

GIIGNL

MASTER LNG SALE AND PURCHASE AGREEMENT

Notes to template

Provision	Note
<i>Optionality and further input required</i>	<i>Users using this Template in its entirety should note that various elements have been left blank for the Parties to agree. They are discussed in these notes. A word search of “[●]” will identify these points. Where the template includes optionality, it is contained with bold square brackets [Option A / Option B].</i>
Carbon Footprint	See also GIIGNL’s MRV and GHG Neutral LNG Framework - (giignl.org)
Credit Support	This Template anticipates that Buyer and Seller will agree whether Credit Support is required on a Transaction-by-Transaction basis. Parties should note that this template does not contain provisions relating to Credit Support requirements on the basis that most GIIGNL members will have very individual requirements for credit support but does include Events of Default relating to Credit Support, which may need to be reviewed depending on the Credit Support Agreed between the Parties. The Master Agreement does not include provisions regarding in the replacement of Credit Support if it becomes inadequate.
2.1	Note that neither Party is bound until a Confirmation Notice has been executed. Under this template a binding agreement cannot be made by electronic message, other than an executed CN.
4.1	4.1 provides for a period of time to elapse between the end of the Scheduled Arrival Window before the failure to take mechanism applies. How long the period of time is, or whether there is a period of time at all, is a commercial decision with Buyers generally favouring a longer period and Sellers a shorter or no period. In a balanced MSPA the deadline will be the same in clause 4.1 and clause 5.1.
4.3	The percentage in 4.3 should be an amount higher than 100% in order to reflect the possible losses that a Seller will suffer if it is obliged to sell the cargo somewhere else in the event that the Buyer refuses to take the LNG for commercial reasons. The amount should incentivise Buyer to not Wilfully Default on its obligations (a Wilful Misconduct), but should be disproportionate,

	<p>as there is risk that if the amount is considered disproportionate it will be struck out as a penalty.</p>
5.1	<p>5.1 provides for a period of time to elapse between the end of the Scheduled Arrival Window before the failure to take mechanism applies.</p> <p>How long the period of time is, or whether there is a period of time at all is a commercial decision with Sellers generally favouring a longer period and Buyers a shorter or no period.</p> <p>In a balanced MSPA the deadline will be the same in clause 4.1 and clause 5.1.</p>
5.2(c)	<p>5.2(c) addresses the scenario where Buyer is not able to procure replacement LNG or pipeline gas. The parties should agree a reasonable period of time to allow the Buyer to try to obtain replacement fuel before damages for termination costs are incurred. What that period will be will reflect the arrangements that the Buyer has in place downstream of the Buyer's Facility, including physical infrastructure for gas storage and its contractual arrangements.</p>
5.3	<p>The last paragraph of clause 5.3 allows the Parties to either set a cap for Seller's liability applicable to all LNG Cargoes, or to set caps on a Confirmation Notice by Confirmation Notice basis. The percentage in the event that there is not Wilful Misconduct will be a reflection of how volatile the parties think the market is, where a stable market would result in a low percentage and a volatile market a higher percentage. Bear in mind that the Buyer will not have paid the Seller if the Seller has not delivered, so the percentage reflects how much more the Buyer may need to pay to get replacement gas or LNG in short order to replace the Seller Deficiency Quantity that has not been delivered.</p> <p>The percentage in the event of Wilful Misconduct should be a higher cap to ensure that the Buyer is able to recover less likely losses if they occur. Legal advice should be sought in respect of appropriate levels for these caps.</p>
6.7(a)	<p>Clause 6.7(a)(i) provides for a cap on the Seller's liability to reimburse Buyer for the direct damage to the LNG Vessel and Receiving Facilities arising from accepting the FOB delivery of Off-Spec LNG in circumstances where the Buyer had no prior warning that the LNG was Off-Spec LNG.</p> <p>Note that the cap is expressed as a percentage of the LNG Price multiplied by the quantity delivered, not the Nominal Quantity.</p>

6.7(b)	<p>Clause 6.7(b)(i) provides for a cap on the Seller’s liability to compensate Buyer for the direct costs reasonably incurred by Buyer in disposing of the FOB delivery of Off-Spec LNG in the LNG Vessel and Receiving Facilities and remedying any direct damage to LNG Vessel and Receiving Facilities arising from accepting the Off-Spec LNG in circumstances where the Buyer had no prior warning that the LNG was Off-Spec LNG and the Buyer is unable to correct the quality.</p> <p>Note that the cap is expressed as a percentage of the LNG Price multiplied by the quantity delivered, not the Nominal Quantity.</p>
6.8(a)	<p>Clause 6.8(a)(i) provides for a cap on the Seller’s liability to reimburse Buyer for the direct damage to the Receiving Facilities arising from accepting the Ex Ship delivery of Off-Spec LNG in circumstances where the Buyer had no prior warning that the LNG was Off-Spec LNG.</p> <p>Note that the cap is expressed as a percentage of the LNG Price multiplied by the quantity delivered, not the Nominal Quantity.</p>
6.8(b)	<p>Clause 6.8(b)(i) provides for a cap on the Seller’s liability to compensate Buyer for the direct costs reasonably incurred by Buyer in disposing of the Ex Ship delivery of Off-Spec LNG in the Receiving Facilities and remedying any direct damage to Receiving Facilities arising from accepting the Off-Spec LNG in circumstances where the Buyer had no prior warning that the LNG was Off-Spec LNG and the Buyer is unable to correct the quality.</p> <p>Note that the cap is expressed as a percentage of the LNG Price multiplied by the quantity delivered, not the Nominal Quantity.</p>
11.6	<p>The Parties should agree the number of Banking Days from receipt of invoice to payment. Note that as drafted the time starts with the “first” receipt of the invoice, which likely be by email. If a party’s accounting practices require a paper invoice it may wish to amend this provision.</p>
11.7	<p>Parties should agree a deadline for contesting an invoice, bearing in mind their internal processes for reviewing invoices, and setting against them the need for certainty to close a trade.</p>
11.8	<p>Parties should agree an interest rate that will apply to any amounts that have not been paid by the due date.</p>
12.4(b)	<p>Parties need to decide whether they wish to stipulate whether Buyer or Seller will or will not be the importer or exporter of record.</p>

	The default arrangements can be amended on an Agreement-by-Agreement basis in the Confirmation Notice (see paragraph 14 of the Confirmation Notice).
14	Clause 14 provides for the parties to prepare an estimate of the Carbon Footprint. The first option puts the obligation on Seller, the second is a mutual obligation, the third option would be to not have any obligation associated with calculating carbon footprints. For further information on this topic see GIIGNL's MRV and GHG Neutral LNG Framework .
15.7	The Parties should agree the number of days that a Force Majeure prevents performance before the non-affected Party can terminate the Agreement.
16.1(a) and (b)	The Party should agree a cure period for payment and a cure period for failure of a Credit Support provider to comply with its obligations.
18.2	Parties should agree which rules should apply to arbitrations, and the seat of arbitration.
20.3	Parties should agree a cure period for failures to comply with clause 20.
20.4	Parties should agree a period after the expiry or termination of the Master Agreement or any Transaction during which the obligations in clause 20 will survive. When considering this clause Parties should note that the Master Agreement will not ordinarily expire as it is has an open ended term.
22	This provision is needed by the US DOE/FE if Cargoes are sourced from the United States. If the cargoes are not sourced from the United States, the clause will not apply.
23	The Parties should agree a notice period applicable for termination of the Agreement.
24.1	Each Party should insert contact details for the notice provisions. Note that if the parties have chosen to have disputes resolved in the English High Court, an address in the UK should be provided for service of court papers.
Schedule 1: Confirmation Notice	The first set of bullets are the names of the parties to the MSPA. 1. The Buyer and Seller may be affiliates of the original parties to the MSPA 2. The Parties should agree whether the LNG Cargo will be delivered on an Ex Ship or FOB basis.

	<p>3. Insert name and IMO number of the LNG Vessel.</p> <p>4. Insert number of LNG Cargoes and Nominal Quantity for each cargo. Note that the Nominal Quantity for each LNG Cargo may be different.</p> <p>5, and 6. Insert the Allowed Laytime, Daily Demurrage and Boil-Off Rate. These may be different for each LNG Cargo (for instance if the Transfer Port is different).</p> <p>7, 8, and 9. Insert Loading/Unloading Schedules, LNG Price and Specifications details for each LNG Cargo</p> <p>10. Please see the note to clause 5.3. If the Parties have determined that they would like the caps on the liability for Seller Deficiency Quantities to be set in each Confirmation Notice then paragraph 11 should be used. If the Parties would prefer to fix the caps at the same percentage of the LNG Price for all Transactions, the applicable caps should be inserted in clause 5.3 and paragraph 10 of the Confirmation Notice should be removed.</p> <p>11. The Parties should agree appropriate credit support. The Master Agreement does not contain any provisions relating to Credit Support so the Parties should determine what Credit Support should be provided, and by which date. Parties should consider whether they would like to agree the form of the Credit Support at the time of entering into the Confirmation Notice, even if it is provided at a later date.</p> <p>12. Full details of applicable bank accounts should be set out in paragraph 13.</p> <p>13. If the Parties have determined to agree the importer of record and the exporter of record on an LNG Cargo by LNG Cargo basis (see note to clause 12.4(b) above).</p> <p>14. If there are any issues where the Parties agree to derogate from the Master Agreement they should set out such terms in the Confirmation Notice.</p>
Schedule 2:	<p>1.1(b)(ii) The Parties should confirm that the unloading facilities should be capable of receiving LNG at a rate of 10,000m³ per hour.</p> <p>7.6 The Parties should agree how long sample bottles should be retained for.</p> <p>7.9 The Parties should decide how long after notification of a disagreement either Party may appoint an Expert unilaterally.</p>
Schedule 3:	<p>1.1(b)(ii) The Parties should confirm that the unloading facilities should be capable of receiving LNG at a rate of 10,000m³ per hour.</p> <p>6.6 The Parties should agree how long sample bottles should be retained for.</p>

	6.9 The Parties should decide how long after notification of a disagreement either Party may appoint an Expert unilaterally.