



GAIL (India) Limited

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PART 2C:

PROFORMA

TRIPARTITE AGREEMENT

TIME CHARTER HIRING OF LNG VESSELS

(TENDER NO.: GAIL/ND/BD/C&P/1406/8000006832)

(E-TENDER NO. 8000006832)

ATTENTION

THIS IS AN ELECTRONIC TENDER (E-TENDER)

TRIPARTITE AGREEMENT

THIS TRIPARTITE AGREEMENT (this "**Agreement**"), dated _____, 2015, is amongst:

1. XXXXXXXXXXXXXXXXXXXX, a company incorporated under the Companies Act, with its registered office at including its successors in title and permitted assigns (hereinafter referred to as the "**Charterer**");
2. [____], a company organised and existing under the laws of [____], with its registered office at [____], including its successors in title and permitted assigns (hereinafter referred to as "**Builder**"); and
3. [____], a company incorporated under the laws of [____], with its registered office at [____], including its successors in title and permitted assigns (hereinafter referred to as "**Owner**").

Each of the above individually referred to as a "**party**" and collectively referred to as "**parties**".

WHEREAS

- A. Charterer has conducted an international competitive bidding process for selection of the party who shall build and own and operate an LNG tanker ("**Vessel**") which shall be chartered to Charterer for transporting LNG pursuant to such bidding process and a letter of acceptance dated xxxxxxxx has been issued to the bidder selected by Charterer and Owner has been incorporated and capitalized to own and operate the Vessel and charter it to Charterer."
- B. Pursuant to such selection, Owner and Charterer have entered into the Time Charter Agreement dated [____] for the building and chartering of the Vessel to load LNG at xxxxxxxx or at any other LNG loading terminals in the world and to transport such LNG to discharging terminals in xxxxxxxxxxxxxx or to any other LNG discharging terminals in India or to any part of the world in accordance with the conditions set out thereunder ("**Charter Party**").
- C. In order to fulfil its obligations under the Charter Party, Owner has entered into the Shipbuilding Contract dated [____] with the Builder for the building of the Vessel ("**Shipbuilding Contract**").
- D. Charterer is interested in the timely building of the Vessel in accordance with and pursuant to the Charter Party and the Builder acknowledges Charterer's interests in the building of the Vessel in accordance with the Charter Party.
- E. The Shipbuilding Contract expressly recognises certain rights of Charterer exercisable upon an Event of Default under the Shipbuilding Contract that is attributable to Owner and the parties wish to enter into this Agreement in respect of such rights of Charterer.
- F. Further, in consideration of Charterer issuing such letter of acceptance and executing the Charter Party with Owner (on the basis of which the Builder and Owner have executed the Shipbuilding Contract), Charterer requires certain acknowledgments, representations, warranties and covenants

to be provided by the Builder and the Builder agrees to provide such acknowledgments, representations, warranties and covenants.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereby agree as follows:

1. Definitions and rules of interpretation

Capitalised terms used but not defined in this Agreement shall have their respective meanings set forth in the said Charter Party and, except as otherwise expressly provided herein, the rules of interpretation set forth in the Charter Party shall apply to this Agreement.

In addition, all expressions defined in the Shipbuilding Contract shall bear the same meaning when used in this Agreement. Unless the context otherwise requires, the following terms and expressions shall have the meanings set out below:

“Assuming Party”	shall have the meaning set out in Clause 5.1
“Cure Period”	shall have the meaning set out in Clause 2.1 below
“Default Notice”	shall have the meaning set out in Clause 2.1 below
“Event of Default”	shall have the meaning set out in Clause 2.1 below
“LMAA”	shall mean London Maritime Arbitrators Association
“Refund Guarantee”	shall mean an irrevocable, first call and unconditional guarantee from a commercial bank acceptable to the Charterer and the Owner, in the form prescribed in Annex II below
“Refund Guarantor”	shall mean the commercial bank approved by the Owner and the Charterer, which has furnished the Refund Guarantee
“Substitution Notice”	shall have the meaning set out in Clause 4 & 5 below
“Transfer Date”	shall have the meaning set out in Clause 4.5 below

2. **Charterer's Rights**

- 2.1 The Builder shall, promptly upon occurrence of an event of default under the Shipbuilding Contract that is attributable to Owner and which entitles the Builder to suspend or terminate the Shipbuilding Contract (“**Event of Default**”), provide Charterer a notice stating therein details in respect of such Event of Default and provide Charterer sixty (60) days (“**Cure Period**”) to cure any Event of Default pertaining to the payment of money and ninety (90) days (“**Cure Period**”) to cure any other Event of Default under the Shipbuilding Contract (“**Default Notice**”), in each case from the date of receipt of the Default Notice.

Events of Default attributable to Owner shall include:

- [(a) the Builder suing for, or instituting any creditor's process (including the exercise of any rights of distress, attachment, seizure or execution, whether before or after judgment) against the Owner (or any Assuming Party) or any of its assets in respect of any obligation (whether or not for the payment of money) owing by the Owner (or any Assuming Party) to the Builder under or in respect of the Shipbuilding Contract; or
- (b) the Builder petitioning for (or voting in favour of any resolution for) or initiating or supporting or taking any steps with a view to any insolvency, liquidation, reorganisation, administration or dissolution proceedings or any voluntary arrangement or assignment for the benefit of creditors or any similar proceedings involving the Owner (or any Assuming Party), whether by petition, convening a meeting, voting for a resolution or otherwise; or
- (c) without prejudice to paragraph (b) above, the Builder exercising any right to enforce any Encumbrance against the Owner (or any Assuming Party) or its assets; or
- (e) the Builder applying for an injunction or specific performance in respect of the Owner (or any Assuming Party) in relation to the Shipbuilding Contract; or
- (f) the Builder taking any action or proceeding with respect to the Owner (or any Assuming Party) in any jurisdiction to which the Owner (or any Assuming Party) is subject which is equivalent or similar to any of the actions or proceedings referred to in paragraphs (a) to (e) above (inclusive) or which could have an equivalent or similar effect.]¹

2.2 Owner and Builder :

- (a) have provided Charterer with true and correct copies of the Shipbuilding Contract and any amendments (including change orders) and the Refund Guarantee as of the Effective Date,
- (b) shall not amend the Shipbuilding Contract and/or the Refund Guarantee (except for renewal of the Refund Guarantee in accordance with the provisions of the Shipbuilding Contract) in any respect that would in any way prevent, inhibit or impair the Charterer's

¹ Upon submission of the Shipbuilding Contract, this provision will be updated to reflect the actual Owner's defaults listed in the Shipbuilding Contract;

ability to exercise its rights under this Agreement, or otherwise reduce or detract from the Charterer's rights available under this Agreement;

- (c) shall provide Charterer with true and correct copies of any permitted amendments and/or replacements of the Shipbuilding Contract and the Refund Guarantee, within 2 (two) days of such permitted amendments and/or replacements.

2.3 Upon the occurrence and during the continuation of an Event of Default, Charterer shall have the right to (and the Builder acknowledges Charterer's right to):

- (a) cure the Event of Default stated in the Default Notice on behalf of Owner (as particularly described in Clauses 2.1 and 3); or
- (b) substitute itself or nominate a third party in place of Owner under the Shipbuilding Contract and Refund Guarantee (as particularly described in Clauses 4 and 5).
- (c) receive the benefit of the Refund Guarantee in addition to the Shipbuilding Contract (see Clause 4.4).

3. **Charterer's right to cure**

3.1 Upon receipt of the Default Notice, Charterer may, in its sole discretion, cure the Event of Default stated in the Default Notice on behalf of Owner in accordance with Clause 2.1 hereof.

3.2 During the Cure Period described in Clause 2.1, the Builder agrees that it shall not exercise any of its rights pursuant to occurrence of an Event of Default under the Shipbuilding Contract (including the right to suspend or terminate the Shipbuilding Contract or conduct a sale of the Vessel).

3.3 Together with the Default Notice, the Builder shall also provide Charterer with (a) the details of all effective instructions, notices and communications given by the Builder and Owner to each other with respect to the Shipbuilding Contract and the Event of Default; and (b) such other information as Charterer may reasonably request, in each case, so as to enable Charterer to effectively exercise its right to cure the Event of Default stated in the Default Notice.

3.4 In the event Charterer cures such Event of Default within the Cure Period described in Clause 2.1, then the Builder's right to exercise any of its rights pursuant to occurrence of an Event of Default under the Shipbuilding Contract (including the right to suspend or terminate the Shipbuilding Contract or conduct a sale of the Vessel) for such default shall automatically and immediately lapse.

3.5 If Charterer has paid any amounts to the Builder or incurred any expenditure, costs, expenses, charges, losses or fees in the exercise of its right to cure the Event of Default stated in the Default Notice, Charterer shall have the right to reimbursement of such expenditure, costs, expenses, charges, losses or fees from the Owner, including without limitation the right to set-off such monies from any sums due by Charterer to Owner under this Agreement, or the Charter Party in such manner as the Charterer deems fit.

4. **Right to substitute**

4.1 In the event:

- (a) the default referred to in the Default Notice is not cured prior to expiry of applicable Cure Period described in Clause 2.1 by or on behalf of Owner, and
- (b) Charterer wishes to exercise its right pursuant to Clause 2.3(b) then, Charterer shall serve a notice on the Builder and Owner in relation to exercise of the substitution right ("**Substitution Notice**") described in Clauses 4 and 5.

4.2 Charterer shall provide the Substitution Notice within thirty (30) days of expiry of the applicable Cure Period described in Clause 2.1. During such thirty (30) day period the Builder agrees that it shall not exercise any of its rights pursuant to the occurrence of an Event of Default under the Shipbuilding Contract (including the right to suspend or terminate the Shipbuilding Contract or conduct a sale of the Vessel).

4.3 Upon Charterer's request, the Builder shall also provide Charterer with (a) the details of all effective instructions, notices and communications (including copies of the same) given by the Builder and Owner (and providers of surety bonds, refund guarantees and other security) to each other pursuant to the Shipbuilding Contract and of the liabilities and payment obligations incurred by Owner to the Builder (including details of payments that have been made by Owner in respect of the Vessel) thereunder and (b) all such other information as Charterer may reasonably request, in each case, so as to enable Charterer to consider whether to assume the obligations of Owner.

4.4 As conditions to the effectiveness of the substitution set out in Clause **Error! Reference source not found.** above, Builder shall provide to Charterer novate the Refund Guarantee in the form set out at [Annex II] in favour of Charterer (or its nominee) restated and confirmed by the Refund Guarantor within [15 (fifteen) days] of the Substitution Notice; provided that in the event that Builder fails to novate the said Refund Guarantee to the Charterer, the Owner may, at its discretion, draw on the full amount of the Refund Guarantee provided to it by Builder under the Shipbuilding Contract, and transfer the proceeds to Charterer to be held as security by Charterer for performance of Builder's obligations under the Shipbuilding Contract.

4.5 The date on which the conditions set out in clause 4.4 are satisfied shall be the Transfer Date.

4.6 The Parties agree that the Charterer shall, at any time prior to the Transfer Date, be entitled to revoke the Substitution Notice through issuing a notice in writing (the "**Revocation Notice**"). In the event that the Charterer issues the Revocation Notice, the substitution pursuant to this Clause 4 shall not occur. The issuance of the Revocation Notice shall be without prejudice to the right of the Charterer to issue of a new Substitution Notice subject to and in accordance with the terms of this Agreement.

5. **Charterer's right to substitution**

5.1 In the event Charterer has served the Substitution Notice, Charterer or its nominee third party (provided that the proposed nominee third party is acceptable to the Builder, acting reasonably)

("Assuming Party") shall have the right to be substituted in place of Owner, and to assume the rights and obligations of Owner, under the Shipbuilding Contract, subject to the following conditions:

- (a) the Assuming Party shall have agreed to be bound by all effective instructions, notices and communications given by the Builder and Owner in writing to each other pursuant to the terms of the Shipbuilding Contract provided that the Assuming Party shall only assume such obligations and liabilities contained in any such instructions, notices and communications to the extent that the Assuming Party was clearly notified about such obligations and liabilities by the Builder;
- (b) the Assuming Party shall have fully cured the Event of Default of Owner (or, if curing such Event of Default is not practicable prior to being substituted to the rights and obligations of Owner, provide reasonably detailed proposals as to the manner and timeframe within which such Event of Default shall be cured) and where such Event of Default is a payment default, (by payment of all outstanding amounts due and payable by Owner under the Shipbuilding Contract in accordance with the terms of the Shipbuilding Contract; and
- (c) the Assuming Party, the Builder and Owner shall have entered into a novation agreement with respect to the Shipbuilding Contract pursuant to which the Shipbuilding Contract and the Refund Guarantee shall be novated by Owner to the Assuming Party and, among other things, all rights and obligations of Owner under the Shipbuilding Contract and the Refund Guarantee shall be assumed by the Assuming Party.

5.2 The Builder hereby agrees that unless and until such time as an Assuming Party assumes Owner's obligations under the Shipbuilding Contract pursuant to Clause 5.1(a), no Assuming Party shall be required to perform or observe any of the obligations or duties of Owner under the Shipbuilding Contract and shall have no liability and owe no obligations to the Builder in connection with the Shipbuilding Contract.

5.3 In the event of substitution of Owner by the Assuming Party pursuant to this Clause 5, subject to any amounts that are due and payable by Owner to Charterer, the Assuming Party shall pay Owner ninety (90) percent of the aggregate of the milestone payments paid by Owner to the Builder in accordance with the Shipbuilding Contract, such payment shall be in full satisfaction of all monies outstanding to Owner in respect of its interest in the Vessel, and shall be in full and final satisfaction of all Charterer's obligations to Owner under the Charter. Upon such payment being effected, the Charter Party shall automatically and immediately terminate. The Owner and Charterer agree that the payment by the Assuming Party to the Owner of ninety (90) percent of the aggregate of the milestone payments paid by Owner to the Builder in accordance with the Shipbuilding Contract and the consequent discount of ten (10) percent of such milestone payments constitutes a genuine pre-estimate of the damages suffered by the Charterer.

5.4 Any costs, expenses, charges and losses incurred by the Assuming Party in connection with the exercise of Charterer's right of substitution shall be for the account of Owner and shall be deducted from the amounts payable by the Assuming Party to Owner under Clause 5.3. If after

any such deductions, any payments remain due from Owner to the Assuming Party, Owner shall promptly, upon written demand therefor, reimburse the Assuming Party any such additional costs and expenses.

- 5.5 The Builder and Owner shall be obligated to assist and co-operate with the Assuming Party and do all things (including execution of documents) that would normally be required to be done by the Builder and Owner in order to enable the Assuming Party to be substituted in place of Owner under the Shipbuilding Contract as contemplated pursuant to this Clause 5.
- 5.6 The parties shall endeavour to complete the substitution of Owner within a period of one hundred and twenty (120) days from the date of the Substitution Notice. However, the Builder and Owner hereby agree that if the substitution cannot be completed by the Assuming Party within the abovementioned period despite the exercise of due diligence by the Assuming Party, the time period to complete the substitution shall be extended for such period of time that is required by the parties to complete the substitution effectively.
- 5.7 Owner and the Builder shall promptly provide the Assuming Party with all such information as the Assuming Party may reasonably request in writing in order to enable itself to be substituted in place of Owner.
- 5.8 Owner shall inform Charterer and the Assuming Party of all third party agreements entered into by Owner for the supply of goods and/or services in relation to the Vessel and, if so requested by Charterer or its nominee, use all reasonable efforts to procure that any such third party agrees to supply the goods and/or services to Charterer or the Assuming Party on the same terms and conditions and to novate the contract(s) between Owner and such third party to Charterer or its nominee, if so required by Charterer or the Assuming Party;
- 5.9 Owner shall co-operate with Charterer and the Assuming Party in the handover of supervision activity under the Shipbuilding Contract and, if Charterer or the Assuming Party so requires, continue to perform the supervision activities until Charterer or the Assuming Party is able to take on the same, provided that any reasonable and documented costs and expenses incurred by Owner in conducting such supervision activity from the Transfer Date shall be for the account of Charterer or the Assuming Party; and
- 5.10 Upon the receipt of the payment referred to in Clause 5.3, Owner shall promptly execute or procure from the Builder and other third parties, if any, a declaration regarding release of its lien or charge (or any other encumbrance) and claims whatsoever over the Vessel and shall execute and deliver a bill of sale and other conveyance of rights to the Vessel or its work-in-progress, parts, equipment, permits, refund guarantees, bonds, credit support plans, specifications, Owner furnished equipment, intellectual property, licenses, warranties or other tangible and intangible property under the Shipbuilding Contract or in respect of the Vessel.

6. **Representations**

The Builder represents as follows:

- (a) It is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation/incorporation and has all requisite power and authority to execute and deliver, and to perform its obligations under, the Shipbuilding Contract and this Agreement;
- (b) The execution, delivery and performance by it of the Shipbuilding Contract and this Agreement have been duly authorized by all necessary corporate action, and do not and will not require any further consents or approvals, or violate any provision of any law or breach any agreement presently in effect with respect to or binding on it;
- (c) All government approvals necessary for the execution, delivery and performance by it of its obligations under the Shipbuilding Contract have been obtained and are in full force and effect;
- (d) This Agreement and the Shipbuilding Contract are legal, valid and binding obligations of it enforceable against it in accordance with their respective terms except as may be limited by bankruptcy, insolvency and other laws affecting creditors' rights in general;
- (e) As of the date hereof, the Shipbuilding Contract is in full force and effect and has not been amended, supplemented or modified;
- (f) As of the date hereof, to the best of its knowledge, Owner has fulfilled all of Owner's obligations under the Shipbuilding Contract, and there are no breaches, defaults or unsatisfied conditions presently existing (or which would exist after the passage of time and/or giving of notice) that would allow it to terminate the Shipbuilding Contract;
- (g) As of the date hereof, (i) there are no disputes or legal proceedings between it and Owner, (ii) it is not aware of any event, act, circumstance or condition constituting an event of force majeure under the Shipbuilding Contract, and (iii) Owner does not owe any indemnity payments or other amounts to it under the Shipbuilding Contract;
- (h) As of the date hereof, there is no pending or, to the best of its knowledge, threatened action or proceeding affecting it before any court, tribunal, governmental authority or arbitrator, which, if adversely determined, could reasonably be expected to materially adversely affect the ability of it to perform its obligations under, or which purports to affect the legality, validity or enforceability of, the Shipbuilding Contract; and
- (i) Each of the representations and warranties contained in Clauses 6 (e) to (h) shall be deemed to be repeated by the Builder on first day of each calendar month during the term of this Agreement, unless otherwise notified, in writing, by the Builder to Charterer prior to such first day of each calendar month, provided that in the event the facts so notified to the Charterer disclose a violation of any right of the Charterer as incorporated in the Shipbuilding Contract pursuant to the provisions of the Charter Party, Builder shall indemnify Charterer against all liabilities, losses, damages, claims, costs and consequences suffered by Charterer pursuant to such violation.

7. Governing law and dispute resolution

- (a) This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of England.
- (b) In the event of dispute, difference, claim, controversy and question, directly or indirectly between the parties arising at any time under, out of, in connection with or in relation to this Agreement or any term, condition or provision hereof, including without limitation any of the same relating to the validity, interpretation, construction, performance and enforcement, the parties shall first endeavour to settle such disputes, differences, claims, controversies and questions by consultation and mutual agreement and failing such settlement within a period of one (1) month from the date of service of a notice of such a dispute by one party to the other, the same shall be referred to and finally, exclusively and conclusively resolved in accordance with arbitration to be administered by LMAA pursuant to one of the following LMAA procedures set forth hereunder:
 - (i) where the amount under dispute is less than or equal to United States Dollar \$50,000, excluding interest, and/or such other sum as the parties may agree, the reference shall be to a sole arbitrator and the arbitration shall be conducted in accordance with the LMAA Small Claims Procedure in force at the relevant time;
 - (ii) where the amount under dispute is greater than United States Dollar \$50,000 but less than United States Dollar \$250,000, excluding interest and/or such other sum as the parties may agree, the reference shall be to a sole arbitrator and the arbitration shall be conducted in accordance with the LMAA FALCA Rules in force at the relevant time;
 - (iii) in any case where the LMAA procedures referred to above do not apply the reference shall be to a tribunal of three (3) arbitrators to be appointed as hereinafter stated and shall be conducted in accordance with the LMAA Terms (as modified by the provisions of Clause 7(c)) in force at the relevant time.
- (c)
 - (i) In respect of reference to arbitration proceedings pursuant to Clause 7(b)(iii), any party may institute such arbitration by giving notice to the other parties and appoint one (1) arbitrator, within thirty (30) days thereafter the other parties shall jointly appoint a second arbitrator. The two (2) arbitrators shall thereupon select and agree on a third arbitrator within thirty (30) days of the appointment of the second (2nd) arbitrator. In the event agreement upon the third (3rd) arbitrator cannot be reached, the third (3rd) arbitrator shall be appointed by the Secretary of LMAA in accordance with the LMAA Terms.
 - (ii) The person(s) to be appointed as arbitrator shall be independent of the parties. No person shall be appointed who at the time of appointment is or was an employee or agent of either party, its subsidiaries or affiliates or was retained by either party in an advisory capacity.
 - (iii) The place of arbitration shall be London.

- (iv) The language to be used throughout any arbitration proceedings and in all documents submitted thereto shall be English and the arbitration tribunal shall determine the matter in dispute in accordance with laws of England.
- (v) The award of the arbitration tribunal shall be made with detailed reasons.
- (vi) The costs and expenses of arbitration shall be shared by the parties in the manner as determined by the arbitration tribunal.
- (vii) In making the award of financial issues the arbitration tribunal may in its discretion provide for payment of interest.
- (viii) Any award of the arbitrators shall be final and binding and the parties expressly exclude any right of appeal of either party to any court either for determination of questions of law in the course of the arbitration or in relation to the award except as necessary to obtain injunctive or provisional relief in aid of arbitration or as necessary to enforce either this arbitration agreement or an arbitral award pursuant to the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958 (New York Convention). The Parties agree that provisions of part I of the (Indian) Arbitration and Conciliation Act, 1996 (except for provisions in respect of injunctive or provisional relief) shall not apply to the arbitration under this Agreement.
- (ix) The parties agree that the award of the arbitrators may be enforced in any jurisdiction in any manner provided by applicable law, a certified or exemplified copy of which shall be conclusive evidence of the award. The parties irrevocably waive to the fullest extent permitted by applicable law: (A) any objection which they may have now or in the future to the laying of the venue of any such enforcement action; and (B) any claim that any such action has been brought in an inconvenient forum. To the extent that any party may, in respect of any such action brought in any jurisdiction referred to above be entitled to the benefit of any provision of law requiring the other party in such action to post security for the costs of the first party, or to post a bond or to take similar action, the first party hereby irrevocably waives such benefit, in each case to the fullest extent now or in the future permitted under such laws or, as the case may be, the jurisdiction in which such action is initiated.

8. **Miscellaneous**

8.1 Notices

Save as specifically otherwise provided in this Agreement any notice, demand or other communication to be served under this Agreement may be served upon any party only by: (i) registered speed post with acknowledgement due, (ii) delivering the same by courier, (iii) delivering the same by hand, (iv) sending the same by facsimile transmission, or (v) sending the same by electronic mail; to such party's address, facsimile number or electronic mail address as mentioned against the names of the parties hereto in Annex 1 to this Agreement or at such other

address, number or electronic mail address as it may from time to time notify in writing to the other party to this Agreement. Provided that any notices sent by electronic mail shall also be delivered immediately by facsimile.

A notice, demand or other communication served:

- (a) by registered speed post with acknowledgement due, courier or by hand shall be deemed duly served at the date and time of its actual delivery if within normal business hours on a working day at the place of receipt, otherwise at the commencement of normal business hours on the next such working day;
- (b) by facsimile transmission shall be deemed to have been served at the time of transmission recorded on the message if such time is within normal business hours on a working day at the place of receipt, otherwise at the commencement of normal business hours on the next such working day;
- (c) by electronic mail shall be deemed to have been served at the time of its receipt, if such time is within normal business hours on a working day at the place of receipt, otherwise at the commencement of normal business hours on the next such working day.

In proving service of the same it will be sufficient to prove, in the case of a letter or electronic mail, that such letter was delivered by registered post, courier or by hand or by electronic mail, as the case may be and, in the case of a facsimile transmission, that such facsimile was duly transmitted to a current facsimile number of the addressee.

8.2 Waiver

No act, omission, course of dealing, forbearance, indulgence or delay by the parties in exercising their rights hereunder (whether pursuant to any default of the other parties or otherwise) or in enforcing any of the terms or conditions of this Agreement, nor any granting of time shall prejudice or affect or be in derogation of the rights and remedies of such party hereunder and no such matter shall be treated as evidence of or constitute a waiver of any rights of the parties as the case may be. No waiver of any provision under this Agreement shall be effective unless the same is in writing and signed by duly authorized representatives of the parties. No single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege hereunder or thereunder.

8.3 Termination of this Agreement

This Agreement shall continue until the later of: (a) termination or expiry of the Shipbuilding Contract; or (b) the final resolution of all disputes arising under the Shipbuilding Contract including those relating to its validity, interpretation, performance, enforcement or termination and satisfaction by the Builder of all its obligations and liabilities arising from such resolution or otherwise under the Shipbuilding Contract.

8.4 Indemnity

The Builder shall indemnify Charterer against all liabilities, losses, damages, claims, costs and consequences suffered by Charterer pursuant to breach by the Builder of the provisions of this Agreement or as a result of the representations and warranties of the Builder being false, inaccurate and/or misleading.

The Owner shall indemnify the Charterer against any loss or damage caused to Charterer by the Owner stemming from a breach by Owner of its obligations under this Agreement, or as a result of the representations and warranties of the Owner being false, inaccurate and/or misleading.

8.5 Confidentiality

The parties agree to keep Confidential Information (as defined below) strictly confidential, except in the following cases when the receiving party shall be permitted to disclose such information:

- (a) It is already known to the public or becomes available to the public other than through the act or omission of the receiving party; or
- (b) It is required to be disclosed under applicable Law (provided that the receiving party shall give notice of such required disclosure to the disclosing party prior to the disclosure); or
- (c) In filings with a court or arbitral body in proceedings in which the Confidential Information is relevant and in discovery arising out of such proceedings; or
- (d) To any of the following persons to the extent necessary for the proper performance of their duties or functions:
 - (i) Owner or seller or potential Owner or seller of LNG shipped or to be shipped on the Vessel.
 - (ii) An Affiliate of the receiving party.
 - (iii) Any Assuming Party;
 - (iv) Employees, officers, directors and agents of the receiving party.
 - (v) Professional consultants retained by the receiving party.
 - (vi) Financial institutions advising on, providing or considering the provision of financing to the receiving party or any Affiliate thereof.

Provided that the receiving party shall exercise due diligence to ensure that no such person shall disclose Confidential Information to any unauthorized party or persons.

"Confidential Information" means the terms and conditions of this Agreement, the Shipbuilding Contract and the Refund Guarantee and any and all notices, data, reports, records, correspondence, notes, compilations, studies and other information relating to or in any way connected with the Shipbuilding Contract, the Refund Guarantee and this Agreement that is disclosed directly or indirectly by or on behalf of the disclosing party or any of its representatives or agents to the

receiving party or any of its representatives or agents, whether such information is disclosed orally or in writing.

The provisions of this Clause 8.5 shall survive for a period of two (2) years after the termination or expiry of this Agreement.

8.6 Conflict with the Shipbuilding Contract

Notwithstanding anything contained in the Shipbuilding Contract, in the case of any ambiguity, inconsistency, discrepancy or conflict between this Agreement and the Shipbuilding Contract, this Agreement shall prevail.

8.7 Counterparts

This Agreement may be executed in any number of counterparts all of which shall together constitute one and the same instrument.

8.8 Severability

If any provision hereof becomes invalid or unenforceable, or if performance thereof becomes illegal, the remaining provisions hereof shall be unaffected thereby. Notwithstanding the above, in such an event parties shall negotiate in good faith in order to agree to the terms of a mutually acceptable and satisfactory alternative provision which is valid and enforceable and the performance of which is legal.

8.9 Amendment

This Agreement may only be amended by an instrument in writing signed by the duly authorized representatives of the parties.

IN WITNESS WHEREOF this Agreement has been executed by the duly authorised representative of the Parties as of the day and year first above written.

GAIL (India) Limited

Signed by: [____]

(Charterer)

Title: [____]

[____]

Signed by: [____]

(Builder)

Title: [____]

[____]

(Owner)

Signed by: [____]

Title: [____]

Annex I

NOTICES

Whenever written notices are required to be given by either party to the other party, such notices shall be in the English language and sent by registered mail, courier, email or telefax to the following addresses:

Notice to Charterer:

To:

Telefax:

Email:

Attention:

Copy to:

Telephone:

Telefax:

Attention:

Notice to Owner:

To:

Telefax:

Email

Attention:

Copy to:

Telefax:

Email

Attention:

Notice to Builder:

To:

Telefax:

Email

Attention:

Copy to:

Telefax:

Email

Attention:

or to such other addresses as the Parties may respectively from time to time designate. Any failure to transmit a copy of the notice to a party listed as entitled to receive a copy shall not in any way affect the validity of any notice otherwise properly given as provided in this Clause.

Annex II

REFUND GUARANTEE