

Chapter 3.2 - CAPACITY TRANSFERS BORROWING AND LENDING

3.2.1 No transfers unless expressly permitted and reimbursement of the Operating Company's costs

3.2.1.1 No assignment

The Customer may not assign, mortgage, charge, pledge, dispose of, or otherwise transfer all or part of its rights and/or (if applicable) obligations under the Capacity Agreement, nor grant any right or interest under the Capacity Agreement to any person without the prior written consent of the Operating Company, such consent not to be unreasonably withheld.

3.2.1.2 Reimbursement of transfer costs

The Customer shall pay a fee to the Operating Company, for the purpose of covering the administrative costs of the Operating Company, of one thousand Euros (€1,000) (Indexed) in connection with any Voluntary Transfer in accordance with Clause 3.2.3.

3.2.2 Access Conditions

If any of the following conditions (the **Access Conditions**) are not satisfied within the timing specified below then the proposed Voluntary Transfer or Slot Transfer, as the case may be, shall not become effective:

- (a) each Applicant shall satisfy all of the conditions set out in Clauses 2.1.1 and for these purposes all references to the Customer in Clause 2.1.1 to the Customer shall be deemed to be references to the Applicant in relation to any proposed:
 - i) Voluntary Transfer pursuant to Clause 3.2.3 at the date in accordance with Clause 3.2.3.1(b)(ii);
 - ii) Slot Transfer pursuant to Clause 3.2.4 at the date in accordance with Clause 3.2.4.2.; considering, furthermore, that

at the time of the proposed Transfer the Transfer is in compliance with all Applicable Laws and all applicable Authorisation.
- (b) at the time of the proposed Voluntary Transfer or Slot Transfer there is no material breach or material default by the Customer under the Capacity Agreement, including any failure to pay any amount due under the Capacity Agreement.

If the Applicant satisfies the Access Conditions at the effective date and time of a proposed Voluntary Transfer or Slot Transfer, as the case may be, such Applicant shall become a Permitted Transferee.

3.2.3 Voluntary Transfer

3.2.3.1 Voluntary Slot Transfer of all or a portion of the Customer's Delivery Slots

- (a) For the purposes of Clause 3.2.3 a **Voluntary Slot Transfer** indicates a Voluntary Transfer of the nature described in Clause 3.2.3.1(b)(i).
- (b) Subject to Clause 3.2.3.1(c) and Clause 3.2.3.2, the Customer may transfer the Customer's rights, benefits and corresponding obligations in respect of all or part of (as described below) the Customer's Delivery Slots to a Permitted Transferee in accordance with this Clause 3.2.3 (a **Voluntary Slot Transfer**) if:

- (i) it would result in the Customer transferring the rights, benefit and interest connected to any one or more of the Customer's slots, but not any partial slot, (each whole slot comprising a Berthing Slot, related Subscribed Capacity and related entitlement to Firm Services of the Customer which have, to the extent applicable, been scheduled in the Annual Unloading Schedule, together with the associated rights, obligations and liabilities described in Clause 3.2.3.2); and
 - (ii) the documents in Annex 1 are delivered (to the extent not previously delivered) to the Operating Company in form and substance satisfactory to the Operating Company, all such documents and evidence to be delivered as soon as reasonably practicable and in any case no later than the date falling fourteen (14) Business Days before the end of Month M-2 where M is the Month when the Voluntary Slot Transfer is intended to become effective.
- (c) The Operating Company shall notify the Customer and the Applicant if it approves a proposed Voluntary Transfer no later than the tenth (10th) Business Day following receipt by the Operating Company of all documents and evidence as listed in and in the form required by Annex 1. If the Operating Company does not notify the Customer and the Applicant of such approval by the abovementioned date, such application for a Voluntary Slot Transfer shall be deemed to be rejected. The Operating Company shall only be entitled to refuse approval if any of the requirements set out in Clauses 3.2.2 or 3.2.3.1(a) have not been satisfied. The Voluntary Slot Transfer under Clause 3.2.3.1 which is approved by the Operating Company shall constitute a novation of the preexisting legal relation.
- (d) The Voluntary Slot Transfer shall become effective only after the approval by the Operating Company and the execution and undersigning of the Slot Capacity Agreement.

3.2.3.2 Effect of a Voluntary Slot Transfer

- (a) Save as provided in Clause 3.2.3.2(b), with effect from the date provided by Clause 3.2.3.1(d):
 - (i) the Customer shall transfer to the Permitted Transferee and the Permitted Transferee shall assume all of the Customer's rights, benefit, interest, liabilities and obligations under the Capacity Agreement to the extent these relate to the Subscribed Slot that are the subject of the Voluntary Slot Transfer other than the obligations set forth in Clauses 3.5.3 and 3.5.4 in relation to Minimum Inventory and mandatory LNG deliveries, if any, which obligations shall remain with the Customer and not be transferred to the Permitted Transferee;
 - (ii) the Customer shall retain all of its rights, benefit and interest and shall remain liable to the Operating Company for all its obligations and liabilities under the Capacity Agreement (including the obligation to pay the Service Charges, Adjustments and Monthly Grid Charges), to the extent these relate to the Subscribed Capacity that is not the subject of the Voluntary Slot Transfer;
 - (iii) the Customer's Subscribed Capacity and its number of Berthing Slots shall be reduced temporarily in the case of a Voluntary Slot Transfer to the extent and for the period required to take the Voluntary Slot Transfer into account;
 - (iv) the Voluntary Slot Transfer Capacity Agreement shall enter into full force and effect;
 - (v) the Operating Company shall:
 - a. owe its obligations under the Capacity Agreement with respect to the Subscribed Capacity that is the subject of the Voluntary Slot Transfer to the Permitted Transferee;

- b. be released and discharged from all obligations under the Capacity Agreement to provide the Customer with the Subscribed Capacity that is the subject of the Voluntary Slot Transfer; and
 - c. update the Annual Unloading Schedule and the Ninety Day Unloading Schedule, if any, to name the Permitted Transferee where applicable;
 - (vi) In the case of a Voluntary Slot Transfer, the Customer's Security Amount may be recalculated after the execution of the Slot Capacity Agreement ;
 - (vii) in the case of a Voluntary Slot Transfer, the Security Amount (as defined in the Voluntary Slot Transfer Agreement between the Permitted Transferee and the Operating Company) applicable to the Permitted Transferee shall be determined in accordance with the provisions of such Voluntary Slot Transfer Agreement.
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- (b) A Voluntary Transfer shall not transfer (and the Customer and the Operating Company shall not be released from) any obligations or liabilities which have accrued under the Capacity Agreement before the execution of the Slot Capacity Agreement;
 - (c) The provisions of the Capacity Agreement shall be deemed to be amended as necessary as a consequence of any Voluntary Slot Transfer.

3.2.4 Slot Release and Slot Allocation

3.2.4.1 Slot Release

- (a) If, in accordance with Clause 3.3.1.6(a) or Clause 3.3.2.2(a), the Customer has notified the Operating Company of any Released Slots then the Customer's rights, title, benefit and interest in and to the Released Slots shall be considered transferred only when these are later allocated by the Operating Company. The Customer may not be entitled to any rights, title, benefit and interest in and to such Released Slots and the Customer's Subscribed Capacity shall be reduced to the extent and for the duration of the refusal of such rights, title, benefit and interest.
- (b) The Customer will retain all of the liabilities and obligations arising out of or in connection with the Released Slots (including Fuel Gas Obligation, Minimum Redelivery Obligation and the obligation to pay the Service Charges, Adjustments and Monthly Grid Charges) to the Operating Company unless and to the extent any Released Slot is later allocated by a Slot Release, provided always that the obligations set forth in Clauses 3.5.3 and 3.5.4 in relation to Minimum Inventory and mandatory LNG deliveries (if any) shall remain with the Customer and not be transferred, waived or released .

3.2.4.2 Conditions for Slot Allocation

The Operating Company shall award any Released Slots or Available Slots (each such award being a **Slot Allocation** through a **Slot Capacity Agreement**) at the latest by the date specified in Clause 3.3.1.6(d) or Clause 3.3.2.2(d) in accordance with the following requirements:

- (a) a Released Slot or Available Slot may be awarded only to an Applicant which has notified the Operating Company of its interest in acquiring any one or more Released Slots or Available Slots in accordance with Clauses 3.3.1.6(c) or 3.3.2.2(c) (such notice to be irrevocable) and undertaken in writing to the Operating Company, on a legally enforceable and binding basis, to accept each Released Slots or Available Slot applied for and later awarded;

- (b) the Operating Company shall not be obliged to award Released Slots or Available Slots to any Applicant that does not satisfy all of the Access Conditions as at the Slot Allocation effective time;
- (c) the consideration charged by the Operating Company to any User for the Slot Allocation shall be equal to the Slot Price;
- (d) an Applicant may apply only for full Released Slots or Available Slots except for Released Slots or Available Slots within month M of each Ninety Day Slot Release pursuant to Clause 3.3.2.2 where partial Slots may be applied for;
- (e) the proposed Slot Release shall be in compliance with the Access Conditions pursuant to Clause 3.2.2; and
- (f) if there is more than one Applicant which satisfies the requirements of Clauses 3.2.4.2.(a) and (a) and which has applied for the same Released Slots or Available Slots, then such Released Slots or Available Slots shall be awarded on the basis of the following priority:
 - (i) firstly, to the Applicant which, with reference to such Delivery Slot, has applied for the bigger volume (even bigger than the volumes associated with the Released Slots or Available Slots, but in any case within the limits set forth in Clause 3.3.1.7);
 - (ii) secondly, to the Applicant which has applied for the largest aggregate quantity;
 - (iii) thirdly, among such Applicants on a first-come, first-served basis; and
 - (iv) fourthly, among like Applicants as described in Clause 3.2.4.2(f)(iii) by drawing lots,

It is understood that the allocation of Released Slots or Available Slots pursuant to Clause 3.2.4.2(f)(i) shall take into consideration the regasification capacity already allocated and, in any case, shall not exceed the permitted annual regasification capacity.

The Operating Company shall not allocate any Released Slots or Available Slot in any other circumstance or on the basis of any other procedure non provided for in this Clause. Without prejudice to the foregoing, following the award of any such Released Slots or Available Slots, the Operating Company shall execute and use reasonable endeavours to procure that the Applicant executes the Slot Capacity Agreement referred to in Clause 3.2.4.3(a)(i) as soon as reasonably practicable.

3.2.4.3 Effect of a Slot Allocation

- (a) If the Applicant is so awarded any Released Slot or Available Slot by the Operating Company then:
 - (i) a Slot Capacity Agreement (in the form and on the terms set out in Annex 4) shall enter into full force and effect on the date on which such Released Slot or Available Slot is awarded by the Operating Company to the Applicant (notwithstanding that it may not have been signed by either party on such date);
 - (ii) at the same time as presenting the Slot Capacity Agreement, the Applicant shall provide Required Credit Support, if necessary with its effect postponed to the 1st day of the Month in which the Regasification Service is planned, to comply with the Service Conditions;

- (iii) limitedly to the allocation of the Released Slot and without prejudice to Clause 3.2.4.3(c), the Applicant will assume the liabilities and obligations set out in the Slot Capacity Agreement but in any case the obligations set forth in Clauses 3.5.3 and 3.5.4 in relation to Minimum Inventory and mandatory LNG deliveries (if any) shall remain with the Customer and not be transferred, waived or released in connection with any Slot Allocation.
- (b) save as provided in Clause 3.2.4.3(c), with effect from the date of allocation pursuant to Clause 3.2.4(a)i) (or as otherwise provided below), in relation to the related Slot Allocation:
 - (i) the Customer's liability and/or obligation to pay the Service Charges, Monthly Grid Charges and Adjustments in respect of any Released Slots which are the subject of a Slot Allocation shall be reduced by the relevant Slot Price provided that such reductions shall take effect by way of Adjustment only when (and to the extent that) any equivalent portion of the Slot Price has been paid by the relevant Annual Slot Release User or Ninety Day Slot Release User and received by the Operating Company ; and
 - (ii) the Slot Release or Available Slot Users shall pay the published Slot Price;
 - (iii) the Operating Company shall:
 - (1) owe its obligations under the Capacity Agreement with respect to the Released Slots that are the subject of the Slot Allocation to the Slot Release User; and
 - (2) with effect from the date referred to in Clause 3.2.4.1(a), be released and discharged from all obligations under the Capacity Agreement to provide the Customer with the Released Slots that are the subject of the Slot Allocation, provided always that, once the Applicant becomes a Slot Release User, the Operating Company shall be bound by its obligations under Clause (a)(iii) notwithstanding such release.
- (c) A Slot Allocation shall not transfer (and the Customer and the Operating Company shall not be released from) any obligations or liabilities which have accrued under the Capacity Agreement before the date pursuant to Clause 3.2.4.3(a)i).

3.2.4.4 Reduction of the Security Amount

If there is a Slot Allocation, the Customer's obligations under Clause 3.1.1 shall not be amended or otherwise affected by a Slot Allocation and the Security Amount may be reduced as a result of any Slot Allocation.

3.2.5 Inter-User Arrangements

3.2.5.1 Inter-User Agreement

Each User and the Operating Company shall execute the Inter-User Agreement in the form set out in Annex 2 which shall reflect the provisions of Clauses 3.2.5.2 to 3.2.5.4 (inclusive) and which also may include such other provisions as shall be set out in the Inter-User Agreement from time to time.

3.2.5.2 Allocation of Cargoes

- (a) The Operating Company shall provisionally allocate, on a forward-looking basis, the energy units (in GJ) of each Cargo scheduled to be Unloaded during the three (3) Months period of the Ninety Day Unloading Schedule (Month M, Month M+1, and Month M+2) to the accounts of each User, in accordance with the following formula: