

[xx] Terminal Conditions of Use

The Terminal Conditions of Use are set out below. Please confirm acceptance by printing out the below as a separate document, signing it and returning it to INPEX.

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THIS DEED POLL IS DATED

[20xx]

GIVEN BY:

(A) **THE VESSEL INTERESTS** (AS DEFINED BELOW); and

IN FAVOUR OF:

(B) **PROJECT INTERESTS** (AS DEFINED BELOW)

IN RELATION TO THE FOLLOWING VESSEL:

MV (the "**Vessel**")

IT IS AGREED AS FOLLOWS:

Terminal Conditions of Use

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Deed, unless the context otherwise requires:

'**Affiliate**' means in respect of any Person (the '**Relevant Person**'), a person that directly or indirectly controls or is controlled by the Relevant Person or is, together with the Relevant Person, under the common direct or indirect control of another Person, for which purpose '**control**' shall mean beneficial ownership of fifty percent (50%) or more of the voting shares of a company or other entity or of the equivalent rights to determine the decisions of such a company or other entity;

'**Day**' means a period of twenty-four (24) consecutive hours starting at 00:00 hours:

- (a) in the case of obligations related to the Loading Port or the Loading Facilities, Darwin time; and
- (b) in any other case where the context so requires, the time zone relevant to the particular location;

'**Deed**' means this document.

'**Delegated Operator**' means INPEX Operations Australia Pty Ltd (ACN 150 217 262) in its capacity as delegated operator and agent of the Seller;

'**Fault**' means a breach of duty in negligence or any other tort, in contract, under statute or otherwise;

'**Governmental Authority**' means in respect of any country, any national, regional, state, municipal, local or other government, any subdivision, agency, commission or authority, including any port authority, of it or any quasi-governmental organisation within it;

'**Incident**' means any occurrence, or series of occurrences having the same origin, arising out of or relating to the performance of the SPA by or behalf of any party thereto, in which there is any one or more of:

- (a) loss of or damage to the Ports or the Vessel;

- (b) loss or damage, other than to the Ports, caused or contributed to by the Vessel;
- (c) loss or damage, other than to the Vessel, caused or contributed to by the Ports;
- (d) an escape or discharge of oil, oily mixture or other pollutant:
 - (i) from the Vessel;
 - (ii) within the Loading Port; or
 - (iii) which interferes with the normal operation of the Ports; and
- (e) an obstruction or danger affecting or interfering with the normal operation of the Ports or the Vessel;

'LNG' means natural gas in a liquid state at or below its point of boiling and at or near atmospheric pressure;

'Loading Facilities' means the facilities at the Loading Port which are constructed, operated and maintained by Seller, relating to loading, vapour return, mooring, unmooring, crew handling, Vessel communication, Vessel boarding and disembarking, sampling, analysis and testing, emergencies, berthing, and production and storage, inventory of LNG, LPG, condensates or other products or supplies, and also includes all berths, buoys, gear, equipment, plant, facilities and property of any kind, whether afloat or ashore, located in or adjacent to those facilities and in the ownership, possession or control of Project Interests at the time of an Incident;

'Loading Port' means the Port of Darwin, Northern Territory, including but not limited to its anchorages, berths, facilities, channels, turning basins and approaches;

'Master' means the master of the Vessel or any other Person for the time being in charge of the Vessel;

'Person' means any individual, corporation, partnership, trust, unincorporated organisation or other legal entity, including any Governmental Authority;

'Ports' means either or both of the Loading Port and the Loading Facilities, as the context suggests;

'Project Interests' means any one or more of:

- (a) Seller;
- (b) Delegated Operator of the Loading Facilities;
- (c) all other Persons employed or providing services at the Loading Port in connection with the production, storage or loading of LNG, LPG, condensates or other products or supplies at the Loading Port, including agents, except Vessel Interests;
- (d) each Affiliate, including the parent company, of Seller or of Delegated Operator of the Loading Facilities or of any Person referred to in paragraph (c) which is in any way connected with the production, storage or loading of LNG, LPG, condensates or other products or supplies at the Loading Port; and
- (e) the directors, officers, employees and agents of any Person included as Project Interests pursuant to paragraph (a), (b), (c) or (d);

'Seller' means Ichthys LNG Pty Ltd (ACN 150 217 299);

'SPA' means the relevant sale and purchase agreement of LNG, LPG, condensates or other products and supplies, as amended from time to time;

'Third Party' means any Person other than Vessel Interests and Project Interests and any other Person included in the definition of Project Interests or Vessel Interests;

'Towage Services Contractor' means the third party towage services provider arranged by the Seller and made available to each Vessel at the Loading Port, and where the towage services provider does not own the vessel involved in providing the towage services, the Towage Services Contractor includes any direct, indirect and part owner of that vessel and any disponent owner of any tier of such a vessel;

'Vessel' means an LNG or LPG or condensate ship as defined in the respective sales purchase agreement and includes that vessel's cargo, fuel, stores, equipment, appurtenances and all other things on board from time to time;

'Vessel Interests' means any one or more of:

- (a) Vessel owner;
- (b) Vessel charterer;
- (c) all other Persons, except Project Interests, when employed in connection with or providing services in connection with the ownership or operation of the Vessel;
- (d) each Affiliate, including the parent company, of the Vessel owner or Vessel charterer or of any Person referred to in paragraph (c) which is in any way connected with the ownership or operation of the Vessel, including the Master; and
- (e) the directors, officers, employees and agents of any Person included as Vessel Interests pursuant to paragraph (a), (b), (c) or (d);

The Towage Services Contractor, the vessels involved in the course of providing towage services or rendering assistance to the Vessel, and the tug masters, ship pilots and the crews of tugboats, pilot boats and helicopters used to convey ship pilots to or from the Vessel and other vessels rendering assistance to the Vessel are considered as Vessel Interests while providing towage services or ship pilotage services or rendering assistance to the Vessel;

'Wilful Misconduct' means any act or omission which is done or omitted to be done wilfully having regard to, or with reckless disregard for or wanton indifference to, its foreseeable and harmful consequences.

1.2 Interpretation

In this Deed unless otherwise specified, reference to:

- (a) **'includes'** and **'including'** shall mean including without limitation;
- (b) words denoting the singular shall include the plural and vice versa, and words denoting any gender shall include all genders;
- (c) a reference to a Person who is included in Project Interests shall include the successors and permitted assigns of that Person;
- (d) clauses are to recitals, clauses or schedules of this Deed;
- (e) wherever in this Deed any of the Project Interests consent, approval or agreement is required to be not unreasonably withheld, such obligation shall include but not be limited to the obligation of such Project Interest to not unreasonably delay giving the relevant consent, approval or agreement;
- (f) wherever in this Deed any Person is required to exercise its endeavours to do something or refrain from doing something, without prejudice to the general meaning of such expressions or undertakings, such Person shall not be in breach of its obligations to the extent its actions are limited by its need to comply with its contractual and legal obligations, provided that it has (where reasonable to do so) used its reasonable endeavours to obtain any necessary waiver of such obligations;
- (g) an agreement (other than this Deed) includes that agreement as amended, supplemented, novated or replaced from time to time;
- (h) a statute (including any subordinate legislation), code or guideline include that statute, code or guideline as from time to time modified or re-enacted or consolidated whether before or after the execution date of this Deed;
- (i) any authority, association or body whether statutory or otherwise shall, if any such authority, association or body ceases to exist or is reconstituted, renamed or replaced or its powers or functions are transferred to any other authority, association or body, be deemed to refer respectively to the authority, association or body established or constituted in lieu thereof or as nearly as may be succeeding to the powers or functions thereof;

- (j) Project Interests includes any one or more of them as the context may permit or require, and a reference to Vessel Interests includes any one or more of them as the context may permit or require; and
- (k) any Person also imports his, her or its legal personal representatives, administrators, successors and permitted assigns.

1.3 Headings and conflicts

The headings in this Deed are inserted for convenience only and shall not affect the construction of this Deed.

1.4 Periods of time

- (a) In the computation of periods of time from a specified day or Day to a later specified day or Day, the word '**from**' means '**from but excluding**' and the words '**until**' and '**to**' mean '**to and including**'.
- (b) Any provision of stipulation that an action may or shall be taken within a specified number of days or Days shall mean that such action may or shall be taken within the number so specified starting at 0:00 hours on the day or Day on which the right or obligation to take such action arose.
- (c) All dates and periods of time shall be determined by reference to the Gregorian calendar.

2. APPLICATION

- 2.1 Notwithstanding any other agreement, and notwithstanding any rights that any Project Interest may have under the applicable law or any other law that may govern the determination of liability among the Vessel Interests and Project Interests in respect of an Incident, the liability of the Vessel Interests in respect of any Incident is determined and limited exclusively in accordance with the terms and conditions set out in this Deed. In the event of any inconsistency between this Deed and any other agreement or applicable law, this Deed shall prevail.
- 2.2 Vessel owner and Vessel charterer shall procure that Vessel Interests that are not party to this Deed shall comply with the terms of this Deed. Vessel owner and Vessel charterer shall defend, indemnify and hold harmless Seller and Delegated Operator for failure to procure Vessel Interests not party to this Deed to comply with the terms of this Deed.
- 2.3 This Deed commences on the date of its execution and continues in full force and effect until it is earlier terminated by consent by the Delegated Operator (acting on behalf of the Project Interests). This Deed applies to any Incident which occurs during that period. After that period, this Deed remains in force until the discharge of all obligations hereunder which arise during that period. Termination of this Deed shall be without prejudice to the rights and liabilities of the Parties accrued prior to or as a result of such termination. Any provisions of this Deed which are necessary for the exercise of such accrued rights shall survive expiry of this Deed to the extent so required.

3. DAMAGE TO THE VESSEL AND CARGO

- 3.1 Vessel Interests acknowledge that in all circumstances the Master remains responsible on behalf of Vessel Interests for the proper navigation and safety of the Vessel.
- 3.2 Subject to clause 3.1, Vessel Interests shall procure the Master, from time to time, to place the Vessel or transport it to or remove it from any berth or anchorage or position within the Loading Port as reasonably requested by Project Interests' marine supervisor or any other authorised employee or agent of Project Interests.
- 3.3 Subject to any provision of this Deed that provides otherwise, liability for:
 - (a) any damage to or loss of the Vessel;
 - (b) any interference with the Vessel;
 - (c) any other occurrence adversely affecting the normal operation of the Vessel; or
 - (d) any claim, demand or action made or brought against the Vessel or a Vessel Interest by a Third Party (other than those covered by clauses 5.1 and 5.2),

in each case arising from an Incident, shall, as between Project Interests and Vessel Interests, be borne by Project Interests and Vessel Interests in proportion to their respective degrees of Fault as a result of which the Incident occurred.

- 3.4 An amount is not recoverable by Vessel Interests from Project Interests pursuant to clause 3.3 to the extent that it can be reasonably shown that the Incident:
- (a) resulted from an act of war, hostilities, civil war, rebellion, insurrection, terrorism or act of God, including but not limited to earthquakes, volcanic eruption, tidal wave, lightning or cyclone, if in any such case Project Interests took all action reasonably open to them in the circumstances to protect the property of Project Interests and Vessel Interests from the damage or loss; or
 - (b) was caused by the Wilful Misconduct of a Third Party.

4. DAMAGE TO THE PORTS

4.1 The Delegated Operator of the Loading Facilities remains responsible on behalf of Project Interests for the proper operation and safety of the Loading Facilities and of any other part of the Loading Port in the ownership, possession or control of Project Interests.

4.2 Subject to any provision of this Deed that provides otherwise, liability for:

- (a) any damage to or loss of the Ports;
- (b) any discharge of oil, oily mixture or pollutant within or which adversely affects or interferes with the normal operation of the Ports;
- (c) any interference with the Ports;
- (d) any other occurrence adversely affecting the normal operation of the Ports; or
- (e) any claim, demand or action made or brought against Project Interest by a Third Party (other than those covered by clauses 5.1 and 5.2),

in each case arising from an Incident, including but not limited to the costs of:

- (i) cleaning up any escape or discharge of oil, oily mixture or pollutant from the Vessel; and
- (ii) removing any danger or obstruction, which may interfere with the normal operation of the Ports,

shall, as between Vessel Interests and Project Interests, be borne by Vessel Interests and Project Interests in proportion to their respective degrees of Fault as a result of which the Incident occurred.

4.3 An amount is not recoverable by Project Interests from Vessel Interests pursuant to clause 4.2 to the extent that it can be reasonably shown that the Incident:

- (a) resulted from an act of war, hostilities, civil war, rebellion, insurrection, terrorism or act of God, including but not limited to earthquakes, volcanic eruption, tidal wave, lightning or cyclone, if in any such case Vessel Interests took all action reasonably open to them in the circumstances to protect the property of Vessel Interests and Project Interests from the damage or loss; or
- (b) was caused by the Wilful Misconduct of a Third Party.

4.4 Notwithstanding that the Towage Services Contractor, tug masters, ship pilots and the crews of tugboats, pilot boats and helicopters and other vessels rendering assistance to the Vessel may be Affiliates, employees or agents of Project Interests or of Third Parties, as between Vessel Interests and Project Interests:

- (a) any act or omission of such Persons, or any failure of a tugboat, pilot boat or other vessel or helicopter occurring in the course of providing towage or ship pilotage services or rendering assistance to the Vessel is the responsibility of Vessel Interests (except to the extent caused by the Wilful Misconduct of Project Interests);
- (b) any act or omission of such Persons, or any failure of a tugboat, pilot boat or other vessel or helicopter occurring other than in the course of providing towage or ship pilotage services or rendering assistance to the Vessel is not the responsibility of

Vessel Interests (except to the extent caused by the Wilful Misconduct of Vessel Interest); and

- (c) the consequences of any such act or omission or failure that causes or contributes to an Incident shall be determined in accordance with this Deed to the exclusion of and without reference to any other contract which may at any time be agreed to between, any of Vessel Interests, any of Project Interests, any Towage Services Contractor and any tug master or ship pilot or provider of tugboats, pilot boats or other vessels or helicopters used to convey ship pilots to or from the Vessel or render assistance to the Vessel.

5. PERSONNEL CLAIM

- 5.1 Vessel Interests shall not be responsible for claims brought by any employee of Project Interests or any member of the family or dependant of any Project Interests' employee arising out of or consequent upon the personal injury, loss of or damage to property of, or death of, a Project Interests' employee, family member or dependant, irrespective of whether such personal injury, loss or damage to property of, or death of, a Project Interest' employee, family member or dependant, was wholly or partially caused by or due to the Fault of Vessel Interests.
- 5.2 Vessel Interests are solely responsible for claims brought by any employee of Vessel Interests or any member of the family or dependant of any Vessel Interests' employee arising out of or consequent upon the personal injury, loss of or damage to property of, or death of, a Vessel Interests' employee, family member or dependant, irrespective of whether such personal injury, loss or damage to property of, or death of, a Vessel Interest' employee, family member or dependant, was wholly or partially caused by or due to the Fault of Project Interests, and Vessel Interests shall indemnify and hold Project Interests harmless if any of Vessel Interests' employees, or any family member or dependant thereof, or the executor, administrator or personal representative of any of them, brings such a claim against Project Interests.
- 5.3 Vessel Interests and, where appropriate, their respective insurers, shall consult together and cooperate with Project Interests to the extent practicable before any Vessel Interest makes any payment for which an indemnity would be due or might reasonably be expected to be due from the other pursuant to this clause 5.

6. POLLUTION

- 6.1 If an escape or discharge of oil, oily mixture or pollutant occurs from the Vessel either within the Loading Port or which interferes with or may interfere with the normal daily operation of the Loading Port, or if such an escape or discharge is threatened, Project Interests may take all reasonably necessary actions and Vessel Interests shall cooperate with Project Interests to prevent, reduce or clean up the anticipated or resulting pollution.
- 6.2 The cost of actions taken by Project Interests to prevent, reduce or clean up that pollution is recoverable from Vessel Interests pursuant to clause 4.2, subject to the exceptions provided for in clause 4.3.

7. WAIVER

- 7.1 Regardless of any Person's Fault, Vessel Interests waive in favour of Project Interests any rights, claims and entitlement to limit their liability under this Deed with respect to an Incident from which they might otherwise benefit under any applicable law, including any statute, the Convention on Limitation of Liability for Maritime Claims 1976, the Limitation of Liability for Maritime Claims Act 1989 (Cth) or any other convention now or hereafter enacted or adopted.

8. LIMITS OF PROJECT INTERESTS' LIABILITY

The Vessel Interests acknowledge and agree that:

- 8.1 the liability of Project Interests to Vessel Interests is joint and several;
- 8.2 the aggregate liability of Project Interests to Vessel Interests in respect of any one incident or occurrence, howsoever arising, is limited to one hundred and fifty million United States Dollars (US\$150,000,000) or such greater amount as the Parties may mutually agree upon in the future;
- 8.3 payment of the amount specified in clause 8.2 or the amount of any greater limit, as

provided for in that clause, to any one or more of Vessel Interests in respect of any one incident or occurrence is a complete defence to any claim, suit or demand relating to that incident or occurrence made by Vessel Interests against Project Interests; and

- 8.4 for the purposes of this Deed, but not for any other purpose, the property of any one or more of Vessel Interests is deemed to be the property of all of them.

9. LIMITS OF VESSEL INTERESTS' LIABILITY

- 9.1 The liability of Vessel Interests to Project Interests hereunder is joint and several.
- 9.2 The aggregate liability of Vessel Interests to Project Interests under this Deed in respect of any one incident or occurrence, howsoever arising, is limited to one hundred and fifty million United States Dollars (US\$150,000,000) or such greater amount as mutually agreed between the Parties, not in excess of the amount of coverage which in normal practice is available from P&I Clubs that are members of the International Group of P&I Clubs for liabilities arising under this Deed.
- 9.3 Payment of the amount specified in clause 9.2 or the amount of any greater limit, as provided for in that clause, to any one or more of Project Interests in respect of any one incident or occurrence is a complete defence to any claim, suit or demand relating to that incident or occurrence made by Project Interests against Vessel Interests.
- 9.4 For the purposes of this Deed, but not for any other purpose, the property of any one or more of Project Interests is deemed to be the property of all of them.

10. INSURANCE

- 10.1 Vessel Interests shall keep the Vessel entered with a P&I Club which is a member of the International Group of P&I Clubs. Vessel Interests shall pay all premiums, fees, dues and other charges of that P&I Club and comply with all of its rules, terms and warranties in accordance with normal industry practice. Vessel Interests shall keep Project Interests informed of the identity and business address of the P&I Club with which the Vessel is entered as protected, the amount, including the amount of any greater limit, as provided for in clause 9.2, of that protection and such information as is available and appropriate on the terms of that protection.
- 10.2 It is understood by Vessel Interests that Project Interests shall either keep its interest in the Loading Facilities insured, including coverage for liability of the kind covered by this Document, or self-insure, in accordance with its normal corporate practice, and shall, if insuring, pay all premiums, fees, dues and other charges of the applicable insurer and comply with all of the rules, terms and warranties of the applicable insurance policy.

11. THIRD PARTY CLAIMS

- 11.1 No Person, other than a Person who is included in Project Interests, has any rights under any applicable law to enforce any term of this Deed, but this does not affect any right or remedy of a third party which exists or is available apart from this Deed.
- 11.2 Vessel Interests shall not be liable in contract or tort (including without limitation negligence) or otherwise howsoever, as a result of any act or omission in the course of or in connection with this Deed, for or in respect of:
- (a) any indirect, incidental or consequential or exemplary loss or damage;
 - (b) any loss of revenue or profits; or
 - (c) any loss of production, loss of bargain, loss of goodwill or loss of contract.

12. GOVERNING LAW

This Deed and any non-contractual obligations arising out of or in connection with it are governed by the laws of Western Australia. The Vessel Interests hereby submit to the jurisdiction of the courts of Western Australia and of any court that may hear appeals from any of those courts, from any proceedings in connection with this Deed.

THIS DEED POLL IS EXECUTED AND DELIVERED ON THE DATE SET OUT ABOVE.

EXECUTED AS A DEED POLL)
by the Master of the Vessel)
who states that he is authorised to sign)
this Deed for and on behalf of)
THE VESSEL INTERESTS)
in the presence of:)

.....
Signature of Master

.....
Signature of Witness

.....
Name of Master

.....
Name of Witness