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The new AIEN long-term LNG SPA

The Association of International Energy Negotiators published its model form LNG sale and purchase agreement in October, its first edition of a long-form LNG SPA following the publication of its LNG master sale and purchase agreement in 2012. By **PATRICIA TILLER**, **PARTNER, RO LAZAROVITCH, PARTNER AND ADAM QUIGLEY**, senior associate, **BRACEWELL**

Aerial top down of Liquified Natural Gas LNG carrier moored to a small gas terminal. Fuel crisis. Sanctions. Top down shot © Evgenii Bakhchev | Dreamstime.com

The LNG SPA lands with a clear ambition – give LNG lawyers and commercial teams a common, international framework for long-term cargo sales that is genuinely adaptable to different project profiles, legal traditions and market philosophies. The LNG SPA is written for medium to long-term FOB transactions on a take-or-pay basis and can be used for simple LNG sale and purchase arrangements for operating projects or as the basis for agreeing anchor LNG sales to underpin the project financing of a new liquefaction development. This article seeks to explain what the model agreement is trying to do, why it includes more optionality than some may expect, and how to apply that flexibility appropriately.

Much like other AIEN model form documents, the LNG SPA contains optionality that allows negotiators and commercial teams to adapt the model form to the specifics of the relevant transaction. This optionality is deliberate. Rather than asking parties to shoehorn one "correct" LNG contract onto diverse use cases, the form accepts that it will be used for negotiating sales contracts for liquefaction facilities that are under development, already in operation, or for multi-asset portfolio sellers, with buyers ranging from utility buyers with regulated pass-throughs to trading desks with nimble books.

The contract therefore offers choices: alternative formulations and marked options that let negotiators dial the same framework towards a tighter, low-flex commitment or a more permissive, portfolio-style regime depending on the specific application. Unsurprisingly, that approach shifts responsibility to the deal team. It is not a menu to order from indiscriminately, and negotiators and lawyers will need to apply due care and attention when translating its terms to the specifics of their deal.

The spine of the agreement

Even with all those options, the spine is deliberately simple. The model assumes FOB sales with title and risk transferring in accordance with that structure – although even still, the model form offers optionality for title transfer to occur at a different location, such as the edge of the territory's exclusive economic zone to account for tax considerations that are relevant in many jurisdictions.

Adapting the form to a DES basis would require significant changes and so, notwithstanding its universal application, the LNG SPA is perhaps better suited for sellers and portfolio buyers in the international market rather than seasonal importers who would need to separately negotiate the charter of an LNG carrier in parallel with the LNG SPA, and may instead prefer to purchase LNG on a DES basis.

The model accommodates the many different forms of LNG plants now in existence, from onshore liquefaction facilities with multiple sources of feedgas to facilities with dedicated production and floating LNG facilities with the various nuances that accompany each of those types of facility.

When adapting the form, lawyers will need to consider how the relevant options can be best adapted to the relevant use case. Should the seller be obliged to supply LNG from gas produced from a specified supply area? Should force majeure protection for the seller's benefit extend to the upstream? This may be appropriate for facilities with dedicated production and no alternative options for supply of feedgas, but not for liquefaction facilities at hubs with various supply options.

Startup without the drama

The model contains optionality from the outset. When being deployed for projects under construction, there may be a need for various conditions precedent to the effectiveness of the contract. Equally, for a project that is operational, the LNG SPA allows the parties to simply specify a start date.

The model also proposes an optional windowing mechanism to deal with the uncertainty surrounding commencement of operations for projects that are under construction. The windowing mechanism could also be used for FLNG facilities, given the need to transport the facility to its production location from its previous deployment or shipyard. There is a further option of a windowing mechanism for commissioning and optional provisions on commissioning cargoes.

In light of the recent disputes between Venture Global and its buyers in respect of commissioning cargoes, negotiators and lawyers will need to pay close attention to the commissioning provisions, the treatment of commissioning cargoes, the definition of a commercial operations dates, and force majeure provisions. The model offers various options for treating commissioning cargoes: are they subject to a right of first refusal for the buyer, seller's to place without limitation, or subject to a matching right; or do they count towards ACQ?

Pricing and credit

The form does not force a single price philosophy. It accommodates fixed and variable structures including a commissioning price and leaves the parties to fill the blanks with the indexation, slopes, floors and collars to reflect the commercial deal. Payment timing reflects the ordinary LNG cash cycle; credit support recognises that sophisticated buyers and sellers may prefer different blends of SBLC, PCG and ratings-based thresholds; liabilities are bounded in ways that reinforce the idea that the contract's specific remedies are intended to carry most of the load.

The interesting choice is whether to include a price review clause, often one of the most contentious aspects of negotiating an LNG SPA. One sentence captures the model's philosophy: "Price review is an option that may be included or omitted in its entirety."

If included, drafters will need to choose triggers with i) discipline, periodic, event-driven, or a lean combination; ii) decide what elements are actually adjustable, slope, floor, cap, index component and iii) pre-commit to what happens if you deadlock, arbitration, expert determination, a formulaic fallback.

If not included, the LNG SPA should say so expressly, and drafters should tighten any clauses elsewhere in the agreement that might be misconstrued as backdoor invitations to reopen price as price reviews are often the cause of formal disputes under LNG SPAs. Both tracks are sensible.

What is not sensible is to adopt a review clause with broad triggers, no guardrails on frequency or scope, and a vague view of how the parties will resolve disagreement.

Optionality by design

- *GHG-neutral cargoes* – Greenhouse gas neutral cargoes remain a nascent element of the global LNG industry. Nonetheless, the text creates a straightforward path for buyers to elect carbon-neutral deliveries on a cargo-by-cargo basis that correspond to estimated emissions for that cargo. The election is made during programming and triggers a separate carbon offset purchase agreement.

If the parties do not agree the offset terms by a set date before loading, they must either deem the election void for that cargo or adopt a published third-party template identified in the commercial schedule. After the quantity of LNG that is delivered is confirmed, the buyer purchases and retires the corresponding units under that carbon offset purchase agreement. Done well, this is a tidy way to integrate environmental attributes into an LNG SPA without inventing parallel paper for each lifting.

However, care will be required if incorporating this mechanism given the requirement to negotiate an additional agreement and the rapidly changing regimes surrounding GHG reductions. It will be important to align expectations and agree appropriate contractual mechanics to avoid issues down the line once the LNG SPA comes into effect.

- *Cargo cancellation rights* – The optional cancellation regime is the most jurisdictionally sensitive feature in the form. Cancellation rights are common for FOB sales from the US Gulf Coast, where sellers are willing to grant buyers cancellation rights due to the availability of alternative buyers and deep spot market. Internationally, cancellation rights are far less common. Here, the buyer may cancel scheduled cargoes on defined notice and pay a cancellation fee, either a standalone liquidated amount or a net figure after a mitigation sale.

The model leaves room to cap the number of cancellations over the term and to calibrate the notice windows to the facility's reality. It is hard to overstate the value this can have for buyers facing demand volatility or spot-market opportunities. It can be perfectly coherent for sellers who operate portfolios and can redeploy gas. It is less likely to be appropriate for sellers underwriting debt service with long-term offtake (and may not be permitted by the lenders).

- *Source flexibility and affiliate supply* – The model lets users tie origin tightly by defining a specific gas supply area or facility or grant carefully framed discretion to deliver from alternate or affiliate sources so long as LNG meets the contract specification. The drafting committee engaged in extensive debate on this topic. Where the liquefaction facility is part of an integrated project being developed by the owners of the upstream assets, users should tie the gas supply area to the relevant fields.

Buyers will need to be aware of the risks of this approach inherent in integrated projects where an outage in the upstream will inevitably result in an outage to the LNG facility. If the feedgas can be sourced from more than one gas supply area (such as in the US Gulf Coast), more flexibility may be appropriate.

Negotiators will also need to consider whether the seller (if it is a portfolio seller with multiple facilities or the ability to procure cargoes elsewhere) may deliver LNG at a different facility.

Used well, this increases resilience: if Facility A suffers an outage, Facility B can step in without the need to amend the SPA. Used carelessly, it externalises costs to the buyer (longer sea legs, canal tolls, boil-off) and risks issues with quality.

The common-sense middle ground is conditional flexibility: notice and (where appropriate) consent for

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alternate sources; explicit specification parity; and a freight/route adjustment when the alternate choice increases the buyer's cost to lift at the FOB point. In some deals (especially those with regulatory approvals or finance covenants tied to a specific origin) the safest course is to keep origin narrow. In others, particularly with portfolio sellers, the ability to move molecules around the map without breaching the SPA will grant additional operational flexibility.

Making the options work

Optionality is not decoration. It changes how the core mechanics behave, which means it should be exercised in a deliberate manner. The scheduling mechanic is a good example. A cancellation right that can be exercised on short notice is an attractive commercial feature for a buyer and may be pushed for in a buyer's market. From the seller's perspective, it will be important to ensure that it does not adversely affect scheduling at the terminal and the facility's other buyers. Set the windows so that both ideas can live in the same building. Similarly, the GHG-neutral election only works smoothly if the offset agreement is pre-baked in the schedules and the 90-day plan has a place to flag clean cargoes so that documentation and attestations march in step with nominations and liftings.

Take-or-pay logic is the other hub where options echo. Parties agreeing to grant the buyer cancellation rights should consider whether the buyer should be afforded make-up rights. The simplest and most transparent approach in a cancellation world is often to settle failures contemporaneously (either by the agreed cancellation fee or by a mitigation sale and netting) rather than to create a second bucket of deferred volumes that may carry forward to future years. If keeping make up rights, tighten their scope and cadence so that there are not overlapping systems that incentivise conflicting behaviour. And if including price review provisions, ensure that there are appropriate guardrails in place to resolve deadlocks and avoid disputes that can threaten the broader deal.

Closing thoughts

The 2025 AIEN Model LNG SPA is best understood as a framework that normalises the ordinary and spotlights the choices that deserve real attention. Users of the model agreement should not assume that just because an option exists, it reflects market practice or should be included.

The model agreement is frank about the fact that a modern LNG contract must be able to live comfortably in different legal families and commercial cultures. It offers enough optionality to let a single document support both a tightly underwritten greenfield project and a flexible portfolio play.

This flexibility is not a challenge to be solved; it is an advantage to be used carefully. If including cargo cancellation rights, retune take-or-pay and scheduling. If adding source flexibility, pair it with notice, specification parity, and cost adjustments.

If including price review, make it disciplined and lender-proof.

If including GHG-neutral cargoes, set the emissions boundaries, standards, and registries in the schedules so the election is a button, not a workshop.

And if users decide not to use any of those options, that is a perfectly respectable approach too. The value of the model is not that it decides everything for the user; it is that it helps the user make an informed decision when negotiating and agreeing contractual terms. ■

* *Patricia Tiller was the co-chair of the drafting committee that prepared AIEN's 2025 model LNG sale and purchase agreement. Ro Lazarovitch and Adam Quigley also contributed to the draft.*