



SOUTH HOOK LNG TERMINAL COMPANY LTD

AND

.....

CONFIDENTIALITY AGREEMENT

EXECUTION COPY

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THIS AGREEMENT is made and is effective as of the day of 20 ... (“**Effective Date**”)

BETWEEN:

- (1) **SOUTH HOOK LNG TERMINAL COMPANY LTD**, a company incorporated under the laws of England and Wales (registered number 4982132) whose registered office is at 1st Floor, Pellipar House, 9 Cloak Lane, London, EC4R 2RU (“**SHLNG**”); and
- (2), a company incorporated under the laws of England and Wales (registered number) whose registered office is at (the “**Company**”).

INTRODUCTION

Each party is the owner of proprietary and confidential information which they have agreed to disclose to the other party for the Purpose on the terms and conditions set out in this Agreement.

THE PARTIES AGREE as follows:

1. INTERPRETATION

1.1 In this Agreement:

“**Affiliate**” means a company which directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with a Party. For this purpose “control” means the direct or indirect ownership of the aggregate of more than fifty per cent (50%) of the voting capital;

“**Authority**” means an order or rules of a court or arbitral tribunal of competent jurisdiction, or duly empowered governmental body;

“**Business Day**” means a day other than a Saturday or Sunday or a public holiday in the United Kingdom;

“**Confidential Information**” means any information disclosed by the Disclosing Party (or by another person on behalf of the Disclosing Party) to the Receiving Party (or another person on behalf of the Receiving Party) in relation to the Purpose (whether provided before or after the date of this Agreement and whether in writing, verbally or by any other means and whether directly or indirectly) including, without limitation:

- (a) the existence and content of this Agreement;
- (b) the fact that either Party has communicated with the other concerning the Purpose and the fact that the Parties are exchanging information or holding discussions regarding the Purpose;

- (c) all information regarding the Terminal and Purpose disclosed by Disclosing Party to Receiving Party pursuant to this Agreement, whether in writing or other visual form, oral, recorded on tape or other media, or disclosed through magnetic or other electronic displays, inspection of facilities, or discussions between the Parties (including information disclosed to Receiving Party prior to the Effective Date), and including without limitation: (i) technical information; (ii) proprietary information; and (iii) business and operational information; whether or not such information is labelled or otherwise identified as private, proprietary or confidential;
- (d) all memoranda, reports, valuations, analyses, and summaries of Confidential Information Receiving Party derives from such Confidential Information disclosed to it by Disclosing Party; and
- (e) all information and data Disclosing Party discloses to Receiving Party through examinations in a data room or the like; **"Disclosing Party"** means a Party to this Agreement where it discloses Confidential Information, directly or indirectly to the Receiving Party pursuant to or in anticipation of this Agreement and shall include its duly appointed professional advisors and agents;

"Group" means either of the Parties to this Agreement and all of such Party's parent and subsidiary for the time being;

"Purpose" means discussions, negotiations and other related activities between the Parties in relation to all activities associated with the evaluation process of the Company as a potential user at the Terminal;

"Party" means the **Company** or **SHLNG** and **"Parties"** means the **Company** and **SHLNG**;

"Receiving Party" means a Party to this Agreement where it receives Confidential Information, directly or indirectly from the Disclosing Party and shall include its duly appointed professional advisors;

"Terminal" means the South Hook LNG import and re-gasification terminal in Milford Haven, South Wales, United Kingdom.

1.2 In this Agreement a reference to:

- (a) a "subsidiary" or a "parent" is to be construed in accordance with section 1159 or 1173, as the case may be, of the Companies Act 2006;
- (b) a person includes a reference to a corporation, body corporate, association or partnership;

- (c) a person includes a reference to that person's legal personal representatives (where applicable), successors and permitted assigns; and
- (d) a Clause, unless the context otherwise requires, is a reference to a clause of this Agreement.

1.3 The headings in this Agreement do not affect its interpretation.

2. **UNDERTAKINGS CONCERNING CONFIDENTIAL INFORMATION**

In consideration of the Disclosing Party supplying Confidential Information on a non-exclusive basis to the Receiving Party, the Receiving Party undertakes as follows:

- (a) subject to Clauses 4, 5, 9.2, and 12.3 to keep the Confidential Information strictly confidential including, without limitation, taking the measures set out in Clause 3;
- (b) not to use the Confidential Information except for the Purpose;
- (c) not to disclose the Confidential Information to another person and to use all reasonable efforts to prevent any such disclosure except as permitted under Clauses 4, 5, 9.2, and 12.3; and
- (d) where applicable, to procure that each member of the Group of the Receiving Party is bound by and complies with the same obligations as those imposed on the Receiving Party under this Agreement.

3. **UNDERTAKINGS OF CONFIDENTIALITY**

The Receiving Party shall, in relation to the Confidential Information:

- (a) exercise in relation to the Confidential Information no lesser security measures and degree of care than those which it applies to its own confidential information and which it warrants as providing adequate protection against any unauthorised disclosure, copying or use;
- (b) keep all documents and other material containing, reflecting, or which are generated from any of the Confidential Information:
 - (i) separate from all other documents and materials; and
 - (ii) at the usual place of business of the Receiving Party in the United Kingdom.
- (c) in the event Receiving Party becomes aware that any officers, directors, or employees of Receiving Party or members of its Group (or any person who has received Confidential Information directly or indirectly from Receiving Party) has disclosed or used, or intends to disclose, use or permit use of Confidential Information received from Disclosing Party in a manner contravening or violating the terms of

this Agreement, Receiving Party shall immediately so notify Disclosing Party, provide details available at the time, and keep Disclosing Party fully informed of its actions to stop and/or rectify such violations.

4. **DISCLOSURE OF THE CONFIDENTIAL INFORMATION**

4.1 The Receiving Party may disclose the Confidential Information:

- (a) with the prior written consent of the Disclosing Party;
- (b) to its employees or members of its Group and their employees to the extent that disclosure is necessary or desirable for the Purpose;
- (c) subject to Clause 12, where disclosure is required by an Authority.

4.2 Prior to disclosure of the Confidential Information to a Recipient, the Recipient shall enter into a separate Confidentiality Agreement between the Disclosing Party and the Recipient, on terms providing adequate protection of the Confidential Information and against any unauthorised disclosure, copying or use thereof.

4.3 For the purposes of Clause 4 “**Recipient**” means a person to whom any Confidential Information is disclosed pursuant to this clause 4.

5. **EXCEPTIONS**

This Agreement does not apply to Confidential Information:

- (a) to the extent that the Confidential Information is or comes into the public domain other than by breach of this Agreement. Without limitation, for the purposes of this sub-clause:
 - (i) Confidential Information is not deemed to be in the public domain by reason only that it is known to only a few of the persons to whom it may be of commercial interest; and
 - (ii) a combination of two (2) or more portions of Confidential Information shall not be deemed to be in the public domain by reason only of each separate portion being so available;
- (b) which the Receiving Party can show by its written or other records was in its possession prior to receipt from the Disclosing Party and which had not previously been obtained from the Disclosing Party or another person on behalf of the Disclosing Party under an obligation of confidence;
- (c) which the Receiving Party obtains or is available from a source other than the Disclosing Party without breaching any obligation of confidence.

6. **TERM AND TERMINATION**

- 6.1 Unless otherwise agreed, this Agreement will expire of its own terms five years from the Effective Date (or upon the expiry of such longer period as is provided for in the confidentiality provisions applying to any document that is disclosed), provided however that either Party may cancel or terminate this Agreement at any time, in its sole discretion, by written notice to the other Party and provided further that if either Party determines, in its sole discretion, that it has no interest in pursuing a possible transaction it immediately shall so notify the other Party. In any event, for a period of five (5) years from the earlier of expiration, cancellation or termination of this Agreement (or for such longer period as is provided for in the confidentiality provisions applying to any document that is disclosed), all covenants and obligations of confidentiality and restricted use applicable to Receiving Party hereunder shall remain in effect and fully apply to Confidential Information disclosed by Disclosing Party to Receiving Party.
- 6.2 The obligations of this Clause shall survive and remain in force for such period of five years from expiration, cancellation or termination of this Agreement (or for such longer period as is provided for in the confidentiality provisions applying to any document that is disclosed).
- 6.3 The Receiving Party undertakes within fifteen (15) Business Days of receipt of a written request from the Disclosing Party or on termination of this Agreement whichever is earlier:
- (a) to return to the Disclosing Party all documents and other material in its possession, custody or control that contain any part of the Confidential Information; or
 - (b) to destroy by shredding or incineration all documents and other material in its possession, custody or control which reflect or have been generated from any part of the other Party's Confidential Information and to certify to the other Party that this has been done.
- 6.4 Without prejudice to Clause 6.2, each Party may retain any minutes of meetings of their Board which reflect or have been generated from any part of the other Party's Confidential Information; and any document to the extent a Party is required to do so by law or a competent judicial, governmental, supervisory or regulatory body; and a copy of any document to the extent that this is required for the purpose of the relevant Party's own internal records, but the obligations in Clauses 2 and 3 of this Agreement shall continue to apply.

7. **GENERAL**

- 7.1 The Company represents to SHLNG that it is entering this Agreement as a potential user of the Terminal, and not as agent or broker for any other Person, and has no obligation or intent to enter a transaction as part of an arrangement for, or with a view to, a sale, assignment or other transfer of rights or obligations relating to or arising from this Agreement or a possible transaction.

- 7.2 A variation of this Agreement is valid only if it is in writing and signed by or on behalf of each of the Parties.
- 7.3 The failure to exercise or delay in exercising a right or remedy provided by this Agreement or by law does not constitute a waiver of that right or remedy or a waiver of other rights or remedies. No single or partial exercise of a right or remedy provided by this Agreement or by law prevents a further exercise of that right or remedy or the exercise of another right or remedy.
- 7.4 This Agreement is binding on the Parties hereto and shall remain in full force and effect, unless otherwise terminated by the agreement of the Parties or in accordance with the provisions of this Agreement.
- 7.5 The rights and remedies contained in this Agreement are cumulative and not exclusive of rights or remedies provided by law.
- 7.6 The Parties acknowledge that damages would not be an adequate remedy for a breach of this Agreement and a Disclosing Party is entitled to the remedy of injunction, specific performance and other equitable relief for a threatened or actual material breach of this Agreement.
- 7.7 A person who is not a Party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.
- 7.8 If any provision of this Agreement (or part thereof) is or becomes unlawful or void, the legality, validity, and enforceability of any other part of that provision or any other provision of this Agreement shall not be affected, but shall continue in force and effect. The unlawful or void provision shall be deleted from this Agreement by written agreement of the Parties or final court order but only to the extent of any invalidity so as to preserve the Agreement to the maximum extent.
- 7.9 Except for the rights and obligations set forth expressly in this Agreement, neither Party shall have any obligation or liability to the other with respect to Confidential Information or a possible transaction.

Nothing contained in this Agreement, or any actions or failure to act pursuant to this Agreement (including without limitation, discussions, negotiations, or memoranda arising from or related to this Agreement) shall (i) confer any rights or obligations upon either Party or any person with respect to a possible Terminal capacity transaction, or (ii) require or be construed to require either Party or any person to a) enter into any other agreements respecting Terminal capacity, b) negotiate or c) enter into any business relationship or dealings.

There shall be no rights or obligations between the Parties respecting the Terminal capacity unless and until a detailed written contract with respect thereto is executed by duly-authorized representatives of both Parties. Neither Party shall have any liability to the other Party or any person in the event that, for any reason whatsoever, no such detailed written contract is executed.

7.10 Each Party shall bear sole responsibility for any costs or expenses it or the members of its Group incur in connection with preparation and performance of this Agreement, including activities undertaken to evaluate the potential transaction and activities related to dispute resolution regarding this Agreement.

8. **COUNTERPARTS**

This Agreement may be executed in any number of counterparts and such counterparts taken together shall be deemed to constitute one and the same instrument.

9. **ANNOUNCEMENTS**

9.1 The Parties to this Agreement shall not announce the Purpose and its subject matters and any details thereof to another person without the prior written consent of the other Party except to the extent that such announcement is required as specified in Clause 9.2.

9.2 To the extent that a announcement of the type referred to in Clause 9.1 is required by a rule of a stock exchange on which a Party's shares are listed or traded the announcement shall be made after consultation with the other Party and where practicable, such text has been approved in writing by the other Party prior to its release or publication.

10. **FURTHER ASSURANCES**

10.1 No right or licence is granted to any Party in relation to the Confidential Information except as expressly set out in this Agreement.

10.2 Neither Party is responsible for or makes any representation or warranty, express or implied, with respect to the truth, accuracy, completeness or reasonableness of the Confidential Information supplied to a Receiving Party.

10.3 Neither Party is liable to the other Party or its respective Group or any other person in respect of the truth, accuracy, completeness or reasonableness of the Confidential Information supplied to a Receiving Party or its use.

10.4 Nothing in this Agreement shall be construed to create a partnership, joint venture, agency, or other relationship between the Parties.

11. **NOTICES**

11.1 A notice under or in connection with this Agreement (a "**Notice**"):

- (a) shall be in writing;
- (b) shall be in the English language; and
- (c) shall be delivered personally or sent by first class post pre-paid recorded delivery or by fax to the Party due to receive the Notice at its address set out in this Agreement or to another address or fax number specified by that Party by written notice to the other Party received before the Notice was despatched.

- 11.2 Unless there is evidence that it was received earlier, a Notice is deemed given:
- (a) if delivered personally, when delivered at the address referred to in Clause 11.1(c);
 - (b) if sent by post, two (2) Business Days after posting it; or
 - (c) if sent by fax, when confirmation of its transmission has been recorded by the sender's fax machine.

12. **DISCLOSURES REQUIRED BY AUTHORITIES**

- 12.1 In the event Receiving Party is informed or becomes aware that it may be required by an Authority to make available or disclose Confidential Information received from Disclosing Party to an Authority or person specified by an Authority, Receiving Party will promptly inform Disclosing Party by written notice pursuant to Clause 11 and will keep Disclosing Party promptly and fully informed of all developments relating to possible disclosure of such Confidential Information. The Parties will cooperate with one another to resist or narrow the request or obtain other mutually acceptable resolution with the Authority.

If resolution, mutually acceptable to the Parties and the Authority, cannot be achieved in a timely fashion, the Parties will cooperate with one another to obtain a protective order from a court or other mutually acceptable relief from compelled disclosure. In the event mutually acceptable resolution is not achieved, the provisions of Clause 12.2 shall apply.

- 12.2 To the extent resolution mutually acceptable to the Parties and the Authority is not achieved pursuant to Clause 12.1 of this Agreement, and Receiving Party is compelled, in the opinion of its legal counsel, to disclose such Confidential Information or suffer legal penalty, Receiving Party shall:
- (a) prior to any such disclosure, provide Disclosing Party at the earliest possible time with full details of the disclosure requirement and any planned disclosure;
 - (b) support Disclosing Party if Disclosing Party elects, in its own name and at its sole cost and expense, to seek a judicial or arbitral ruling preventing or limiting disclosure of Confidential Information to the Authority;
 - (c) furnish only that portion of such Confidential Information that Receiving Party is required to disclose pursuant to written advice of legal counsel; and
 - (d) seek, and permit Disclosing Party at its own expense to participate in seeking, written agreement or assurances of the Authority that it will cause any person receiving such Confidential Information to:

- (e) comply with the confidentiality and restricted use provisions of the Agreement (and in the event the Authority itself is the sole recipient of the information, also afford such Confidential Information all confidential, safekeeping, and restricted use protections permitted by law);
 - (i) mark such Confidential Information to reflect that it is confidential and/or proprietary and subject to a confidentiality agreement;
 - (ii) store such Confidential Information in locked, secure files separate from other information and subject to controlled access;
 - (iii) disclose such Confidential Information only to persons with a clear need to know;
 - (iv) limit disclosures to extracts and summaries to the maximum extent;
 - (v) confine, to the extent permitted by law, disclosure to the first Authority which receives such Confidential Information.

12.3 To the extent required to comply with any applicable securities law, the provisions of Clauses 12.1 and 12.2 shall be waived except that Receiving Party, if required to disclose such Confidential Information, shall inform Disclosing Party of the disclosure in advance, to the extent consistent with law.

13. **ASSIGNMENT**

Neither this Agreement nor any rights or obligations hereunder may be assigned by either Party to any person, except to the Party's Affiliate, without the prior written consent of the other Party acting in its sole discretion. In the event a Party assigns all or any part of its rights and obligations hereunder, including assignment to an Affiliate, the assigning Party shall remain jointly and severally liable with the assignee for compliance with all terms and conditions of this Agreement. Without limiting the foregoing, this Agreement shall bind and inure to the benefit of the Parties and their respective successors and assigns.

14. **GOVERNING LAW**

This Agreement (and any non-contractual obligations arising out of or in connection with it) is governed by English law.

15. **JURISDICTION**

15.1 The courts of England and Wales shall have exclusive jurisdiction to settle any dispute arising from or connected with this Agreement (a "**Dispute**").

15.2 The Parties agree that the courts of England and Wales are the most appropriate and convenient courts to settle any Dispute and, accordingly, that they will not argue to the contrary.

IN WITNESS WHEREOF the Parties have caused this Agreement to be executed by their duly representatives on the date which first appears on page 1.

Signed by

Name

Position

For and on behalf of

SOUTH HOOK LNG TERMINAL COMPANY LTD

Signed by

Name

Position

For and on behalf of

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