



# **Term Natural Gas Import Code**

**NGS 18/2024**

**Publication Date: 1 October 2024**

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# 1 Definitions and interpretation

## 1.1 Scope and Objectives

- 1) This Code sets forth minimum standards of performance in accordance with which a natural gas importer is required to carry out its Authorised business.

## 1.2 Application

- 2) This Code applies to Natural Gas Importers and LNG Terminal Operators.
- 3) The Licensee may be exempted from compliance with this Code, in whole or in part. Such exemption may be subject to such conditions or restrictions as URCA may determine.

## 1.3 Entry into effect

- 4) This Code or any amendment thereto shall come into force on the day on which URCA issued this Code or the day on which the amendment is issued, as the case may be.

## 1.4 Definitions

- 5) In this Code, unless the context otherwise requires:

“**Act**” means the Natural Gas Act, 2024;

“**Affiliate**” with reference to a Person in question, means one or more of the following:

- a) a Person which directly or indirectly Controls the Person in question;
- b) a Person which is controlled by another Person which directly or indirectly Controls the Person in question;
- c) a Person which is Controlled by the Person in question;

“**Annual Contract Quantity**” or “**ACQ**” means the quantity of Natural Gas committed to be supplied by the Licensee to a Gas User under a Term GSA between the two parties;

“**Authorised Business**” has the meaning ascribed to that term in the Licensee’s Gas Licence;

“**Baseline GSA**” has the meaning ascribed to that term in part 20) of this Code;

“**Baseline Offer Quantity**” for a given year within an Offer Period means the minimum quantity of Term Natural Gas as specified by URCA for that year and for which the Licensee is required to offer terms and conditions to any Potential Gas User in accordance with part 20) of this Code.;

“**Basic Conditions**” means a temperature of fifteen and six-tenths degrees Celsius (15.6°C) (measured with a mercury thermometer) and an absolute pressure of one point zero one three two five (1.01325) bar or seven hundred and sixty (760) millimetres of mercury column (measured by Fortin type barometer and corrected to zero degrees Celsius (0°C) with the standard gravity acceleration value), the equivalents

of which in the Anglo-Saxon system are sixty degrees Fahrenheit (60°F) and fourteen and six hundred ninety-six thousandths (14.696) psia, respectively;

“**Code**” means this Term Natural Gas Import Code;

“**Control**” in relation to control over any Person, means:

- a) the ownership or control (directly or indirectly) of more than fifty per cent (50%) of the voting rights of the Person;
- b) the right to appoint or remove (directly or indirectly) all or a majority of the directors of the Person; or
- c) the power to cause the direction of the management and/or policies of the Person,

and “**Controlled**” shall be construed accordingly;

“**Domestic Consumption**” means the intended use (at the time of entering into the relevant Downstream Commitment) of Natural Gas within The Bahamas (i) for the purposes of power generation, industrial fuel or feedstock, household uses, and/or (ii) as a liquid fuel or feedstock;

“**Downstream Commitment**” means a contract approved by URCA under the Licensee’s Gas Licence for the supply of Natural Gas and/or regasified Natural Gas for Domestic Consumption. For the avoidance of doubt, a GSA approved by URCA under the Licensee’s Gas Licence is a Downstream Commitment and a Handling Agreement is not a Downstream Commitment;

“**End User**” means a Person who has entered into a Downstream Commitment with the Licensee. For the avoidance of doubt, a Gas User is an End User;

“**Gas**” or “**Natural Gas**” means any hydrocarbon or mixture of hydrocarbons (including regasified LNG) consisting principally of methane, other hydrocarbons and non-combustible gases (but is not required to contain ethane, butane or propane), all of which are in a gaseous phase under Basic Conditions;

“**Gas Licence**” has the meaning ascribed to that term in the Act;

“**Gas Sales Agreement**” or “**GSA**” means any agreement entered or to be entered into, as the case may be, by the Licensee, under which the Licensee sells imported Natural Gas under its Gas Licence for Domestic Consumption, including any amendment, alteration or notification thereto in accordance with the terms of such agreement, whether or not the Gas sold under such agreement may include Gas imported to The Bahamas via subsea pipeline;

“**Gas User**” means a Person who has entered into a GSA with the Licensee;

“**Handling Agreement**” means an agreement entered or to be entered into, as the case may be, between the Licensee and a customer for the Licensee’s handling of LNG imported by such customer;

“**Licensee**” means a Person who is authorised by a Gas Licence to import Natural Gas;

“**Liquefied Natural Gas**” or “**LNG**” means Gas in its liquid state at or below its boiling point at or near atmospheric pressure;

**“LNG Terminal”** has the meaning ascribed to that term in the Act;

**“million tonnes per annum (LNG) or “Mtpa (LNG)”** means fifty-two thousand, six hundred and sixty-seven (52,667) BBtu per annum. Equivalent amount of natural gas (in gaseous form) is 48.7 Bcf/year or 1.379 bcm/year)

**“Offer Period”** means (i) for the first Offer Period, the period commencing from the date of this Code coming into force and ending just before the start of 1 January of the year n+5, where n is the year in which this Code comes into force; and (ii) each subsequent period with a duration of five (5) consecutive calendar years or such other period as notified by URCA to the Licensee at least nine (9) months prior to such period;

**“Person”** means any individual, corporation, partnership, registered business, sole proprietorship, trust, unincorporated organisation, institution, association, government authority or legal entity;

**“Potential Gas User”** means a Person who has bona fide demand for Natural Gas for its own consumption and is interested in (i) entering into a Term GSA with a Licensee, or (ii) extending the supply period and/or increasing the supply quantities under an existing Term GSA between that Person and a Licensee. For the avoidance of doubt, such Person may include another Licensee or an Affiliate of a Licensee;

**“Price Schedule”** has the meaning ascribed to that term in paragraph 24 of this Code;

**“Relegated Licensee”** means a Licensee that is no longer sanctioned to import Natural Gas into The Bahamas (whose licence has been suspended/revoked by URCA) and that has been declared as such by URCA in accordance with paragraph 27) of this Code;

**“Relevant Legislation”** means the Act and the Utilities Regulation and Competition Authority (URCA) Act and includes in each case the regulations made thereunder;

**“Specified ACQ”** for a given year within an Offer Period means the total ACQ defined as:

- a) including the total ACQ for that year under all the Licensee’s Term GSAs with Gas Users who are not Affiliates of the Licensee;
- b) including the total ACQ for that year under all the Licensee’s Term GSAs with Gas Users who are Affiliates of the Licensee, or thirty (30) percent of the Baseline Offer Quantity for that year, whichever is lower;
- c) excluding the total ACQ for that year under all the Licensee’s Term GSAs entered into prior to the Code coming into force; and
- d) excluding the ACQ for that year under any Term GSA of the Licensee that has been terminated,

provided, where the ACQ under a Term GSA of the Licensee for that year is non-firm or not expressly stated or with Affiliates of the Licensee who are related to Temasek Holdings (Private) Limited, URCA will reasonably determine such quantity to be included as part of the Specified ACQ for that year;

**“Term GSA”** means a GSA for the supply of Natural Gas for (i) a period of at least one year, or (ii) any

other GSA mutually agreed between URCA and the Licensee to be deemed as a Term GSA;

“**Term Natural Gas**” means regasified Natural Gas supplied or to be supplied under a Term GSA;

“**Terminal Operator**” means the operator of an LNG Terminal;

“**Terminal Use Agreement**” or “**TUA**” means the Terminal Use Agreement between the Licensee and a Terminal Operator in respect of Throughput Services to be provided at an LNG Terminal;

“**Throughput Services**” means the unloading of an LNG vessel and temporary storage of unloaded LNG at an LNG Terminal, and the subsequent send-out of such delivered LNG as regasified LNG from such LNG Terminal for Domestic Consumption;

“**Transaction Agreement**” means

- a) any GSA;
- b) any Terminal Use Agreement;
- c) any Handling Agreement;
- d) any agreement with End Users to swap or divert Natural Gas under the End User’s GSA;
- e) any UAA; and/or
- f) any other agreements ancillary to the agreements stated in (i), (ii), (iii), (iv) and (v) of this definition (excluding any Natural Gas sale and purchase agreements) whose performance has a material impact on such agreements; and

## **1.5 Interpretation**

- 6) Unless the context otherwise requires or the term is otherwise defined in this Code, all terms defined in the Act shall have the same meaning when used in this Code.
- 7) Headings are for convenience only and shall not affect the interpretation of this Code.
- 8) A reference in this Code to any statute, subsidiary legislation, proclamation, ordinance, by-law, resolution, rule, order, supplements, gazette notification or directive includes all statutes, subsidiary legislation, proclamations, ordinances, by-laws or resolutions, rules, orders, supplements, gazette notifications or directives varying, consolidating, re-enacting, extending or replacing it.
- 9) A reference in this Code to a document or provision of a document includes a modification or supplement to, or replacement or novation of, that document or that provision of that document, as well as any exhibit, schedule, appendix or other annexure thereto.
- 10) A reference in this Code to a body, whether statutory or not, which ceases to exist or whose functions are transferred to another body, includes a reference to the body which replaces it or which substantially succeeds to its functions, powers or duties.
- 11) A reference in this Code to the word “including” or a grammatical variation thereof means “including

but not limited to”.

- 12) Cross references are marked with an open parenthesis. It is expressly stated that the use of an open parenthesis in these cross references bears no legal interpretation. The sole legally pertinent element is the reference number.
- 13) A reference in this Code to the words “in writing” or a grammatical variation thereof includes any communications effected by facsimile transmission, e-mail or other means of communication.
- 14) This code is binding. Nothing in this Code shall be construed as affecting the obligation of a Licensee to comply with the provisions of relevant legislation or of its Gas Licence and, in the event of an inconsistency between the provisions of relevant legislation or of its Gas Licence and the provisions of this Code, the provisions of relevant legislation or of its Gas Licence shall govern to the extent of the inconsistency.
- 15) The Licensee shall ensure that its directors, officers, salespersons and other employees, agents, contractors, and representatives observe and comply with the requirements of this Code.
- 16) If any director, officer, salesperson or other employee, agent, contractor or representative of the Licensee does any act or refrains from doing any act that, if done or omitted to be done, as the case may be, by the Licensee would constitute a breach of this Code, such act or omission shall be deemed for the purposes of this Code to be the act or omission of the Licensee.
- 17) A reference to:
  - a) “Clause” or “Clauses” refer to a clause or clauses of this Code;
  - b) “Appendix” or “Appendices” refer to an appendix or appendices to this Code; and
  - c) “Table” or “Tables” refer to a table or tables set out in this Code.

## **1.6 Modifications of the Code**

- 18) URCA may, from time to time, modify this Code. This Code may be modified following URCA’s established Standard Consultation procedures (URCA 05/2021).
- 19) Nothing contained in the previous Clause shall prohibit any gas licensee or any relevant Party from notifying URCA of suggested changes to this Code.

## **2 Requirements in respect of term Natural Gas supply**

### **2.1 Supply obligation**

20) Subject to part 26), the Licensee shall maintain a Baseline GSA (including any amendment or alteration) that is approved by URCA to comply with the following requirements in respect of the supply of Term Natural Gas to any Potential Gas User within the relevant Offer Period:

- a) the Licensee shall not, in the first instance, offer to the Potential Gas User any term or condition that is less favourable for the Potential Gas User than in the Baseline GSA for the supply of Term Natural Gas within the relevant Offer Period;
- b) the Licensee shall not enter into any Term GSA with the Potential Gas User with any term or condition that is less favourable for the Potential Gas User than in the Baseline GSA for the supply of Term Natural Gas within the relevant Offer Period except where the Potential Gas User is aware of such deviation from the Baseline GSA.

21) For the avoidance of doubt, the requirements under this part 20) apply to a Licensee in respect of any Potential Gas User including but not limited to another Licensee or an Affiliate of a Licensee who is a Potential Gas User.

22) For any year within the Offer Period where the quantity of Term Natural Gas to be supplied by the Licensee to the Potential Gas User will result in the Licensee's Specified ACQ exceeding the Baseline Offer Quantity for the year, the requirements under part 20) are waived in respect of the excess quantity.

23) Where the supply of Term Natural Gas by the Licensee to the Potential Gas User commences in and extends beyond the Offer Period, the requirements under part 20) do not apply to any quantity of Term Natural Gas to be supplied by the Licensee to the Potential Gas User after the end of the Offer Period.

24) For the avoidance of doubt, the Licensee and the Potential Gas User may mutually agree and enter into a Term GSA with terms and conditions that deviate from those in the Baseline GSA.

### **2.2 Submission and specifications of baseline GSA**

25) The Licensee shall, no later than six (6) months prior to the start of each Offer Period, submit its proposed Baseline GSA for the Offer Period for consideration and approval by URCA, whose approval shall not be unreasonably withheld. The submission shall be accompanied with a term sheet setting out all the key terms and conditions in the Baseline GSA.

26) The Baseline GSA for the Offer Period shall stipulate, inter alia:

- a) Price Schedule setting out the cap on gas prices that the Licensee will charge for supplying Term Natural Gas within the Offer Period. The gas prices shall be reasonably competitive taking into account expected Natural Gas market conditions at the time of submitting the Baseline GSA for URCA's approval;



- b) all terms or conditions, except for the Price Schedule, that shall be the same or comparatively better for the Gas User than those in the relevant Baseline GSA for the preceding Offer Period; and
- c) any minimum notice period required by the Licensee to commence delivery of Natural Gas to the Gas User shall not be more than six (6) months.

### **2.3 Relegation of Licensee**

27) URCA may by notice in writing to the Licensee declare the Licensee as a Relegated Licensee, should any of the following events occur:

- a) the Licensee's proposed Baseline GSA is not approved by URCA; or
- b) URCA is satisfied that the Licensee has contravened any condition of its Gas Licence or any provision of this Code.

28) Upon a Licensee being declared by URCA as a Relegated Licensee, URCA may at its sole discretion cease approving any proposed Transaction Agreement, or any proposed amendment or alteration of any previously approved Transaction Agreement, which the Licensee is a party to. Any approval granted by URCA for such Transaction Agreement, amendment or alteration may be subject to terms and conditions as determined by URCA. The Licensee shall at all time ensure that it complies with such terms and conditions.

29) For the avoidance of doubt, the above is without prejudice to any further enforcement by URCA under the Act against any contravention by the Licensee of any condition of its Gas Licence or any provision of this Code.

### **2.4 Direction to terminal operator**

30) URCA may from time to time review the terms of any TUA entered into between a Terminal Operator and a Licensee in consultation with the Terminal Operator and the Licensee.

31) Following such consultation, URCA may pursuant to the Act issue a direction to the Terminal Owner to propose for the Licensee's agreement, changes to the TUA as URCA deems necessary to fulfil URCA's functions and duties under the Act. Upon receiving the direction, the Terminal Owner shall forthwith engage the Licensee to make such changes in accordance with the TUA.