
**ALEXANDROUPOLIS TERMINAL
CAPACITY EXCHANGE AGREEMENT**

- EXCHANGE OF CEA SENDOUT¹ -

by and among

[●]

as Original User

and

[●]

as Capacity Exchange User

and

Gastrade S.A.

as Terminal Operator

Dated **[●]**

¹ This CEA is to be used by Long-Term Users or Spot Cargo Users for exchange of CEA Sendout.

If Original User is a Long-Term User, CEA Sendout may be exchanged within an Intra Reserved Cargo Period or between two or more separate Intra Reserved Cargo Periods.

If Original User is a Spot Cargo User, then CEA Sendout may only be exchanged within the Intra Reserved Cargo Period for which that Spot Cargo User has already confirmed its nominations.

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ANNEXES:

Annex 1 Template Terms and Conditions of Exchange

THIS CAPACITY EXCHANGE AGREEMENT (EXCHANGE OF CEA SENDOUT) is made on [●]

BY AND AMONG:

- (1) [●], a [●] incorporated under the laws of [●] with its principal office at [●] (“**Original User**”)²;
- (2) [●], a [●] incorporated under the laws of [●] with its principal office at [●] (“**Capacity Exchange User**”)³; and
- (3) **Gastrade S.A.**, a company incorporated under the laws of Greece with its principal office at 197, Kifissias Ave. & 40-42 Anavryton Str., Maroussi, PC 151 24, Athens, Greece (“**Terminal Operator**”),

together, the “**Parties**” and each a “**Party**”.

RECITALS

- (A) Terminal Operator owns and administrates the Terminal capable of performing the Service;
- (B) [Terminal Operator and Original User have entered into a Terminal Use Agreement, pursuant to which Original User may, from time-to-time, exchange part or all of its AP Daily Planned Sendout with another Long-Term User with respect to one or more Intra Reserved Cargo Periods within the same Contract Year] OR [Terminal Operator and Original User have entered into a Spot Cargo Agreement, pursuant to which Original User may, from time-to-time, exchange part or all of its Spot Daily Planned Sendout with a Long-Term User for CEA Sendout in the same Intra Reserved Cargo Period]⁴; and
- (C) Capacity Exchange User wishes to exchange with Original User, part or all of Original User’s CEA Sendout under the terms hereof.

In furtherance of the foregoing, the Parties agree as follows:

² To enter into this Agreement, Original User must be a Long-Term User or Spot Cargo User of the Terminal.

³ To enter into this Agreement, Capacity-Exchange User must be a Long-Term User of the Terminal.

⁴ Parties to select relevant recital for Long-Term User or Spot Cargo User.

1. DEFINITIONS AND INTERPRETATIONS

1.1 Definitions

Unless the context requires otherwise, this Agreement incorporates terms defined in the Terminal Access Code. In addition, the terms and expressions set forth below shall have these meanings:

“**Agreement**” means this agreement, excluding the Annex;

“**Capacity Exchange Fee**” has the meaning given in clause [9.3] of the Tariff Code.

“**Capacity Exchange User**” has the meaning given in the preamble;

“**Contract Price**” means the price, expressed in Euros per kWh, for Regasified LNG exchanged as CEA Sendout, as set forth in the Terms and Conditions of Exchange;

“**Effective Date**” means the date on which this Agreement has been duly executed by the Parties;

“**Exchange Date**” means the dates set out in clause 3.2;

“**Exchange Quantity**” has the meaning given in clause 3.1(b);

“**Original Quantity**” has the meaning given in clause 3.1(b);

“**Original User**” has the meaning given in the preamble;

“**Party**” has the meaning given in the preamble;

“**Term**” has the meaning given in clause 2.2;

“**Terminal Operator**” has the meaning given in the recitals; and

“**Terms and Conditions of Exchange**” means the terms and conditions of exchange, to be entered into between Capacity Exchange User and Original User, a template for which is attached hereto as Annex 1.

1.1 Interpretation

Clause 2.2 (Interpretation) of the Terminal Access Code shall apply to this Agreement *mutatis mutandis*, and except to the extent the context requires otherwise:

- (a) references in this Agreement to any clause or Annex is to the relevant clause or annex of this Agreement, unless otherwise stated; and
- (b) the recitals and the headings of the clauses of this Agreement are for convenience only and shall not be used in the construction or interpretation of this Agreement.

2. EFFECTIVENESS; TERM; DESIGNATION OF USERS

2.1 Effectiveness

This Agreement shall come into effect and commence on the Effective Date.

2.2 Term

The term of this Agreement (“**Term**”) shall be the period commencing on the Effective Date⁵ and ending on [*the final date on which Daily Planned Sendout is exchanged hereunder*].

2.3 Designation of Users

- (a) At any point in time, the Party providing the CEA Sendout under this Agreement (whether as an Original Quantity or as an Exchanged Quantity) shall be designated the Original User.
- (b) At any point in time, the Party receiving the CEA Sendout under this Agreement (whether as an Original Quantity or as an Exchanged Quantity) shall be designated the Capacity Exchange User.

3. EXCHANGE OF DAILY PLANNED SENDOUT

3.1 Exchange of CEA Sendout

- (a) Subject to and in accordance with the terms of this Agreement (including, for the avoidance of doubt, the Terms and Conditions of Exchange), Original User and Capacity Exchange User agree to exchange an equivalent quantity of CEA Sendout, set out in clause 3.2, for the Contract Price, as per the Terms and Conditions of Exchange.
- (b) For purposes of the Terminal Access Code, in relation to bilateral swaps between Long-Term Users, this Agreement serves as the Intraday Change Notification (in relation to an Intraday Swap), or the Intracargo Change Notification (in relation to an Intracargo Swap), as the case may be.
- (c) Original User shall transfer to Capacity Exchange User a quantity of CEA Sendout (the “**Original Quantity**”). Capacity Exchange User shall return to

⁵ This Agreement must be executed by no later than 12:00 on the Day immediately prior to the date on which CEA Sendout is first exchanged with another Long Term User.

Original User an equivalent quantity of CEA Sendout (the “**Exchange Quantity**”), as described in the preamble and the recitals⁶.

- (d) For the avoidance of doubt, the Original User may enter into one or more Capacity Exchange Agreements (Exchange of CEA Sendout) within the same Contract Year.

3.2 Duration and Quantity of Exchange

The quantities to be exchanged between Original User and Capacity Exchange User shall be as set out below⁷:

| ORIGINAL USER | | CAPACITY EXCHANGE USER | |
|------------------------|---------------------------------|------------------------|---------------------------------|
| Original Date | Original Quantity (kWh per day) | Exchange Date | Exchange Quantity (kWh per day) |
| | | | |
| | | | |
| | | | |
| Total Quantity: | | Total Quantity: | |

3.3 Availability and Acceptance of CEA Sendout

- (a) Terminal Operator shall be responsible for delivering the CEA Sendout to the Regasified LNG Delivery Point and making such quantities available in accordance with the Terminal Access Code.
- (b) For the avoidance of doubt, in case the Capacity Exchange User does not accept the CEA Sendout for any reason, any rights, obligations or liabilities,

⁶ The Original Quantity and the Exchange Quantity must be exchanged and must result in an equivalent (net) exchange. The net exchange may be achieved through one or more transactions, as described in the preamble and the recitals and depicted in the following example:

| ORIGINAL USER | | CAPACITY EXCHANGE USER | |
|------------------------|---------------------------------|------------------------|---------------------------------|
| Original Date | Original Quantity (kWh per day) | Exchange Date | Exchange Quantity (kWh per day) |
| <i>1 October Y1</i> | <i>100</i> | <i>30 October Y1</i> | <i>50</i> |
| | | <i>1 February Y1</i> | <i>50</i> |
| Total Quantity: | <i>100</i> | Total Quantity: | <i>100</i> |

⁷ Original User and Capacity Exchange User may exchange an Original Quantity and a corresponding Exchange Quantity in one or more transactions, but the total “Original Quantity” and “Exchange Quantity” must be equal.

that may raise towards the Terminal Operator, shall be for the account of or remain with the Capacity Exchange User.

4. TERMS AND CONDITIONS OF THE EXCHANGE

4.1 Compensation

- (a) The Capacity Exchange User shall pay to the Original User the Contract Price for each kWh of CEA Sendout exchanged at the Regasified LNG Delivery Point.
- (b) The Party receiving the CEA Sendout shall be required to pay the [Capacity Fees] [Spot Capacity Fees], associated with the [Service] [Spot Cargo Service], provided by Terminal Operator⁸.
- (c) The Capacity Exchange User shall be charged such [Capacity Fees][Spot Capacity Fees] for the Days on which CEA Sendout is received, as it would have been charged under its [Terminal Use Agreement][Spot Cargo Agreement] had such CEA Sendout been a part of such [Terminal Use Agreement][Spot Cargo Agreement]⁹.

4.2 Nominations

- (a) The Parties agree and acknowledge that the CEA Sendout in Clause 3.2 constitutes a Revised Nomination that has been approved by Terminal Operator. Any subsequent change to the daily nominations will require Original User and Capacity Exchange User to submit a further Revised Nomination in respect of the relevant Day.
- (b) Capacity Exchange User hereby agrees to the nomination procedure set out in clause 7 of the Terminal Access Code.

4.3 Delivery Point

The delivery point for Regasified LNG exchanged as CEA Sendout pursuant to this Agreement shall be the Regasified LNG Delivery Point.

4.4 Title to Regasified LNG

- (a) Original User warrants that it has title to the Regasified LNG delivered to Capacity Exchange User hereunder, and Original User further warrants the

⁸ Refer to the TUA, if the Original User is a Long-Term User, or the SCA, if the Original User is a Spot Cargo User.

⁹ Refer to the TUA, if the Original User is a Long-Term User, or the SCA, if the Original User is a Spot Cargo User.

right to exchange and deliver such Regasified LNG free and clear of all liens, encumbrances and claims.

- (b) Original User shall be deemed to be the owner of, with full rights and title to, the Regasified LNG to be delivered hereunder until it is physically delivered to Capacity Exchange User at the Regasified LNG Delivery Point, after which Capacity Exchange User shall be deemed to be the owner, with full rights and title, thereof.
- (c) Subject to clause 4.6, Capacity Exchange User shall have no responsibility with respect to any Regasified LNG delivered hereunder until it is physically delivered to Capacity Exchange User at the Regasified LNG Delivery Point, or on account of anything which may be done, happen or arise with respect to said Regasified LNG before such delivery.
- (d) Original User shall have no responsibility with respect to any Regasified LNG delivered hereunder after delivery to the Regasified LNG Delivery Point, or on account of anything which may be done, happen, or arise with respect to said Regasified LNG after such delivery.

4.5 Acknowledgment of Responsibilities of Original User

- (a) Original User acknowledges and agrees that:
 - (i) the exchange of CEA Sendout hereunder shall be reflected in its own Terminal User Account and that its net LNG Position shall be adjusted accordingly. For the avoidance of doubt, the Original Quantity shall decrease and the Exchanged Quantity shall increase the debited quantity of Regasified LNG delivered to or for the account of Long-Term User or Spot Cargo User, as the case may be, by Terminal Operator at the Regasified LNG Delivery Point; and
 - (ii) it shall remain responsible for any Failed LNG Cargo Event with respect to any and all Regasified LNG delivered as Daily Planned Sendout pursuant to this Agreement, and that Original User shall maintain in force, at all times during the Term, its Terminal User's Guarantee in accordance with the TUA and its Inter-User Guarantee in accordance with the IUA.

4.6 Acknowledgement of Responsibilities of Capacity Exchange User

- (a) Capacity Exchange User warrants that it has secured such Downstream Rights as are required for the delivery and receipt of any CEA Sendout to be delivered pursuant to this Agreement.
- (b) Capacity Exchange User acknowledges and agrees that:

- (i) the exchange of Daily Planned Sendout hereunder shall be reflected in its own Terminal User account;
- (ii) its net LNG Position shall be adjusted to reflect the CEA Sendout delivered pursuant to this Agreement, including to account for any Evacuation Gas associated with a failure to receive the nominated CEA Sendout. For the avoidance of doubt, the Original Quantity shall increase and the Exchanged Quantity shall decrease the debited quantity of Regasified LNG delivered to or for the account of Long-Term User by Terminal Operator at the Regasified LNG Delivery Point;
- (iii) it will be responsible for, and bear all liability associated with, the nomination and receipt of CEA Sendout at the Regasified LNG Delivery Point, including any liability associated with failure to secure Downstream Rights for the nominated quantities; and
- (iv) its monthly invoice shall include Capacity Fees and adjustments associated with the total quantity of Regasified LNG delivered to Capacity Exchange User in accordance with this Agreement.

5. FORCE MAJEURE

Clause 15 (Event of Force Majeure) of the [Terminal Use Agreement] [Spot Cargo Agreement], entered into by each of the Original User and Capacity Exchange User with Terminal Operator shall apply to this Agreement, between all Parties, *mutatis mutandis*¹⁰.

6. APPLICABLE LAW

- (a) This Agreement shall be governed by and construed in accordance with (including in connection with resolving all Disputes between or among the Parties) the law of Greece, exclusive of any conflicts of laws principles that could require the application of any other law.
- (b) To the extent that the exchange of CEA Sendout may be deemed to be a sale of goods, the provisions of the *United Nations Convention on the International Sale of Goods* (also known as the Vienna Sales Convention) shall expressly not apply.

¹⁰ Refer to the TUA, if the Original User is a Long-Term User, or the SCA, if the Original User is a Spot Cargo User.

7. DISPUTE RESOLUTION

The provisions of clause 13.5 of the Terminal Access Code shall apply *mutatis mutandis* to this Agreement.

8. REPRESENTATIONS AND WARRANTIES

8.1 Representations and Warranties of the Original User

As of the Effective Date until the expiration of this Agreement, Original User represents, undertakes and warrants that:

- (a) Original User is and shall remain duly formed and in good standing under the laws of its jurisdiction of incorporation;
- (b) Original User has the requisite power, authority and legal right to execute and deliver, and to perform its obligations under, this Agreement¹¹; and
- (c) neither the execution, delivery nor performance of this Agreement, violates or will violate, results or will result in a breach of; or constitutes or will constitute a default under, any provision of Original User's organisational documents, any Applicable Law or of any other material agreement or instrument to which Original User is a party.

8.2 Representations and Warranties of the Capacity Exchange User

As of the Effective Date until the expiration of this Agreement, Capacity Exchange User represents, undertakes and warrants that:

- (a) Capacity Exchange User is and shall remain duly formed and in good standing under the laws of its jurisdiction of incorporation;
- (b) Capacity Exchange User has the requisite power, authority and legal right to execute and deliver, and to perform its obligations under, this Agreement¹²; and
- (c) neither the execution, delivery nor performance of this Agreement, violates or will violate, results or will result in a breach of; or constitutes or will constitute a default under, any provision of Capacity Exchange User's organisational

¹¹ Original User must ensure, among other things, that it is licensed to buy and sell Regasified LNG in Greece.

¹² Capacity Exchange User must ensure, among other things, that it is licensed to buy and sell Regasified LNG in Greece.

documents, any Applicable Law or of any other material agreement or instrument to which Original User is a party.

9. LIABILITIES

9.1 Limitation of Terminal Operator Liability

- (a) The liability of Terminal Operator to Original User and Capacity Exchange User deriving from or howsoever connected with Terminal Operator's performance or failure to perform its obligations under this Agreement shall be limited to cases of gross negligence or willful misconduct in accordance with clause 12.1.1(a) of the Terminal Access Code.
- (b) The maximum aggregate liability of Terminal Operator arising pursuant to clause 9.1(a) shall not exceed 20% of the then-current value, determined as of the date such liability arose, of the CEA Sendout exchanged under this Agreement.
- (c) Under no circumstances shall Terminal Operator be liable for Consequential Damages incurred by Original User or Capacity Exchange User.

9.2 Indemnities

- (a) Original User agrees to indemnify Capacity Exchanges User and Terminal Operator and hold them harmless from all suits, actions, debts, accounts, damages, costs, losses, liabilities and expenses arising from or out of claims of regarding title, payment, personal injury or property damage from any or all persons in connection with the CEA Sendout exchanged under this Agreement, and which claims attach before title passes to Capacity Exchange User.
- (b) Capacity Exchange User agrees to indemnify Original User and Terminal Operator and hold them harmless from all suits, actions, debts, accounts, damages, costs losses, liabilities and expenses arising from or out of claims regarding payment, personal injury or property damage from any or all persons in connection with the CEA Sendout exchanged under this Agreement, and which claims attach at and after title passes to Capacity Exchange User.

10. NOTICES

10.1 Notices

- (a) The notice provisions set out in clause 13.7 of the Terminal Access Code shall apply to this Agreement *mutatis mutandis*.
- (b) Notices from one Party to another Party, shall be addressed to such other Party at the address set forth in the table below or at such other address as such Party may from time-to-time designate by notice.
 - (i) In the case of Terminal Operator:

Address: **GASTRADE S.A.**
197, Kifissias Ave. & 40-42 Anavryton Str.
Maroussi, PC 151 24, Athens, Greece

Attention: [●]

Email: [●]

(ii) In the case of Original User:

Address: [●]

Attention: [●]

Email: [●]

(iii) In the case of Capacity Exchange User:

Address: [●]

Attention: [●]

Email: [●]

11. MISCELLANEOUS

11.1 Amendments

- (a) This Agreement may not be amended, modified, varied or supplemented except by an instrument in writing signed by all Parties.
- (b) If, following a change in Applicable Law, an amendment is required in order for this Agreement to comply with the new law, the Parties shall amend this Agreement by updating the terms as required by the new law within a period of two (2) months of the new law coming into force or within the period provided for in the new law, if any.

11.2 Successors and Assigns

This Agreement shall inure to the benefit of and be binding upon the respective successors and permitted assigns of the Parties.

11.3 Waiver

Except as expressly set forth herein, the failure of any Party to timely exercise any right or remedy under this Agreement shall not operate as a waiver of any such right or remedy, nor shall any single or partial exercise of any right or remedy prevent any

further or other exercise of any right or remedy. Waiver by any Party of any breach of a provision hereof shall not constitute the waiver of any subsequent breach of such provision.

11.4 No Consequential Loss or Damage

Except as expressly provided in this Agreement, no Party shall be liable to any other Party under this Agreement for or in respect of Consequential Damages incurred by a Party or any other Person, arising out of or relating to the performance or breach of this Agreement or to any act or omission related to this Agreement.

11.5 No Third-party Beneficiaries

No Person that is not a Party shall have any right to enforce any provision of this Agreement. Nothing in this Agreement shall otherwise be construed to create any duty to, or standard of care with reference to, or any liability to, any Person other than a Party.

11.6 Survival of Rights

- (a) Any termination or expiration of this Agreement shall be without prejudice to any rights, remedies, obligations and liabilities which may have accrued to a Party pursuant to this Agreement or otherwise under Applicable Law. All rights or remedies which may have accrued to the benefit of any Party (and any of this Agreement's provisions necessary for the exercise of such accrued rights or remedies) prior to the termination or expiration of this Agreement shall survive such termination or expiration.
- (b) Furthermore, the provisions of clauses 1, 2, 5, 6, 7, 8 and 11 shall survive the termination or expiration of this Agreement.

11.7 Rights and Remedies

Except where this Agreement expressly provides to the contrary, the rights and remedies contained in this Agreement are cumulative and not exclusive of any rights and remedies provided by law.

11.8 Disclaimer of Agency

- (a) The Parties agree that the relationship existing among them is contractual in nature, and therefore, nothing contained herein is intended to create, or shall be deemed or construed to create, any legal entity, partnership, joint venture, other association or a trust between the Parties.
- (b) No Party shall have the authority to hold itself out as having the authority or right to assume, create or undertake any obligation of any kind whatsoever, express or implied, on behalf or in the name of another Party.

- (c) This Agreement shall not be deemed or construed to authorise any Party to act as an agent, servant or employee for another Party for any purpose.

11.9 Severance of Invalid Provisions

If any provision in this Agreement shall for any reason be determined by any court or tribunal to be illegal, invalid or unenforceable, then the remaining provisions shall not be affected, impaired or invalidated and shall remain in full force and effect and shall continue to be binding upon the Parties.

11.10 Compliance with Laws

- (a) The Parties shall in the discharge of their obligations under this Agreement comply with all Applicable Laws, statutes, rules, regulations, permits, licences, approvals, judgments, decrees, injunctions, writs and orders, and all interpretations thereof, of all Governmental Authorities and/or RAE.
- (b) Each Party shall defend, indemnify and hold the other Party harmless from and against any and all claims, damages, losses, penalties, costs and expenses arising from, or related to, any breach by such first Party of this clause 11.10. Such indemnity obligation shall survive the termination or expiration of this Agreement.
- (c) Each Party agrees (i) to maintain internal controls; (ii) to keep books, accounts and records that properly, fairly and accurately record and report all transactions; (iii) not to maintain any off-the book accounts or record any non-existent expenditures; (iv) not to enter liabilities with incorrect identification of their object or to use false documents; and (v) to comply with Applicable Law in relation to such requirements.
- (d) Each Party shall be entitled to have reasonable access to, inspect and audit all invoices and accompanying documents issued by, and the financial books and records of, the other Party to verify compliance with this clause 11.10.
- (e) Without prejudice to any other express remedies referred to elsewhere in this Agreement or any remedies available at law, in the event of a breach of this clause 11.10, the non-breaching Party reserves the right to take whatever action it deems appropriate to ensure that it complies with Applicable Law.

11.11 Expenses

Each Party shall be responsible for and bear all of its own costs and expenses incurred in connection with the preparation and negotiation of this Agreement.

11.12 Scope

This Agreement and the Terminal Access Code constitute the entire agreement between the Parties relating to the subject matter hereof and supersedes and replaces

any provisions on the same subject contained in any other agreement between the Parties, whether written or oral.

11.13 Counterpart Execution

This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument. Each Party may enter into this Agreement by executing any such counterpart.

11.14 Sovereign Immunity

Each of the Parties hereby waives any and all immunity from jurisdiction, investigation or enforcement that it may enjoy, and further waives any objection to arbitral proceedings being brought in accordance with the terms of this Agreement. If any Party has the power to claim the defences of “**sovereign immunity**” or “**act of State**”, or if a court grants such immunity to that Party, such Party hereby irrevocably waives such immunity.

[Signatures on following page]

IN WITNESS whereof this Agreement has been executed on the date first written above.

[ORIGINAL USER]

By: _____

Name:

Title:

[CAPACITY EXCHANGE USER]

By: _____

Name:

Title:

GASTRADE S.A.

By: _____

Name:

Title:

ANNEX 1
TEMPLATE TERMS AND CONDITIONS OF EXCHANGE¹³

PARTIES

- (1) [●], a [●] incorporated under the laws of [●] with its principal office at [●] (“**Original User**”); and
- (2) [●], a [●] incorporated under the laws of [●] with its principal office at [●] (“**Capacity Exchange User**”).

1. SCOPE

These Terms and Conditions shall supplement, but not supersede, the Capacity Exchange Agreement entered into between the Original User, the Capacity Exchange User and Terminal Operator on [date].

These Terms and Conditions create rights and obligations between the Original User and the Capacity Exchange User.

These Terms and Conditions, together with the Capacity Exchange Agreement, contain the entire understanding of the parties hereto relating to the exchange of CEA Sendout.

NO RIGHTS OR OBLIGATIONS OF TERMINAL OPERATOR ARE CREATED UNDER THIS AGREEMENT.

2. PRICE

Contract Price: the Contract Price, in €/kWh, shall be as set out in the table below:

| Date | Quantity (kWh per day) | Price (€/kWh) |
|-------------|-------------------------------|----------------------|
| | | |
| | | |
| | | |
| | | |
| | | |

¹³ Terminal Operator is not a Party to this additional agreement and shall not review the terms. The Parties should not share the contents of this bilateral agreement with Terminal Operator and the contents of this Annex are provided merely as a guide for the suggested content of the agreement between the Users.

3. ADDITIONAL TERMS AND CONDITIONS OF THE EXCHANGE

[To be completed by the Original User & Capacity Exchange User, including individual requirements for Credit Support, Default & Termination, etc]