) Without prejudice to the obligations of Buyer or its Marketing Affiliates to Seller, nothing herein shall be construed to affect or alter any rights, obligations or undertakings of Buyer or its Marketing Affiliates under any LNG supply contract(s) with supplier(s) other than Seller.

#### 6.8 End User Affiliate Transactions.

- (a) For purposes of this Clause, "End User Affiliate" shall mean all Buyer's Affiliates, other than Marketing Affiliates, and any entity of which 10% (ten per cent) or more of the outstanding shares, limited partnership units, or similar interests are owned by Buyer or any of Buyer's Affiliates.

- (b) Prior to entering into any Short Term Contract or Long Term Contract with any End User Affiliate, Buyer or its Marketing Affiliate shall present such Short Term Contract or Long Term Contract to Seller. Seller shall elect within the time period specified by Buyer or its Marketing Affiliate (which time period shall be reasonable) whether Seller wishes sales pursuant to such Short Term Contract or Long Term Contract to be included in the calculation of Monthly Buyer's Sales Price. If Seller elects to exclude such sales from the calculation or if Seller fails to make an election in the specified time period, Buyer shall exclude any and all sales pursuant to such Short Term Contract or Long Term Contract from the calculation of Monthly Buyer's Sales Price.
- (c) Prior to entering into any Spot Sale Contract with any End User Affiliate, Buyer or its Marketing Affiliate shall use its reasonable efforts to present such Spot Sale Contract to Seller, and Seller shall elect within the time period specified by Buyer or its Marketing Affiliate whether it wishes sales pursuant to such Spot Sale Contract to be included in the calculation of Monthly Buyer's Sales Price. Unless Seller has elected to include such sales in the calculation within the time period specified, Buyer shall exclude any sale pursuant to such Spot Sale Contract from the calculation of Monthly Buyer's Sales Price.
- (d) Seller's actions pursuant to this Clause 6.8 shall be solely for the purpose of calculating the Contract Price under this Agreement and shall not be construed to be an approval or acceptance of any term of such sales transaction. No action by Seller pursuant to this Clause 6.8 shall be deemed to create a contractual relationship between Seller and any End User Affiliate or to create any rights in such End User Affiliate against Seller.

6.9 Waiver of Reference Price on Stand-alone Long Term Contract Allotments.

- (a) No later than 30 (thirty) Days after executing any Long Term Contract for sale by Buyer or any Marketing Affiliate of LNG or Regasified LNG (whether purchased from Seller or other LNG suppliers), Buyer may present such contract to its LNG suppliers (including Seller), together with all information either requested by Seller or otherwise necessary to evaluate such contract. Among other items, Buyer shall indicate to Seller Buyer's proposed allocation of quantities (including the methodology for attributing loaded quantities to customer sales and Buyer's proposed treatment of the annualised pricing of such sales) under such Long Term Contract to Seller. Such allocation shall reflect Buyer's reasonable estimate of quantities available from Seller and other LNG suppliers during the term of such Long Term Contract and not otherwise attributed to previously designated Stand-alone Long Term Contract Allotments or comparable allocations to which other LNG Suppliers have agreed with Buyer. Within 30 (thirty) Days of presentation of such Long Term Contract to Seller (or any other period specified by Buyer if longer), Seller may elect to designate the quantity which Buyer has proposed to allocate to Seller as a "Stand-alone Long Term Contract Allotment."
- (b) If Seller elects not to designate its allocation as a Stand-alone Long Term Contract Allotment, Buyer may substitute for Seller's proposed allocation of quantities under such Long Term Contract, LNG or natural gas obtained from other suppliers. If Buyer substitutes LNG or natural gas obtained from other suppliers, the quantities of and the proceeds derived by Buyer from sales of such substitute LNG or natural gas shall not be included in the calculation of Monthly Buyer's Sales Price.

- (c) Quantities attributable to and proceeds receivable from Stand-alone Long Term Contract Allotments or comparable allocations under Long Term Contracts which have been presented to Seller pursuant to Clause 6.9(a) and to which other LNG suppliers have agreed with Buyer shall not be included in the calculation of Monthly Buyer's Sales Price and shall not be subject to the Monthly or Annual Reference Price. The Contract Price for that portion of Seller's loadings in a given Month attributable (taking into consideration boil-off, terminal fuel and other losses) to a particular Stand-alone Long Term Contract Allotment for such Month shall be the NBF multiplied by the actual price receivable by Buyer (including demand charges, supply reservation payments, exchange premiums and payments of a similar nature) (the "Stand-alone Long Term Contract Price") from sales made pursuant to such Stand-alone Long Term Contract Allotment minus any Transportation Costs in respect thereof. For the avoidance of doubt, the NBF shall be calculated separately for each such Stand-alone Long Term Contract Allotment and for the Monthly (or Annual) Buyer's Sales Price and the Monthly (or Annual) Reference Price.
- (d) If any material amendment is made independently of an arbitration or a price review followed by compulsory arbitration to a Long Term Contract with respect to which Seller has a Stand-alone Long Term Contract Allotment, Seller shall have the right to evaluate the amended Long Term Contract and to redetermine the treatment of its allotment as a Stand-alone Long Term Contract Allotment.
- (e) Seller's actions pursuant to this Clause 6.9, including its evaluation of Long Term Contracts, shall be solely for the purpose of calculating the Contract Price under this Agreement and shall not be construed to be an approval or acceptance of any term of such contracts. No action by Seller pursuant to this Clause 6.9 shall be deemed to create



a contractual relationship between Seller and any customer of Buyer or of any Marketing Affiliate or to create any rights in such customer against Seller.

6.10 Price Review.

- (a) The Monthly and Annual Reference Price Formulae may be reviewed as provided below. "Price Review" shall mean any review called for by either Party by giving notice pursuant to Clause 6.10(b) for Regular Price Reviews or Clause 6.10(d) below for Special Price Reviews. The Monthly and Annual Reference Price Formulae set forth in Clause 6.5 and Clause 6.6 shall apply until modified by a Regular Price Review or Special Price Review. The Monthly or Annual Reference Price Formula established pursuant to a Regular Price Review or Special Price Review shall apply as of the Month of the Review Date or Special Review Date, subject to any necessary United States government approval (which the Parties shall use their reasonable endeavours to promptly obtain), until modified by a subsequent Regular Price Review or Special Price Review.
- (b) In this Clause 6.10, "Review Date" shall mean the first Day of the Fourth Specified Period and the first Day of every third Contract Year after the Contract Year in which the Initial Supply Date falls. If either Party wishes to call for a review of the Monthly or Annual Reference Price Formula in connection with a Review Date ("Regular Price Review"), such Party shall submit in writing no earlier than 180 (one hundred and eighty) Days before the Review Date and no later than 150 (one hundred and fifty) Days before the Review Date a written request to the other Party to commence discussions on such formula, together with its proposal for a revised formula and an explanation of the basis for said proposal in reasonable detail. Promptly following such request, the Parties shall commence discussions to reach

agreement on a revised formula. If no written agreement has been reached by 100 (one hundred) days before the Review Date, either Party shall have the right, exercisable by notice given to the other Party no earlier than 95 (ninety five) Days before the Review Date and no later than 65 (sixty five) Days before the Review Date, to have such formula for all deliveries on or after the Review Date determined by an Arbitration Tribunal pursuant to Clause 17.

(c) In or after the twelfth Contract Year following the Contract Year in which the Initial Supply Date falls, the Parties agree that any modification of the Monthly and Annual Reference Price Formulae established at a Price Review by agreement or arbitration shall include a reasonable mix of term gas and spot gas elements and shall exclude any oil elements.

(d) In addition to Regular Price Reviews, each Party shall have the right by notice (the "Special Review Notice") to require a review ("Special Price Review") of the Monthly and Annual Reference Price Formulae. A Special Review Notice can only be given on a date:-

(i) occurring during the first Contract Year following the Contract Year in which the Initial Supply Date falls;  
or

(ii) after the first anniversary but before the second anniversary of a Review Date (other than the first day of the Fourth Specified Period);

provided that the total number of such Special Price Reviews shall not exceed 3 (three) for each Party over the duration of the Agreement. The date of giving of a Special Review Notice is be herein referred to as the "Special Review

Date." If no written agreement has been reached within 100 (one hundred) days after the Special Review Date, either Party shall have the right, exercisable by notice given to the other Party no earlier than 105 (one hundred and five) days after the Special Review Date and no later than 135 (one hundred and thirty five) days after the Special Review Date, to have the Monthly or Annual Reference Price Formula for all deliveries on or after the Special Review Date determined by an Arbitration Tribunal pursuant to Clause 17.

- (e) The Parties intend that any Arbitration Tribunal shall determine the Monthly or Annual Reference Price Formula within 90 (ninety) Days after the third arbitrator has been chosen, and the Parties agree to cooperate in order to meet such schedule.
- (f) For the avoidance of doubt, a request for a Regular Price Review or Special Price Review under either Clause 6.10(b) or Clause 6.10(d) above may be made notwithstanding the fact that an Arbitration Tribunal has yet to render its determination with respect to an earlier Price Review.
- (g) In any Price Review, the Parties and an Arbitration Tribunal acting pursuant to Clause 17 shall be guided by the general and specific standards set forth below:-
  - (i) the purpose of a Price Review shall be to assure that the Monthly and Annual Reference Price Formulae continue to reflect the market value of natural gas including LNG (whether purchased from Seller or other LNG suppliers), taking into account the economic and competitive circumstances then prevailing in the natural gas market in the New England Market Area and adjusted for transportation costs for transportation of LNG or Regasified LNG (whether purchased from Seller or other LNG suppliers) between the tailgate of the

Receiving Facilities and the delivery points in such Market Area;

- (ii) the Monthly and Annual Reference Price Formulae should establish a price which the Buyer should reasonably be able to obtain for resale of LNG or Regasified LNG (whether purchased from Seller or other LNG suppliers) in a reasonable mix of Long Term Contracts, Short Term Contracts and Spot Sales, recognizing that some portion of the resale contracts will be for short term, interruptible deliveries because of the logistics of an LNG operation and further recognizing that to the extent that sales are made pursuant to Stand-alone Long Term Contract Allotments which are neither included in the calculation of Monthly (or Annual) Buyer's Sales Price nor subject to the Monthly (or Annual) Reference Price, such mix should be correspondingly adjusted in favour of Short Term Contracts and Spot Sale Contracts; and
- (iii) the Monthly and Annual Reference Prices should be designed to reflect significant overall market conditions in those market segments reasonably accessible to Buyer or its Marketing Affiliates, on an annual basis, at a time as close as possible to the Review Date or (as applicable) the Special Review Date.

6.11 Price For Clause 4.3 Quantity.

- (a) The price utilised in calculating payments to be made in respect of any Clause 4.3 Quantity during the Build-up Period or any subsequent Contract Year ("Price for Clause 4.3 Quantity") shall be determined by utilising the Applicable Contract Price, as defined below, and the formula set forth in Clause 6.11(c) and Clause 6.11(d).

(b) The Applicable Contract Price for any Contract Year commencing with the Contract Year in which the Initial Supply Period ends shall be the product of the NBF multiplied by the greater of:-

(i) the Annual Buyer's Sales Price; and

(ii) the Annual Reference Price;

calculated for such Contract Year.

(c) During the Build-up Period and the first 12 (twelve) full Contract Years following the Date of First Commercial Supply, the Price for Clause 4.3 Quantity for any given value of Applicable Contract Price shall be determined as set forth below:-

(i) for values of Applicable Contract Price of US\$3.6000 or less, the Price for Clause 4.3 Quantity shall equal Applicable Contract Price multiplied by 95% (ninety five percent);

(ii) for values of Applicable Contract Price ("ACP") between US\$3.6001 and US\$5.5999, inclusive, the Price for Clause 4.3 Quantity shall be calculated by (aa) subtracting US\$3.6000 from the Applicable Contract Price, (bb) multiplying the difference by 0.25, and (cc) adding 3.42 to the resulting product. Accordingly the Price for Clause 4.3 Quantities shall equal  $3.42 + 0.25 (ACP - 3.6000)$ ;

(iii) for values of Applicable Contract Price of US\$5.6000 or more, the Price for Clause 4.3 Quantity shall equal Applicable Contract Price multiplied by 70% (seventy per cent).

- (d) For the period after the expiration of 12 (twelve) full Contract Years after the Date of First Commercial Supply, the Price for Clause 4.3 Quantity shall equal Applicable Contract Price multiplied by 65% (sixty five percent).
- (e) (i) The price for any Interim Clause 4.3 Quantity Payment ("Interim Clause 4.3 Quantity Payment Price"), Year End Interim Payment ("Year End Interim Payment Price") or Accelerated Expiry Interim Payment ("Accelerated Expiry Interim Payment Price") payable by Buyer in accordance with the provisions of Clause 7.4 or 7.13 shall be determined as set forth in Clauses 6.11(c) and (d) above except that the Applicable Contract Price shall be the product of the NBF multiplied by the greater of:-
- (aa) the arithmetic average of the Monthly Buyer's Sales Prices for the Relevant Period (as defined below); or
- (bb) the arithmetic average of the Monthly Reference Prices for the Relevant Period.
- (ii) Relevant Period shall mean:-
- (aa) in the case of an Interim Clause 4.3 Quantity Payment, the 6 (six) month period ending on 31st March of the applicable Contract Year;
- (bb) in the case of a Year End Interim Payment, the applicable Contract Year; and
- (cc) in the case of an Accelerated Expiry Interim Payment, the period beginning with the first Month of the Contract Year in which the accelerated

expiry occurred and ending with but not including the Month in which the Final Notice was issued.

6.12 Missing or Incorrect or Redetermination of Data.

If the Parties are no longer able to obtain a publication or filing used to generate an element of the Monthly (or Annual) Reference Price, or if publications or filings contain a typographical or clerical error, or if any such publications or tariff filings cease to report the prices, charges, or rates necessary to calculate the Monthly (or Annual) Reference Price, or if such prices, charges, or rates continue to be reported but under different names, either Party may notify the other of such an error or lack of information. The Parties shall attempt to agree on a correction or an alternative source of information. If the Parties are unable to agree within 10 (ten) days of the giving of such notification, and if the Date of Initial Supply shall have occurred, either Party may refer the matter to an Expert, pursuant to Clause 16, to provide the information or designate an appropriate substitute for such information or source of information. This provision shall apply both to errors and lack of information that affect a particular Month and those that affect longer periods. Subject to any necessary United States government approvals, any adjustments to price as a result of an Expert determination shall apply with retroactive effect to the Monthly (or Annual) Reference Price, or the Annual Reconciliation Amount beginning in the Month in which either Party notifies the other of an error or lack of information. The Expert determination shall be final and binding upon the Parties unless within 5 (five) Days of the determination, either Party gives notice to the other Party that it wishes to have the matter referred to an Arbitration Tribunal pursuant to Clause 17 for redetermination. In such event, notwithstanding Clause 16.5, the Expert determination shall apply unless redetermined by the Arbitration Tribunal, in which event any invoice or statement

calculated on the basis of the Expert determination shall be recalculated within 15 (fifteen) Days after the redetermination by the Arbitration Tribunal to reflect such redetermination. The amount of any overpayment or underpayment shall be promptly paid or repaid with interest from the date when such overpayment or underpayment was made.

#### 6.13 New Taxes, Impositions and Price Controls

If, subsequent to the date of this Agreement, any governmental entity imposes any new tax (including excise taxes and import or export duties or fees, but excluding income taxes) or new price control that both (a) affects directly or indirectly quantities of LNG supplied to Buyer under this Agreement, or regasified LNG (from any source) sold by Buyer or its Marketing Affiliate, and (b) has an adverse effect on:-

- (i) in the case of Buyer, the total revenues of Buyer and its Marketing Affiliate from the sale of LNG or Regasified LNG attributable to LNG purchased under this Agreement less the FOB cost of such LNG ("Buyer's Net Revenues"), treating Buyer, its Marketing Affiliate and (if Carrier is an Affiliate) Carrier as a single company with consolidated accounts, (the "Consolidated Entity"), and treating any tax, to the extent such tax is borne by the Consolidated Entity, which affects the LNG Tanker or marine transportation of such LNG as affecting Buyer's Net Revenues; or
- (ii) in the case of Seller, its total revenues under this Agreement, less the cost of Natural Gas purchased by it for liquefaction and sale under this Agreement ("Seller's Net Revenues");

then the Parties shall meet and endeavour in good faith to agree on amendments to this Agreement with respect to such tax or price control.



If the Parties fail to reach agreement within 90 (ninety) days of the commencement of such negotiations, either Party shall have the right within 30 (thirty) days thereafter to request an Arbitration Tribunal convened pursuant to Clause 17 of this Agreement (i) to allocate the effect of the new tax or new price control among the Parties, or, (ii) in the circumstances set out below to bring the Basic Term to an end. The Arbitration Tribunal shall determine (i) whether the new tax or new price control would have an adverse effect on Seller's Net Revenues or Buyer's Net Revenues under this Agreement and if it so determines, it shall further determine (ii) whether the effect of the new tax or new price control can be allocated among the Parties so that the effect, as so allocated, will not create serious hardship for either Party and, if so, what allocation would be appropriate so as to fairly allocate the effect among the Parties. In determining an appropriate allocation, the Arbitration Tribunal shall consider the governmental intent in imposing such new tax or new price control, whether any proposed modification to this Agreement would reduce the total new tax obligation or would increase it, and the ability of the Consolidated Entity to pass on the effect of such new tax to its customers or of Seller to pass on the effect of such new tax to its suppliers.

The Arbitration Tribunal shall modify this Agreement in accordance with its resolution of the above questions; provided however, that prior to such modification becoming effective the Arbitration Tribunal shall determine whether the new tax or new price control would, after giving effect to any such modification, have resulted (if such new tax or new price control and such modification had then been in effect) in a decrease in Seller's Net Revenues or Buyer's Net Revenues of more than 15% (fifteen percent) of what such Net Revenues were during the 12 (twelve) month period immediately preceding the Month in which such new tax or new price control took effect. If the Arbitration Tribunal determines that such would have been the

result, then upon the request of the Party whose Net Revenues are so affected the Arbitration Tribunal shall declare the Basic Term at an end as of the date of such declaration.

For the avoidance of doubt new taxes shall include increases in tax rates and new price controls shall include modification to existing price controls.

CLAUSE 7 - INVOICING AND PAYMENT7.1 General.

- (a) With respect to any quantity of LNG purchased by Buyer hereunder and loaded at Seller's Facilities, Buyer shall make a payment on account pursuant to an initial invoice based upon the estimated Contract Price, in accordance with Clause 6 and Clause 7.2. Following Seller's receipt of the Monthly Statement, Seller shall determine the amount payable for such quantity on the basis of the actual Contract Price. Such amount payable shall be reconciled with the payment on account pursuant to Clause 7.4 and Clause 7.5. At the end of each Contract Year, the Annual Reference Price and the Annual Buyer's Sales Price shall be calculated, and the Annual Reconciliation Amount shall be determined and paid to Seller or Buyer pursuant to Clause 7.6.
- (b) With respect to any Clause 4.3 Quantity, Buyer shall make a Year End Interim Payment as provided in Clause 7.4(c) and a Final Reconciled Payment pursuant to Clause 7.6; provided however that in the event that Buyer has lifted less than the Target Quantity by 31st March of any Sales Period following the Build-up Period, Buyer shall make an Interim Clause 4.3 Quantity Payment, based upon the Interim Clause 4.3 Quantity Payment Price as calculated pursuant to Clause 6.11(e), for the difference between the Target Quantity and the quantities actually lifted as though such difference were a quantity lifted during the Month of March; provided further that at the time of the Annual Reconciliation, Buyer shall make payment of an Interim Make-up Payment Amount, if any, as set forth in Clause 4.3(b)(ii) with respect to any quantity of Make-up LNG that Buyer did not lift pursuant to Clause 4.3(b)(i).

- (c) For purposes of Clause 6 and Clause 7, a "sale" by Buyer or any Marketing Affiliate shall occur when title passes from Buyer or a Marketing Affiliate to a customer, and references to LNG or Regasified LNG (whether purchased from Seller or other LNG suppliers) "sold" by Buyer or any Marketing Affiliate shall be so construed.
- (d) For purposes of this Clause 7, "Business Day" shall mean any day on which the banking institutions are open for business in the state or commonwealth in which Buyer's corporate headquarters are located.
- (e) Payment of claims for demurrage shall be made in accordance with Clause 10.5.

#### 7.2 Payment on Account.

Not later than 7 (seven) Days in advance of the first Day of the Month in which the Date of Initial Supply is estimated by Seller pursuant to Clause 3.1 to occur, and of each subsequent Month, Buyer shall notify Seller by telex or telecopier of Buyer's best good faith estimate of the Contract Price, as determined pursuant to Clause 6, for such Month, including Buyer's good faith estimate of the Monthly Buyer's Sales Price and Monthly Reference Price and its components, and Stand-alone Long Term Contract Prices. Promptly following the completion of each loading of LNG purchased hereunder, Seller shall send or cause to be sent to Buyer by telex or telecopier a signed initial invoice, substantially in the form of Attachment B (Part I) hereto, for the amount calculated pursuant to the procedures set forth in the final paragraph of this Clause 7.2 and a Certificate on Loading substantially in the form of Attachment B (Part III) hereto. Seller shall at the same time cause to be despatched to Buyer by the fastest reliable means, the signed invoice and all data and documents necessary to determine the quantity of LNG in MMBtus so loaded (including all measurements and calculations in respect

thereof made pursuant to Clause 12). Buyer shall make to Seller a payment on account for such LNG in the amount shown in the initial invoice in immediately available funds by wire transfer to the bank account specified by Seller in accordance with Clause 7.11, on or before the eighteenth Day following the Day of departure of the LNG Tanker from Seller's Facilities, or the fifth Business Day following Buyer's receipt of such telex or telecopy, whichever day is later (the later of such days being hereinafter referred to as the "Due Date").

The amount so payable on account shall be equal to:-

- (a) the product of (i) the quantity of LNG loaded in MMBtus as specified in the aforementioned Certificate on Loading, but excluding that portion of Seller's loadings attributable to sales pursuant to Seller's total Stand-alone Long Term Contract Allotments and (ii) the estimated Contract Price as notified to Seller by Buyer as set forth above for the Month in which loading of such cargo was completed; plus
- (b) the product of (i) the loaded quantity attributable (taking into consideration boil-off, terminal fuel and other losses) to each of Seller's Stand-alone Long Term Contract Allotments and (ii) the respective estimated Stand-alone Long Term Contract Price as notified to Seller by Buyer as set forth above; minus
- (c) any amount required to be subtracted from the foregoing under Clause 7.5, including any interest due on such amounts; minus
- (d) to the extent that any quantity comprises Make-up LNG, the amount previously paid by Buyer in respect of the corresponding Clause 4.3 Quantity including the amount of any Interim Make-up Payment, if paid.

### 7.3 Monthly Statement.

No later than the eighteenth Day following the end of each Month, Buyer shall prepare and deliver to Seller a statement ("Monthly Statement") showing its calculation of the Contract Price, as determined pursuant to Clause 6, for such Month, and reasonable details of the basis for the calculations thereof together with reasonable supporting documentation. Such statement shall include in particular:-

- (a) the calculation pursuant to Clause 6.4(a)(i) of TN for such Month;
- (b) the calculation pursuant to Clause 6.4(a)(ii) of TP for such Month;
- (c) the calculation pursuant to Clause 6.4(b) of Transportation Costs with respect to those sales included in the calculation of TN for such Month;
- (d) Buyer's calculation of Monthly Reference Price and its components; and
- (e) the total quantity of sales during the Month attributable to each of Seller's Stand-alone Long Term Contract Allotments, (taking into consideration boil-off, terminal fuel and other losses), the total revenues accrued thereon; and the Transportation Costs accrued and deducted in respect thereof.

### 7.4 Supplemental Invoice.

- (a) No later than the tenth Day following receipt of the Monthly Statement furnished by Buyer pursuant to Clause 7.3, Seller shall prepare and send to Buyer a supplemental invoice, substantially in the form of Attachment B (Part II) hereto,

in US Dollars for each cargo of LNG purchased hereunder, the loading of which was completed during the Month covered by such Monthly Statement and, where applicable, for an Interim Clause 4.3 Quantity Payment, Year End Interim Payment or Accelerated Expiry Interim Payment.

The amount invoiced shall be equal to:-

(i) the product of:-

(aa) the Contract Price for such Month as calculated pursuant to Clause 6.2; and

(bb) the aggregate quantity in MMBtus of LNG determined, pursuant to Clause 12, as having been loaded during such Month but excluding that portion of Seller's loadings attributable to sales pursuant to Seller's total Stand-alone Long Term Contract Allotments; plus

(ii) the product of:-

(aa) the Stand-alone Long Term Contract Price for such Month as calculated pursuant to Clause 6.9(c) for each of Seller's Stand-Alone Long Term Contract Allotments; and

(bb) the respective loaded quantities attributable (taking into consideration boil-off, terminal fuel and other losses) thereto; less

(iii) the amount determined pursuant to Clauses 7.2(a) and 7.2(b) with respect to such cargo of LNG covered by such invoice; less

(iv) to the extent that the cargo includes Make-up LNG and that any adjustment in Buyer's favour has not been fully reflected by an adjustment to the payment on account under Clause 7.2, then any balance thereof.

- (b) In the event that Buyer has not lifted at least 9,800,000 (nine million eight hundred thousand) MMBtus of LNG, less any quantities of LNG as to which Buyer has no payment obligation under Clause 4.2(c)(iii), (iv), (v) and (vi), ("Target Quantity") by 31st March of a Sales Period following the Build-up Period, an interim payment ("Interim Clause 4.3 Quantity Payment") payable by Buyer shall be added to the amount invoiced on the supplemental invoice for cargoes loaded during the Month of March. The amount of the Interim Clause 4.3 Quantity Payment shall be equal to the Interim Clause 4.3 Quantity Payment Price, as calculated pursuant to Clause 6.11(e), multiplied by the difference between the Target Quantity and the quantity actually lifted, or deemed lifted pursuant to Clause 4.4, by Buyer during the six (6) Month period ending 31st March; provided however that if the quantity scheduled to be loaded under the Delivery Programme for the 6 (six) Month period ending 31st March is less than 9,800,000 (nine million eight hundred thousand) MMBtus, such scheduled quantity (as adjusted to account for any quantities as to which Buyer has no payment obligation under Clauses 4.2(c) (iii), (iv), (v) and (vi)) shall be substituted for the Target Quantity.
- (c) In the event that Buyer has not lifted the Payment Quantity, less 3,000,000 (three million) MMBtus (the "Year End Interim Payment Quantity") for a Sales Period by the last day of such Sales Period, a Year End Interim Payment payable by Buyer shall be added to the amount invoiced on the supplemental invoice for cargoes loaded during the last Month of such Sales Period. The amount of the Year End Interim Payment shall be equal to:-



- (i) the Year End Interim Payment Price, as calculated pursuant to Clause 6.11(e), multiplied by the difference between Year End Interim Payment Quantity and the quantity actually lifted by Buyer during the Sales Period; minus
- (ii) the amount, if any, of the Interim Clause 4.3 Quantity Payment.

#### 7.5 Payment.

- (a) In the event that the supplemental invoice sent by Seller under Clause 7.4 shows a net amount owed to Buyer, such amount plus interest thereon from the Due Date of Buyer's payment of the initial invoice applicable to such cargo covered in the supplemental invoice to the date of the next initial invoice at a rate equal to one percentage point (100 (one hundred) basis points) per annum above the per annum interest rate announced from time to time by Citibank, N.A. as its base rate in effect, shall be subtracted from the computation, pursuant to Clause 7.2, of the amount payable by Buyer in respect of the cargo(es) next following the date of the supplemental invoice, in such a manner as to eliminate as rapidly as possible the amount of such credit. If the amount of the credit has not been credited in full within 15 (fifteen) days following the date of such supplemental invoice, then Seller shall forthwith pay, by wire transfer to the bank account specified in writing by Buyer, such amount not credited plus interest thereon from the Due Date of the initial invoice applicable to such cargo to the date of payment at the rate specified herein.
- (b) In the event that the supplemental invoice shows a net amount owed to Seller, Buyer shall pay to Seller by wire transfer to the bank account designated pursuant to Clause 7.11, such amount plus interest thereon from the Due Date of

the initial invoice to the date of payment at a rate equal to one percentage point (100 (one hundred) basis points) per annum above the per annum interest rate announced from time to time by Citibank, N.A., as its base rate in effect within 10 (ten) days following the date of receipt by Buyer of such invoice.

7.6 Annual Reconciliation.

(a) No later than 90 (ninety) Days following the end of each Contract Year beginning with the Contract Year in which the Initial Supply Period ends, Buyer shall prepare and send Seller all data and documentation necessary for Seller to calculate the Annual Reference Price and the Annual Buyer's Sales Price, in accordance with Clause 6.6, for such Contract Year. No later than 30 (thirty) Days following the receipt of such data and documentation, Seller shall prepare and send to Buyer a statement (the "Annual Reconciliation Statement") showing:-

(i) the Annual Reconciliation Amount, determined pursuant to Clause 6.6, including the calculation of Annual Reference Price and the Annual Buyer's Sales Price;

(ii) the Final Reconciled Payment, which shall be equal to (aa) the product of the Clause 4.3 Quantity if any and the Clause 4.3 Quantity Price, calculated pursuant to Clause 6.11, minus (bb) the sum of the Interim Clause 4.3 Quantity Payment, if any, and the Year End Interim Payment, if any. For the avoidance of doubt, Buyer shall owe the Final Reconciled Payment to Seller if the amount calculated herein is a positive number, and Seller shall owe the Final Reconciled Payment to Buyer if the amount calculated is a negative number.

(iii) the Interim Make-up Payment Amount, if any, as

calculated pursuant to Clause 4.3(b)(ii); and

(iv) the amount of interest due, if any.

- (b) Interest on the Annual Reconciliation Amount shall accrue from the one hundred and eighty second Day of the Contract Year covered by the Annual Reconciliation Statement. Interest on the payment for the Interim Make-up Payment Amount shall accrue from the last Day of the Contract Year. Interest on the Final Reconciled Payment shall accrue from the last day of the Contract Year, provided however, that if Seller owes the Final Reconciled Payment to Buyer and Buyer has made an Interim Clause 4.3 Quantity Payment in such Contract Year, interest shall accrue from the date of payment by Buyer of the Interim Clause 4.3 Quantity Payment to Seller. (Any Day on which interest first accrues pursuant to any sentence in this clause shall be an "Interest Accrual Date".) Interest shall be compounded monthly from the Interest Accrual Date at a rate equal to one percentage point (100 (one hundred) basis points) per annum above the per annum interest rate announced from time to time by Citibank, N.A., as its base rate in effect, until the date of payment.
- (c) The Annual Reconciliation Amount, the Final Reconciled Payment, and the Interim Make-up Payment Amount together with any interest thereon, if owed by Buyer, shall be due and payable to Seller within 45 (forty five) Days following the date of the Annual Reconciliation Statement. The Annual Reconciliation Amount, and the Final Reconciled Payment, together with any interest thereon, if owed by Seller, shall be due and payable to Buyer within 45 (forty five) Days following the date of the Annual Reconciliation Statement.
- (d) If the Annual Reference Price Formula or if the Monthly Reference Price Formula applicable to any Month during the

Contract Year is the subject of a Price Review or Special Price Review which has not been finally determined as of the date of the Annual Reconciliation Statement, Seller shall calculate and Buyer (or where applicable, Seller) shall pay the Annual Reconciliation Amount and the Final Reconciled Payment, on the basis of the Annual Reference Price Formula or Monthly Reference Price Formula in effect prior to the Review Date or Special Review Date. The Annual Reconciliation Amount, so paid shall be adjusted, if necessary, within 30 (thirty) Days after the final determination of such Monthly Reference Price Formula or Annual Reference Price Formula to reflect the final determination.

#### 7.7 Default.

- (a) Upon the payment of any amount under this Clause 7 which was not paid on the due date for payment, the defaulting Party shall in addition pay interest on the amount unpaid compounded monthly at a rate of three percentage points (300 basis points) per annum above the per annum interest rate announced from time to time by Citibank, N.A., as its base rate in effect, calculated from the Day on which the defaulted payment was due until the date of payment.
- (b) If Buyer is in default with respect to any payment obligation under this Agreement, Seller shall send Buyer a notice of default ("Default Notice"), and Buyer shall have 5 (five) Business Days following the giving of such Default Notice to cure the default by payment in full of the amount in default, including interest as specified in Clause 7.7(a), by wire transfer to Seller's bank account. If Buyer fails to cure the default within such period of 5 (five) Business Days, Seller may draw upon the Letter of Credit, furnished by Buyer pursuant to Clause 7.9, for the full amount in default, including interest as specified in Clause

7.7(a). In the event of a draw (including a draw that is subsequently deposited in an escrow account pursuant to Clause 7.9(d)) on the Letter of Credit of the full amount in default at a time when the amount available for such draw at least equals the amount asserted to be in default, Buyer's payment default shall be deemed cured for all purposes under this Agreement.

- (c) If Buyer is in default with respect to any amount in excess of the amount available to draw under the Letter of Credit or if Buyer is in default with respect to Buyer's obligations pursuant to Clause 7.9 (either event being a "Material Default"), Seller shall send Buyer a notice of default ("First Material Default Notice"), and Buyer shall have 10 (ten) Business Days following the giving of the First Material Default Notice to cure the default. Seller agrees that prior to delivering to Guarantor a Notice of Claim with respect to a Material Default, Seller shall have drawn upon any amount(s) available for draw under a Letter of Credit with respect to such Material Default.
- (d) (i) If Buyer has not cured a Material Default within 10 (ten) Business Days following the giving of a First Material Default Notice, Seller may, for so long as such Material Default remains uncured, or if such Material Default is disputed by Buyer, until such time as such dispute is resolved in Buyer's favour by an Arbitration Tribunal pursuant to Clause 17, refuse to make any further loadings of LNG; provided, however, that Buyer shall have the right to furnish a firm, irrevocable commercial letter of credit drawable against an invoice and Certificate on Loading from a bank reasonably satisfactory to Seller and in an amount reasonably satisfactory to Seller. As long as Buyer furnishes such letter of credit, at least 10 (ten) days in advance of the next scheduled loading and of each

subsequent loading, Seller shall continue to load LNG in accordance with the other provisions of this Agreement; provided, however, that if Buyer subsequently fails to furnish such letter of credit hereunder during the period that the Material Default remains uncured or unresolved in favour of Buyer, Seller may, until such time as such Material Default is cured or a dispute in respect of such Material Default is resolved in Buyer's favour, refuse to make any further loadings of LNG, and provided further that in the event such dispute is resolved in favour of Buyer, Seller shall reimburse Buyer for the cost of such letter of credit furnished by Buyer (such reimbursement being Buyer's sole damages for any failure to load by Seller pursuant to this Clause 7.7(d)) and (if Buyer has not furnished such letter of credit and Seller has refused to make loadings) Buyer shall have no obligation to pay for any such LNG not loaded.

- (ii) As soon as a Material Default is cured or, if disputed, such dispute is resolved in favour of Buyer, Seller shall again become obligated to load LNG in accordance with the provisions of this Agreement and, if Seller has ceased to make loadings, shall recommence loading as soon as it is reasonably practicable to do so. Notwithstanding the cure or resolution in favour of Buyer of a dispute in respect of a Material Default, Seller shall have no obligation to load quantities of LNG in substitution for those it refused to load pursuant to this Clause 7.7(d); provided however, that if such Material Default has been cured or resolved in favour of Seller, Seller may by notice to Buyer within 30 (thirty) days of such cure or resolution elect to treat such unloaded quantities as if they were quantities which Buyer did not lift in the exercise of its rights under Clause 4, in which case, upon payment

by Buyer or Guarantor for the relevant Clause 4.3 Quantity, Buyer shall accrue a right to be allocated Make-Up LNG pursuant to Clause 4.5.

- (e) Notwithstanding any other provision of this Agreement, at any time after a Threshold Event (as defined in the Guarantee) has occurred and is continuing, Seller shall have the right (but not the obligation) to give Buyer a notice (the "Final Notice"), the effect of which shall be that the Basic Term of this Agreement shall expire, and subject to the provisions of Clause 2.4, a Make-Up Period will commence in accordance with Clause 2.4, immediately upon the giving of such Final Notice.
- (f) Seller hereby waives any common law, equitable or statutory right to terminate this Agreement unless a Threshold Event has occurred and is continuing, if such right is based solely on the Buyer's failure to satisfy its payment obligations under this Agreement. Seller further agrees that to the extent that its right to terminate this Agreement under its common law, equitable or statutory rights is based on the Buyer's failure to satisfy its payment obligations under this Agreement, Seller's right to recover damages arising from a termination in such circumstances shall be limited to the right to recover the amounts set forth in Clause 13.5 of this Agreement.
- (g) If:-
- (i) the Basic Term of this Agreement expires pursuant to Clause 7.7(e);
  - (ii) Buyer disputes such expiry;
  - (iii) an Arbitration Tribunal convened pursuant to Clause 17

of this Agreement or Clause 7 of the Guarantee subsequently resolves such dispute in favour of Buyer; and

(iv) Seller had acquired use of the Vessel pursuant to the Charter pending completion of the arbitration proceeding,

then Seller shall return the Vessel to Buyer as provided in the Charter; and Seller shall have the right to elect, in its sole discretion, to recommence the Basic Term of this Agreement by giving notice in writing to Buyer within 30 (thirty) Days from the determination of the Arbitration Tribunal. The Basic Term of this Agreement shall then recommence on the expiry of a 30 (thirty) day period from the later of the giving of such notice or the return of the Vessel provided that the Basic Term shall not recommence unless and until Seller has paid any damages with respect to the period from the time Seller acquired possession of the Vessel to the return of the Vessel. If the Basic Term of this Agreement is recommenced pursuant to this Clause 7.7(g), the Seller shall, upon giving notice of its election to recommence the Basic Term of this Agreement, notify the Buyer of the Annual Nominated Quantity for the remaining period of the Contract Year in which the Basic Term recommences, which Annual Nominated Quantity shall be within the range of plus or minus 5% (five per cent) of the product of 28,000,000 (twenty eight million) MMBtus (or during the Build-up Period such lesser amount as is provided in Clause 4.1) multiplied by a fraction of which the numerator shall be the number of Days remaining in the Contract Year in which the Basic Term recommences and the denominator shall be 365 (three hundred and sixty five). For the avoidance of doubt, notwithstanding the suspension of the Basic Term from the date of the Final Notice until the date specified by Seller for the reinstatement of the Basic Term, the date on



which the Basic Term ends pursuant to Clause 2.2(a)(i) shall be the same as it would have been without the suspension of the Basic Term.

- (h) Without prejudice to the obligation of Seller to make any election which it is entitled from time to time to make in accordance with the provisions of Clause 7.7(d) or (as the case may be) Clause 7.7(g) within the 30 (thirty) Days period described therein or otherwise forego the right to make such election, no failure or delay by Seller in exercising any of Seller's rights under this Clause 7.7 shall operate as a waiver thereof.

#### 7.8 Disputes.

If there is any dispute between the Parties as to the amount shown on any initial or supplemental invoice or on any Annual Reconciliation Statement, including but not limited to a dispute arising out of an inspection of Buyer's books and records pursuant to Clause 7.10, such initial or supplemental invoice or Annual Reconciliation Statement shall be paid in accordance with the foregoing provisions of this Clause 7 without set-off or deduction of any kind, and the Parties shall use all reasonable efforts to settle such dispute with all reasonable speed. To the extent that such disputes concern measurement under Clause 12, such measurement disputes shall be resolved by an Expert pursuant to Clause 12.10 and Clause 16. If when any dispute is settled or determined, it is established that any initial or supplemental invoice was not correct, any over- or under-payment shall be promptly paid or repaid. In such event, interest compounded monthly shall be added to the amount of such payment when paid or repaid (as the case may be), and such interest shall be charged from the date when such over- or under-payment was made until the day of such payment or repayment at a rate of three percentage points (300 (three hundred) basis points) per annum above the per

annum interest rate announced from time to time by Citibank, N.A., as its base rate in effect.

7.9 Standby Letter of Credit or Similar Arrangement.

(a) Buyer shall furnish to Seller an irrevocable standby letter of credit from a United States depository institution satisfactory to Seller or other similar arrangement (the "Letter of Credit") outstanding at all times in an amount and in form and substance reasonably satisfactory to Seller. The Letter of Credit shall require that upon presentation of written certification by Seller to such a depository institution that:-

(i) there has been a failure by Buyer to make a payment to Seller pursuant to an invoice or statement rendered in accordance with this Clause 7 on the day on which such payment was due ("Payment Date"); and

(ii) demand for such payment has been made by Seller and has not been satisfied following the giving of a Default Notice pursuant to Clause 7.7 and the expiration of the applicable cure period;

the depository institution shall pay Seller an amount of US Dollars not less than the amount of such payment due, plus accrued interest, calculated pursuant to this Clause 7; provided that such amount shall be subject to the limitations set forth in Clause 7.9(b). Seller's certification shall be accompanied by a copy of the invoice or statement concerned and of the Default Notice, and Seller shall send a copy of the certification and accompanying documentation to Buyer simultaneously with Seller's presentation of such certification and documentation to the depository institution.

- (b) During any Contract Year containing all or any portion of the Initial Supply Period and the Build-up Period and during the first full Sales Period following the Build-up Period, the Letter of Credit for such year shall be for an amount equal to the arithmetic average of the Monthly Reference Prices for each Month of the preceding Contract Year multiplied by (i) the NBF and multiplied by (ii) 3,000,000 (three million).
- (c) During every Contract Year following the first full Contract Year after the Build-up Period, the Letter of Credit shall be for an amount equal to the higher of the Annual Buyer's Sale Price and the Annual Reference Price for the preceding Contract Year multiplied by (i) the NBF and multiplied by (ii) 3,000,000 (three million).
- (d) In the event that Seller makes a draw upon the Letter of Credit to satisfy a claim for payment which claim has been or is disputed by Buyer in writing prior to the draw or within 2 (two) Business Days of such draw, Seller shall place the proceeds of such draw ("Disputed Proceeds") into an interest-bearing escrow account to be established by Seller pursuant to an escrow agreement whose terms and conditions are satisfactory to both Parties and the escrow agent, and which under such circumstances shall be promptly executed by the Parties. Seller shall appoint an escrow agent, which shall be a United States depository institution satisfactory to Buyer. In the absence of a resolution of the dispute, the Parties agree that the dispute shall be resolved by an Arbitration Tribunal pursuant to Clause 17. The Parties intend that such Arbitration Tribunal shall settle the dispute within 90 (ninety) Days after the third arbitrator has been chosen, and the Parties agree to cooperate in order to meet such schedule. The Parties intend that the Arbitration Tribunal shall have the power to direct the escrow agent to disburse the Disputed Proceeds

plus all interest accrued thereon to the Party or Parties to whom the Arbitration Tribunal determines such Proceeds belong.

- (e) Notwithstanding anything to the contrary herein, Seller may draw upon only 1 (one) Letter of Credit with respect to any particular invoice or statement.

7.10 Access to Books and Records.

Buyer shall give Seller the right by its representatives to inspect, at Seller's expense, books and records of Buyer or any Marketing Affiliate which deal with sales and deliveries by Buyer or any Marketing Affiliate of LNG or Regasified LNG (whether purchased from Seller or other LNG suppliers) from the Receiving Facilities, and other relevant information, including Buyer's or any Marketing Affiliate's sales contracts, inventory records, transportation agreements, and pipeline statements (but excluding contracts covered by Clause 6.4(c) to the extent that quantities and proceeds derived from such contracts are excluded from the calculation of Monthly Buyer's Sales Price) for the purpose of verifying and computing amounts payable under this Agreement. Such inspection or inspections shall take place during normal US business hours after Seller has given reasonable notice of its desire for such inspection or inspections. Buyer shall keep all books, records and other information relevant for the purpose of making payments pursuant to this Agreement for at least 5 (five) years after the date on which the relevant payment was or should have been made; provided however that where Buyer is on notice of a dispute, Buyer shall keep all such books, records and other information until such dispute has been finally resolved.

7.11 Method of Payment.

Each Party shall make all payments pursuant to this Agreement in immediately available funds by wire transfer to the bank account

specified in writing from time to time by the other Party and in accordance with agreed procedures as referred to in Clause 24.

7.12 Application of Payments.

All payments or credits, as the case may be, received by Seller or Buyer shall be applied first to interest (if any), and then to the principal amounts owed. Payments shall be applied to amounts owed in the order in which such amounts came due.

7.13 Accelerated Expiry of Basic Term and the Following Make-up Period

(a) Special Supplemental Invoice.

Not later than the tenth day following the end of the Month in which a Final Notice has been issued by Seller or in which the Basic Term has come to an end pursuant to Clause 6.13 or to a Buyer's Notice of Termination (together an "Accelerated Expiry"), Seller shall send Buyer an invoice ("Special Supplemental Invoice"). The amount invoiced shall be equal to:

- (i) any amount previously invoiced (whether pursuant to Clause 7.4 or Clause 7.6) but unpaid with respect to any Clause 4.3 Quantity for any Sales Period; plus
- (ii) the amount of interest due on such amount previously invoiced; plus
- (iii) any amount due but not previously invoiced with respect to any Clause 4.3 Quantity for the Sales Period preceding the Sales Period in which the Accelerated Expiry has occurred; plus

(iv) the amount of interest due on any amount invoiced with respect to such Clause 4.3 Quantity not previously invoiced, such interest accruing from the last day of the Sales Period corresponding to such Clause 4.3 Quantity; plus

(v) the Accelerated Expiry Interim Payment.

(b) Accelerated Expiry Interim Payment.

The Accelerated Expiry Interim Payment shall be an amount payable by Buyer with respect to the Sales Period in which an Accelerated Expiry has occurred. The amount of the Accelerated Expiry Interim Payment shall be equal to:-

(i) the Accelerated Expiry Interim Payment Price multiplied by the sum of:-

(aa) the quantity with respect to which Seller has been notified by Buyer pursuant to Clause 4.3(a) that Buyer is not going to lift during such Sales Period; and

(bb) any other quantity scheduled for lifting during the Months of such Sales Period up to and including the Month in which the Final Notice was issued, but not in fact lifted by Buyer less any quantity as to which Buyer has no payment obligation under Clause 4.2(c)(iii), (iv), (v) and (vi) (the sum of such quantities in (aa) and (bb) being herein referred to as the "Accelerated Expiry Clause 4.3 Quantity"); minus

(ii) any Interim Clause 4.3 Quantity Payment made for such Sales Period.

(c) Payment.

Buyer shall pay to Seller by wire transfer to the bank account designated pursuant to Clause 7.11, the amount of the Special Supplemental Invoice plus interest thereon from the last day of the Sales Period within 10 (ten) days following the date of receipt by Buyer of such invoice. Failure to make such payment within 10 (ten) days following receipt shall result in the extinguishment of Buyer's right to be allocated Make-up LNG with respect to the quantities covered by such invoice unless Guarantor shall have made payment or deemed payment under the Guarantee in respect of such invoice (in whole or in part) within 10 (ten) days of receiving a Notice of Final Demand given in accordance with the Guarantee. For the avoidance of doubt, the extinguishment of Buyer's right to be allocated Make-up LNG shall not affect Buyer's liability for the amounts of the Special Supplemental Invoice.

(d) Annual Reconciliation Following Accelerated Expiry.

Upon the occurrence of an Accelerated Expiry, the Contract Year shall be deemed to have ended on the last day of the Month in which such Accelerated Expiry has occurred, and there shall be an Annual Reconciliation pursuant to Clause 6.6 and Clause 7.6, notwithstanding anything to the contrary therein, for such shortened Contract Year; provided that with respect to such Annual Reconciliation, the Annual Buyer's Sales Price and the Annual Reference Price shall be calculated by averaging only the Months in such shortened Contract Year; and provided further that for purposes of Clause 7.6(a) (ii), the Accelerated Expiry Interim Payment shall be recalculated by replacing the Accelerated Expiry Interim Payment Price with the Price for Clause 4.3 Quantity for such shortened Contract Year, and the amount payable for any Accelerated Expiry Clause 4.3 Quantity shall be equal to

the amount of such recalculated Accelerated Expiry Interim Payment minus the amount of the Accelerated Expiry Interim Payment prior to the recalculation if paid by Buyer.

(e) Make-up Period Following Accelerated Expiry.

During the Make-up Period following an Accelerated Expiry, Seller shall invoice, and Buyer shall make payments, for Make-up LNG in accordance with Clause 6 and this Clause 7; provided, however, that for the purposes of Clause 6 and Clause 7 the Contract Year shall be deemed to be the 12 (twelve) Month period corresponding to the Make-up Period.



CLAUSE 8 - TITLE AND RISK

Title to and all risks in respect of the loss of LNG loaded hereunder (or of its subsequently ceasing to conform to the specifications set forth in Clause 5.1) shall pass to Buyer as the LNG passes the Loading Points.

CLAUSE 9 - FORCE MAJEURE

9.1 Definition.

(a) "Force Majeure" means any event or condition which:-

(i) in the case of Seller:-

(aa) is beyond the reasonable control of Seller; and

(bb) has prevented or delayed or will prevent or delay performance of Seller's obligations under this Agreement (save for the obligation to make any payment due hereunder) in whole or in part; and

(ii) in the case of Buyer:-

(aa) is beyond the reasonable control of Buyer, Carrier or Buyer's Affiliate(s); and

(bb) has prevented or delayed or will prevent or delay performance by Buyer of any obligation of Buyer hereunder (save for the obligation to make any payment due hereunder) or performance of any of the following activities of Buyer, Carrier or Buyer's Affiliate(s), by (as the case may be) Buyer, Carrier or Buyer's Affiliate(s) in whole or in part:

(1) operation of, transportation by, or lifting or receiving LNG on, or discharging LNG from, the LNG Tanker;

(2) operation of the Receiving Facilities;

- (3) unloading, storage or regasification of LNG at the Receiving Facilities;
  - (4) pipeline or truck (lorry) transportation of LNG or Regasified LNG out of the Receiving Facilities; or
  - (5) where such activity is prevented or delayed by an event described in Clause 9.1(b)(ii) or (iii) but not otherwise, purchase, export, import, or sale of LNG, or sale or resale of LNG or Regasified LNG out of the Receiving Facilities.
- (b) Such events or conditions as are referred to in Clause 9.1(a) shall, provided always that they fulfil the requirements set forth in Clause 9.1(a) and below in this Clause 9.1(b), include, but shall not be limited to, circumstances of the following kind:-
- (i) (aa) acts of government(s), acts of the public enemy, wars, blockades, acts of terrorism, military action, civil disturbances, insurrection, riots, nuclear accidents; or similar occurrences;
  - (bb) acts of God, landslides, lightning, earthquakes, fires, explosions, storms or storm warnings, floods, washouts, epidemics or similar occurrences;
  - (cc) strikes, boycotts, lockouts, and other similar industrial or labour disputes and disturbances;
- (ii) the necessity for compliance with any court order, law, statute, ordinance, rule, regulation or directive

issued or promulgated by a governmental body or entity having jurisdiction;

- (iii) the inability to obtain, or the suspension, termination, adverse modification, interruption, or inability to renew, any easement, permit, license, certificate, tariff, consent, authorisation or approval of any entity of government, governmental agency, national, port, local or other authority, or of any body or person holding itself out to be or to act for such authority affecting:-
  - (aa) the operation of the Receiving Facilities, Seller's Facilities, any LNG Tanker or the Natural Gas production, treatment or transportation facilities in Nigeria; or
  - (bb) Seller's ability to purchase, export, load for shipment or sell LNG; or
  - (cc) Buyer's ability to buy, import or sell LNG;
  - (dd) Buyer's or Buyer's Affiliate's ability to sell or resell LNG or Regasified LNG out of the Receiving Facilities;
- (iv) circumstances preventing Seller from loading LNG, or preventing Buyer or Carrier from receiving LNG, including but not limited to:-
  - (aa) perils of the sea, shipwrecks, collisions, the deviating of an LNG Tanker for the purpose of saving life or of rendering assistance to vessels in distress;
  - (bb) damage or breakage to machinery or equipment

affecting:-

- (A) the Natural Gas production facilities in the field, transportation by pipeline, treatment, liquefaction, storage, and loading operations in Nigeria; or
- (B) transportation by LNG Tanker; or
- (C) unloading, storage, or regasification at or pipeline or truck (lorry) transportation out of the Receiving Facilities;
- (v) a failure by a third party to take, pursuant to its agreement with Buyer or Buyer's Affiliate, LNG or Natural Gas regasified from the LNG sold hereunder, but only if such failure is caused by an event or condition which would constitute Force Majeure if the provisions of this Clause 9 (except this subclause (b)) were to govern the contractual relationship between Buyer or Buyer's Affiliate and such third party.

(c) Third Parties.

It is acknowledged that for the purposes of this Clause 9.1 there may be an event or condition which primarily affects a third party or third parties (including without limitation any of Seller's Affiliates or Buyer's Affiliates) which could prevent or delay Seller or Buyer from performing hereunder.

(d) Standards of Conduct.

A Party shall not be deprived of its ability to claim Force Majeure by reason solely of it being shown that, if such Party

had observed some higher standard of conduct than that required by the usual and customary standards of the industry, the event or condition of Force Majeure could have been prevented.

9.2 Excuse of Performance.

(a) (Save for failure to make any payment of any amount due hereunder which shall not be excused for Force Majeure) Seller shall be excused in whole or in part for its failure or delay in performance of its obligations hereunder to the extent that such failure or delay is caused by Force Majeure.

(b) Buyer shall:-

(i) (save for failure to make a payment of any amount due hereunder which shall not be excused for Force Majeure) be excused in whole or in part for its failure or delay in performance of its obligations hereunder to the extent that such failure is caused by Force Majeure;

(ii) be under no obligation under Clause 4.3 or otherwise to pay for any quantity of LNG:-

(aa) which comprises any quantity which Buyer does not lift because Buyer cannot lift it by reason of Force Majeure affecting the LNG Tanker or the operation of the LNG Tanker; or

(bb) which Buyer does not lift which is a quantity which if it had lifted Buyer or any Affiliate of Buyer would not have been able, by reason of Force Majeure, to unload, store or regasify at the Receiving Facilities, or to transport as LNG or Regasified LNG out of the Receiving Facilities, or (in the circumstances described in Clause

9.1(b)(ii) or (iii) but not otherwise) to purchase, export, import, sell or resell as LNG or Regasified LNG.

For the avoidance of doubt:-

- (A) Buyer shall not be excused by reason of Force Majeure from its obligation to pay for any quantity once such quantity has been lifted; and
- (B) Buyer shall not be excused from its obligation to make payment by reason of Force Majeure affecting the Receiving Facilities or any operations carried on at or from the Receiving Facilities which occurs after the commencement but before the completion of loading of any cargo of LNG hereunder even though such Force Majeure may prevent the cargo from being transported to or unloaded at the Receiving Facilities; and
- (C) if there is no obligation to pay for a quantity of LNG by reason of the operation of the provisions of Clause 9.2(b)(ii) then no payment shall be capable of being or becoming due in respect thereof.

### 9.3 Notification.

A Party seeking relief under this Clause 9 shall inform the other of the event or circumstances of Force Majeure or anticipated Force Majeure. Such information shall be given promptly and by the quickest possible means (whether by telephone, telefax or otherwise) ("First Notice") but shall also be confirmed in a written notice conforming to Clause 24 ("Second Notice") within 7 (seven) Days of the occurrence of Force Majeure. Thereafter the Party seeking relief shall with diligence furnish such relevant information as is available appertaining to such circumstances and give an estimate of the period of time required to overcome

such circumstances and of the quantities of LNG which the Party seeking relief will be able to supply or to lift and expects to lift, as the case may be, during such period. The Party seeking relief also shall promptly notify the other Party from time to time of any change in the duration of the period of reduction in quantities of LNG which can be supplied or lifted or any change in the quantities of LNG which the party seeking relief expects to be able to supply or to be able to lift and expects to lift as the case may be during such period. The Party seeking relief shall also from time to time keep the other Party reasonably advised of the status of such Force Majeure and its efforts to overcome the same.

Compliance with this Clause 9.3 shall not be a condition precedent for claiming relief under this Clause 9, but a breach shall give rise to a claim in damages.

#### 9.4 Resumption of Performance.

In the event of Force Majeure, the Party seeking relief under this Clause 9 shall take all reasonable measures to bring about the resumption of the normal performance of this Agreement or in the case of Buyer of the normal activities of the Buyer, Carrier and Buyer's Affiliates as described in Clause 9.1(a)(ii)(bb) as soon as possible including without limitation, in the case of Force Majeure attributable to an event or condition upstream of Seller's Facilities, reasonable measures for the supply of Natural Gas to Seller's Facilities by such means as possible despite the existence of Force Majeure, and in the case of Force Majeure attributable to an event or condition downstream of the Receiving Facilities, reasonable measures for the despatch of Regasified LNG or LNG from the Receiving Facilities by such means as possible despite the existence of Force Majeure; but nothing in this Agreement shall be construed to require either Buyer or Seller to settle a strike, lockout or other industrial dispute or



disturbance by acceding against its sole judgment to the demands of the opposing party or parties to such dispute or disturbance.

9.5 Termination for Extended Force Majeure.

In the event that Force Majeure lasts for 24 (twenty four) consecutive Months or more and that as a result thereof performance hereof is substantially prevented (as defined below), either Party may, without prejudice to all other rights arising out of such Force Majeure, and in the case of notice given by Seller on grounds of Force Majeure in Nigeria subject to the continuing obligations set out in Clause 2.5, bring the Basic Term to an end by 30 (thirty) Days written notice to the other Party at any time after the expiry of such 24 (twenty four) consecutive months. Performance shall be substantially prevented for the purpose of this Clause 9.5 if an event or condition of Force Majeure prevents Buyer's or Seller's performance hereunder or performance of any of the activities of Buyer, Carrier or Buyer's Affiliate described in Clause 9.1(a)(ii)(bb) in relation to at least 28,000,000 MMBtus of LNG during a period of 24 (twenty four) or more consecutive Months affected by Force Majeure.

9.6 Apportionment of Supplies.

- (a) In the event of an event or circumstance of Force Majeure affecting Buyer and the same event or circumstance affecting in the same way any of Buyer's other existing LNG supply contract(s) as notified to Seller prior to the date of this Agreement and existing at the date of the Force Majeure, for the purpose of determining the extent to which Buyer is excused from its obligations hereunder by reason of Force Majeure, (subject to any provision inconsistent herewith in any of Buyer's other existing LNG supply contracts as notified to Seller prior to the date of this Agreement and existing at the date of the Force Majeure and to the extent

permitted by applicable law) any quantity of LNG (whether LNG produced at Seller's Facilities or by another supplier of Buyer) which Buyer is able to purchase, lift, import, unload, store and regasify at the Receiving Facilities and sell or resell and transport as LNG or Regasified LNG (whether produced from LNG supplied hereunder or by another supplier of Buyer) out of the Receiving Facilities, shall be multiplied by a fraction the numerator of which is Buyer's Contracted Quantity and the denominator of which is the aggregate of the Buyer's Contracted Quantity and the corresponding quantities under Buyer's other LNG supply contract(s) existing at the time of the Force Majeure which is (are) also affected by the same event or circumstance, and the product derived from such calculation shall correspond to the quantity of LNG in respect of which Buyer is not relieved from its obligations on account of such Force Majeure.

- (b) If performance of Seller's obligations hereunder to load or sell LNG to Buyer is prevented or excused by reason of Force Majeure, then any quantity of LNG which Seller is able to load and sell from Seller's Facilities shall, to the extent permitted by applicable law and subject as provided below, be made available for lifting by Buyer on a pro rata basis to Buyer with the quantity of LNG made available for lifting by Buyer determined by multiplying the total quantity of LNG that Seller is able to supply from Seller's Facilities (whether for lifting by Buyer or delivery to Seller's other customers) by a fraction the numerator of which is Buyer's Contracted Quantity and the denominator of which is the aggregate of Buyer's Contracted Quantity and the comparable firm entitlements of other customers under contracts existing at the time of the Force Majeure event. Seller's obligation to make LNG available for lifting on a pro rata basis as described herein shall be subject to any provision inconsistent herewith in any of Seller's other existing LNG

sales contracts (as notified to Buyer prior to the date of this Agreement).

CLAUSE 10 - MARITIME TRANSPORTATION10.1 Tankers.

- (a) Buyer shall be responsible for transportation to the Receiving Facilities of the LNG to be loaded hereunder. Buyer shall make arrangements for such LNG to be lifted in full cargo lots by LNG Tankers having a gross cargo capacity of between 120,000 (one hundred and twenty thousand) and 140,000 (one hundred and forty thousand) cubic metres, having specifications and characteristics compatible with Seller's Facilities and otherwise complying with the provisions of this Clause 10 in relation to LNG Tankers.

At least 1 (one) year prior to the Date of Initial Supply (as estimated by Seller), Buyer shall notify Seller of the name and gross cargo capacity of the vessel(s) which it proposes to use to lift LNG commencing as of the Date of Initial Supply (which vessel(s) must satisfy the criteria contained in this Clause 10.1(a)) and shall request Seller's agreement to the use of such vessel(s) (such agreement not to be unreasonably withheld). Thereafter whenever Buyer wishes to propose an additional or substitute vessel, an identical procedure to that in the foregoing sentence shall apply, save that Buyer shall make such proposal a reasonable period of time prior to the initial proposed use of such vessel for lifting LNG hereunder. Any LNG vessel so agreed to by Seller shall be an LNG Tanker for the purposes of this Agreement. Seller shall have the right, at any time after notification of a vessel as a proposed LNG Tanker, to make such inspection thereof as Seller considers appropriate for the purposes of satisfying itself as to the ability of such vessel to lift LNG hereunder, provided that:-

- (i) neither the exercise nor the non-exercise, nor anything done or not done in the exercise or non-exercise by

Seller of such right, shall in any way reduce the responsibility of Buyer, or of the master or owner of such vessel or any other person, to Seller or third parties in respect of such vessel and every aspect of her operation, nor increase Seller's responsibilities to Buyer or third parties for the same; and

- (ii) Seller shall not be liable for any act, neglect or default by itself, its servants, agents or contractors in agreeing to the use of a vessel as an LNG Tanker or (except to the extent Seller's agreement is unreasonably withheld) in failing to so agree.
  
- (b) Any of the nominated LNG vessels shall be able to load at an average rate equal to or greater than 7,600 (seven thousand six hundred) cubic metres per hour against a head of 1 (one) Bar at the ship's manifold, and shall be able to return boil-off LNG at flow rates compatible with an LNG loading rate of 7,600 (seven thousand six hundred) cubic metres per hour.
  
- (c) Each LNG Tanker shall obtain all approvals required from governmental authorities for such LNG Tanker to enter and travel in the territorial waters of the Federal Republic of Nigeria to berth and load its cargo and to depart from Seller's Facilities and port and leave the territorial waters of Nigeria.
  
- (d) Each LNG Tanker shall comply with all federal, state and local laws, rules, regulations and interpretations to which it is subject in Nigeria, including, but not limited to, those for the protection of the environment.
  
- (e) On each LNG Tanker, at least 2 (two) officers, one of whom is the officer in charge of loading the LNG Tanker, shall be fluent in English.

- (f) Buyer shall cause each LNG Tanker to be maintained with the objective of it being in good working order and condition to fulfil this Agreement subject to the provisions of Clause 9.
- (g) Each LNG Tanker shall contain the necessary equipment (as notified by Seller) to ensure compatibility with Seller's integrated ship/shore emergency shut down and release system.
- (h) If an LNG Tanker undergoes a major refit or refurbishment, Buyer shall ensure that such LNG Tanker will have successfully completed all necessary cryogenic and gas burning trials before next lifting LNG hereunder.
- (i) Notwithstanding the foregoing provisions of this Clause 10.1, Buyer may propose to use on a temporary basis LNG vessel(s) of a lesser cargo capacity than, but otherwise complying with the provisions provided for, in this Clause 10.1. Any such proposal shall be by written notice from Buyer containing all the necessary terms for such use, including any appropriate amendments to this Agreement, and Seller shall not unreasonably withhold its consent to such proposal.

## 10.2 Port and Loading Facilities.

### (a) Loading Port Facilities.

Seller shall make available, or cause to be made available, safe port facilities for the loading of LNG purchased hereunder capable of receiving LNG Tankers of the following maximum dimensions:

Overall Length .....	290.00 metres
Width .....	48.00 metres
Draught .....	11.30 metres