

# THIRD PARTY ACCESS CODE



## FOR MALAYSIAN REGASIFICATION TERMINALS

*Established pursuant to section 37B of Act 501*

Kod/ST/No.5/2017



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## 1. Objective and Scope

- 1.1. As part of the 10th Malaysian Plan and the New Energy Policy, the Malaysian Government had planned to open up the country's gas market to third parties to promote importation of liquefied natural gas and the growth of the national gas industry. The overarching objective behind this decision is to secure and manage energy supplies for Malaysia's growing domestic demand and promote economic growth.
- 1.2. Among other things, the Malaysian government had planned for the construction of several regasification terminals, with the first regasification terminal in Melaka.
- 1.3. In furtherance of this objective, the Gas Supply Act (Amendment) 2016 (the "Amendment Act") was gazetted on 9 September 2016 to amend the then Gas Supply Act 1993 to include provisions in relation to the economic regulation of the import into regasification terminal, regasification, shipping, transportation and including safety and technical regulations in the case of distribution or the retail or use of gas through a piping system and related matters. More particularly, the Commission was given the task to regulate such matters.
- 1.4. The Gas Supply Regulations 1997 was also subsequently amended to cater for the new scope introduced by the Gas Supply Act 1993.
- 1.5. For the purposes of the following provisions of this Code, any reference to the "Gas Supply Act 1993" shall mean a reference to such Act, as amended, varied or modified by the Amendment Act and any reference to the "Gas Supply Regulations 1997" shall mean a reference to such Regulations, as similarly amended, varied or modified.
- 1.6. The relevant parties are also to note that there may be other authorities who have jurisdiction over technical and safety issues throughout the

gas value chain, for example, the current jurisdiction of the Department of Occupational Safety and Health (“DOSH”) on technical and safety issues relating to regasification terminals and transmission pipelines in Malaysia pursuant to the, Petroleum (Safety Measures) Act 1984 and Factories and Machinery Act 1967. Such matters are not covered under the Gas Supply Act 1993 and as such the relevant parties are required to independently liaise with these authorities, if necessary. It shall be the sole responsibility of the relevant parties to identify and ascertain such matters.

- 1.7. Within its expanded regulatory scope, the Commission pursuant to section 37B and section 37C of the Gas Supply Act 1993 has the power to develop and publish certain codes, guidelines and directions.
- 1.8. Pursuant thereto, this Code was developed with the objective of establishing a framework for third party access to the regasification terminals so as to:
  - 1.8.1. promote the development of a competitive gas market by establishing uniform principles to be applicable to the relevant parties;
  - 1.8.2. ensure transparency, fair and non-discriminatory practices in all transactions concerning the use of the regasification terminals;
  - 1.8.3. prevent abuse of dominance and any potential anti-competitive conduct; and
  - 1.8.4. ensure the safe and reliable supply of gas.
- 1.9. This Code applies to the following parties:
  - 1.9.1. regasification licensees;

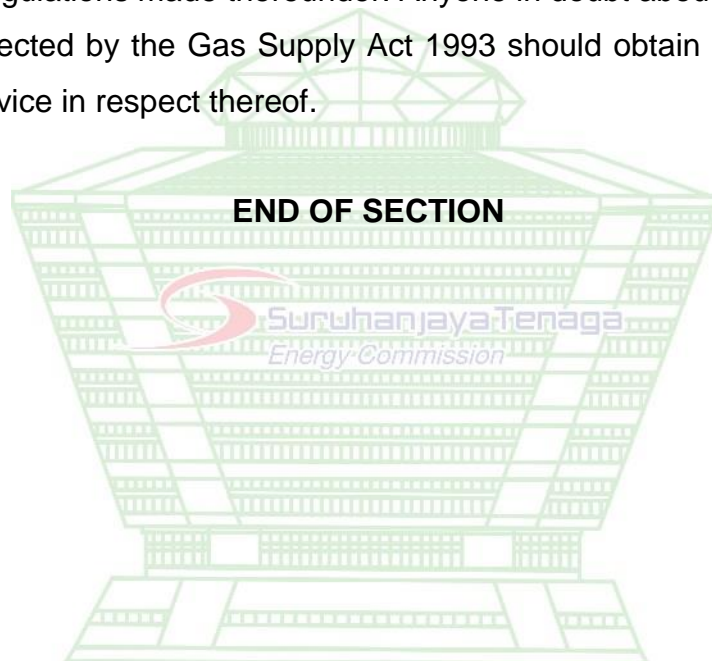
1.9.2. import into regasification terminal licensees;

1.9.3. shipping licensees; and

1.9.4. transportation licensees.

1.9.5. a connected party.

1.10. This Code is not a substitute for the Gas Supply Act 1993 nor for any Regulations made thereunder. Anyone in doubt about how they may be affected by the Gas Supply Act 1993 should obtain independent legal advice in respect thereof.



## 2. Documentation Structure

### 2.1. Introduction

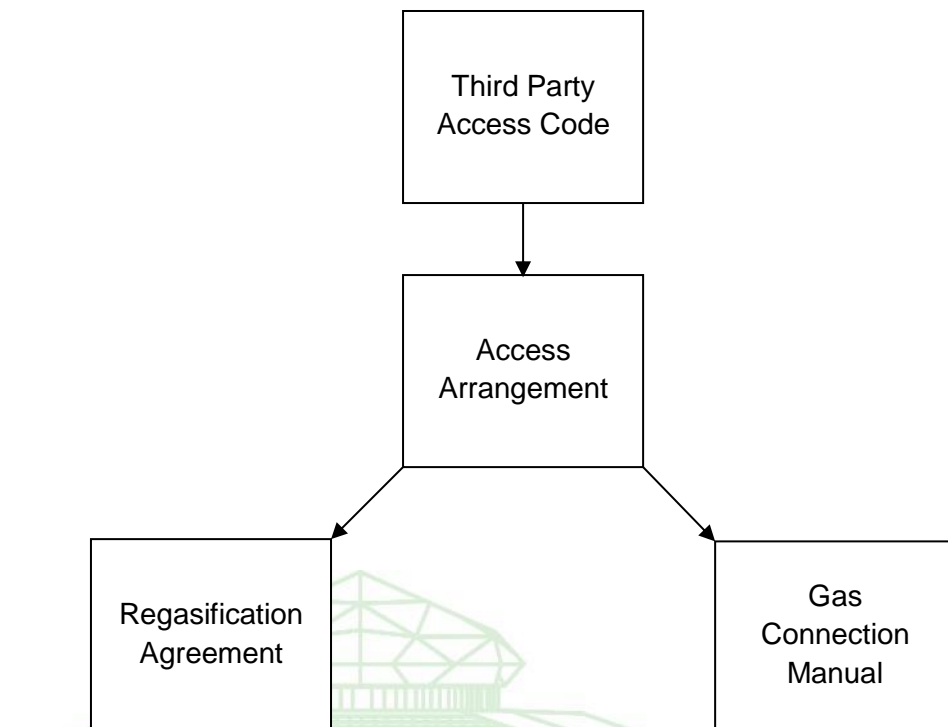
2.1.1. Pursuant to the provisions of this Code, the following documents will be established by and/or between the parties identified in paragraph 1.9 of this Code.

2.1.2. Access Arrangement (“AA”): This will be the document established by a regasification licensee and approved by the Commission containing the standard principles of arrangement between such regasification licensee and the parties who wish to access the relevant regasification terminal. Further details on the AA are as contained in paragraph 2.2 of this Code.

2.1.3. Regasification Agreement (“RGA”): This will be the agreement entered into between a regasification licensee and a shipping licensee and/or an import into regasification terminal licensee pursuant to the Code. Further details on the RGA are as contained in paragraph 2.3 of this Code.

2.1.4. Gas Connection Manual (“GCM”): This will be the manual containing certain technical provisions and physical arrangements between a regasification licensee and a transportation licensee. Further details on the GCM are as contained in paragraph 2.4 of this Code.

2.1.5. A pictorial representation of the documentation structure in the third party access for regasification terminals under this Code is as follows:



## 2.2. Access Arrangement

2.2.1. Each regasification licensee shall develop, obtain approval of the Commission and publish on its website an AA which will provide such information as to enable the relevant parties to:

- (a) understand the background to the AA; and
- (b) understand the basis and derivations of various elements of the AA, wherever necessary, and their individual RGAs.

2.2.2. The relevant AA shall be published before a regasification licensee starts to provide any regasification services and once so published shall not be amended, varied or modified without the written approval of the Commission.



2.2.3. If, in the Commission's opinion, information submitted in any AA is deficient in its comprehensiveness or in any other respect, the Commission may require the relevant regasification licensee to:

- (a) make the necessary revisions to correct the deficiency and to re-submit the AA; or
- (b) submit further AA information as an addendum to the information already submitted.

2.2.4. All AAs must be developed in accordance with the provisions and principles laid down in this Code.

2.2.5. The Commission reserves the right to instruct a regasification licensee to amend the provisions of an AA in the interests of the gas market.

2.2.6. An AA shall as a minimum:

- (a) identify the regasification terminal to which the AA relates and include a reference to a website at which a description of the regasification terminal can be studied;
- (b) describe the services which, in accordance with this Code, the regasification licensee offers to provide by means of the regasification terminal;
- (c) specify any auxiliary services which the regasification licensee provides;
- (d) set out details of the Capacity Allocation procedure for the services provided (for example, details of how the first-come-first-serve mechanism shall be implemented);

- (e) set out details of the congestion management procedures (for example, illustrations on how the use-it-or-lose-it provisions shall be applied, detailed open season procedures and forms to be used);
- (f) provide gas specifications in order to allow suitable alignment with transportation licensee while taking into account the need to accommodate regional and operational differences that may exist;
- (g) set out protocols, procedures and technical details/requirements related to the measurement of gas quantity, quality, pressure for the purposes of metering and billing, Boil-off gas handling and the operational and safety requirements of the relevant regasification terminal;
- (h) set out the rules which need to be observed by all relevant parties in order to prevent any threats to the Heel or Linepack of the regasification terminal;
- (i) set out the scheduling procedures and priority rules more particularly detailed in section 8;
- (j) set out provisions related to the liabilities and remedies of the relevant parties in accordance with the principles set out in this Code;
- (k) set out the details of the standard process to check credit worthiness of a shipping licensee and/or an import into regasification terminal licensee and the required credit limits and guarantees by such licensees to avail itself of the services of the regasification licensee;

- (l) set out the terms for the provision of the basic services and of the auxiliary services by the regasification licensee (for example, invoicing and payment terms);
- (m) detail the individual components of the tariff, and any other charges which can be imposed by the regasification licensee as more particularly described in section 9 and section 10;
- (n) describe the invoicing procedure of the regasification licensee and the corresponding settlement procedure;
- (o) give effect to the gas connection related provisions contained in paragraph 2.4 and the RGA contained in paragraph 2.3;
- (p) describe the cases of Force Majeure, suspension or termination which will be contained in the relevant RGAs, as well as the procedures for handling and settling disputes;
- (q) contain communication and confidentiality-related provisions as more particularly detailed in section 11;
- (r) contain the procedure for the modification of the terms of an RGA in the event of a change in the relevant regulatory framework;
- (s) contain any other requirements which are deemed necessary by the Commission during the review and approval process of the AA.

## 2.3. Regasification Agreement

2.3.1. The RGA will be entered into between each regasification licensee and a shipping licensee or an import into regasification terminal licensee.

2.3.2. The RGA will contain all the terms and conditions related to the regasification services agreed upon between the relevant parties and will incorporate by reference the terms of the AA. The RGA shall contain at least the following:

- (a) the Reserved Capacity of the shipping licensee and/or the import into regasification terminal licensee;
- (b) the services provided by the regasification licensee;
- (c) the specific auxiliary services provided by the regasification licensee (which may be any such auxiliary services as are described in the AA);
- (d) the specific tariffs and charges payable by the relevant licensee to avail itself of the services of the regasification licensee (in each case calculated on the basis set out in the AA); and
- (e) the security required to be deposited by the relevant licensee and/or the relevant credit limit stipulations, in each case in accordance with the standard process developed in accordance with paragraph 3.2.4 of this Code.

2.3.3. The RGA shall provide the right to its signatories to initiate relevant legal action for any breach of the terms of the RGA, in

compliance with the provisions of this Code and in accordance with the AA.

2.3.4. Before the formal execution of the RGA between the regasification licensee and the shipping licensee and/or the import into regasification terminal licensee, the draft RGA shall be submitted to the Commission for approval and the Commission may require any changes to the RGA subject always that such changes shall not be contrary to the principles of this Code.

2.3.5. Termination of RGA:

(a) if a party to an RGA:

(i) is declared bankrupt or is declared to have a similar legal status affecting the rights of creditors generally; or

(ii) has committed any material breach of the RGA,

the other party shall be entitled, without judicial intervention to terminate the RGA or suspend the RGA for a period not exceeding 60 Days to permit the party in default to remedy such default, failing which the RGA shall immediately be terminated.

(b) if the other party is a shipping licensee and:

(i) it fails to fulfil its payment obligations;

(ii) its licence or any other necessary approvals have been revoked; or

- (iii) its credit rating is no longer in compliance with the acceptable standards set out as per provisions of paragraph 3.2.4,

the regasification licensee may issue to the shipping licensee a notice of intention to terminate, and suspend the provision of services under the RGA. The shipping licensee shall be given a period of 15 Days to remedy the default, failing which the regasification licensee may terminate the RGA.

- (c) a party shall notify the other party if that party exercises its right to terminate the RGA in accordance with the procedure set out in the AA.

- (d) in the event an RGA is terminated or suspended, each shipping licensee shall cooperate with the regasification licensee and vice versa insofar as reasonably practicable to ensure the continuity of supply to customers of the shipping licensee whose RGA has been terminated.

- (e) the shipping licensee shall have the right to appeal to the Commission regarding the regasification licensee's decision on termination of the RGA.

## **2.4. Gas Connection Manual**

2.4.1. For the purposes of this Code, a GCM is a manual established between a regasification licensee and a connected party.

2.4.2. The objective of the GCM is to:

- (a) ensure technical compatibility of the aforementioned connected facilities for the safe and reliable operation of each regasification terminal;
- (b) define the roles and responsibilities of the relevant regasification licensee and transportation licensee; and
- (c) ensure fair, transparent and non-discriminatory connection arrangements between a regasification licensee and a transportation licensee.

2.4.3. The GCM to be established between a regasification licensee and a transportation licensee will contain provisions regarding the physical connection, measurement, operational safety and arrangements with regard to the connecting facilities aligned to the aforementioned objectives and will incorporate by reference the terms of the AA.

2.4.4. The connected parties for a regasification licensee will include a transportation licensee.

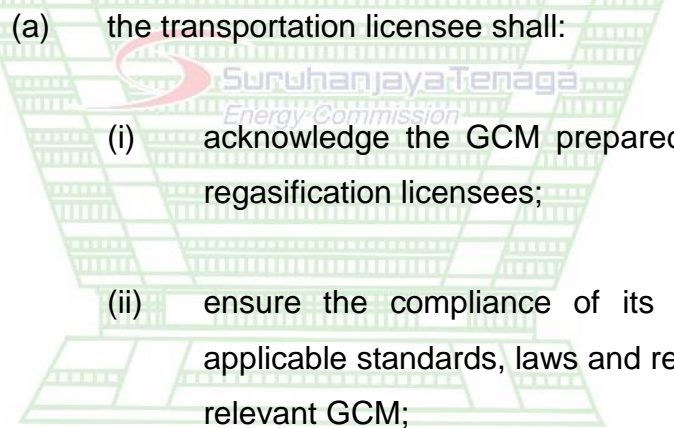
2.4.5. In their decision-making and cooperation, the parties shall be under an obligation to each other to take into account the importance of operational compatibility, safety and economics of infrastructural measures. In so doing, the parties shall take into account the need to install connecting facilities to the regasification terminal.

2.4.6. The regasification licensee will make every effort to keep the terms and conditions standardized across all the GCMs with its connected parties..

2.4.7. When gas is injected into a Gas Transmission System from a regasification terminal, the shipping licensee and/or the import into regasification terminal licensee who owns such gas shall take into consideration the contents of the relevant GCMs and ensure that they do not do or omit to do any such acts which shall contradict with any GCM. The regasification licensee must inform the relevant licensees of the contents of the each GCMs and provide to them such other information as is necessary.

2.4.8. The GCM does not release the relevant licensees from their obligations under or pursuant to this Code, the relevant AA or any other agreements and/or arrangements.

2.4.9. Obligations of the parties:

- 
- (a) the transportation licensee shall:
    - (i) acknowledge the GCM prepared by the relevant regasification licensees;
    - (ii) ensure the compliance of its facilities with all applicable standards, laws and regulations and the relevant GCM;
    - (iii) ensure that every GCM to which it is a party complies with the provisions of this Code;
    - (iv) allow the relevant regasification licensee to inspect its facilities where necessary;
    - (v) ensure that all connection equipment owned, operated or controlled by it at all times complies



with applicable requirements and conditions for connection in accordance with the relevant GCM;

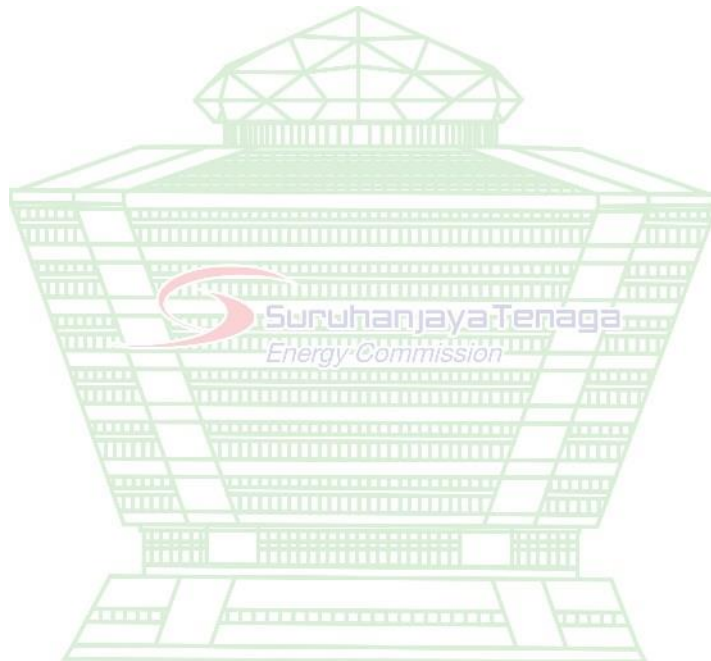
- (vi) not make any material modifications to any connection equipment that is the subject of the GCM without sufficient prior notification to the relevant regasification licensee; and
- (vii) use all reasonable endeavours to comply with all reasonable requests of a person who applies to be connected to its facilities relating to its connection requirements.

(b) the regasification licensee shall:

- (i) prepare a GCM to be acknowledged by the relevant transportation licensees;
- (ii) ensure the compliance of its facilities with all applicable standards, laws and regulations and the relevant GCM;
- (iii) ensure that every GCM to which it is a party complies with the provisions of this Code;
- (iv) allow the relevant transportation licensee to inspect its facilities where necessary;
- (v) ensure that all connection equipment owned, operated or controlled by it at all times complies with applicable requirements and conditions for connection in accordance with the relevant GCM;

- (vi) not make any material modifications to any connection equipment that is the subject of the GCM without sufficient prior notification to the relevant transportation licensee; and
  
- (vii) use all reasonable endeavours to comply with all reasonable requests of a person who applies to be connected to its facilities relating to its connection requirements.

**END OF SECTION**



### 3. Access to Regasification Terminal

#### 3.1. Services and Obligations

3.1.1. A regasification licensee shall provide at minimum the following services:

- (a) receiving of liquefied natural gas at the relevant regasification terminal;
- (b) short-term storage of liquefied natural gas at the relevant regasification terminal on a case to case basis;
- (c) regasification and delivery of gas to the point at which gas is delivered to the relevant Gas Transmission System; and
- (d) any other auxiliary services as may be agreed between the parties.

3.1.2. A regasification licensee shall perform the following activities as part of its obligations as a regasification licensee:

- (a) measurement of liquefied natural gas quantity, liquefied natural gas quality, send-out gas quantity and send-out gas quality for the purposes of metering and billing and for the purposes of the operational and safety requirements of the regasification terminal;
- (b) maintenance of the regasification terminal;
- (c) management of the shipping licensee's and/or the import into regasification terminal licensee's liquefied natural gas inventory in the regasification terminal;

- (d) planning of investments in the regasification terminal;
- (e) management of Capacity Allocation between shipping licensees and/or the import into regasification terminal licensees in the regasification terminal;
- (f) development, operation and maintenance of the Gas Management System (GMS).

3.1.3. For the avoidance of doubt, except otherwise stated herein, services of a regasification licensee shall not include the production or sale of liquefied natural gas or other gas for commercial purposes.

3.1.4. The regasification licensee shall offer services that are compatible with the use of inter-connected Gas Transmission Systems and facilitate access through cooperation with the relevant transportation licensee(s).

3.1.5. If a party (including the regasification licensee) does not comply with its obligations under this Code, the Commission may impose fines on that party and/or revoke the licence of that party in accordance with the terms of that party's licence and any other applicable laws of Malaysia.

3.1.6. If the relevant shipping licensee, import into regasification terminal licensee and/or transportation licensee is of the opinion that a regasification licensee is in breach of this Code, it has the right to lodge a complaint to the Commission and the Commission shall, if it is of the opinion that the complaint is merited, address the complaint accordingly.

### 3.2. Registration for Services

3.2.1. A prospective shipping licensee and/or an import into regasification terminal licensee must apply for the relevant licence in accordance with the Gas Supply Act 1993. Upon issuance of the relevant licence, the shipping licensee and/or the import into regasification terminal licensee shall have the right to access the relevant regasification terminal, subject always to the provisions of this Code.

3.2.2. A shipping licensee and/or an import into regasification terminal licensee that intends to utilize a regasification terminal must submit a written application of the same to the relevant regasification licensee and submit a copy of the written application to the Commission. Upon receiving the said written application, the regasification licensee shall provide access of the regasification terminal to the relevant shipping licensee or import into regasification terminal licensee unless:

- (a) entering into an RGA with the shipping licensee or import into regasification terminal licensee would prevent the regasification licensee from fulfilling its obligations under this Code;
- (b) the shipping licensee and/or the import into regasification terminal licensee is unable to meet the determined necessary security or credit limit stipulations specified in paragraph 3.2.4; or
- (c) the relevant regasification terminal does not have sufficient capacity to meet the requirements of the shipping licensee and/or the import into regasification terminal licensee.

3.2.3. Where the regasification licensee and the shipping licensee and/or the import into regasification terminal licensee cannot agree on the terms of the RGA, the shipping licensee and/or the import into regasification terminal licensee has the right to appeal to the Commission for a decision on the terms which shall be incorporated in to the RGA.

3.2.4. Before entering into an RGA with the shipping licensee and/or the import into regasification terminal licensee, the regasification licensee shall have the right to conduct a credit worthiness check of the relevant licensee(s). Towards this objective, the regasification licensee shall develop and get approved from the Commission, a standard process to determine such credit worthiness and determine the required security or applicable credit limit stipulations. A shipping licensee and/or an import into regasification terminal licensee shall have the right to appeal to the Commission regarding the regasification licensee's decision on its credit worthiness, security requirements and/or credit limit stipulations.

### **3.3. Capacity Allocation Mechanism**

3.3.1. The maximum capacity of each regasification terminal shall be made available to all licensees that intend to utilize them, taking into account system integrity and efficient operations of the relevant regasification terminal. The regasification licensee shall implement and publish non-discriminatory and transparent Capacity Allocation mechanisms, which shall:

- (a) provide appropriate economic signals for efficient and maximum use of technical capacity;

(b) be flexible and capable of adapting to evolving market circumstances.

3.3.2. The regasification licensee shall provide both firm and interruptible capacities. A shipping licensee and/or an import into regasification terminal licensee that intend to utilize a regasification terminal shall apply to reserve the Available Firm Capacity while entering into an RGA with the regasification licensee prior to injecting gas into the system.

3.3.3. The regasification licensee must endeavour to provide as much as possible of the Available Firm Capacity to the relevant licensee in accordance with the licensee's request. The regasification licensee will offer unused capacity on an interruptible basis once all the Available Firm Capacity is reserved.

3.3.4. The regasification licensee shall process the request for services based on first-come-first-serve basis.

3.3.5. The regasification licensee shall approve or reject a request for services depending upon the level of congestion at that point of time. A licensee whose request has been rejected, however, has the right to appeal to the Commission upon rejection of a request for services.

### ***Reserved Firm and Short-term Services***

3.3.6. A shipping licensee and/or an import into regasification terminal licensee that intend(s) to utilize a regasification terminal may apply to the regasification licensee for Reserved Firm Capacities. The Reserved Firm Capacities can be booked for a minimum period of 12 Months or any shorter period as may be agreed

between the regasification licensee and the relevant licensee and approved by the Commission.

3.3.7. A shipping licensee and/or an import into regasification terminal licensee that intend to utilize a regasification terminal will enter into an RGA in which the details of the Reserved Firm Capacities will be mentioned along with the terms and conditions pursuant to the AA of the regasification licensee and this Code.

3.3.8. The Commission may issue directions to alter the minimum reservation periods in respect of the Reserved Firm Capacities offered by the regasification licensee, if the Commission deems it necessary for fostering competition, depending upon evolving dynamics of the gas market in Malaysia. Such directions, at the time of their issuance, will have retrospective effect on the minimum reservation periods on the existing RGAs only if:

- (a) such retrospective effect is agreed mutually between the regasification licensee and the relevant licensee(s); or
- (b) the Commission is of the view that such retrospective effect is required.

3.3.9. The regasification licensee shall monitor the utilization of the facility's capacity by the relevant licensees and may offer, if technically possible, short-term services related to storage and regasification of liquefied natural gas.

3.3.10. If the regasification licensee decides to offer short-term services, the design, terms and conditions and the tariffs of the short-term services, taking into account any effect on firm capacities, shall be approved by the Commission.



### **3.4. Use-It-Or-Lose-It**

- 3.4.1. The regasification licensee must have adequate mechanisms to monitor unused capacity of the relevant licensees and to re-allocate the unused capacity in case of requests for capacity by other relevant licensees.
- 3.4.2. The regasification licensee shall include details of such use-it-or-lose-it provisions in the AA.
- 3.4.3. The Commission shall have the right to review the application of the use-it-or-lose-it provisions and the stipulations therein and may issue directions to modify those provisions in case the Commission discovers any anti-competitive conduct, inadequate utilization of the facilities and/or inadequate levels of competition in the relevant market.

### **3.5. Transfer of Reserved Firm Capacity**

- 3.5.1. A licensee can transfer all or part of its Reserved Firm Capacity to another licensee. In the event of such a transfer, the licensee intending to make such a transfer shall first seek the consent of the regasification licensee.
- 3.5.2. The capacity transfer procedure will be detailed down in the AA.
- 3.5.3. The capacity transfer shall be subject to the potential transferee having meeting the credit worthiness check of the regasification licensee (in accordance with paragraph 3.2.4) and on the basis that the transferee will be subject to the terms and conditions of the RGA between the regasification licensee and the licensee making the transfer.

### 3.6. Sub-Letting

Save as permitted pursuant to paragraph 3.5, a shipping licensee and/or an import into regasification terminal licensee shall not enter into any agreement or arrangement pursuant to which any third party has the right to utilize (whether in whole or part) that licensee's Reserved Firm Capacity or Reserved Interruptible Capacity.

### 3.7. Open Season

3.7.1. Open season is carried out to assess market demand by evaluating the need for new capacity and the possibility of expansion of a regasification terminal, which may include the construction of additional facilities thereto.

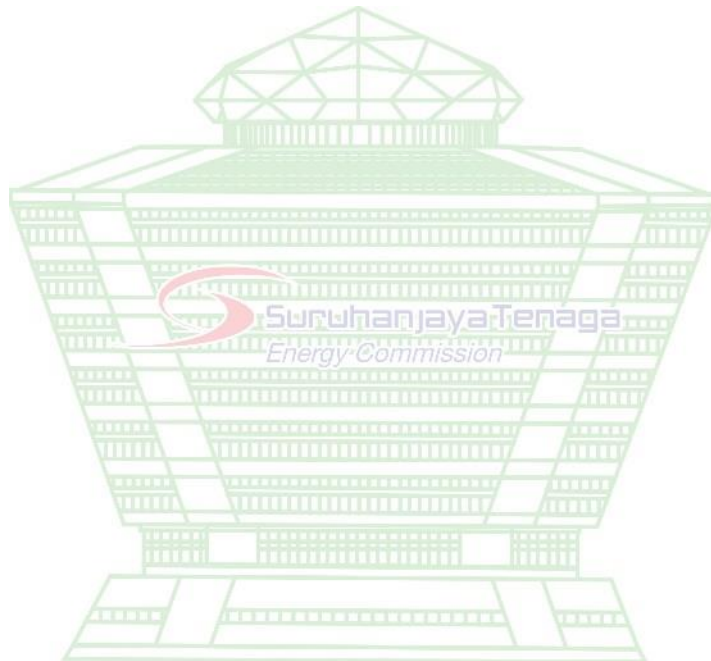
3.7.2. A regasification licensee may conduct open season from time-to-time when:

- (a) actual physical congestion occurs at the regasification terminal; or
- (b) the regasification licensee or the Commission foresees a potential physical congestion at the regasification terminal; or
- (c) there is a request for additional facilities to be constructed.

3.7.3. Before conducting an open season, the regasification licensee will establish an open season procedure which is approved by the Commission.

3.7.4. If the Commission requires any modifications to an open season procedure, such modifications shall be duly incorporated by the regasification licensee.

**END OF SECTION**



## 4. Metering

### 4.1. Metering Philosophy and Metering Equipment

4.1.1. All rights, interests, covenants, and obligations of the parties in respect of the measurement and analysis of liquefied natural gas and regasified gas processed and/or transported in the regasification terminal by a regasification licensee shall be as set out in the said regasification licensee's Metering Philosophy. A regasification licensee must ensure the compatibility of its Metering Philosophy with the Metering Philosophy of each and every party whose facilities are connected to the relevant regasification terminal.

4.1.2. The measurement and determination of the quantities of liquefied natural gas and/or regasified gas delivered to and/or sent out from each regasification terminal shall be carried out by a Measuring Equipment.

4.1.3. The design of each Measuring Equipment shall comply with all applicable laws and regulations as well as with the relevant Metering Philosophy.

### 4.2. Ownership of Measuring Equipment

4.2.1. The regasification licensee will determine whether it owns, maintains and operates all Measuring Equipment within the regasification terminal or whether it wants to make alternative arrangements with the relevant parties. If the parties do not agree on the ownership of the Measuring Equipment, the regasification licensee will remain as the owner of such Measuring Equipment.

4.2.2. If a party other than a regasification licensee owns, operates or maintains any Measuring Equipment:

- (a) such party must ensure that the Measuring Equipment complies with all applicable laws and regulations as well as the regasification licensee's Metering Philosophy;
- (b) such party must operate and maintain the Measuring Equipment in accordance with the requirements of the relevant AA;
- (c) such party must provide the regasification licensee with access to data taken at the Measuring Equipment for the purpose of billing and monitoring purposes; and
- (d) such party shall provide the regasification licensee with the right to inspect records and require validation and/or calibration, as the case may be, of the Measuring Equipment owned, operated or maintained by the party.

#### **4.3. Validation and/or Calibration**

4.3.1. The relevant licensee shall have the right to challenge a measurement taken by a Metering Equipment and request for a validation and/or calibration of the Metering Equipment. Once challenged, the relevant regasification licensee must take all steps to validate and/or calibrate the Measuring Equipment.

4.3.2. The process and procedure for the validation and/or calibration of a Measuring Equipment shall be set out in the relevant Metering Philosophy.

4.3.3. The party responsible for the operation and maintenance of Measuring Equipment shall, at its own expense:

- (a) validate said Measuring Equipment; and
- (b) calibrate said Measuring Equipment

as and when deemed necessary and as may be prescribed in regasification licensee's Metering Philosophy.

4.3.4. The regasification licensee may, where necessary, undertake additional checks on the Measuring Equipment owned by connected parties.

4.3.5. When carrying out validation and/or calibration of a Measuring Equipment, the regasification licensee shall invite all relevant licensee(s) to witness the validation and/or calibration process on a nominated Day. Thereafter, the regasification licensee shall carry out the validation and/or calibration process on such nominated Day whether the persons invited to witness the process are present or otherwise.

4.3.6. In the event that there is a dispute in relation to the results of the validation and/or calibration of the Measuring Equipment, the disputing party shall notify the regasification licensee within reasonable period of time or within the period specified in the relevant AA or RGA after the validation and/or the calibration. The regasification licensee shall instruct an independent expert acceptable to the disputing party to verify the validation and/or calibration. If the independent expert finds the validation to be accurate, then the disputing party shall bear the costs of the said validation and/or calibration and the costs of the independent expert. If the independent expert finds the validation and/or

calibration to be inaccurate then the regasification licensee shall bear the costs of the said validation and the costs of the independent expert.

#### **4.4. Operation and Maintenance of Measuring Equipment**

4.4.1. Unless otherwise stated, the regasification licensee shall be responsible for the operation and maintenance of the regasification licensee's Measuring Equipment in accordance with the regasification licensee's Metering Philosophy.

4.4.2. Connected parties who own Measuring Equipment shall be responsible for the operation and maintenance of such Measuring Equipment, in accordance with the regasification licensee's Metering Philosophy.

#### **4.5. Upgrading of Measuring Equipment**

In the event that there is a need to upgrade a Measuring Equipment, the regasification licensee (or the party owning, maintaining or operating the Metering Equipment pursuant to paragraph 4.2.1, as the case may be) will, within a reasonable time-frame in advance of the upgrading works, inform all of the licensees who may be affected by the upgrade or upgrading works of the same. In carrying out the upgrading works, the regasification licensee (or the party owning, maintaining or operating the Metering Equipment pursuant to paragraph 4.2.1, as the case may be) shall endeavour to carry out the upgrading works with the objective of causing minimum interruption to the regasification terminal.

**END OF SECTION**

## 5. Liquefied Natural Gas and Regasified Gas Quality

### 5.1. Liquefied Natural Gas and Regasified Gas Specifications

- 5.1.1. All liquefied natural gas injected or to be injected into a regasification terminal shall conform to the liquefied natural gas specifications set forth in the relevant AA. Similarly, all regasified gas produced by a regasification terminal shall conform to the regasified gas specifications set forth in the relevant AA.
- 5.1.2. The specifications for liquefied natural gas and regasified gas specifications shall consist of various components and may include gross heating value, specific gravity, Wobbe index, hydrocarbon dew point, water dew point, H<sub>2</sub>S content, total sulphur content and inert gas content.
- 5.1.3. The regasification licensee shall specify the specifications for liquefied natural gas and regasified gas, or ranges thereof, in the AA.
- 5.1.4. The regasification licensee shall ensure that the specifications for liquefied natural gas and regasified gas are such that they are compatible across the requirements of each system connected to the regasification terminal, such as the relevant transportation pipeline(s), and takes into account the regional and operational differences which exist in the said system(s).
- 5.1.5. Any relevant party may request the construction of additional facilities in order to ensure that its imported liquefied natural gas will meet the specifications set out in the AA. However, nothing in this paragraph is intended to infer that all requests for such construction shall be granted.



## 5.2. Off-Specification Liquefied Natural Gas

5.2.1. The shipping licensee and/or import into regasification terminal licensee is responsible to make every possible effort to ensure that the liquefied natural gas which is delivered to the regasification terminal fulfils the liquefied natural gas specifications set out in the relevant AA.

5.2.2. In the event that the liquefied natural gas which is to be injected, being injected or injected to the regasification terminal does not comply with the liquefied natural gas specifications set out in the AA (“off-specification liquefied natural gas”), the shipping licensee and/or import into regasification terminal licensee shall inform the regasification licensee promptly of the same.

5.2.3. The regasification licensee, acting as a Reasonable and Prudent Operator, shall use all endeavours to accept and unload off-specification liquefied natural gas. Specifically, the regasification licensee shall give consideration to the management of off-specification liquefied natural gas due to the presence of excess Boil-off gas based on the regasification terminal’s technical capabilities.

5.2.4. The AA shall contain principles and remedies related to off-specification gas entering into a party’s system.

**END OF SECTION**

## 6. Maintenance

### 6.1. Scheduled Maintenance

6.1.1. The regasification licensee is required to prepare a scheduled maintenance plan for a defined period and obtain the approval of the Commission for the same. Once approved, the regasification licensee shall publish, for the benefit of the Commission and the relevant licensees only, the said scheduled maintenance plan. The regasification licensee must construct the plan so as to minimize disruption to all parties and should coordinate and coincide as much as possible the maintenance with the operation and maintenance of the relevant transmission pipeline. The scheduled maintenance plan should be communicated each Year for the maintenance during the next Year.

6.1.2. Each scheduled maintenance plan should specify:

- (a) the dates for the maintenance Days in the next Year;
- (b) the time-schedule and milestones of each maintenance activity;
- (c) the extent to which the plan affects the normal operations of the regasification terminal including the extent to which it affects the available capacities;
- (d) such other information as may be reasonable for the regasification licensee to include; and
- (e) such other information as may be required by the Commission.

6.1.3. The regasification licensee shall coincide the actual maintenance dates with the scheduled maintenance plan. Any changes in the scheduled maintenance plan shall be first agreed upon between the regasification licensee and the Commission and then needs to be communicated to the affected parties within a reasonable period of time before the actual maintenance period. The reasonable time and the method of communication will be detailed in the AA.

## **6.2. Unscheduled Maintenance**

6.2.1. The regasification licensee can decide on and execute unscheduled maintenance works, whenever, as per its justified discretion acting as a Reasonable and Prudent Operator, such maintenance was not reasonably expected and is essential for the safety and integrity of the regasification terminal or such maintenance is required due to an emergency.

6.2.2. Before the implementation of unscheduled maintenance, the regasification licensee shall inform the Commission and the affected parties using any expedient means and within a reasonable time frame, with regards to the type, the extent and the provisioned duration of such maintenance. The reasonable time and the method of communication will be detailed in the AA.

6.2.3. For the determination of the time of performance of the unscheduled maintenance, the regasification licensee shall take into consideration, to the extent possible, the opinion of the transportation licensee in order to minimize disruption provided that there are no risks to the safety and integrity of the regasification terminal.

**END OF SECTION**

## 7. Scheduling Procedures and Priority Rules

- 7.1. For the good, reliable, secure and cost effective operation of each regasification terminal, the relevant regasification licensee shall establish scheduling procedures of the liquefied natural gas vessels which will be utilizing its regasification terminal including but not limited to by way of annual delivery program, rolling 90-Day schedules and Monthly scheduling, and procedures for managing delayed arrivals, unloading or departures.
- 7.2. The relevant regasification licensee shall also establish scheduling procedures for the send out of gas from its regasification terminal, which shall include at least Nomination and re-Nomination procedures.
- 7.3. The relevant regasification licensee shall also establish priority rules to address situations where there might be conflicts as between the relevant licensees in relation to paragraphs 7.1 and 7.2 whilst ensuring that the priority rules are transparent and non-discriminatory.

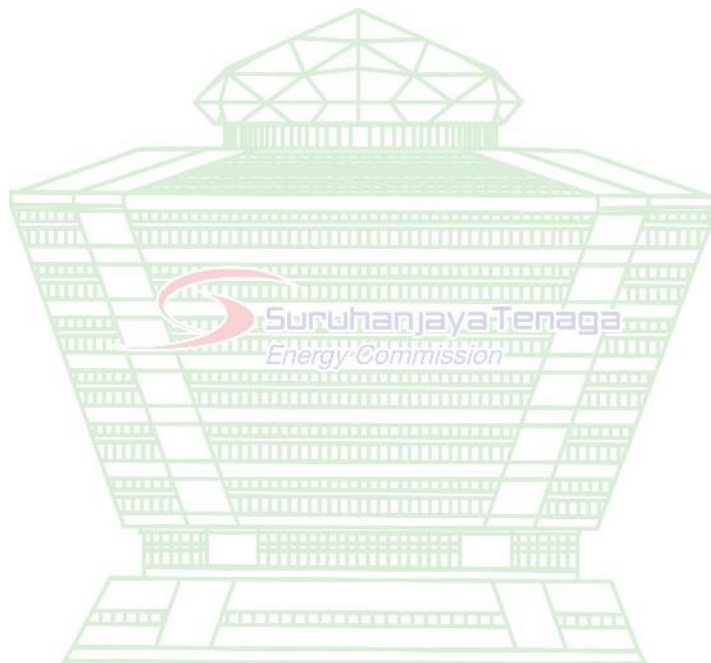


**END OF SECTION**

## 8. Heel and Linepack Management

The Heel and Linepack shall be owned by the regasification licensee. The regasification licensee shall have the right to capitalise the cost of procurement of initial Heel and Linepack as part of the cost of the regasification terminal and accordingly charge the cost in its tariff.

**END OF SECTION**



## 9. Other Charges

9.1. The AA will contain provisions and details of charges which may be imposed by a regasification licensee for the purpose of ensuring that the shipping licensees and/or the import into regasification terminal licensees are adequately incentivized to respect their contractual obligations and maintain discipline for safe, secure and reliable operations of the relevant regasification terminal.

9.2. Such charges shall:

9.2.1. be proportionate and designed in a non-discriminatory and transparent manner;

9.2.2. not hamper the entry of new participants in the market;

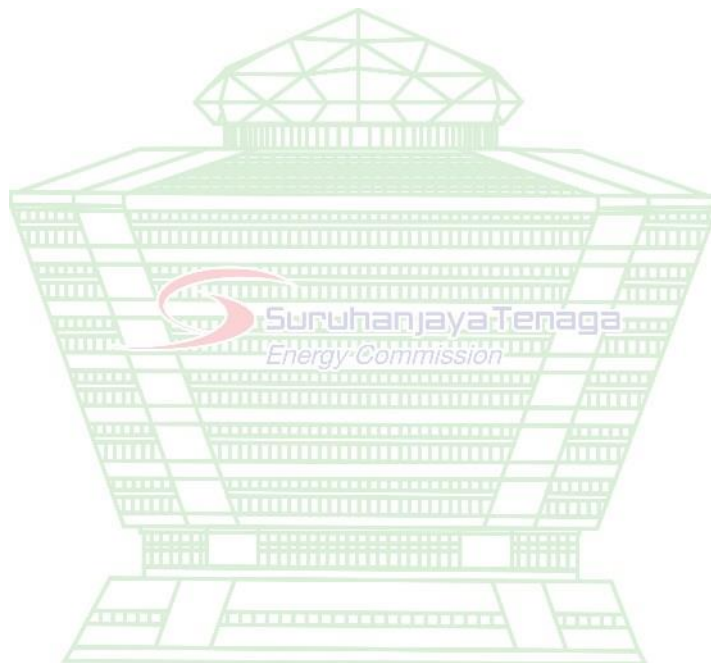
9.2.3. be cost-effective and should allow the regasification licensee to recover its costs associated with the system indiscipline, whilst acting as a deterrent to the relevant licensees against creating any system indiscipline.

**END OF SECTION**

## 10. Tariff for Regasification

Please refer to the document detailing the tariff structure.

**END OF SECTION**



## 11. Communication and Confidentiality

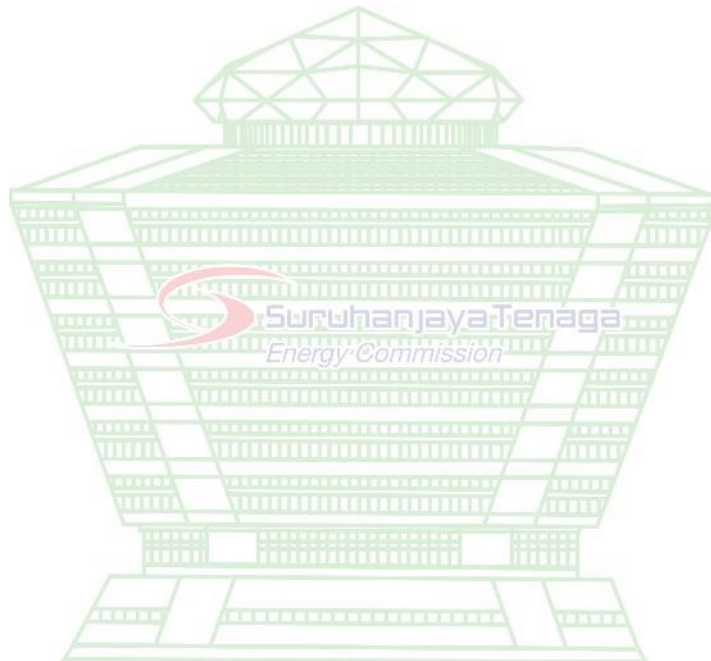
- 11.1. The regasification licensee shall develop, for inclusion in the AA, information systems and electronic communication methods and protocols so as to ensure the prompt and efficient flow of adequate information as between the regasification licensee and other parties during both normal and emergency situations and so as to simplify insofar as possible transactions between the regasification licensee and such other parties.
- 11.2. It shall be an obligation of the relevant licensees to comply with the communication methods and protocols set out in the AA.
- 11.3. Subject to paragraph 11.4, all Confidential Information disclosed or delivered whether in writing or otherwise by any party (the “Disclosing Party”) to any other party (the “Receiving Party”) either in connection with or in consequence of the requirements of this Code shall be regarded and treated as confidential; and shall not be disclosed in any form, either in full or part.
- 11.4. Paragraph 11.3 shall not apply to any Confidential Information:
- 11.4.1. which at or after the time of disclosure to the Receiving Party becomes part of the public domain (other than by reason of a breach of this Code by the Receiving Party);
  - 11.4.2. which is known by the Receiving Party at the time it obtains the Confidential Information and the Receiving Party was not under any obligation of confidence in relation to such Confidential Information;
  - 11.4.3. which is lawfully acquired by the Receiving Party from a third party otherwise than in breach of an obligation of confidentiality;



11.4.4. which the Receiving Party is required to disclose in order to comply with the requirements of a court or government body having jurisdiction over the Receiving Party, or which is disclosed to a court in the context of litigation to which the Receiving Party is a party; or

11.4.5. insofar as the Disclosing Party has given the Receiving Party written consent to disclose such Confidential Information.

**END OF SECTION**



## 12. Liabilities and Remedies

12.1. Relevant provisions on the liabilities and remedies of the parties will be detailed in the AA, the RGA and the GCM (as applicable) and approved by the Commission but in any event shall reflect the principles set out in paragraphs 12.2 and 12.3 below. The liability of the regasification licensee shall be capped in all circumstances by an amount to be specified in the AA, if such amount is specified.

12.2. The regasification licensee shall indemnify, defend and hold harmless each other party from and against any and all liabilities and other losses of that party in respect of:

12.2.1. injury to or sickness, disease or death of any person employed by or engaged on behalf of the regasification licensee; or

12.2.2. damage to or loss of property of the regasification licensee,

howsoever arising (including out of such party's breach of the RGA or the GCM (as applicable), or such party's breach of statutory duty or from the negligence of such party), save to the extent that any such liabilities or other losses arise from wilful misconduct of that party and subject to any express provisions of this Code or the RGA or the GCM (as applicable) which provide to the contrary in any specific case.

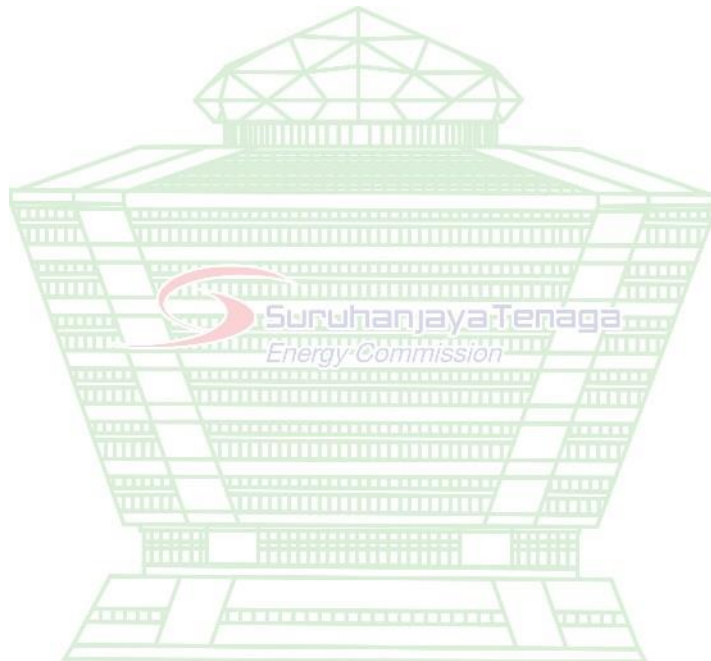
12.3. Each party (other than the regasification licensee) shall indemnify, defend and hold harmless the regasification licensee from and against any and all liabilities and other losses of the regasification licensee, in respect of:

12.3.1. injury to or sickness, disease or death of any person employed by or engaged on behalf of such party; or

12.3.2. damage to or loss of property of such party,

howsoever arising (including out of the regasification licensee's breach of the RGA or the GCM (as applicable), or the regasification licensee's breach of statutory duty or from the negligence of regasification licensee) save to the extent that any such liability or other loss arises from the wilful misconduct of regasification licensee and subject to any express provisions of this Code or the RGA or the GCM (as applicable) which provide to the contrary in any specific case.

**END OF SECTION**

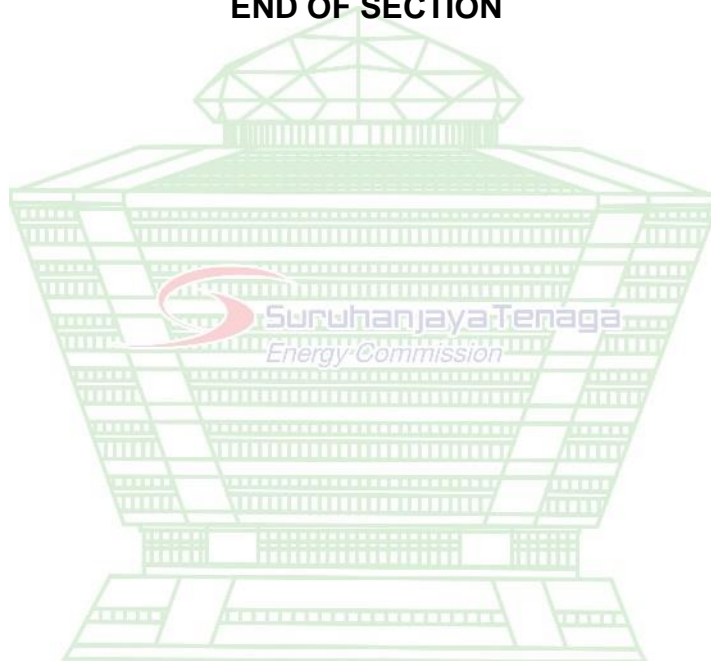


### 13. Governing Law and Dispute Resolution

13.1. This Code will be governed by and construed in accordance with the laws of Malaysia.

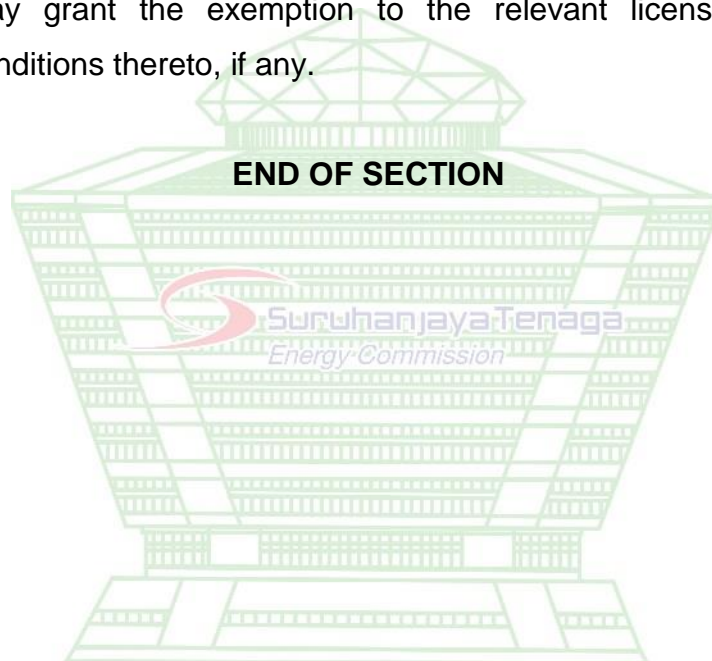
13.2. Any disputes arising out of or in connection with this Code may, unless the mode of resolution for such dispute has already been specified in the Gas Supply Act 1993, the relevant AA, RGA and/or GCM, be referred to the Commission for resolution.

**END OF SECTION**



## 14. Exemption

- 14.1. A licensee whose facilities have already been in existence prior to the implementation of this Code may, if the design and build of its facilities are such that would not allow such licensee to comply with certain provisions of this Code, apply in writing to the Commission for an exemption from the same together with detailed justification as to why they should be granted such an exemption.
- 14.2. If the Commission is of the view that such an exemption is justified, it may grant the exemption to the relevant licensee together with conditions thereto, if any.



## 15. Definitions and Interpretations

15.1. Unless expressly indicated to the contrary or unless the context otherwise requires, terms adopted and used in this Code shall bear the same meaning as they are defined in the Gas Supply Act 1993.

15.2. In this Code, the following words shall have the following meanings ascribed to them:

“Available Firm Capacity” means the capacity of regasification terminal which the regasification licensee in its discretion, determines from time to time, is available for the relevant licensees to avail firm services based upon the capacity of the regasification terminal;

“Boil-off” means evaporation of liquefied natural gas;

“Capacity Allocation” means the allocation of capacity to the relevant licensees by a mechanism set by the regasification licensee and approved by the Commission pursuant to paragraph 3.3;

“Confidential Information” means

- (a) information that is by its nature confidential relating to each of the parties or its affiliates including but not limited to commercial, financial and/or technical information (the operations, plans, proposals, intentions, know-how, trade secrets, copyright and other intellectual property rights, software, technology or operational measures, market opportunities, strategies, customers and potential customers, customer data, brokers, suppliers, competitors and potential competitors, financing sources, bank and trust contracts, business and/or financial affairs of each of the parties or its affiliates), whether written, oral

or otherwise recorded received by one party from the disclosing party;

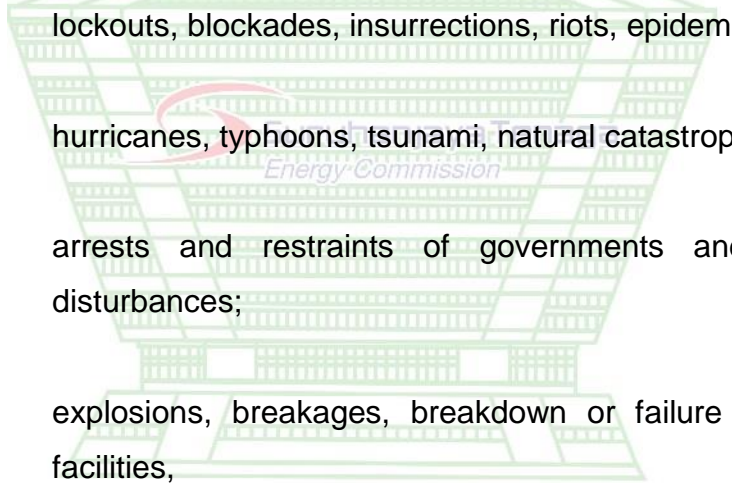
- (b) information that is known by the regasification licensee to be confidential and includes:
- (i) any information relating to the financial position of a User or Prospective User or a connected party and, in particular, includes information relating to the assets or liabilities of the User or Prospective User or connected party and any other matter that affects or may affect the financial position or reputation of the User or Prospective User or connected party;
  - (ii) information relating to the internal management and structure of the User or Prospective User or connected party or the personnel, policies and strategies of a User or Prospective User or connected party;
  - (iii) information of a User or Prospective User or connected party to which the regasification licensee has access, other than information referred to in paragraphs (a) and (b), that has any actual or potential commercial value to the User or Prospective User or connected party or the person or corporation which supplied that information; and
  - (iv) any information in the regasification licensee's possession relating to the User's or Prospective User's or connected party's customers or suppliers and like information.

"connected party" means any party whose facilities are physically connected to a licensee's facilities and shall, where applicable, include the relevant licensees, but shall exclude an import into regasification

terminal licensee and any person connected for transshipment purposes and "connected parties" shall be construed accordingly;

"Day" means a period of 24 consecutive hours beginning at 0600 hours Malaysian standard time;

"Force Majeure" means any occurrence or circumstance beyond the control of the party claiming to be excused from its obligations by virtue of such occurrence or circumstance and resulting in or causing a failure by such party in the fulfilment of any of its obligations to another party and which by the exercise of due diligence such party is unable to prevent or overcome and without prejudice to the generality of the foregoing includes:

- 
- (a) lockouts, blockades, insurrections, riots, epidemic;
  - (b) hurricanes, typhoons, tsunami, natural catastrophes;
  - (c) arrests and restraints of governments and people, civil disturbances;
  - (d) explosions, breakages, breakdown or failure of pipelines or facilities,
  - (e) equipment or machinery for production, transmission, processing or storage, hydrate obstructions of lines of pipe;
  - (f) inability of the regasification licensee to accept delivery of gas due to the inability of any shipping licensee and/or import into regasification terminal licensee's customers to take gas if such customer's inability is occasioned by an event or occurrence of the character described or envisaged in this provision as constituting Force Majeure partial or entire;



- (g) failure of wells, well blowouts, craterings, platform loss;
- (h) the binding order of any government or governmental authority;  
or

any other causes whether of the kind herein enumerated or otherwise and whether caused or occasioned by or happening on account of the act or omission of the one of the parties hereto which affects receipt or delivery of the liquefied natural gas or the regasified gas, as the case may be.

“Gas Connection Manual” means a manual prepared by the regasification licensee and acknowledged by a connected party with regards to the connection between the connected party’s facilities and the regasification terminal;

“Gas Transmission System” means installations and pipelines transporting gas either from

- (a) the last flange of the gas processing plant;
- (b) the last flange of the onshore gas terminal;
- (c) the tie-in point of the regasification terminal; or
- (d) the international border

to the last flange of the city gate station or the last flange of a metering and regulating station;

“Heel” means the minimum amount of liquefied natural gas which is required to be present in the RGT in order to ensure safe, secure and reliable operations of the terminal;

“J” means one Joule at 101.325kPa (abs) and 15 degrees Celsius;

“Linepack” means the quantity of gas in the pipelines connecting the RGT to the Entry Point of the Gas Transmission System which is used for operational purposes of transportation of gas in a safe, secure and reliable manner;

“Measuring Equipment” means measuring equipment and other ancillary facilities supporting the measuring equipment, supplied, installed, operated and maintained to measure the quantity and quality of liquefied natural gas or gas, as the case may be;

“Metering Philosophy” means the metering philosophy developed in accordance with all relevant laws, regulations and standards in Malaysia including but not limited to the Gas Supply Act 1993 by the owner of the Metering Equipment which sets out, in relation to each Measuring Equipment, all of its technical requirements, its validation, calibration and accuracy verification procedures, its recalibration limits, its billing correction limits and, in the case of a faulty Measuring Equipment, the procedures for correction of readings from the same;

“MJ” means megajoule of gas;

“Month” means a period extending from the beginning of the first Day in a calendar month to the beginning of the first Day in the next calendar Month;

“Nomination” means the notification by a shipping licensee and/or an import into regasification terminal licensee to the regasification licensee

of the quantities of gas which the said licensee intends to deliver at the regasification terminal and receive at from the regasification terminal on a pre-determined time period;

“Reasonable and Prudent Operator” means a person acting in good faith with the intention of performing its obligations under all relevant contracts and this Code and who, in so doing and in the general conduct of its undertaking, exercises that degree of diligence, prudence and foresight which would reasonably and ordinarily be exercised by a skilled and experienced person complying with applicable laws and engaged in the same type of undertaking and under the same or similar circumstances and conditions in the LNG industry in Asia;

“regasification terminal” means any LNG receiving facilities (including berthing, vessel service, unloading, receipt, storage, regasification and regasified LNG processing and delivery facilities and all utilities and other infrastructure and ancillary facilities) which is located onshore or in Malaysia waters;

“Reserved Capacity” means, in respect of a pre-determined time period, the capacity in the regasification terminal that the regasification licensee shall reserve, make available and provide to a the relevant licensee; and

“Year” means the period of time beginning at 0600 hours from 1 January in any calendar year to 0600 hours on 1 January in the following calendar year.

### *Interpretations*

Unless the context otherwise requires, any reference in this Code to:

- (a) a statute, by-law, regulation, delegated legislation or order is to the same as amended, modified or replaced from time to time and to any by-law, regulation, delegated legislation or order made thereunder;
- (b) any agreement or instrument is to the same as amended, novated, modified, supplemented or replaced from time to time;
- (c) "including" shall mean including but not limited to;
- (d) a person shall be construed as a reference to any person, firm, company, corporation, government or agency of a state or any association or partnership (whether or not having separate legal personality) or two or more of the foregoing;
- (e) time shall be construed by reference to whatever time may from time to time be in effect in Malaysia;
- (f) the singular shall include the plural and vice versa;
- (g) where a word or expression is defined in this Code, cognate words and expressions shall be construed accordingly;
- (h) headings in this Code are for ease of reference only and shall not affect its construction;
- (i) references to "this Code" shall mean the provisions of the Third Party Access Code for Malaysian Regasification Terminals, as

amended, modified and/or varied from time to time, and which shall be read as one document; and

- (j) references in this Code to paragraphs and sections are to paragraphs and sections of this Code.

**END OF SECTION**

**Dated:** 16 January 2017



**DATUK IR. AHMAD FAUZI BIN HASAN**

Chief Executive Officer  
for Energy Commission