

## **SECTION 2: ACCESS TO SERVICES**

### **Chapter 2.1 - SERVICE ACCESS REQUIREMENTS**

#### **2.1.1 Compliance with Service Conditions**

Access to the Regasification Service at the Terminal is granted in an impartial manner and on equal terms to all parties, whether natural or legal persons, provided that they meet the following requirements.

The Applicant shall satisfy, and declares that it satisfies in the regasification capacity request, all of the following conditions, which must have been met at the time of regasification capacity request (under the capacity allocation processes set forth in Clauses 2.1.5.2, 2.1.5.3, 2.1.5.4, 2.1.8 and 2.1.9) and for the duration of the Service Period (the **Service Conditions**):

a) The Applicant shall be a Transportation Service User pursuant to article 13 TIRG or, should this requirement not be satisfied, the Applicant shall appoint one or more Transportation Service Users to whom to allocate the Gas quantities nominated at the Redelivery Point for the redelivery to SRG submitting its declaration in accordance with Annex 5, and, in any case, it will indemnify and hold the Operating Company harmless from and against any default by the Users of the Transportation Service indicated by the Applicant pursuant to article 13.6 TIRG.

b) the Applicant shall meet the credit and insurance requirements envisaged, on a case-by-case basis by Chapter 3.1;

c) the Applicant certifies the availability of LNG Carriers approved for the unloading in the Terminal or it undertakes to deliver the LNG through vessels compatible with the specifications of the Terminal to be authorized according to the procedures established and defined by the Operating Company in the Technical Manuals, so that the risk of a failure of the authorization procedures is assumed by the Applicant; and

d) the Applicant shall possess all other Authorisations necessary for (i) the performance of all activities under, connected with and ancillary to, the Capacity Agreement, and (ii) the exercise of its rights and performance of its obligations under the Capacity Agreement.

The Applicant shall comply with all the Applicable Law concerning the exercise of its rights, the fulfilment of its obligations and the execution of the connected or ancillary activities that are performed under the Capacity Agreement. At the time the regasification capacity will be used, the Users shall be authorized by the Ministry of Economic Development to import LNG pursuant to article 3 of Legislative Decree 164, 23 May 2000.

This is without prejudice to the controls performed by the Ministry for Economic Development and by the Competent Authority. If during these controls, it is established that the relevant requirements are not met, the allocated capacity may not be subject to scheduling/transfer by the User, without prejudice to the payment of all the charges connected to that capacity and the release provided under art. 17 of the Regulation (EC) No. 715/2009. In these cases, without prejudice to any decision and instruction by the Ministry for Economic Development and by the Competent Authority, no compensation will be due for the selling of the capacity to third parties.

#### **2.1.2 Notification of compliance and non-compliance**

In case:

a) The User does not comply with or ceases to comply with one or more Services Conditions and/or

b) The Transportation Service Users appointed by the User pursuant to art. 13.6 TIRG do not comply with or cease to be compliant with one or more the requirements for transportation service access

the User shall notify the Operating Company immediately after becoming aware of such event or circumstance providing reasonable details of the reason for such failure and/or, as the case may be, make any reasonable effort to ensure the Transportation Service Users meet again the requirements set forth in the Network Code.

#### **2.1.3 Consequences of failure to meet the Service Conditions**

- a) Without prejudice to Clauses 2.1.3b)(ii), 2.1.3b)(iii), 2.1.3b)(iv), 5.3.2 and/or 5.3.3, if the User and/or the Transportation Service Users fail(s) to comply with the Service Conditions:
- (i) the Operating Company may, without any liability on the part of the Operating Company, immediately suspend or discontinue the provision, in part or in whole, of the Regasification Service to the User for the duration of such non-compliance; and
  - (ii) the User shall indemnify and hold harmless the Operating Company from and against all Loss suffered or incurred by the Operating Company arising out of or in connection with any such failure by the User and/or any acts performed by the Operating Company pursuant to Clause 2.1.3 including any redelivery of the User's Gas pursuant to Clause 2.1.3b)(ii).
- b) If the provision of the Regasification Service to the User is suspended in accordance with Clause 2.1.3a):
- (i) the Operating Company shall not allow the User to moor its LNG Carrier at the Terminal or, if the LNG Carrier is already moored at the Terminal, then the Operating Company shall be entitled to order the LNG Carrier to depart from the Terminal with immediate effect, subject to the requirements of the Technical Manuals and any applicable Maritime Regulations;
  - (ii) The Operating Company shall be entitled to regasify the User's LNG and redeliver the User's Gas to the Redelivery Point in accordance with any redelivery profile which the Operating Company considers appropriate in its sole discretion so as to ensure that the User's Inventory is reduced by such amount that, after having complied with the User's obligations under Clause 3.4.2 and Chapter 3.5, the User's Inventory is equal to zero (0), provided that the entitlement of the other Users to the Continuous Redelivery Service is under no circumstances adversely affected by such arrangements;
  - (iii) the User will continue to fulfil its payment obligations under Clause 5.2.1.2 and to pay the sums due under Clauses 5.3.1.1 and 5.3.1.2;
  - (iv) the User shall continue to comply with its Minimum Redelivery Obligation and to pay for the Gas to cover Consumption and Losses

#### **2.1.4 User's obligation to act as Reasonable and Prudent User**

- a) The User shall, for the duration of the Capacity Agreement, act as a Reasonable and Prudent User.
- b) The User shall and shall procure that each member of the User's Group shall, ensure strict compliance with all applicable operating and safety rules and procedures of the Operating Company and/or the Terminal, as set out in the Terminal Manuals, and with all applicable International Standards and Applicable Laws.

#### **2.1.5 Capacity allocation at the beginning of Gas Year**

The allocation of regasification capacity at the start of Gas Year relates to the Continuous Regasification Service and refers to the offer and allocation of Continuous Capacity which may be allocated by the Operating Company subsequent to the publication of the Continuous Capacity available pursuant to Clauses 2.1.5.2, 2.1.5.3 and 2.1.5.4. The Continuous Capacity made available by the Operating Company for allocation and associated with each Delivery Slot is equal to:

- i) the available capacity remaining subsequent to the previous allocation procedures envisaged by Clause 2.1.5 (Primary Capacity);
- ii) the capacity made available to the Operating Company for allocation pursuant to Clause 3.2.3.1 (Secondary Capacity); and

It being understood that, in the award procedures, priority will be given to Primary Capacity over Secondary Capacity pursuant to article 5 paragraph 12 TIRG in accordance with the provisions of the rules of the Regasification Auction Platform.

##### **2.1.5.1 Continuous Capacity allocation process**

The purpose of the allocation process pursuant to this Clause, is to allocate Continuous Capacity, in accordance with Clauses 2.1.5.2, 2.1.5.3 and, 2.1.5.4 and a corresponding number of Berthing Slots as published on the Operating Company's website. The regasification capacity, expressed in  $m^3_{liq}/year$ , made available by the Operating Company for allocation with corresponding number of Berthing Slots, is equal to:

- i) Capacity available following the previous multi-year allocation processes;
- ii) Capacity made available to the Operating Company for allocation pursuant to article 8, paragraph 2, TIRG;
- iii) made available to the Operating Company for allocation pursuant to article 14, paragraph 3, TIRG;

Continuous Capacity is allocated to parties that meet the Service Conditions for periods of one or more Gas Years (annual or multi-year allocation), in accordance with article 5 TIRG. The Continuous Capacity will be associated with a Maximum Number of Permitted Berthing Slots, calculated as follows (rounded down to the lowest whole number):

$$\text{Maximum Number of Permitted Berthing Slots} = \frac{\text{ACQ (m}^3\text{liq)}}{\text{CAP\_SLOT}_K}$$

Where:

$\text{CAP\_SLOT}_k$  is the minimum regasification capacity associated with a Monthly Slot in the k-th Gas Year pursuant to Clause 2.1.5.3. and

**ACQ** = the annual contract quantity of LNG (expressed in  $m^3_{liq}$ ), as specified for each Continuous Capacity User in its Capacity Agreement for a particular Gas Year, subject to adjustment in accordance with the terms of the Regasification Code. Therefore, the ACQ indicates the quantity of LNG that a User is entitled to Unload at the Terminal in such Gas Year.

The Maximum Number of Permitted Berthing Slots will be discretionary determined by the Operating Company, and such decision may not be challenged by the Users.

### 2.1.5.2 Annual and Multi-year Allocation Process with expression of interest

On 15 March of each year the Operating Company will publish the Continuous Capacity available for allocation from the second (2<sup>nd</sup>) Gas Year to the twenty-fifth (25<sup>th</sup>) Gas Year following that of allocation.

By 1 April of each Year, each interested party may send the Operating Company one or more expressions of interest using the form attached to this Regasification Code (Annex 1), indicating the interval according to the following criteria:

- i. requests must relate to intervals of consecutive Gas Years;
- ii. the first of the Gas Years concerned may not be later than the beginning of the sixth (6<sup>th</sup>) Gas Year following the Gas Year of award;
- iii. the minimum duration is five (5) Gas Years, if the expression of interest refers to at least one Gas Year between the sixth (6<sup>th</sup>) and the fifteenth (15<sup>th</sup>) Gas Year following the Gas Year of award;
- iv. the minimum duration is two (2) Gas Years, if the entire interval falls within the period between the second (2<sup>nd</sup>) and the fifth (5<sup>th</sup>) Gas Year following the Gas Year of award;

indicating the capacity of interest expressed in number of Delivery Slots and regasification capacity associated with the latter for each Gas Year.

On the basis of the expressions of interest received, the Operating Company shall prepare, in compliance with the following criteria, a proposal to the Authority for the offer of capacity within the subsequent allocation process:

1. one or more capacity products are defined based on the Gas Year of commencement of the capacity service and the number of adjacent Gas Years for which regasification capacity is made available;

2. the regasification capacity offered and possibly allocated for each product shall be the same in all Gas Years to which the product refers;
3. each product is defined with the objective of maximising the value of the allocated capacity, taking into account, for the purposes of the starting date, the interest expressed for products of at least two consecutive Gas Years in the period up to the fifth (5<sup>th</sup>) Gas Year following the Gas Year of award, and of at least five (5) consecutive Gas Years from the sixth (6<sup>th</sup>) Gas Year following the gas Year of award onwards, taking into account, for the purposes of duration, consistency with the development of long-term import projects, in accordance with the provisions of article 5 of the TIRG.

Following this assessment with the Authority, the Operating Company, by 15 April of each year, shall publish the Continuous Capacity expressed in Monthly Slots/year available for award.

By 5 May of each Year each Applicant that meets the Service Conditions shall:

- a. sign the capacity commitments in accordance with the provisions of Clause 2.1.7;
- b. provide adequate financial guarantees in accordance with the provisions of Clause 3.1.1.1.;

In order to participate in the capacity allocation, the Applicant must be eligible to operate on the Regasification Auction Platform in accordance with the relevant rules.

Starting from 7 May of each Gas Year each Applicant will send its request for Continuous Capacity for the regasification capacity identified on the basis of the expressions of interest received through the Regasification Auction Platform. The Continuous Capacity will be requested in accordance with the procedures envisaged by its operational regulation. The Continuous Capacity requested through the Regasification Auction Platform will be divided according to the different Continuous Capacity associated to the Monthly Slots.

For each Gas Year the Continuous Capacity referred to in Clause 2.1.5.1i) is allocated as a priority. In the event that the available Continuous Capacity is not sufficient to fully satisfy capacity requests, the Operating Company shall allocate the Continuous Capacity made available pursuant to Clause 2.1.5.1ii). Where the number of requests exceeds the total capacity referred to in Clauses 2.1.5.1i) and 2.1.5.1ii), the Operating Company shall allocate the available Continuous Capacity pursuant to Clause 2.1.5.1iii).

The award will be made on the basis of an ascending clock auction as described in article 17 of EU regulation no. 459/2017 and in accordance with the rules of the Regasification Auction Platform, with a Reserve Price determined in accordance with article 7 paragraph 1 TIRG. The results of the auction will be available to Users on the Regasification Auction Platform.

Monthly Slots will be awarded in accordance with Clause 2.1.5.3.

On the date the expressions of interest are submitted, and for the sole purpose of defining the starting date of the multi-year products with the aim of maximising the value of the allocated capacity, by 1 April, each party may send the Operating Company its interest in the regasification capacity allocation processes referred to in Clause 2.1.5.3.

### **2.1.5.3 Annual and Multi-Year Allocation Process without expression of interest**

Each party has the right to request, for periods of one Gas Year, with effect from 1 October of the same Year, up to twenty-five (25) subsequent Gas Years, regasification capacity (if available), expressed in Monthly Slots/year.

By 15 June of each Gas Year the Operating Company will publish the Continuous Capacity still available for the allocation from the first (1<sup>st</sup>) Gas Year to the twenty-fifth (25<sup>th</sup>) Gas Year subsequent to that of allocation. The Continuous Capacity will be made available in Monthly Slots.

By 28 June of each Year each Applicant that meets the Service Conditions shall:

- a) sign the Capacity Agreement in accordance with the provisions of Clause 2.1.7;
- b) provide adequate financial guarantees in accordance with the provisions of Clause 3.1.1.1.

It is understood that in order to participate in the allocation of capacity, the Applicant must be authorised to operate the Regasification Auction Platform in accordance with the relevant rules.

On 1 July each Applicant will send its request for Continuous Capacity through the Regasification Auction Platform in accordance with the procedures envisaged by the relevant operational regulation.

For each Gas Year, the Continuous Capacity referred to in Clause 2.1.5.1i) is allocated as a priority. In the event that available Continuous Capacity is not sufficient to satisfy capacity requests, the Operating Company shall allocate the Continuous Capacity made available pursuant to Clause 2.1.5.1ii). Where the number of requests exceeds the total Foundation Capacity referred to in Clauses 2.1.5.1i) and Clause 2.1.5.1ii), the Operating Company shall allocate the Continuous Capacity pursuant to Clause 2.1.5.1iii).

The award will be made on the basis of an ascending clock auction as described in article 17 of EU regulation no. 459/2017 and in accordance with the rules of the Regasification Auction Platform, with the Reserve Price. The results of the auction will be available to users on the Regasification Auction Platform.

In relation to the first (1<sup>st</sup>) Gas Year, by 15 July, each awardee, including awardee users under Clauses 2.1.5.2 and 2.1.5.4, may indicate its preferences for each Month through the Regasification Auction Platform. In each Month, the Available Delivery Slots will be awarded in the following order:

- i) the party that has been awarded Continuous Capacity in the allocation process completed in the remotest Gas Year;
- ii) of the parties that have been awarded Continuous Capacity in the same Gas Year, priority will be given to the party that has been awarded Continuous Capacity for a higher Unitary Bid Price in relation to the Available Delivery Slot(s) corresponding to the Continuous Capacity which has been awarded in relation to such Unitary Price;
- iii) of the parties that have been awarded Continuous Capacity for the same Unitary Bid Price, priority will be given to the party that has been awarded the highest Continuous Capacity; and
- iv) of the parties that have been awarded Continuous Capacity for the same Unitary Bid Price and for the same Continuous Capacity, priority will be given to the party that first expressed its preferences.

It is agreed that in the selection of the Available Delivery Slots, the awardees shall guarantee the most regular distribution possible of such slots in the various months in the Gas Year in accordance with article 10, paragraph 4 TIRG and the rules of the Regasification Auction Platform. In the implementation of this principle, the User shall indicate its preferences relating to the Available Delivery Slots by allocating each Available Delivery Slot to the fraction of the Gas Year produced by dividing the twelve (12) months that make up the Gas Year by the number two (2), three (3), four (4), six (6) or twelve (12) that is closest to, but not higher than, the number of awarded Available Delivery Slots. If the number of Available Delivery Slots is not divisible by two (2), three (3), four (4), six (6) or twelve (12), the operation will be repeated with the remaining Available Delivery Slots until the residual amount is zero (0) or one (1). Then, any remaining Available Delivery Slot may be allocated freely. It being understood that the preferences expressed by the Users do not give rise to any right of the User in relation to the award of the Available Delivery Slots indicated, since only the Operating Company may assess the preferences expressed by all the Users in accordance with the priority criteria established by Clause 2.1.5.3 of the Regasification Code.

In the event that the awardee has not expressed its preferences, the Operating Company will allocate to such User the Available Delivery Slots that are still available after the preferences expressed by the other parties awarded Continuous Capacity, in such a way as to guarantee a distribution of all the Available Delivery Slots allocated to all the Users that is as regular as possible throughout the Gas Year and based on a discretionary assessment by the Operating Company, which the relevant User may not in any way challenge. The outcome of the scheduling of the Available Delivery Slots in each Month of the Gas Year will be available on the Regasification Auction Platform.

By 12:00 on 20 July, each awardee may indicate the order of preference of the Available Delivery Slots in each Month via the Regasification Auction Platform. The Available Delivery Slots will be awarded

with the same priorities described above. If the awardee has not expressed its preferences for the Available Delivery Slots scheduled in the first quarter of the Gas Year, such party will be automatically assigned the first Available Delivery Slots relating to the Month or Months in question. The outcome of the scheduling of the Available Delivery Slots in each Month of the Gas Year will be available on the Regasification Auction Platform.

Subsequent to the aforementioned deadline, each awardee may indicate its preference at any time by choosing from the Available Delivery Slots that are still available at the time of communication of its preference, based on the order in which the awardee made the communication. The awardee's right to choose will be suspended and may not be exercised from 14:00 on the fifth (5<sup>th</sup>) Business Day prior to that on which the regasification capacity allocation procedures envisaged by Clauses 2.1.8.1 and 2.1.8.2 will take place until 14:00 of the tenth (10<sup>th</sup>) Business Day of the subsequent Month, in conjunction with any priority of choice to which the awardees are entitled subsequent to the subsequent allocation procedures. If the parties awarded regasification capacity pursuant to this Clause have not communicated their preference in relation to the Available Delivery Slots for Months M, M+1 and M+2 by 14:00 on the fifth (5<sup>th</sup>) Business Day prior to the start of Month M-1, such parties will be automatically allocated the first Available Delivery Slot for the Month in question based on the order of priority described above by allocating the first Delivery Slots to the Continuous Capacity Users. The outcome of the scheduling of the Available Delivery Slots in each Month of the Gas Year will be available on the Regasification Auction Platform.

#### **2.1.5.4 Annual and multi-year capacity allocation procedure with right of withdrawal**

- a) The Operating Company will discretionally decide the share of regasification capacity that will be offered as part of this process, and the related decision may not be in any way challenged by the Users or interested parties. On 1 September of each Year, the Operating Company publishes the Continuous Capacity expressed in Monthly Slots/year which the interested parties may be awarded with the right of withdrawal from the Capacity Agreement in relation to the regasification capacity that will be awarded through this procedure.

Such Continuous Capacity will be offered by the Operating Company via the Regasification Auction Platform for one or more Gas Years, starting with the second (2<sup>nd</sup>) until the sixteenth (16<sup>th</sup>) Gas Year subsequent to that of allocation.

The parties that are awarded such capacity in the context of this award procedure shall pay the Operating Company, as fee for the award of the right of withdrawal, a sum equal to a percentage of the Unitary Bid Price applied to the awarded Continuous Capacity (Right of Withdrawal Fee), which the Operating Company will notify from year to year and which will be published at the same time as the available Continuous Capacity. Under no circumstances may the payment of the Right of Withdrawal Fee be considered as payment of part of the Unitary Bid Price applied to the Continuing Capacity.

By 26 September of each Year, each Applicant that meets the Service Conditions shall:

- i. sign the capacity commitments in accordance with the provisions of Clause 2.1.7; and
- ii. provide financial guarantees in accordance with the provisions of Clause 3.1.1.1.

It being understood that in order to participate in this allocation, the Applicant must be eligible to operate on the Regasification Auction Platform in accordance with the relevant rules.

On 28 September of each Year, the Applicant will send its bid for Continuous Capacity for one or more Gas Years via the Regasification Auction Platform, in accordance with the procedures envisaged by the relevant operating rules.

The award will be made on the basis of an ascending clock auction as described in article 17 of EU regulation no. 459/2017 and in accordance with the rules of the Regasification Auction

Platform, with a Reserve Price determined in accordance with article 7 paragraph 1 TIRG. The results of the auction will be available to users on the Regasification Auction Platform.

By 30 May of each year, each awardee shall pay the Right of Withdrawal Fee in relation to the following Gas Year.

In the event that the Right of Withdrawal Fee is not paid, the Operating Company may terminate the Capacity Agreement due to User's Default and offer the Continuous Capacity in the subsequent allocation procedures as Primary Capacity, without prejudice to the defaulting User's responsibility to pay in full the Right of Withdrawal Fee applied to the awarded Continuous Capacity and subject to any right envisaged by the Capacity Agreement or the Applicable Law in favour of the Operating Company, including the Operating Company's right to enforce the financial guarantees provided in accordance with Clause 3.1.1.1 to satisfy its right to receive the Right of Withdrawal Fee.

Where the User awarded Continuous Capacity pursuant to this procedure has paid the Right of Withdrawal Fee, it may legitimately withdraw (including only for one or more Monthly Slots) from the Capacity Agreement in relation to the Continuous Capacity by giving notice thereof to the Operating Company by 12:00 of 1 June of each Gas year prior to the relevant Gas Year. As consideration for the award of the right of withdrawal, the Operating Company will definitively retain the Right of Withdrawal Fee regardless of the exercise of the right of withdrawal by the entitled User. It is understood that in case of exercise of the right of withdrawal, the User will be released from any further obligation, including the commitment to pay the Unitary Bid Price applied to the awarded Continuous Capacity, and may not in any way be qualified as a Defaulting User. In case the User exercises the right of withdrawal only for one part of the allocated Continuous Capacity, the User shall have to indicate precisely which Monthly Slots will be subject to withdrawal, under penalty of invalidity and ineffectiveness of the relevant withdrawal notice..

Any Continuous Capacity User that has been awarded Continuous Capacity pursuant to this allocation procedure may not exercise the right of withdrawal envisaged by Clause 5.3.3.1.

The regasification capacity that is the subject of withdrawal pursuant to this Clause will be offered by the Operating Company during the subsequent allocation processes as Primary Capacity.

- b) The Operating Company will decide the share of regasification capacity that will be offered as part of this discretionary process, and the related decision may not be in any way challenged by the Users or interested parties. On 1 February of each Year, the Operating Company will publish the Continuous Capacity expressed in Monthly Slots/year that may be awarded to the interested parties together with the right to withdraw from the Capacity Agreement with regard to the regasification capacity that will be awarded through this procedure.

Such Continuous Capacity will be offered by the Operating Company through the Regasification Auction Platform for one or more Gas Years, starting from the first (1<sup>st</sup>) to the fifteenth (15<sup>th</sup>) Gas Year following the Gas Year of award.

The awardees of such capacity under this award procedure shall pay to the Operating Company an amount equal to a percentage of the Unitary Bid Price applied to the awarded Continuous Capacity (Right of Withdrawal Fee), which the Operating Company shall notify from year to year in compliance with the Applicable Law and which shall be published at the same time as the available Continuous Capacity.

By 26 February of each year, each Applicant meeting the Service Conditions shall:

- i. enter into the capacity commitments in accordance with Clause 2.1.7; and
- ii. provide adequate financial guarantees in accordance with Clause 3.1.1.1.

It is understood that in order to participate in this allocation, the Applicant must be authorised to operate the Regasification Auction Platform in accordance with the relevant rules.

On 28 February of each Year, the Applicant shall send its bid for Continuous Capacity for one or more Gas Years through the Regasification Auction Platform, in accordance with the procedures set out in the relevant operating regulations.

The award will be made on the basis of an ascending clock auction as described in article 17 of EU regulation no. 459/2017 and in accordance with the rules of the Regasification Auction Platform, with application of a Reserve Price. The outcome of the auction will be available to Users through the Regasification Auction Platform.

By 30 May of each Year, each successful bidder shall pay the Right of Withdrawal Fee for the following Gas Year.

In case of non-payment of the Right of Withdrawal Fee, the Operating Company may terminate the Capacity Agreement for a User's Default and offer the Continuous Capacity in the subsequent procedures of allocation as Primary Capacity, without prejudice to the liability of the defaulting User to pay in full the Right of Withdrawal Fee applied to the awarded Continuous Capacity and without prejudice to any other rights provided by the Capacity Agreement or by Applicable Law in favour of the Operating Company, including the Operating Company's right to enforce the financial guarantees provided in accordance with Clause 3.1.1.1 to satisfy its right to receive the Right of Withdrawal Fee

Where the User awarded Continuous Capacity pursuant to this procedure has paid the Right of Withdrawal Fee, it may legitimately withdraw (including only for one or more Monthly Slots) from the Capacity Agreement in relation to the Continuous Capacity by giving notice thereof to the Operating Company by 12:00 of 1 June of each Year prior to the relevant Gas Year. The Operating Company will retain the Right of Withdrawal Fee regardless of the exercise of the right of withdrawal by the entitled User. It is understood that in case of exercise of the right of withdrawal, the User will be released from any further obligation, including the commitment to pay the Unitary Bid Price applied to the awarded Continuous Capacity, and may not in any way be qualified as a Defaulting User. In case the User exercises the right of withdrawal only for one part of the allocated Continuous Capacity, the User shall have to indicate precisely which Monthly Slots will be subject to withdrawal, under penalty of invalidity and ineffectiveness of the relevant withdrawal notice.

The Continuous Capacity User that has been awarded Continuous Capacity in accordance with this allocation procedure shall not be entitled to exercise the right of withdrawal referred to in Clause 5.3.3.1.

The regasification capacity subject to withdrawal pursuant to this Clause shall be offered by the Operating Company as Primary Capacity during the subsequent allocation processes.

Monthly Slots will be allocated in accordance with Clause 2.1.5.3

This Clause 2.1.5.4 shall be effective only after the Authority has defined the rules for the implementation of the annual and multi-annual capacity allocation procedure with the right of withdrawal and only to the extent that such procedure complies with the Authority's provisions.

#### **2.1.6 Methods of determining the capacity that is made available to the Operating Company for allocation pursuant to article 14 TIRG.**

Where, with reference to a User and a Gas Year A,  $V_{cons}$  (as defined below) is less than 90% of  $V_{prio}$  (as defined below) the same User, for Gas Year A+1 for which such User holds allocated capacity pursuant to Clauses 2.1.5.2, 2.1.5.3 and 2.1.5.4, shall make available to the Operating Company in Gas Year A+1 as Secondary Capacity:

- i) Continuous Capacity equal to  $V_{prio} - V_{cons}$ , together with
- ii) the Maximum Number of Permitted Berthing Slots associated with such capacity, equal to the whole of  $(V_{prio} - V_{cons}) * (N_{conf} / V_{conf})$

where:

$V_{prio}$  is the volume of LNG corresponding to the regasification capacity associated with the Monthly Slots and Delivery Slots allocated to the User for Gas Year A, as part of the multi-annual and annual allocation process envisaged by Clauses 2.1.5.2, 2.1.5.3 and 2.1.5.4, , respectively;

$V_{cons}$  is the volume of LNG cumulatively delivered by the User in Gas Year A, including:



- (i) the volume of LNG corresponding to the regasification capacity associated with the Monthly Slots and the Delivery Slots that the User has not delivered to the Terminal due to Force Majeure declared by the counterparties to the LNG import agreements envisaged by Clause 2.1.6(a) or declarations of Force Majeure referred to in Clause 5.3.4;
- (ii) the volume of LNG corresponding to the regasification capacity associated with the Monthly Slots and Delivery Slots made available by the User to the Operating Company for allocation to third parties:
  - a. for Month M, including where not allocated provided it is made available at least five (5) Business Days before the deadline for the allocation request (i.e., the day when the relevant allocation process starts) in Month M-1 of the capacity available in the context of the capacity allocation referred to in Clause 2.1.9.2 up to a total capacity in Gas Year A of whichever is larger between the volume of LNG associated with four (4) Delivery Slots and a third of the capacity allocated for the same Gas Year to the same User, and also in month M-2 in addition to such quantity provided it is made available at least five (5) Business Days in advance of the deadline for the contribution request (i.e., the day when the relevant contribution process starts) of the capacity referred to in Clause 2.1.8.2 of month M-2. For the purposes of calculating the regasification capacity made available by the User to the Operating Company referred to in this paragraph, such capacity shall be made available by the User at a Reserve Price not exceeding that determined in accordance with article 7, paragraph 1, letter a), TIRG. Under article 14, paragraph 6 of the TIRG, the User shall submit, by means of Annex 2A1 or Annex 2A2, the reserve price at which the released capacity is to be made available and may also specify that, if the reserve price submitted is higher than that set in article 7, paragraph 1, letter a) of the TIRG, the price referred to in article 7, paragraph 1, letter a) of the TIRG shall be effective for the purposes of the release;
  - b. for each Month, only in the case that the regasification capacity is in effect allocated.

*Vconf* is the volume of LNG corresponding to total regasification capacity allocated to the User for Gas year A.

*Nconf* is the total number of Unloadings allocated to the User for Gas Year A.

At the end of Gas Year A, the Operating Company shall verify whether the conditions envisaged by Clause 2.1.6 have been met and if they have, it will give notice thereof to the User and the ARERA. Following such notice, for Gas Year A+1 where User holds Continuous Capacity allocated on a multi-annual and annual basis, the User will make available for third-party allocation, pursuant to article 14 paragraph 3 TIRG, a number of Monthly Slots and Delivery Slots corresponding to a capacity equal to the difference between the capacity allocated to the User in the context of the multi-annual allocation processes and *Vcons* as defined above.

The User whose capacity shall be made available for allocation to third parties pursuant to article 14, paragraph 3, TIRG shall remain liable to the Operating Company for all its obligations and liabilities under the Capacity Agreement (including the obligation to pay the Charges,), to the extent that said capacity is not allocated by the Operating Company to another User.

- (a) For the sole purposes of Clause 2.1.6, “force majeure of the parties to import contracts” shall mean any event, act, fact or circumstance, not ascribable to the party that invokes the force majeure, which renders the Unloading of LNG by or on behalf of the User at the Terminal impossible, in whole or in part, and which cannot be avoided or which it has not been possible to remedy by using the level of diligence of a Prudent and Reasonable User.

As soon as the User becomes aware of a force majeure event pursuant to Clause 2.1.6(a) it shall immediately inform the Operating Company and the ARERA, indicating:

- i) the envisaged reduction of LNG quantities;
- ii) the duration of the event;
- iii) actions taken to limit the effects of the event on the LNG Unloading;
- iv) actions taken to make available to other Users the regasification capacity which will be unused.

It being understood that the foregoing is defined and envisaged exclusively for the purposes of Clause 2.1.6.

- (b) Pursuant to article 14, paragraph 5, TIRG, the User which holds the regasification capacity made available in accordance with this Clause may participate in the relevant allocation processes for such capacity. Such User, even in the case of allocation to third parties, will only receive the proceeds from the allocation of such regasification capacity if it has actually been used and, in the case of capacity made available in accordance with this Clause, within the limits of the Regasification Service Charge payable by the User that has made available the capacity allocated and used. The proceeds from the allocation of such regasification capacity will only be transferred by the Operating Company to the User that has made the allocated and used regasification capacity available after the User that has been awarded such capacity has made the relevant payment.

### **2.1.7 The Capacity Agreement for the allocation of Continuous Capacity**

By the deadlines envisaged by the Continuous Capacity allocation processes under Clause 2.1.5, the Applicants that intend to submit bids for the allocation shall proceed to sign the relevant Capacity Agreement (Annex 4).

The signing of the Capacity Agreement is subject to the fulfilment of the Credit and Insurance Requirements referred to in Chapter 3.1 below.

The Operating Company shall not sign a Capacity Agreement with Users that, on the signature date, have not paid the fees related to invoiced and outstanding amounts under existing Capacity Agreements that exceed the value of the Bank Guarantee and/or the User's Group Guarantee, issued to cover the obligations arising from the aforementioned existing Capacity Agreements.

### **2.1.8 Allocation of capacity during the Gas Year**

The allocation of regasification capacity once the Gas Year has started relates to the Continuous Regasification Service and refers to the offer and allocation of Available Delivery Slots that may be assigned by the Operating Company following the determination of the Annual Unloading and Loading Schedule and the Ninety Day Unloading and Loading Schedule, if applicable. The regasification capacity made available by the Operating Company for allocation and linked to each Delivery Slot, is equal to the:

- i) remaining available capacity following the previous allocation processes referred to in Clauses 2.1.5 and 2.1.8 (**Primary Capacity**);
- ii) capacity that was made available to the Operating Company for allocation pursuant to Clauses 3.2.3.1 and 3.2.3.2. (**Secondary Capacity**).

It being understood that, in the award procedures, priority will be given to the award of the Primary Capacity over Secondary Capacity, pursuant to article 5 paragraph 12 TIRG and in accordance with the Regasification Auction Platform Rules.

#### **2.1.8.1 Allocation of regasification capacity products offered once the Gas Year has started**

By the fourth Business Day of the Month prior to that in which the auction is held, OLT will publish on its website the regasification capacity product or products available for allocation consisting of an Available Delivery Slot for each Month starting from the Month subsequent to that of the offer and until the end of the Gas Year, indicating, for each product, the Months with Available Delivery Slots for such allocation. In the event that there are no Available Delivery Slots in one or more Months between that subsequent to the Month of the offer and the end of the Gas Year, a capacity product will be determined which will consist of an Available Delivery Slot exclusively for Months in which there are Available Delivery Slots.

By 12:00 on the penultimate Business Day of the Month prior to that in which the auction is held, each Applicant that meets the Service Conditions envisaged by Clause 2.1.1 of the Regasification Code shall:

- i) sign a Capacity Agreement in accordance with the provisions of Clause 2.1.10 of the Regasification Code;
- ii) provide adequate financial guarantees in accordance with the provisions of Clause 3.1.1.2 of the Regasification Code.

For the purposes of determining the financial guarantees available for this allocation process, payments that have been evidenced to the Operating Company by 12:00 of the penultimate Business Day of the Month prior to that in which the auction is held will be taken into account.

It being understood that in order to participate in this allocation of capacity, the Applicant must be eligible to operate on the Regasification Auction Platform, in accordance with the relevant rules.

From 09:00 to 14:30 of the first (1<sup>st</sup>) Business Day of the Month prior to that to which the capacity product refers, each Applicant will send its bid for the regasification capacity product or products via the Regasification Auction Platform, in accordance with the relevant rules.

The Reserve Price for each regasification capacity product will be the average of the Reserve Prices of each Month in which there is at least one Available Delivery Slot.

Provided that the Unitary Bid Price expressed by the Applicant is higher than the Reserve Price, in accordance with the provisions of the Regasification Auction Platform rules, the regasification capacity products will be awarded on the basis of the highest Unitary Bid Price or, if the Unitary Bid Prices are equal, based on the order in which the bid was communicated.

By 12:00 on the second (2<sup>nd</sup>) Business Day subsequent to that of the award, each awardee may indicate its order of preference for the Available Delivery Slots in each Month via the Regasification Auction Platform. The Available Delivery Slots will be awarded on the basis of the highest Unitary Bid Price or, if the Unitary Bid Prices are equal, based on the order in which the bid was communicated. In the event that the awardee has not expressed its preferences for the Available Delivery Slots scheduled in the first quarter, such party will be automatically assigned the first Available Delivery Slots for the Month or Months in question. The outcome of the scheduling of the Available Delivery Slots in each Month of the Gas Year will be available on the Regasification Auction Platform.

Subsequent to the aforementioned deadline, each awardee may indicate its preference at any time by choosing from the Available Delivery Slots that are still available at the time of communication of its preference, based on the order in which it was communicated. The awardee's right to choose will be suspended and may not be exercised from 14:00 on the fifth (5<sup>th</sup>) Business Day prior to that on which the regasification capacity allocation procedures envisaged by Clauses 2.1.8.1 and 2.1.8.2 will take place until 14:00 on the tenth (10<sup>th</sup>) Business Day of the subsequent Month, in conjunction with any priority of choice to which the awardees are entitled subsequent to the subsequent allocation procedures. If the parties awarded regasification capacity pursuant to this Clause have not communicated their preference in relation to the Available Delivery Slots for Months M, M+1 and M+2 by 14:00 on the fifth (5<sup>th</sup>) Business Day prior to the start of Month M-1, such parties will be automatically allocated the first Available Delivery Slot for the Month in question based on the order of priority described above by allocating the first Delivery Slots to the Continuous Capacity Users. The outcome of the scheduling of the Available Delivery Slots in each Month of the Gas Year will be available on the Regasification Auction Platform

Subsequent to the allocation of the capacity product OLT will update and publish the Annual Unloading and Loading Schedule and the Ninety Day Unloading and Loading Schedule.

#### **2.1.8.2 Monthly allocation of Delivery Slots and Monthly Slots**

By the third (3<sup>rd</sup>) Business Day of Month M-1, the Operating Company will publish on its website the Available Delivery Slots for Months M, M+1 and M+2, while from Month M+3 to the end of the current Gas Year the Operating Company will publish the available regasification capacity divided by Monthly Slot.

By 12:00 on the fifth (5<sup>th</sup>) Business Day of Month M-1 each Applicant which meets the Service Conditions shall:

- i. sign the capacity commitments in accordance with the provisions of Clause 2.1.10;
- ii. provide adequate financial guarantees in accordance with the provisions of Clause 3.1.1.2;

For the purposes of determining the financial guarantees available for this allocation process, payments that have been evidenced to the Operating Company by 12:00 on the fifth (5<sup>th</sup>) Business Day of Month M-1.

It being understood that in order to participate in the capacity allocation the Applicant must be eligible to operate on the Regasification Auction Platform in accordance with the relevant rules.

From 09:00 to 14.30 on the seventh (7<sup>th</sup>) Business Day of Month M-1 each Applicant will send its bid for the Delivery Slots and the Monthly Slots through the Regasification Auction Platform in accordance with the procedures envisaged by the relevant operational regulation. In case of changes in the hours the Operator shall timely inform about it on its website.

In the event that the Applicant makes a bid for the Delivery Slots for the Months M, M+1 and M+2, the Applicant may specify that its bid will alternatively and indifferently refer to more Delivery Slots of the same Month. In this case the Applicant accepts that any of the Delivery Slots indicated as alternative and indifferent may be awarded to it. The award will be made based on the highest Unitary Bid Price, provided that Unitary Bid Prices are higher than the Reserve Price in accordance with the rules of the Regasification Auction Platform. In the event that bids are made for Delivery Slots that are indicated as alternative and indifferent, the award of the Delivery Slots for the relevant Month will be made so as to ensure the greatest possible allocation of regasification capacity in that Month.

It being understood that, priority will be given to the assignment of the Primary Capacity, over Secondary Capacity, pursuant to the provisions of TIRG and in accordance with the rules of the Regasification Auction Platform.

The results of the auctions will be available to the Users on the Regasification Auction Platform.

By 12:00 on the second (2<sup>nd</sup>) Business Day subsequent to that of the award, each awardee may indicate its order of preference for the Available Delivery Slots in each Month via the Regasification Auction Platform. The Available Delivery Slots will be awarded on the basis of the highest Unitary Bid Price or, if the Unitary Bid Prices are equal, based on the order in which the bid was communicated. In the event that the awardee has not expressed its preferences for the Available Delivery Slots scheduled in the first quarter, such party will be automatically assigned the first Available Delivery Slots for the Month or Months in question. The outcome of the scheduling of the Available Delivery Slots in each Month of the Gas Year will be available on the Regasification Auction Platform.

Subsequent to the aforementioned deadline, each awardee may indicate its preference at any time by choosing from the Available Delivery Slots that are still available at the time of communication of its preference, based on the order in which it was communicated. The awardee's right to choose will be suspended and may not be exercised from 14:00 on the fifth (5<sup>th</sup>) Business Day prior to that on which the regasification capacity allocation procedures envisaged by Clauses 2.1.8.1 and 2.1.8.2 will take place until 14:00 on the tenth (10<sup>th</sup>) Business Day of the subsequent Month, in conjunction with any priority of choice to which the awardees are entitled subsequent to the subsequent allocation procedures. If the parties awarded regasification capacity pursuant to this Clause have not communicated their preference in relation to the Available Delivery Slots for Months M, M+1 and M+2 by 14:00 on the fifth (5<sup>th</sup>) Business Day prior to the start of Month M-1, such parties will be automatically allocated the first Available Delivery Slot for the Month in question based on the order of priority described above by allocating the first Delivery Slots to the Continuous Capacity Users. The outcome of the scheduling of the Available Delivery Slots in each Month of the Gas Year will be available on the Regasification Auction Platform

The Applicant may request, in each Month and for each Delivery Slot or Monthly Slot:

- (i) a regasification capacity value equal to that linked to the Delivery Slot for all the Available Delivery Slots offered in Months M, M+1 and M+2;
- (ii) a capacity value equal to that linked with each Monthly Slot starting from Month M+3 until the end of the Gas Year.

Subsequent to the assignment of the Available Delivery Slots the Operating Company will update and publish the Annual Unloading and Loading Schedule and the Ninety Day Unloading and Loading Schedule.

### **2.1.9 Allocation of spot and FCFS capacity**

The allocation of spot regasification capacity relates to the Spot Regasification Service and refers to the offer and allocation of Available Delivery Slots that may be assigned by the Operating Company following the determination of the Ninety Day Unloading and Loading Schedule. The regasification capacity made available by the Operating Company for allocation and associated with each Delivery Slot, is equal to the:

- i) available capacity following the previous allocation processes referred to in Clauses 2.1.5, 2.1.8 and 2.1.9;
- ii) capacity that was made available to the Operating Company for third-party allocation pursuant to Clause 3.2.3.2 and not subsequently recovered by the User pursuant to Clause 3.2.3.2f).

The allocation process for spot and FCFS regasification capacity comprises one or possibly two phases.

#### **2.1.9.1 Allocation of spot capacity**

By the eighth (8<sup>th</sup>) Business Day of Month M-1, the Operating Company will publish on its website the Available Delivery Slots in Month M.

By 12:00 of the tenth (10<sup>th</sup>) Business Day of Month M-1 each Applicant which meets the Service Conditions shall:

- i. sign the Capacity Agreement in accordance with the provisions of Clause 2.1.10;
- ii. provide adequate financial guarantees in accordance with the provisions of Clause 3.1.1.2;

For the purposes of determining the financial guarantees available for this allocation process, payments of which the Operating Company has a receipt by 12:00 on the tenth (10<sup>th</sup>) Business Day of Month M-1 will be considered.

It being understood that in order to participate in the capacity allocation the Applicant must be eligible to operate on the Regasification Auction Platform in accordance with the relevant rules.

From 09:00 to 14:30 on the twelfth (12<sup>th</sup>) Business Day of Month M-1 each Applicant will send its bid for the Delivery Slots through the Regasification Auction Platform in accordance with the procedures envisaged by the relevant operational regulation. In case of changes in the hours the Operator shall timely inform about it on its website.

The Applicant making a bid may specify that its offer may alternatively and indifferently be referred to more Delivery Slots of the same month. In this case the Applicant accepts that any of the Delivery Slots indicated as alternative and indifferent may be allocated to it.

Provided that the Unitary Bid Prices exceed the Reserve Price, in accordance with the rules of the Regasification Auction Platform, the Delivery Slots will be awarded to the Applicant that has submitted the highest Unitary Bid Price for a certain Delivery Slot. In the event that bids are made for Delivery Slots that are indicated as alternative and indifferent, the award of the Delivery Slots for the relevant month will be made so as to ensure the greatest possible allocation of regasification capacity in that month.

The results of the auctions will be available to the Users on the Regasification Auction Platform.

Following the assignment of the Available Delivery Slot the Operating Company will update the Ninety Day Unloading and Loading Schedule and publish the updated Annual Unloading and Loading Schedule.

#### **2.1.9.2 Allocation of FCFS capacity**

In the event that, following the allocation of capacity referred to in Clause 2.1.9.1 Delivery Slots remain unawarded, by the thirteenth (13<sup>th</sup>) Business Day of the Month M-1 the Operating Company will update the Ninety Day Unloading and Loading Schedule and publish the updated Annual Unloading and Loading Schedule.

By 12:00 on the Business Day prior to that on which the bid is submitted, each Applicant which meets the Service Conditions shall:

- i. sign a Capacity Agreement in accordance with the provisions of Clause 2.1.10;

- ii. provide adequate financial guarantees in accordance with the provisions of Clause 3.1.1.2.

For the purposes of determining the financial guarantees available for this allocation process, payments that have been evidenced to the Operating Company by 12:00 on the Business Day prior to that on which the bid is submitted will be considered.

It being understood that in order to participate in the capacity allocation the Applicant must be eligible to operate on the Regasification Auction Platform in accordance with the relevant rules.

Starting from 09:00 on the fourteenth (14th) Business Day of Month M-1 and no later than the deadline which the Operating Company will publish from time to time on its website, the Applicant which before 12:00 of the Business Day prior to that of the submission of the offer has met the Service Conditions, which signed the capacity commitments in accordance with the provisions of Clause 2.1.10, which provided adequate financial guarantees in accordance with the provisions of Clause 3.1.1.2 and which is eligible to operate on the Regasification Auction Platform in accordance with the relevant rules, may make its offer for each Delivery Slot through the Regasification Auction Platform following the procedures envisaged by the relevant rules. Any changes in such times will be promptly announced by the Operator on its website.

In accordance with the rules of the Regasification Auction Platform the Delivery Slots will be assigned to the first Applicant to submit a request and at the price determined by the ARERA pursuant to article 6 paragraph 7 TIRG.

The results of the auctions will be available to the Users on the Regasification Auction Platform by Business Day subsequent to the expiry date for the submission of bids.

Following the assignment of the Available Delivery Slot the Operating Company will update the Ninety Day Unloading and Loading Schedule and publish the updated Annual Unloading and Loading Schedule.

#### **2.1.10 Capacity Agreement for the allocation of Interim Capacity**

By the deadlines envisaged by the allocation processes pursuant to Clauses 2.1.8 and 2.1.9, Applicants which intend to submit bids for the allocation will sign the relevant Capacity Agreement (Annex 4).

The execution of the Capacity Agreement is subject to the fulfilment of the Credit and Insurance Requirements referred to in Chapter 3.1 below.

The Operating Company shall not sign a Capacity Agreement with Users that, on the execution date, have not paid the fees related to invoiced and outstanding amounts under existing Capacity Agreements that exceed the value of the Bank Guarantee and/or the User's Group Guarantee, issued to cover the obligations arising from the aforementioned existing Capacity Agreements.

#### **2.1.11 Requests for transport capacity**

The Operating Company will ask, on behalf of each User, for the transport capacity required for the provision of the Regasification Service in accordance with the procedures and timing envisaged by the Snam Rete Gas Network Code, which the User declares that it knows and accepts.

Unless otherwise expressly stated in writing by the User, the Operating Company will reserve the transport capacity from month to month in the context of the monthly transport capacity allocation processes envisaged by the Snam Rete Gas Network Code. Exclusively as regards Continuous Users, unless otherwise expressly stated in writing by the User, the Operating Company will reserve the transport capacity from Gas Year to Gas Year in the context of the annual transport capacity allocations envisaged by the Snam Rete Gas Code.

In the event that the Small Scale User does not withdraw the quantities of LNG intended for the Small Scale Service, the Operating Company will proceed with the regasification of such quantities by using the transport capacity reserved in the context of the transport capacity allocations envisaged by the Network Code and associated with the Delivery Slot(s) from which such quantities of LNG have been withdrawn and by redelivering the corresponding quantities of Gas to the User.

#### **2.1.12 The Operating Company's amendment of the deadlines envisaged by the allocation procedures**

All the deadlines envisaged by Clauses 2.1.5, 2.1.8 and 2.1.9 may be amended by the Operating Company, which shall announce the new deadlines on its website. In the event that the Operating Company brings forward one or more deadlines envisaged by such Clauses, the Operating Company shall give notice thereof on its website at least two (2) Business Days prior to the expiry of the new deadline.

#### **2.1.13 Compliance with the Small Scale Service Conditions**

Access to the Small Scale Service at the Terminal shall take place in an impartial manner and on equal terms for all parties, whether natural or legal persons, provided that they meet the following requirements.

The Applicant shall meet, and declare that it meets through the request for Small Scale Slots, all the following conditions (in accordance with the allocation processes referred to in Clause 2.1.16) and for the entire duration of the Small Scale Agreement (**Small Scale Service Conditions**):

- a) the Applicant shall meet the credit and insurance requirements prescribed, case by case, by Chapter 3.1;
- b) the Applicant shall attest to the availability of Small Scale Carriers approved for loading from the Terminal, or it agrees to receive LNG through carriers compatible with the specifications of the Terminal to be authorised in accordance with the procedures envisaged and determined by the Operating Company in the Technical Manuals, with the Applicant bearing the risk of a unsuccessful outcome of the authorisation procedures; and
- c) the Applicant shall have all the other Authorisations required for (i) the performance of all the activities envisaged by the Small Scale Agreement or connected or ancillary to them and (ii) the exercise of its rights and the fulfilment of its obligations under the Small Scale Agreement.

The Applicant shall comply with all the Applicable Laws relating to the exercise of its rights, the fulfilment of its obligations and the performance of otherwise connected or ancillary activities performed in accordance with the Small Scale Agreement and, where necessary, it shall fulfil any requirements, including customs requirements relating to the export of LNG and any excise duty requirements relating to the transfer of LNG.

In the event that the Small Scale User does not meet or ceases to meet one or more of the Small Scale Service Conditions, the Small Scale User shall inform the Operating Company of such event or circumstance as soon as it becomes aware of it, by providing reasonable information on the cases of such non-compliance.

#### **2.1.14 Consequences of the failure to meet the Small Scale Service Conditions**

- a) Subject to Clauses (ii) 2.1.14(ii), 2.1.14(iii) and 5.3.2 and/or 5.3.3, if the Small Scale User ceases to meet the Small Scale Service Conditions:
  - (i) the Operating Company may, without incurring any liability, immediately suspend or interrupt the provision, in whole or in part, of the Small Scale Service to the Small Scale User for as long as the situation of non-compliance lasts; and
  - (ii) the Small Scale User will be obliged to compensate, indemnify and hold harmless the Operating Company against any Loss suffered, arising or in any case connected to such situation of non-compliance, by the Small Scale User, including the actions taken by the Operating Company in accordance with Clause 2.1.14, such as for example the redelivery of the Gas to the User in accordance with Clause 2.1.14(ii).
- b) If the provision of the Small Scale Service to the User is suspended in accordance with Clause 2.1.14a):

- (i) the Operating Company will not allow the User to moor its Small Scale Carrier at the Terminal or, if the Small Scale Carrier is already moored at the Terminal, the Operating Company may order the Small Scale Carrier to move away from the Terminal with immediate effect, in accordance with the provisions of the Technical Manuals and any applicable Maritime Regulations;
- (ii) The Operating Company will regasify the LNG intended to be delivered to the Small Scale User and redeliver the Gas of the User that is the owner of the undelivered LNG (in particular, in accordance with Clause 3.6.6.2) at the Redelivery Point, with a redelivery profile that the Operating Company will deem, at its sole discretion, adequate and such as to cause the least harm possible to the other Users;
- (iii) the Small Scale User will continue to fulfil its payment obligations referred to in Clause 5.2.1.2 and to pay the sums due in accordance with Clauses 5.3.1.1 and 5.3.1.2;

#### **2.1.15 The Small Scale User's obligation to act as a Reasonable and Prudent User**

- a) For the entire duration of the Capacity Agreement, the Small Scale User shall act as a Reasonable and Prudent User;
- b) The Small Scale User shall guarantee that it will act and procure that every member of the Small Scale User's Group will guarantee to act in full compliance with all the applicable rules and operating and safety procedures of the Operating Company and/or the Terminal, as set out in the Terminal's Manuals, and in full compliance with all International Standards and Applicable Laws.

#### **2.1.16 Allocation of Small Scale Slots to Small Scale Users**

Small Scale Slots will be allocated through procedures which ensure that the Small Scale Service is accessed in an impartial and non-discriminatory manner, and subject to meeting the requirements for the provision of the Small Scale Service envisaged by Clause 3.1.1.3.

The capacity to load LNG on to the Small Scale Carriers associated with each Small Scale Slot to be allocated will be indicated by the Operating Company in the context of the allocation procedures that will be published by the Operating Company on its website. The Operating Company agrees, within the limits of this Regasification Code and the Small Scale Agreement, to load the LNG intended for Small Scale Users within the limits of the loading capacity for the allocated Small Scale Slot, with a variance of not more than 5% in respect of the quantity of LNG covered by the Small Scale Service.



## **Chapter 2.2 - PRINCIPLES AND PROCEDURES FOR QUALIFYING LNG CARRIERS AND SMALL SCALE CARRIERS**

### **2.2.1 LNG Carriers' compatibility**

#### **2.2.1.1 LNG Carriers' Acceptance Requirements**

a) The User shall only moor and Unload at the Terminal an LNG Carrier that complies with International Standards, all Applicable Laws and all other relevant laws and regulations, relevant International Association of Classification Societies class and statutory certifications and flag state requirements, the Operating Company's compatibility, vessel vetting and inspection requirements as set forth in the Technical Manuals, such as possession of a current International Ship Security Certificate and a valid SIRE vetting certificate (Ship Inspection Report) and the Maritime Regulations and the Maritime Regulations, regardless of whether such LNG Carrier is chartered, owned and/or operated by the User. Any modifications required to be made to an LNG Carrier to make such LNG Carrier comply with International Standards, the Operating Company's compatibility, vessel vetting and inspection requirements as set forth in the Technical Manuals and the Maritime Regulations shall be made by the User at its sole risk and expense.

b) The User is responsible for demonstrating to the Operating Company that any LNG Carrier that the User intends to moor and Unload at the Terminal satisfies the requirements of Clause 2.2.1.1a).

c) The Technical Manuals shall set forth detailed requirements with respect to the Operating Company's acceptance or rejection of each LNG Carrier that the User intends to moor and Unload at the Terminal.

d) The User intends to moor and Unload at the Terminal, the User shall procure that each LNG Carrier completes and submits to the Operating Company a Compatibility Procedure pursuant to Clause 2.2.1.2.

e) For each LNG Carrier that the User intends to moor and Unload at the Terminal, the User shall submit to the Operating Company the required vessel documentation in a complete and exhaustive manner.

f) Each LNG Carrier that the User intends to allow to moor and Unload at the Terminal must pass the Final Acceptance Visit and the Trial Unloading pursuant to Clause 2.2.1.3 without prejudice the Operating Company's right to carry out inspections at any time.

g) The Operating Company will maintain a list of the LNG Carriers that have been declared technically compatible for Unloading at the Terminal on its website and will promptly update such list in the case of the addition or cancellation of LNG Carriers.

h) The Operating Company shall, other than in exceptional circumstances determined by the Operating Company in its sole discretion, refuse to permit any LNG Carrier that has not been accepted, does not comply with Clause 2.2.1.1a) above, does not pass the Trial Unloading or does not pass the Final Acceptance Visit to moor (or remain moored) at the Terminal. All costs associated with the rejection of such LNG Carrier shall be for the User's account.

i) If the Operating Company determines at any time that an LNG Carrier:

- (i) fails to comply with the Technical Manuals, International Standards, the Maritime Regulations, or any other requirements of Clause 2.1.1a),
- (ii) it is unsafe to be moored at the Terminal; or
- (iii) fails the inspections and tests pursuant to Clause 2.2.1.3,

then the Operating Company shall, other than in exceptional circumstances determined by the Operating Company in its sole discretion, revoke with immediate effect its acceptance of such LNG Carrier, and the User shall not be permitted to use such LNG Carrier to Unload at the Terminal, unless and until such LNG Carrier is re-accepted by the Operating Company pursuant this Clause 2.2.1.1. All costs associated with the rejection of such LNG Carrier and any re-acceptance thereof shall be for the User's account.

#### **2.2.1.2 Compatibility Procedure**

a) Following a request by a User or a party interested in using LNG Carrier to Unload LNG at the Terminal which is not yet included on the list referred to in Clause 2.2.1.1g), the Operating Company,

will send such party the data and information envisaged by the Technical Manuals (in particular, the LNG Carrier Approval & Vetting Procedures) for the purposes of the necessary technical assessments. The User or interested party will provide the Operating Company, as soon as is reasonably possible, with the required information in the form established by the Operating Company pursuant to the provisions of the Technical Manuals (in particular, the LNG Carrier Approval & Vetting Procedures).

b) The Operating Company will inform User or interested party, within fifteen (15) Business Days of the date when all the information required by the Operating Company are made available in a complete and exhaustive manner, whether or not, based on the information provided, the LNG Carrier is compatible with the Terminal.

c) It being understood that the process envisaged by Clause 2.2.1.2 shall be performed for each LNG Carrier:

- (i) prior to its first delivery at the Terminal; and
- (ii) prior to its first delivery at the Terminal following any modification and/or structural damage to such LNG Carrier.
- (iii) prior to the first delivery by the LNG Carrier at the Terminal following an amendment to the Technical Manuals.

#### **2.2.1.3 Final Acceptance Visit and Trial Unloading**

Prior to the first mooring following the provisional acceptance as result of the compatibility procedure envisaged by Clause 2.2.1.2, each LNG Carrier will be subject to the Final Acceptance Visit conducted by a person appointed by the Operating Company as detailed in the Technical Manuals (in particular, in the LNG Carrier Approval & Vetting Procedures). If the visit is successful, the Operating Company will allow the LNG Carrier to conduct a Trial Unloading at the Terminal in which an inspector appointed by the Operating Company will conduct the appropriate assessments envisaged by the Technical Manuals (in particular, the LNG Carrier Approval & Vetting Procedures).

#### **2.2.1.4 Non-compliance of accepted LNG Carriers**

If an LNG Carrier accepted by the Operating Company and included in the list envisaged by Clause 2.2.1.1g) suffers an incident, structural damage or ceases to comply with the requirements of Clause 2.2.1.1a) the User shall notify the Operating Company as soon as reasonably practicable after the User becomes aware of such non-compliance and any pre-existing acceptance of the LNG Carrier shall be deemed to be revoked.

#### **2.2.1.5 Liaison with Competent Authorities**

a) The User shall obtain and keep onboard the LNG Carrier evidence of all approvals required from all Competent Authorities to allow the LNG Carrier to enter and operate in the territorial waters of Italy, to proceed to, Unload, and depart from the Terminal.

b) In the event the use of an LNG Carrier accepted by the Operating Company is prohibited or hindered by a Competent Authority, the User's obligations under the Capacity Agreement shall not be excused and any prior acceptance of the LNG Carrier shall be deemed automatically revoked by the Operating Company.

#### **2.2.1.6 Terms of Use**

a) Before an LNG Carrier moors at the Terminal, the User shall cause the Master or owner of such LNG Carrier (as appropriate) to sign the required conditions for the use of the Terminal, as may be specified by the Operating Company, relating to, among other things, safety, prevention and remediation of pollution, the express acceptance of the Terminal's operational and safety procedures, the parties' liability, required equipment (and its technical specifications) and/or similar technical or operational requirements for the LNG Carrier, as envisaged by the specific form attached to the Technical Manuals (in particular, the Terminal Regulations and Information Booklet - article 11) (**Terms of Use**).

b) The failure to obtain authorisation to use the Terminal for reasons ascribable to the Master or the Ship Owner of the LNG Carrier, including their failure to execute the Terms of Use shall neither suspend the User's obligations nor excuse the User's failure to perform its obligations under the Capacity Agreement and any prior acceptance of the LNG Carrier shall be deemed automatically revoked by the Operating Company.

## **2.2.2 Compatibility of Small Scale Carriers**

### **2.2.2.1 Requirements for the acceptance of Small Scale Carriers**

- a) The Small Scale User shall only moor at the Terminal a Small Scale Carrier that complies with International Standards and Applicable Laws and all other relevant laws and regulations, relevant International Association of Classification Societies class and statutory certifications and flag state requirements, the Operating Company's compatibility, vessel vetting and inspection requirements as set forth in the Technical Manuals, such as the possession of an International Ship Security Certificate and a valid SIRE vetting certificate (Ship Inspection Report) and Maritime Regulations, irrespective of whether the Small Scale Carrier is chartered, owned and/or operated by the Small Scale User. Any modifications required to be made to a Small Scale Carrier to ensure that it complies with International Standards, the Operating Company's compatibility, vessel vetting and inspection requirements as set forth in the Technical Manuals and the Maritime Regulations shall be made by the User at its sole risk and expense.
- b) The Small Scale User shall demonstrate to the Operating Company that any Small Scale Carrier that it intends to moor and Unload at the Terminal meets the requirements envisaged by Clause 2.2.1.1a).
- c) Technical Manuals shall set forth detailed requirements with respect to the Operating Company's acceptance or rejection of each Small Scale Carrier that the Small Scale User intends to moor and Unload at the Terminal.
- d) The Small Scale User shall ensure that each Small Scale Carrier which it intends to moor or load at the Terminal completes and submits to the Operating Company a Compatibility Procedure pursuant to Clause 2.2.2.2.
- e) For each Small Scale Carrier that the Small Scale User intends to moor and load at the Terminal, the Small Scale User shall submit to the Operating Company the required vessel documentation in a complete and exhaustive manner.
- f) Each Small Scale Carrier that the Small Scale User intends to allow to moor and load at the Terminal must pass the Final Acceptance Visit and the Trial Unloading pursuant to Clause 2.2.1.3 without prejudice to the Operating Company's right to carry out inspections at any time.
- g) The Operating Company will maintain a list of the Small Scale Carriers on its website that have been declared technically compatible for loading at the Terminal and will promptly update such list in the case of the addition or cancellation of Small Scale Carriers.
- h) The Operating Company shall, other than in exceptional circumstances determined by the Operating Company in its sole discretion, refuse to permit any Small Scale Carrier that has not been accepted, does not comply with Clause 2.2.1.1a), does not pass the Trial Unloading or does not pass the Final Acceptance Visit to moor (or remain moored) at the Terminal. All costs associated with the rejection of such Small Scale Carrier shall be borne by the Small Scale User.
- i) If the Operating Company determines at any time that a Small Scale Carrier:
  - (i) fails to comply with the Technical Manuals, International Standards, the Maritime Regulations, or any other requirements of Clause 2.2.2.1a);
  - (ii) is unsafe to be moored at the Terminal; or
  - (iii) fails the inspections and tests pursuant to Clause 2.2.1.3;

the Operating Company shall, other than in exceptional circumstances determined by the Operating Company in its sole discretion, revoke with immediate effect its acceptance of such Small Scale Carrier, and the Small Scale User shall not be permitted to use such Small Scale

Carrier to moor at the Terminal, unless and until such Small Scale Carrier is re-accepted by the Operating Company pursuant to this Clause 2.2.1.1. All costs associated with the rejection of such Small Scale Carrier and any re-acceptance thereof shall be borne by the Small Scale User.

#### **2.2.2.2 Compatibility Procedure**

- a) Following a request by a Small Scale User or a party interested in using a Small Scale Carrier to Unload LNG at the Terminal which is not yet included on the list referred to in Clause 2.2.1.1g), the Operating Company, will send such party the data and information envisaged by the Technical Manuals (in particular, the Small Scale LNG Carrier Approval & Vetting Procedures) for the purposes of the necessary technical assessments. The Small Scale User or interested party will provide the Operating Company, as soon as is reasonably possible, with the required information in the form established by the Operating Company pursuant to the provisions of the Technical Manuals (in particular, the Small Scale LNG Carrier Approval & Vetting Procedures).
- b) The Operating Company will inform Small Scale User or interested party, within fifteen (15) Business Days of the date when all the information required by the Operating Company is made available in a complete and exhaustive manner, whether or not, based on the information provided, the Small Scale Carrier is compatible with the Terminal.
- c) It being understood that the process envisaged by Clause 2.2.1.2 shall be performed for each Small Scale Carrier:
  - (i) prior to the Small Scale Carrier's first delivery at the Terminal; and
  - (ii) prior to the Small Scale Carrier's first delivery at the Terminal following any modification and/or structural damage to the LNG Carrier;
  - (iii) prior to the Small Scale Carrier's first delivery at the Terminal following an amendment to the Technical Manuals.

#### **2.2.2.3 Final Acceptance Visit and Trial Unloading**

Prior to the first mooring following the provisional acceptance resulting from the compatibility procedure envisaged by Clause 2.2.1.2, each Small Scale Carrier will be subject to the Final Acceptance Visit conducted by a person appointed by the Operating Company as detailed in the Technical Manuals (in particular, in the Small Scale LNG Carrier Approval & Vetting Procedures). If the visit is successful, the Operating Company will allow the Small Scale Carrier to conduct a Trial Unloading at the Terminal in which an inspector appointed by the Operating Company will conduct the appropriate assessments envisaged by the Technical Manuals (in particular, the Small Scale LNG Carrier Approval & Vetting Procedures).

#### **2.2.2.4 Non-compliance of accepted Small Scale Carriers**

If a Small Scale Carrier accepted by the Operating Company and included in the list envisaged by Clause 2.2.1.1g) suffers an incident, structural damage or ceases to comply with the requirements of Clause 2.2.1.1a) the Small Scale User shall notify the Operating Company as soon as reasonably practicable after the Small Scale User becomes aware of such non-compliance and any pre-existing acceptance of the Small Scale Carrier shall be deemed to be revoked.

#### **2.2.2.5 Liaison with Competent Authorities**

- a) The User shall obtain and keep onboard the Small Scale Carrier all the authorisations required by all the Competent Authorities that allow the Small Scale Carrier to enter, operate and leave the territorial waters of Italy, and to proceed to, Unload, and depart from the Terminal.
- b) In the event the use of a Small Scale Carrier accepted by the Operating Company is prohibited or hindered by a Competent Authority, the Small Scale User's obligations under the Small Scale

Agreement shall not be excused and any prior acceptance of such LNG Carrier shall be deemed automatically revoked by the Operating Company.

#### 2.2.2.6 Terms of Use

- a) Before an LNG Carrier moors at the Terminal, the Small Scale User shall cause the Master or Owner of such Small Scale Carrier (as the case may be) to sign the required terms for the use of the Terminal, as specified by the Operating Company, relating to, among other things, safety, prevention and reduction of pollution, the express acceptance of the Terminal's operational and safety procedures, the parties' liability, required equipment (and its technical specifications) and/or similar technical and operational requirements for the Small Scale Carrier, as envisaged by the specific form attached to the Technical Manuals (in particular, the Terminal Regulations and Information Booklet - article 11) (**Terms of Use**).
- b) The failure to obtain the authorisations to use the Terminal for reasons ascribable to the Master or the Ship Owner of the LNG Carrier, including their failure to execute the Terms of Use shall neither suspend the Small Scale User's obligations nor excuse the Small Scale User's failure to perform its obligations under the Small Scale Agreement and any prior acceptance of the Small Scale Carrier shall be deemed automatically revoked by the Operating Company.