



Registration of a Charge

Company Name: **BP GAS MARKETING LIMITED**

Company Number: **00908982**



XAA6US4W

Received for filing in Electronic Format on the: **04/08/2021**

Details of Charge

Date of creation: **30/07/2021**

Charge code: **0090 8982 0004**

Persons entitled: **CITIBANK N.A.**

Brief description: **N/A**

Contains fixed charge(s).

Authentication of Form

This form was authorised by: **a person with an interest in the registration of the charge.**

Authentication of Instrument

Certification statement: **I CERTIFY THAT SAVE FOR MATERIAL REDACTED PURSUANT TO S.859G OF THE COMPANIES ACT 2006 THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **SHEARMAN & STERLING (LONDON) LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 908982

Charge code: 0090 8982 0004

The Registrar of Companies for England and Wales hereby certifies that a charge dated 30th July 2021 and created by BP GAS MARKETING LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 4th August 2021 .

Given at Companies House, Cardiff on 5th August 2021

The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006



Companies House



**THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES**

CONFIRMATORY SECURITY AGREEMENT

DATED 30 July 2021

in relation to an Assignment Agreement dated 29 July 2019

Between

**UTE GNA I GERAÇÃO DE ENERGIA S.A.
as Company**

BP GAS MARKETING LIMITED

as Assignor

and

**CITIBANK, N.A.
as Offshore Collateral Agent**

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THIS SUPPLEMENTAL DEED (the “Deed”) is dated 30 July 2021 and is made **BETWEEN**:

- (1) **UTE GNA I GERAÇÃO DE ENERGIA S.A.**, a *sociedade anônima* organized and existing under the laws of Brazil and headquartered in Fazenda Saco Dantas, s/n, Distrito Industrial, São João da Barra – RJ 28200-000, Brazil, enrolled with Brazilian Taxpayers' Number under No. 23.449.511/0001-90 (the “Company”);
- (2) **BP GAS MARKETING LIMITED**, a limited company incorporated in England (with company number 908982), with its registered office located at Chertsey Road, Sunbury on Thames, Middlesex TW16 7BP, United Kingdom (the “Assignor”); and
- (3) **CITIBANK, N.A.**, a national banking association organized and existing under the laws of the United States of America, acting solely in its capacity as Offshore Collateral Agent under the Accounts Agreement for and on behalf of the Secured Parties (the “Offshore Collateral Agent”),

the “Parties” and each a “Party”.

BACKGROUND:

- (A) The Assignor, the Offshore Collateral Agent and the Company enter into this Deed in connection with the Global Amendment and Restatement Agreement (as defined below).
- (B) It is a condition to the Effective Date (as defined below) that the Assignor, the Offshore Collateral Agent and the Company enter into this Deed.
- (C) Pursuant to an Assignment of Subordinated Payment Obligations dated 29 July 2019 (the “Assignment Agreement”) between the Assignor, the Company and the Offshore Collateral Agent (acting in its capacity as Offshore Collateral Agent in accordance with the terms of the Existing Accounts Agreement) the Assignor assigned by way of security its rights under the Assigned Receivables for the payment of all Secured Obligations (as provided for in the Assignment Agreement).
- (D) Pursuant to the Consent, Payoff and Refinancing Agreement (as defined below), the Company, International Finance Corporation (“IFC”) and KfW-IPEX Bank GmbH (“IPEX”) agreed to refinance certain loans provided by IFC through the issuance, by the Company, of the Debentures (as defined in the Accounts Agreement).
- (E) The Parties consider that the Security (as defined in the Accounts Agreement) created by the Assignor under the Assignment Agreement intends to secure payment of the Secured Obligations (as defined below) but enter into this Deed to account for the event that the security created by the Assignment Agreement does not secure all of the Secured Obligations.
- (F) This Deed is supplemental to the Assignment Agreement.
- (G) It is intended that this document takes effect as a deed notwithstanding the fact that a Party may only execute this document under hand.

IT IS AGREED as follows:

1. INTERPRETATION

1.1 Definitions

In this Deed:

"Accounts Agreement" has the meaning given to the term "Restated Accounts Agreement" in the Global Amendment and Restatement Agreement.

"Assigned Receivables" has the meaning given to it in the Assignment Agreement.

"Assignment Agreement" has the meaning given to it in Recital (C).

"Consent, Payoff and Refinancing Agreement" means the consent, payoff and refinancing agreement dated 16 July 2021 entered into among *inter alia* the Company, IFC, IPEX, and the Offshore Collateral Agent.

"Effective Date" has the meaning given to it in the Global Amendment and Restatement Agreement.

"Existing Accounts Agreement" has the meaning given to it in the Global Amendment and Restatement Agreement.

"Global Amendment and Restatement Agreement" means the global amendment and restatement agreement dated on or about the date hereof entered into among *inter alia* the Company, IFC, IPEX, and the Offshore Collateral Agent.

"Party" means a party to this Deed.

"Secured Obligations" means any obligation of the Company to any Secured Party which constitutes a "Senior Secured Facility Obligation" in accordance with the Accounts Agreement.

1.2 Construction

- (a) Capitalised terms defined in the Accounts Agreement have, unless expressly defined in this Deed, the same meaning in this Deed.
- (b) In this Deed, unless the context otherwise requires:
 - (i) headings are for convenience only and do not affect the interpretation of this Deed;
 - (ii) words importing the singular include the plural and vice versa;
 - (iii) a reference to a Clause, paragraph or party is a reference to that Clause, paragraph or party to this Deed, unless otherwise specified;
 - (iv) the term "including" means "including without limitation";
 - (v) the word "or" is inclusive;
 - (vi) the terms "herein", "hereof" and "hereunder" refer to this Deed as a whole;
 - (vii) any reference to any law is to be construed to refer to such law as amended, modified, re-enacted or replaced and shall also refer to all related bylaws, instruments, orders and regulations;
 - (viii) a reference to a document includes an amendment or supplement to, or replacement or novation of, that document but disregarding any amendment, supplement, replacement or novation made in breach of the Financing Documents;

- (ix) any reference to a document includes all annexes, schedules, exhibits and other attachments to that document;
- (x) any term used in this Deed that is defined by reference to another Financing Document shall continue to have the original definition (as may be amended, supplemented or otherwise modified from time to time) notwithstanding any termination or expiration of such Financing Document;
- (xi) any reference to any threshold amount in Dollars or Reais shall mean its equivalent in any other currency as of the time of determination; and
- (xii) any reference to a Person includes that Person's successors and permitted assigns.
- (c) The term "**Financing Document**" includes all amendments and supplements including supplements providing for further advances, and the term "**this Security**" means any security created by or pursuant to this Deed.
- (d) If any payment by the Borrower or the Assignor or any discharge, release or arrangement given by a Secured Party (whether in respect of the obligations of the Borrower or the Assignor or any security for those obligations or otherwise) is avoided or reduced as a result of insolvency or any similar event:
 - (i) the liability of the Borrower or the Assignor, as applicable, and the Security created under or pursuant to this Deed shall continue or be reinstated as if the payment, discharge, avoidance or reduction had not occurred; and
 - (ii) each Secured Party shall be entitled to recover the value or amount of that security or payment from the Borrower or the Assignor, as applicable, as if the payment, discharge, avoidance or reduction had not occurred.
- (e) A person who is not a party to this Deed has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Deed.

2. CREATION OF SECURITY

2.1 General

- (a) All the Security created under this Deed:
 - (i) is created in favour of the Offshore Collateral Agent (for the benefit of itself and the other Secured Parties);
 - (ii) is created over present and future assets of the Assignor to the extent constituting the rights of the Assignor under the Assigned Receivables;
 - (iii) is security for the payment of all the Secured Obligations; and
 - (iv) is made with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994 (except for any security or other rights or interests in favour of the Secured Parties under or pursuant to the Financing Documents).
- (b) The Offshore Collateral Agent holds the benefit of this Deed and the Security created under or pursuant to this Deed on trust for the Secured Parties.

- (c) All the Security created under this Deed:
 - (i) is created in addition to but only to take account of the extent to which the security created by the Assignment Agreement does not secure all of the Secured Obligations; and
 - (ii) does not affect the security created by the Assignment Agreement in respect of the Assigned Receivables.
- (d) Where this Deed purports to create a first fixed Lien, that Lien will be a second ranking Lien ranking subject to the equivalent Lien created by the Assignment Agreement until such time as the Lien created by the Assignment Agreement ceases to have effect.
- (e) Where a right or asset has been assigned (subject to a proviso for re-assignment on redemption) under the Assignment Agreement and the same asset or right is expressed to be assigned again under this Deed, that second assignment will take effect as a fixed charge over the right or asset and will only take effect as an assignment if the security created by the Assignment Agreement ceases to have effect at a time when this Deed still has effect.

2.2 Security

- (a) The Assignor assigns by way of security all its present and future rights, title and benefit in and to the Assigned Receivables including all monies payable to the Assignor and any claims, awards and judgments in favour of the Assignor, under or in connection with the Assigned Receivables to the Offshore Collateral Agent, as security for the payment and discharge of the Secured Obligations.
- (b) To the extent that any such right described in paragraph (a) above is not assignable or capable of assignment, the assignment of that right (if any) purported to be effected by paragraph (a) shall operate as an assignment of any damages, compensation, remuneration, profit, rent or income which the Assignor may derive from that right or be awarded or entitled to in respect of that right.
- (c) To the extent that they are not effectively assigned under paragraphs (a) or (b) above, the Assignor hereby charges all of its rights under the Assigned Receivables by way of a first fixed charge as security for the payment and discharge of the Secured Obligations.
- (d) The Assignor hereby gives notice to the Company of the assignment made in terms of Clause 2.2 (*Security*) hereof and the Company hereby acknowledges that, pursuant to this Clause 2.2 (*Security*), the Assignor is assigning by way of security all its present and future rights, title and benefit in and to the Assigned Receivables in favour of the Offshore Collateral Agent and that such assignment shall become absolute upon the Offshore Collateral Agent giving notice under Clause 5.1(a)(ii) (*Exercise of Rights*) of the Assignment Agreement in accordance with Clause 5.1(b) (*Exercise of Rights*) of the Assignment Agreement.

2.3 Limited Recourse

It is expressly agreed and understood that:

- (a) the sole recourse of the Offshore Collateral Agent to the Assignor under this Deed is to the Assignor's interests in the Assigned Receivables; and

- (b) the liability of the Assignor to the Offshore Collateral Agent pursuant to or otherwise in connection with this Deed shall be:
 - (i) limited in aggregate to an amount equal to that recovered as a result of enforcement of this Deed with respect to the Assigned Receivables; and
 - (ii) satisfied only from the proceeds of sale or other disposal or realisation of the Assigned Receivables pursuant to this Deed.

3. CONFIRMATION

3.1 Confirmation

- (a) On the Effective Date, the Assignor:
 - (i) confirms its acceptance of each of the Senior Secured Facilities (including as such may be amended in accordance with the Global Amendment and Restatement Agreement);
 - (ii) agrees that the Lien created under the Assignment Agreement continues in full force and effect and secures the Senior Secured Facility Obligations of the Company subject always to the limitations set out in the Assignment Agreement; and
 - (iii) confirms that the obligations of the Company arising under the Financing Documents are included in the Secured Obligations subject to any limitations set out in the Assignment Agreement.
- (b) The Assignor hereby confirms to the Offshore Collateral Agent (on behalf of each Secured Party) that on and from the Effective Date:
 - (i) its obligations and liabilities under each of the Assignment Agreement, the LNG Direct Agreement and the LNG SPA continue in full force and effect on the terms thereof; and
 - (ii) it has assigned by way of security all of its rights in respect of the Assigned Receivables under the Assignment Agreement and that the Lien created thereunder will continue in full force and effect.

4. REPRESENTATIONS AND WARRANTIES

4.1 General

The Assignor makes the representations and warranties set out in this Clause 4 (*Representations and Warranties*) to the Offshore Collateral Agent and each other Secured Party.

4.2 Nature of Security

- (a) The Assignor is the sole legal and beneficial owner of the Assigned Receivables (except for any security or other rights or interests in favour of the Secured Parties under or pursuant to the Financing Documents to which the Assignor is a party).
- (b) The Assigned Receivables are free of any security and any other rights or interests in favour of third parties (except for any security or other rights or interests in favour of the Secured Parties under or pursuant to the Financing Documents to which the Assignor is a party).

- (c) The Assignor has the power to enter into, perform and delivery, and has taken all necessary action to authorize entry into, performance and delivery of, this Deed and the assignment of the Assigned Receivables contemplated hereby.

4.3 Times for making Representations

The representations and warranties set out in this Clause 3 (*Representations and Warranties*) are made by the Assignor on the date of this Deed.

5. INCORPORATION

- (a) This Deed is a Financing Document and a Security Document.
- (b) This Deed may be executed in any number of counterparts. This has the same effect as if the signatures on the counterparts were on a single copy of this Deed.
- (c) The provisions of clauses 4 (*Restrictions on Dealings*) to 16 (*Release*) (inclusive) of the Assignment Agreement are deemed to be incorporated into this Deed as though set out in this Deed in full, *mutatis mutandis*, save that references to the Assignment Agreement shall be construed as references to this Deed with all necessary modifications as if they were set out in full in this Deed.

6. GOVERNING LAW AND JURISDICTION

- (a) This Deed and any non-contractual obligations arising out of or in connection with it are governed by English law.
- (b) The provisions of clause 19 (*Arbitration*) of the Assignment Agreement is incorporated into this Deed in full *mutatis mutandis* and, in particular, with any reference to "this Agreement" or "this Deed" being construed as a reference to this Deed. The Parties confirm that this Deed is a Related Agreement (as defined in the Assignment Agreement) and that the Assignment Agreement is a Related Agreement for the purposes of this Deed.

7. OFFSHORE COLLATERAL AGENT

Any reference to the Offshore Collateral Agent in this Deed shall be construed as a reference to the Offshore Collateral Agent acting as agent for and on behalf of the Secured Parties and in accordance with the terms of the Senior Secured Facility Agreements, and in each case acting on instructions given in accordance with, the Intercreditor Agreement. The Offshore Collateral Agent shall be entitled to all of the rights, benefits, privileges, protections and indemnities provided to it in the Accounts Agreement as if specifically set forth herein.

This Deed has been entered into and delivered as a deed on the date stated at the beginning of this Deed.

SIGNATORIES

Company

EXECUTED as a deed by

UTE GNA I GERAÇÃO DE ENERGIA S.A.

acting by:

Name:

Bernardo Perseke

Title:

Name:

Title:

Roberto Federici

acting under the authority of that company,
in the presence of:

Witness's Signature: ..

Name: Rosângela Delfe de Pontes

ID:

Witness's Signature: ..

Name: CAROLINA HENRIQUE

ID:

Offshore Collateral Agent

EXECUTED as a deed by
CITIBANK, N.A.

acting by:

Name:

Title:

LAREN ABARCA

acting under the authority of that company,
in the presence of:

Witness's Signature:

Name:

KEVIN VARGAS

Address:

Assignor

EXECUTED as a deed by
BP GAS MARKETING LIMITED
acting by:

Name: Sharon Weintraub
Title [redacted]

Name: van der Meijden, Kristel
Title: [redacted]
For and on behalf of Sunbury Secretaries Limited

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