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FEDERAL MARITIME COMMISSION
WASHINGTON, D.C.

THE LAKE CHARLES HARBOR AND
TERMINAL DISTRICT
Claimant

VERSUS DOCKET NO. 06-02

WEST CAMERON PORT, HARBOR
AND TERMINAL DISTRICT
Respondent

****

MOTION TO DISMISS

NOW INTO COURT, through undersigned counsel, comes WEST CAMERON PORT, HARBOR AND TERMINAL DISTRICT ("West Cameron"), named as Respondent to the Complaint filed by the Claimant LAKE CHARLES HARBOR AND TERMINAL DISTRICT ("LC Port"), who files this Motion to Dismiss the Complaint and all Amended Complaints filed before this Commission pursuant to Rule 64 and Federal Rule of Civil Procedure 12 (as made applicable to Commission proceedings pursuant to Rule 12) based upon the following:

1.

As is discussed in the accompanying memorandum, the Federal Maritime Commission lacks jurisdiction to entertain the Complaint filed by LC Port as (1) West Cameron does not fit the definition of "marine terminal operator," as defined under the Shipping Act of 1984 and the regulations promulgated thereunder, (2) Liquefied Natural Gas terminals do not fit the definition of "marine terminal operator," as defined under the Shipping Act of 1984 and the regulations promulgated thereunder, and (3) Liquefied Natural Gas vessels carrying Liquefied Natural Gas are not

"common carriers," as defined under the Shipping Act of 1984 and the regulations promulgated thereunder.

2.

LC Port lacks standing to assert claims for alleged violations of the Shipping Act as any such claims would belong to those entities assessed with the "wharfage" as alleged by LC Port or any other claims it asserts in this matter.

3.

As is discussed in the accompanying memorandum, LC Port fails to state a claim for reparations and other relief under the Shipping Act of 1984 and the regulations thereunder based upon the following:

a. West Cameron is not a marine terminal operator;

b. Liquefied Natural Gas terminals are not marine terminal operators;

c. Liquefied Natural Gas vessels transporting Liquefied Natural Gas are not common carriers;

d. Louisiana law prohibits West Cameron from assessing vessels destined for LC Port facilities;

e. No Liquefied Natural Gas terminal has yet been constructed in Cameron Parish; and

f. No alleged "wharfage" has ever been assessed or collected.

WHEREFORE, premises considered, and for the reasons more fully set forth in the accompanying memorandum, Respondent WEST CAMERON PORT, HARBOR AND TERMINAL DISTRICT prays that the Administrative Law Judge

dismiss the Complaint of LAKE CHARLES HARBOR AND TERMINAL DISTRICT.

AND FOR ALL OTHER GENERAL AND EQUITABLE RELIEF, ETC.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all parties of record by facsimile and overnight mail a copy to each such person.

Dated at, Lafayette, Louisiana, this 16th day of February, 2006.

Randall K. Theunissen
On Behalf of Respondent, West
Cameron Port, Harbor and
Terminal District

VERIFICATION

I, Randall K. Theunissen, counsel for the West Cameron Port, Harbor and Terminal District hereby declare pursuant to Rule 112 that I have read the foregoing Motion to Dismiss and supporting memorandum and that, to the best of my knowledge, information and belief, the motion is well grounded in fact and is warranted by existing law. I further declare the motion is not being interposed for any improper purpose or to harass or cause unnecessary delay in litigation.

Signed at Lafayette, Louisiana, this 16th day of February, 2006.

Randall K Theunissen

Randall K. Theunissen

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FEDERAL MARITIME COMMISSION
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THE LAKE CHARLES HARBOR AND
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VERSUS

DOCKET NO. 06-02

WEST CAMERON PORT, HARBOR
AND TERMINAL DISTRICT
Respondent

****

MEMORANDUM IN SUPPORT OF
MOTION TO DISMISS

Respondent WEST CAMERON PORT, HARBOR AND TERMINAL DISTRICT ("West Cameron") submits this memorandum in support of its motion to dismiss the Complaint filed by Claimant LAKE CHARLES HARBOR AND TERMINAL DISTRICT ("LC Port"). As West Cameron will demonstrate, the Federal Maritime Commission lacks jurisdiction over it for the following reasons:

(a) West Cameron is not a "Marine Terminal Operator" under the Shipping Act of 1984, the regulations implementing same, and case law interpreting that term;

(b) Operators of Liquefied Natural Gas terminals do not fit the definition to be classified as a "marine terminal operator" under the Shipping Act of 1984, the regulations implementing same, and case law interpreting that term; and

(c) Vessels carrying Liquefied Natural Gas are not "common carriers" under the Shipping Act of 1984, the regulations implementing same, and case law interpreting that term.

The relief which LC Port seeks is premature and is relief for which LC Port lacks standing to seek. LC Port fails to state a claim for reparations and other relief under the Shipping Act of 1984 and the regulations thereunder based upon the following:

a. West Cameron is not a marine terminal operator;

b. Liquefied Natural Gas terminals are not marine terminal operators;

c. Liquefied Natural Gas vessels transporting Liquefied Natural Gas are not common carriers;

d. Louisiana law prohibits West Cameron from assessing vessels destined for LC Port facilities;

e. No Liquefied Natural Gas terminal has yet been constructed in Cameron Parish; and

f. No alleged "wharfage" has ever been assessed or collected.

West Cameron respectfully requests that the Administrative Law Judge (the "ALJ") dismiss this proceeding.

Factual Background

In its Complaint, LC Port generally provides the statutory framework under which both it and West Cameron were created and can operate.

A. West Cameron's statutory authority

West Cameron is a political subdivision of the State of Louisiana whose territorial limitation is wards three, four, five and six of Cameron Parish, Louisiana. La. R.S. § 34:2551. West Cameron is governed by the West Cameron Port Commission, La. R.S. § 34:2552, and, like LC Port, is created "with full corporate powers," La. R.S. 34:2551, and, has certain other statutorily enumerated powers:

The commission is hereby vested with authority to:

> (4) Own, construct, acquire, operate and maintain docks, wharves, landings, elevators, sheds, warehouses, basins, locks, slips, laterals, canals and all other property, structures, equipment, facilities and works of public improvement necessary or useful for port, harbor and/or terminal purposes.
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> ***

(12) Establish and charge reasonable fees, rates, tariffs or other charges for the use of all facilities administered by it and for all services rendered by it.

(13) Charge a reasonable fee to each vessel arriving in the port area in ballast or carrying cargo of any kind.

(15) Make and enter into contracts, leases and other agreements with railroads, trucking companies, barge lines and with any and all companies interested in the transportation, storage and shipping of goods and other products, whether by rail, truck line, barge line, ocean going vessels or otherwise, for the use of facilities administered by the commission of any part or portion thereof, for a period not exceeding forty years; provided, however, that no exclusive franchise shall be granted to any carrier. The commission may lease or sublease for processing, manufacturing or commercial business purposes any lands or buildings owned, acquired or leased as lessee by it, which leases may run for any term not exceeding forty years, at a fixed rental, provided that any such lease may run for a term not exceeding ninety-nine years if it contains a clause of clauses for readjustment of the rentals upon the expiration of a primary term of forty years.

It must be noted, however, that under the territorial limitation of LC Port discussed below, LC Port is in essence landlocked and vessels calling on LC Port's facilities must necessarily pass through the territorial jurisdiction of West Cameron. At no time has West Cameron ever assessed any fee or tariff to any vessel calling on LC Port's facilities.[1] At no time has West Cameron ever charged and/or assessed any fee, tariff or other charge to any vessel calling on private terminal facilites within West Cameron's jurisdiction. West Cameron does not have the apparatus, economic means or infrastructure to assess those vessels. Even if West Cameron were willing to assess those fees against vessels merely passing through its jurisdiction, the

[1] Affidavit of Cliff Cabell, President of West Cameron Port Commission, attached hereto as **Exhibit 1**; Affidavit of Howard Romero, member of West Cameron Port Commission, attached hereto as **Exhibit 2**.

enabling legislation by which the Louisiana Legislature created West Cameron expressly prohibits doing just that:

> Anything in this Chapter to the contrary notwithstanding, the commission shall **not** assess, levy, or charge any fee, rate, tariff or other charge on any person, vessel, watercraft or cargo **on account of passage through the district** unless such person, vessel, watercraft or cargo makes use of the facilities or services of the commission. The commission shall not by rule, regulation or other act require the use of the facilities or services of the commission.

La. R.S. § 34:2556 (emphasis added). West Cameron has never owned or operated any wharf, dock or other waterside facilities and, to date, provides no services so it could not possibly require vessels to use its facilities or purchase its services. The Louisiana Legislature recognized the status of LC Port was such that the only access to LC Port's jurisdiction was through West Cameron's jurisdiction. Vessels destined for LC Port's facilities have always had and will always have unimpeded passage through West Cameron's jurisdiction. That being the case, West Cameron finds it particularly disingenuous for LC Port to assert, "By its threats of imposing the wharfage fees upon Lake Charles' tenants, West Cameron has threatened to disrupt operations in Lake Charles and will cause tenants of Lake Charles to incur substantial additional expenses in connection with the shipment of cargo to and from the port." (Complaint at ¶ 27). West Cameron is most confident that, had it assessed fees to vessels destined for LC Port's facilities, either the party against whom such fess were assessed or the LC Port would have immediately sought injunctive relief in Louisiana state court under La. R.S. § 34:2556 .

B. LC Port's statutory authority

LC Port was created by the Louisiana Legislature as a political subdivision with its territorial limitation set forth in La. R.S. § 34:201.[2] For purposes of perspective, LC Port's territory is situated directly north of West Cameron's and the only access to LC Port's territory is through West Cameron territory. LC Port was vested with certain powers. For example:

> (c) It may own and administer, contract for, construct, operate, and maintain docks, landings, wharves, sheds, elevators, locks, slips, canals, laterals, basins, warehouses, belt and connecting railroads, works of public improvement, and all other property, structures, equipment, and facilities necessary or useful for port, harbor, and terminal purposes, including but not limited to buildings and equipment for the accommodation of passengers and the handling, storage, transportation, and delivery of freight, express, and mail;
>
> (d) It may dredge and maintain shipways, channels, canals, slips, basins, and turning basins.

La. R.S. § 34:203A(1). La. R.S. § 34:203A(2)(c)(iii) continues, "It may acquire land necessary for the business of the district." La. R.S. § 34:215 provides LC Port's specific and controlling authority with respect to acquisition of lands "necessary for the business of the district":

> Without impairing or diminishing the import and meaning of the other Sections of this Part, except as in the respects hereafter specifically shown and provided, the Lake Charles Harbor and Terminal District shall have the authority:
>
> (1) To own, construct, operate and maintain docks, wharves, sheds, elevators, locks, slips, laterals, basins, warehouses, docks, wharves, and all other property, structures, equipment, and facilities including belts and connecting lines of ships and railroads and works of pubic improvements necessary or useful for port, harbor, and terminal purposes to dredge and maintain shipways, channels, slips, basins, and turning basins;

[2] The territorial limitation of LC Port is by metes and bounds description. The limitation was amended by the Louisiana Legislature in 1956, 1964 and 1997.

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(3) To **acquire**, by right of eminent domain, **purchase**, lease, or otherwise, the **land** that may be necessary for the business of the district, including industrial plant sites and necessary property or appurtenances thereto, and to acquire or construct industrial plant buildings with necessary machinery and equipment **within said district**;

(emphasis added).

C. Cameron LNG

In February 1999, LC Port purchased approximately 215 acres situated entirely in Cameron Parish.[3] A portion of the property was leased to Dynegy Corporation who approached LC Port and proposed to construct a Liquefied Natural Gas (LNG) terminal on the property. The lease was subsequently amended to expand the lease term and acreage. This lease was then transferred to Cameron LNG, LLC, a subsidiary of Sempra Energy.

Again, LC Port is the lessor of the Cameron Parish property which is leased to Cameron LNG.[4] Nowhere does LC Port allege that West Cameron has assessed a "wharfage" on Cameron LNG. LC Port emphasizes "wharfage" by placing it in quotes as though it is creature of West Cameron's creation. However, the term "wharfage fees" is a term of the lease **between LC Port and Cameron LNG**. West Cameron is not a party to that lease. Paragraph 6 of the Lease, as amended by the Third Amendment to Surface Lease, provides in pertinent part:

> **Wharfage Fees.** The following terms shall become effective on the first day of the calendar month in which natural gas is first delivered from the LNG Terminal into one or more natural gas pipelines. ("Operations Commencement Date"). Commencing with the Contract

[3] A copy of the Cash Sale and Assignment of Lease whereby LC Port acquired the subject property is attached hereto as **Exhibit 3**.

[4] Attached hereto as **Exhibits 4** and **5** are the Third Amendment to Surface Lease and Second Amendment to Surface Lease, respectively.

> Year in which the Operations Commencement Date occurs, Lessee will pay the Lessor, in addition to the base rent specified in Paragraph 5 of this Third Amendment and Paragraph 5 of the Second Amendment, **wharfage fees** assessed on LNG throughput and calculated on a per unit basis equal to 15/100's cent (or $0.0015) per dekatherm for natural gas (i) either delivered from the LNG Terminal into one or more natural gas pipelines or (ii) loaded from the LNG Terminal into an LNG transport vessel (other than for temporary storage purposes). . . .The **wharfage fees** rate shall be applicable to all volumes of natural gas delivered from the LNG Terminal, including incremental volumes delivered as a result of one or more terminal expansions constructed on the Amended Leased Premises. The $0.0015 per dekatherm **wharfage fees** rate will be increased annually on the anniversary of the Extended Term Commencement Date. . . .

(Third Amendment to Surface Lease at ¶ 6, **Exhibit 4**) (emphasis added). Note again that "wharfage fees" is a concept initiated in LC Port's own lease.

LC Port's characterization that West Cameron will or plans to "impose" a "wharfage" charge on Cameron LNG is particularly perplexing as West Cameron is not a party to that agreement. No such charges have ever been imposed or threatened by West Cameron with respect to the Cameron LNG project, or otherwise. The purpose of the state court suit[5] is to assert the absence of any statutory right of LC Port to own and lease property for purposes of an LNG terminal outside of its specifically defined territorial limits absent a joint operating venture.[6] By no means

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[5] A copy of the state court petition is attached hereto as **Exhibit 6**.

[6] Under Louisiana law, parishes, municipalities, police juries, harbor district and terminal districts may enter into ventures with each other:

> Any parish, municipality or political subdivision of the state, or any combination thereof, may make agreements between or among themselves to engage jointly in the construction, acquisition or improvement of any public project or improvement, the promotion and maintenance of any undertaking or the exercise of any power, provided that at least one of the participants to the agreement is authorized under a provision of general or special law to perform such activity or exercise such power as may be necessary for completion of the undertaking. Such arrangements may provide for the joint use of funds, facilities, personnel or property or any combination thereof necessary to accomplish the purposes of the agreement, and such agreements may include but are not limited to activities concerning:....

does West Cameron "threaten the continued development of the Cameron LNG facility." (Complaint at ¶ 6). The suit is by no means over the economic terms of the Sempra transaction but rather over which political subdivision has jurisdiction to enter into such an agreement and the right to receive the fruits therefrom.

D. Cheniere LNG, Inc.

In its Complaint, LC Port attempts to "bootstrap" and "import" the concept of "wharfage" fees, a term which it has created and used in its own lease documents, to the Cheniere LNG agreements. Cheniere LNG, Inc. will construct two LNG terminals in Cameron Parish through subsidiaries, referred to as Sabine Pass LNG, L.P., and Creole Trail LNG, L.P. West Cameron vehemently objects to any characterization that West Cameron "extracted" any agreement from Cheniere or that the econimic benefits flowing to West Cameron are "wharfage" fees, or any other classification of fees covered by the Shipping Act of 1984.

(1) Sabine Pass LNG

West Cameron's agreement with Sabine Pass LNG is memorialized in a Memorandum of Understanding dated October 27, 2003.[7] Sabine LNG approached West Cameron for West Cameron's agreement with respect to the matters covered in the Memorandum and, in exchange, offered economic considerations therefor to be calculated at the rate of $1,000 per vessel. The Memorandum noted that Sabine Pass is the boundary between Louisiana and Texas and recognized that there was a pre-existing arrangement in place administered by the Sabine Pilots Association to

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La. R.S. 33 § 1324.

[7] Attached hereto as **Exhibit 7**. The lengthy delay between the execution of this Memorandum of Understanding and LC Port's instant Complaint reasonably allows for a presumption that the instant Complaint was filed in retaliation to West Cameron's exercise of its rights under Louisiana law.

coordinate vessel traffic on the Sabine waterways. West Cameron ratified an April 8, 2003, Memorandum of Understanding between Cheniere LNG and the Sabine Pilots Association to pilot LNG carriers in from the Gulf of Mexico, turn the carriers, berth them, the return the carriers back to the Gulf. (Memorandum of Understanding at 2). West Cameron also ratified and approved a Ship Traffic Control Agreement entered into by the United States Coast Guard, the Sabine Pilots Association, and the Sabine Maritime Industry to coordinate vessel traffic. The Memorandum expressly listed West Cameron's rights under Louisiana law to administer the areas within its jurisdiction. In exchange, West Cameron received as consideration for its agreement to adopt the prior pending agreements and forego its rights at regulating per its authority under Louisiana law the following:

> As a consideration for the assistance, cooperation, agreements, ratifications, and authorizations received herein throughout the term of this Memorandum of Understanding and Agreement by the West Cameron Port Commission as set forth hereinabove, Sabine Pass LNG, L.P. shall pay to the West Cameron Port Commission the sum of ONE THOUSAND & NO/100 ($1,000.00) DOLLARS for each LNG carrier brought from the Gulf of Mexico through the Sabine waterways and berthed at Sabine Pass LNG's terminal site during the term of this Memorandum of Understanding and Agreement.

(Memorandum of Understanding at 3). What is noteworthy is that Cheniere agreed to make the above stated payment as consideration for West Cameron's assistance, cooperation, agreement, ratification and authorization for agreeing to adopt the separate Memorandum of Understanding that Sabine Pass LNG entered into with the Sabine Pilots Association and others. West Cameron is free to regulate Sabine Pass LNG under Louisiana law; however, Cheniere proposed and willingly agreed to the terms of the Memorandum of Understanding in exchange for West Cameron's

consent to ratifying the already executed agreements and obviate an additional layer of regulation. West Cameron accepted an unsolicited offer from Sabine LNG under the terms proposed by Sabine LNG. There is no fee under such arrangement charged by West Cameron to any vessel or the exercise by West Cameron of control over any vessel.

(2) Creole Trail LNG

In preparing to construct the Creole Trail LNG facility, Cheniere originally optioned property owned by West Cameron to locate the facility.[8] Since the West Cameron property was not large enough for the terminal, Cheniere obtained options to lease other contiguous property for enough acreage on which to construct the facility. In the process of developing its plan, Cheniere also secured an option to lease an alternate site situated north of West Cameron property yet within West Cameron's territorial limitation.

After extensive studies of the pros and cons of the respective sites, Cheniere decided to locate on the northern, non-West Cameron property. In furtherance of its own business objectives, Cheniere decided to enter into a further agreement to also lease the West Cameron property if it was able to obtain its required Federal Energy Regulatory Commission permit and proceed with the Creole Trail LNG facility on the north property. As part of the consideration for leasing West Cameron's property, Cheniere agreed to pay part of the rental in an amount equal to $1,000.00 per vessel berthed at the non-West Cameron property facility. The rental payment is not a fee on a vessel but rather a rental calculated based upon a factor selected by Cheniere and

[8] Attached hereto as **Exhibit 8** is the Option to Lease and as **Exhibit 9** is the First Amendment to Option to Lease.

associated with a Cheniere facility not owned, controlled or leased by West Cameron. The lease has two types of rental: a base rental and a per vessel rental similar to the arrangement LC Port has with Sempra, as discussed above. Simply stated, the fee, proposed by and selected by Cheniere, is for rental of property that happens to be based on an arbitrary factor. The fee could have been calculated just as well by the number of vehicles or trucks arriving at the north, non-West Cameron facility. The fee will not be paid by a vessel nor is it for wharfage, docking or warehousing. This agreement in no respects provides for any indicia of control by West Cameron over any vessels or for any charge by West Cameron to any vessel.

(3) Conclusion regarding Cheniere LNG, Inc. agreements

One is hard-pressed to realize how the agreements can be construed as "threats of imposing the wharfage fees upon Lake Charles' tenants. . . ." With regard to Sabine Pass, LNG, that facility will be located on Cameron Parish's boundary with Texas. LNG tankers cannot access LC Port's facilities via the Sabine waterways. With regard to Creole Trail LNG, this is nothing more than a lease arrangement, albeit similar to the arrangement LC Port has with Sempra. As discussed below, West Cameron's relationship with Sabine Pass LNG and Creole Trail LNG does not operate to make West Cameron a "marine terminal operator" under the Shipping Act and case law interpreting the Act as West Cameron will not be in the business of furnishing wharfage, dock, warehouse, or other terminal facilities or exercising control over operations at that facility. Thus, Federal Maritime Commission jurisdiction does not attach. Those facilities will be wholly owned and operated by Sabine Pass LNG and Creole Trail LNG.

In fact, the economic consideration which Cheniere has proposed and agreed to pay to West Cameron in the Cheniere LNG Agreements are virtually synonymous, from a legal analysis standpoint, to the economic considerations agreed to be paid by Cameron LNG in the lease with LC Port. In all three instances, there is a call for economic consideration to be paid by an LNG investor to a port, which is calculated by use of an arbitrary method selected by the LNG investor. West Cameron would submit that there is no charge against the vessel in any of the three instances and such charges are agreements to pay by the respective LNG investors in exchange for arrangements made with the respective ports over which the FMC has absolutely no interest or jurisdiction. As LC Port has exercised absolutely no indicia of control over any vessels going to and from the Cameron LNG facility under the lease, there has been absolutely no indicia of control exercised by West Cameron over any vessels going to and from either of the Cheniere facilities in the Cheniere LNG agreements.

E. West Cameron v. LC Port state litigation

LC Port attached a copy of the petition filed by West Cameron in 38th Judicial District Court, Cameron Parish, Louisiana, which seeks, *inter alia*, a declaratory judgment that LC Port is not authorized, under Louisiana law, to purchase property outside of its legislatively defined territorial limitation for the purpose of constructing an LNG terminal, except pursuant to an agreement by and between LC Port and West Cameron under La. R.S § 33:1334. This suit challenges what West Cameron believes to be "illegal conduct" by LC Port within West Cameron's jurisdiction.[9] This suit

[9] Attached hereto as **Exhibit 10** is the position paper submitted on behalf of West Cameron to the Attorney General of Louisiana.

pertains only to LC Port's right to own property and lease it for purposes of an LNG facility, *i.e.*, the Cameron LNG facility. LC Port has no interest in the Cheniere facilities.

Law & Argument

I. The Federal Maritime Commission lacks jurisdiction as West Cameron is not a "marine terminal operator."

A. Definition of "marine terminal operator"

LC Port specifically alleges that West Cameron is a "marine terminal operator" (MTO) under the Shipping Act of 1984. However, under the definition of MTO under the Shipping Act and jurisprudence, West Cameron does not so qualify as it has neither terminals nor facilities. LC Port has the burden of establishing subject matter jurisdiction. *See, e.g., United Phosphorus, Ltd. v. Angus Chem. Co.*, 322 F.3d 942, 946 (7th Cir. 2003).

A "marine terminal operator" as defined under the Shipping Act of 1984 "means a person engaged in the United States in the business of furnishing wharfage, dock, warehouse, or other terminal facilities in connection with a common carrier, or in connection with a common carrier and a water carrier subject to subchapter II of chapter 135 of Title 49, United States Code." 46 U.S.C. App. § 1702(14). The Commission's regulations defining MTO provide likewise. For example, in 46 C.F.R. 525.1(c)(13), MTO is defined as per section 1702(14) and continues, "A marine terminal operator includes but is not limited to, **terminals owned or operated by states and their political subdivisions**; railroads who perform port terminal services not covered by their line haul rates; common carriers who perform port terminal services; and warehousemen who operate port terminal facilities."

(emphasis added). 46 C.F.R. 535.104(q) also defines MTO under section 1702(14) and further provides, "This term does not include shippers or consignees who exclusively furnish marine terminal facilities or services in connection with tendering or receiving proprietary cargo from a common carrier or water carrier."

Vessels designed to carry Liquefied Natural Gas are not "common carriers" as defined in the Shipping Act. Those LNG vessels are not held out to the "general public to provide transportation. . . ." 46 U.S.C. App. 1702(6). Such vessels would more appropriately fit under the category of vessels exempted under 46 U.S.C. App. 1702(6)(b) such as ferry boats, ocean tramps, or chemical parcel-tankers.

In addition, terminals constructed to accept Liquefied Natural Gas are not MTO's under the Shipping Act. The specialized and restrictive nature of such facilities removes them from accepting any other cargo. Because of the restricted activities and limited users of LNG terminals (not the general public), none of the undesired effects to that which the Shipping Act was enacted to prohibit are present with respect to the operations of Liquefied Natural Gas terminals.

B. Commission jurisdiction requires a finding of MTO status

The essential requirement for a finding of status as an MTO is that the alleged MTO furnish "wharfage, dock, warehouse, or other terminal facilities." The fatal flaw in LC Port's assertion that West Cameron is an MTO is that West Cameron neither owns nor furnishes, or ever owned or furnished, wharfage, dock, warehouse, or other terminal facilities.[10] Thus, West Cameron cannot possibly service common carriers.

[10] Affidavit of Cliff Cabell, **Exhibit 1**; Affidavit of Howard Romero, **Exhibit 2**. Federal law permits the use of affidavits when controverting a court's subject matter jurisdiction:

Perhaps the most analogous case to the instant matter was the First Circuit's decision in *Puerto Rico Ports Auth. v. Fed. Maritime Comm'n*, 919 F.2d 799 (1st Cir. 1990). The Municipality of Ponce, Puerto Rico, filed a complaint against the Puerto Rico Port Authority (PRPA) asserting, as does LC Port here, that PRPA was an MTO under the Shipping Act and that the imposition of a service charge was unjust and unreasonable under section 1709(d)(1). 919 F.2d at 801. PRPA moved to dismiss that complaint for lack of jurisdiction of the Commission on the basis that PRPA was a MTO. *Id.* The ALJ found that the Commission had jurisdiction and further held that the service charge was unreasonable. The Commission adopted the ALJ's initial decision.

PRPA petitioned for review at the First Circuit arguing that the Commission lacked jurisdiction and should have abstained and that the practice of collecting the port services fee was reasonable. The Court noted at the outset that PRPA must be found to be an MTO before Commission jurisdiction would attach. *Id.* at 802. The Court concluded PRPA was not an MTO and relied on a plain reading of the Shipping Act:

> A plain reading of §§ 3(15) and 10(d)(1) of the 1984 Act demonstrates that Congress did not intend that PRPA's activities at Ponce be subject to regulation under the Shipping Acts. PRPA, under any plausible interpretation, is not in the "business of furnishing wharfage, dock,

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> If subject matter jurisdiction is not evident on the face of the complaint, the motion to dismiss pursuant to Rule 12(b)(1) would be analyzed as any other motion to dismiss, by assuming for purposes of the motion that the allegations in the complaint are true. **However, as here, if the complaint is formally sufficient but the contention is that there is *in fact* no subject matter jurisdiction, the movant may use affidavits and other material to support the motion.** The burden of proof of a 12(b)(1) issue is on the party asserting jurisdiction.

United Phosphorus, Ltd. v. Angus Chem. Co., 322 F.3d 942, 946 (7th Cir. 2003) (citations omitted & emphasis added).

> warehouse, or other terminal facilities in connection with a common carrier" at the Port of Ponce.

Id. Ultimately, the imposition of the service charge by PRPA did not operate to subject it to Commission jurisdiction.

The First Circuit expressly stated that a finding of MTO status is only part of the jurisdictional analysis:

> To support the exercise of Commission jurisdiction, it must be determined initially that the one providing the service is a marine terminal operator—in the business of furnishing wharfage, dock, warehouse, or other terminal facilities in connection with a common carrier. Only then may a court turn to the second half of the jurisdictional inquiry under § 10(d)(1) and determine whether certain activities are related to or connected with receiving, handling, storing, or delivering property.

Id. at 803. West Cameron will discuss the merits of the second prong of the analysis in subsection III.A. below.

Puerto Rico Ports Authority is by no means an anomalous decision. The United States District Court for the District of Connecticut arrived at the same conclusion in *Bridgeport & Port Jefferson Steamboat Co. v. Bridgeport Port Auth.*, 335 F. Supp. 2d 275 (D. Conn. 2004). The Steamboat Company, a lessee of the Port Authority's dock facilities, sued the Port Authority in district court questioning the validity of a passenger wharfage fee assessed by the Port Authority. Whereas West Cameron owns no facilities, the Port Authority owned and operated the Water Street Dock where Steamboat Company's ferries were berthed. 335 F. Supp. 2d at 277. The Water Street Dock was the only terminal facility owned and operated by the Port Authority and was used exclusively by Steamboat Company. *Id.*

The Port Authority filed a motion to dismiss, asserting the Commission possessed "primary jurisdiction" and that Steamboat Company lacked standing to assert claims relative to the passenger fee as such claims belonged to the passengers. With regard to the jurisdiction issue, the Court relied on *Puerto Rico Ports Authority* to find that the Commission would not have jurisdiction because Bridgeport was not an MTO:

> The Court agrees with the reasoning of *Puerto Rico* as applied to the allegations here, and concludes that the Bridgeport Port Authority is not a "Marine Terminal Operator" within the meaning of the Shipping Act. Under the plain meaning of the Act, the Port Authority is not engaged "in the business of furnishing wharfage, dock warehouse or other facilities in connection with a common carrier." The only terminal facility operated by the Port Authority is the Water Street Dock, and it is undisputed that it is used only by the Ferry Company, which is not a common carrier. **Although the Port Authority retains regulatory authority over the private cargo terminals at Bridgeport Harbor, there are no claims that it exercised significant control over the use of the terminals by common carriers or limited their access to the terminals.** This conclusion is consistent with both *Puerto Rico* and *Plaquemines Port* [see below] and reflects the intent of Congress in enacting the Shipping Acts: to encourage participation by U.S. shipping in the international shipping cartels, but prohibit discrimination by terminal facilities serving the commercial maritime trade. **Since the Port Authority exercises little control over the operations of the private marine cargo terminals at the Bridgeport Harbor, and since its control over the Ferry Company does not impact those private facilities, it does not implicate the concerns behind the Shipping Act or make the Authority a "Marine Terminal Operator" under the Shipping Act.**
>
> As the Court finds that the FMC does not have jurisdiction over this action, it need not further consider the application of primary jurisdiction.

Id. at 282-83 (citations omitted & emphasis added).

Under the Memorandum of Understanding between Sabine LNG and West Cameron, West Cameron exercised no control over the operations, and in many

respects, it affirmatively agreed not to exercise control. With respect to the Creole Trail facility, all that West Cameron did was enter into an option to lease real estate, which could in no instance be construed to have been the exercise of any control whatsoever over that facility. The application of the *Bridgeport* analysis to the Cheniere LNG agreements can only result in a finding that such agreements cannot fall under the jurisdiction of the FMC under the Shipping Act of 1984.

West Cameron expects that counsel for LC Port will assert that *Plaquemines Port, Harbor and Terminal Dist. v. Fed. Maritime Comm'n*, 838 F.2d 536 (D.C. Cir. 1988), applies as they unsuccessfully argued in *Bridgeport*.[11] However, the basis for Commission jurisdiction in *Plaquemines Port* as an MTO was that, while it did not own or operate any terminal facilities, "the Port's combination of offering essential services and controlling access to the private facilities amounts to the furnishing of terminal facilities." 838 F.2d at 543. The Court's basis for finding jurisdiction was the "degree of the Port's involvement" in that it could control access to private facilities. Contrary to the situation of West Cameron and that in *Bridgeport*, West Cameron does not limit and has never limited access at all.

C. Marine Terminal Facilities Agreement – Exemption

Although West Cameron at all times maintains that it is not a MTO under the Shipping Act of 1984, in the alternative and only if the FMC finds to the contrary, the Cheniere LNG agreements qualify for an exemption from filing with the FMC under 46 C.F.R 535.310 (a), (b) and (c) and should in no instance require filing as contended by LC Port.

[11] LC Port's counsel was also counsel for Plaquemines Port, Harbor and Terminal District.

D. Conclusion regarding Commission jurisdiction

West Cameron is not an MTO with respect to Sabine LNG. LNG tankers traveling on the Sabine waterways cannot access LC Port facilities.

West Cameron submits that its lack of status as an MTO is dispositive of this proceeding. LC Port only vaguely alleges that "West Cameron is a public port agency with jurisdiction, as established by law, over certain marine terminals serving vessels in Cameron Parish and has the ability to exclude vessels to such facilities and impose fees upon vessels." (Complaint at ¶ 5). Given the foregoing discussion that West Cameron furnishes no wharfage, dock, warehouse or other facilities, that West Cameron has exercised no control over the operations of either of the Cheniere LNG facilities (or for that matter any other private marine cargo terminal), and the holdings in *Puerto Rico Ports Authority* and *Bridgeport*, LC Port's allegation that West Cameron is an MTO cannot stand. Further, as discussed next, what standing does LC Port have to argue and/or object to West Cameron's jurisdiction over alleged MTO's "in Cameron Parish"? It has none.

II. LC Port lacks standing to assert its Shipping Act claims

In this matter, LC Port, a legislatively created port under Louisiana law with defined jurisdictional boundaries, filed the instant Complaint against West Cameron, another legislatively created port under Louisiana law with defined jurisdictional boundaries. West Cameron is aware of no case law whereby a port filed a suit or complaint against another port for violations of the Shipping Act. The closest opinion West Cameron located is *Puerto Rico Ports Authority*, *supra*, which involved a municipality (Ponce) and the Puerto Rico Ports Authority. However, Puerto Rico

Ports Authority was statutorily charged with controlling navigation in the navigable waters of Puerto Rico. *See* 919 F.2d at 800. With regard to Ponce, those two entities possessed, in a sense, co-extensive jurisdiction. Under the plainest reading of the territorial limits in La. R.S. § 34:201 (LC Port) and La. R.S. § 34:2551 (West Cameron), the jurisdiction of one does not flow into that of the other.

West Cameron submits that LC Port has no standing to raise the allegations it is raising. West Cameron recognizes that "[a]ny person may file with the Commission a sworn complaint alleging a violation of this chapter, other than section 1705(g) of this title, and may seek reparation for any injury caused by that violation." 46 U.S.C. App. § 1710(a). However, first, the alleged "unjust and unreasonable practices" and "imposition of unreasonable prejudice or disadvantage" would harm those vessels and carriers traveling through West Cameron jurisdiction, **not LC Port**. As repeatedly stated herein, **West Cameron cannot assess vessels merely passing through**. *See* La. R.S. 34:2556.

LC Port alleges that CITGO, Conoco, Sempra and Trunkline "are working under the pall of the threat that the charge may—at any moment—be imposed upon all of them. . . ." (Complaint at ¶ 2). If such is in fact the case, West Cameron submits that those entities should be the ones pursuing the instant matter as they are the ones who would be injured by any violation of the Shipping Act, as contemplated by section 1710(a).

If a plaintiff lacks standing, a court has no subject matter jurisdiction to hear the claim and, since the issue of standing goes to subject matter jurisdiction, a court can raise it *sua sponte*. *See generally Cent. States Southeast & Southwest Areas*

Health & Welfare Fund v. Merck-Medco Managed Care, L.L.C., 433 F.3d 181 (2nd Cir. 2005). For a plaintiff to have standing, he must show: "(1) he has suffered an injury in fact; (2) the injury is fairly traceable to the challenged action of the defendant; and (3) it is likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision." *Emery v. Roanoke City Sch. Bd.*, 432 F.3d 294, 298 (citation omitted). The plaintiff bears the burden of proving the three elements and must prove an injury in fact to show a sufficient personal stake. *Id.* Further, the injury cannot be conjectural or hypothetical. *Id.* (citations omitted). Here, LC Port has suffered no injury in fact nor has it alleged such an injury. Second, the "challenged action" has yet to occur, *i.e.*, no vessel has ever been assessed.

West Cameron expects that LC Port will argue that it has third-party standing to assert the rights of those companies who are being or will be allegedly assessed for passage through West Cameron jurisdiction. Third-party standing requires establishment of the three aforementioned elements as well as a fourth and fifth element:

> To the extent that plaintiff seeks to sue on behalf of volunteers who are *not* members, it may pursue its claim only on a theory of third-party standing. In addition to meeting "the constitutional prerequisites of standing," namely "(1) injury-in-fact, (2) causation, and (3) redressability," a plaintiff seeking third-party standing in federal court **must also satisfy the prudential requisites of standing by demonstrating a close relation to the injured party and a hindrance to that party's ability to protect its own interests.** Plaintiff lacks third-party standing because it has not demonstrated a hindrance to the volunteers' ability to protect their own interests.

Mid-Hudson Catskill Rural Migrant Ministry, Inc. v. Fine Host Corp., 418 F.3d 168, 174 (citations omitted, italics in original & boldface added). Putting aside the "close relation" element, West Cameron submits that LC Port has not and cannot

demonstrate that CITGO, Sempra or any other patron of LC Port's facilities is in any way hindered or restricted from seeking any relief it may deem appropriate. Quite likely, many of LC Port's tenants are of far greater economic means than LC Port.

III. LC Port fails to state a claim for reparations and other relief under the Shipping Act of 1984 and the regulations promulgated thereunder.

A. Unjust and Unreasonable Practices under 46 U.S.C. App. § 1709(d)(1)

LC Port first alleges that West Cameron violated section 1709(d)(1) by engaging in an unjust and unreasonable practice. Section 1709(d)(1) provides, "No common carrier, ocean transportation intermediary, or marine terminal operator may fail to establish, observe, and enforce just and reasonable regulations and practices relating to or connected with receiving, handling, storing, or delivering property."

Not only does this allegation fail on the ground that West Cameron is not an MTO, it must also fail as premature because no "wharfage" (or however LC Port wishes to construe it) has ever been charged. **The Sabine LNG and Creole Trail LNG terminals have not yet been built.** However LC Port wishes to construe the agreements, the payments are not contractually obligated until the LNG tankers actually arrive. Thus, if any party should be contesting the legality of the arrangements under the Memorandum of Understanding and lease it would be Sabine LNG and Creole Trail LNG, the very parties to those agreements. Whatever perceived detriment LC Port deems the arrangements will have on LC Ports customers is of no merit and unreasonable as under Louisiana law West Cameron is powerless to assess vessels heading to its territory.

B. Imposition of Unreasonable Prejudice or Disadvantage under 46 U.S.C. App. § 1709(d)(4)

LC Port alleges that West Cameron's imposition of a "wharfage fee" that has never been assessed "places Lake Charles and its tenants at an unreasonable disadvantage in connection with the shipment of cargo to and from the port." This, according to LC Port, amounts to an imposition of an unreasonable prejudice or disadvantage under 46 U.S.C. App. § 1709(d)(4). As the Commission is well aware, under 1709(d)(4), "No marine terminal operator may give any undue or unreasonable preference or advantage or impose any undue or unreasonable prejudice of disadvantage with respect to any person." Notwithstanding the fact that West Cameron is not an MTO under any definition, it is functionally impossible for West Cameron to do that which LC Port is alleging as West Cameron has no apparatus for the imposition of the "wharfage" as it alleges. What is more, as stated above, West Cameron has no statutory authority whatsoever to levy any sort of assessment against vessels passing through its jurisdiction on their way to LC Port's facilities, "[T]he commission shall not assess, levy, or charge any fee, rate tariff or other charge on any person, vessel, watercraft or cargo **on account of passage through the district**. . . ." La. R.S. 34:2556 (emphasis added). Any assertion otherwise by LC Port is downright frivolous.

C. Failure to File Marine Terminal Operator Agreement under 46 U.S.C. App. § 1704(a)

LC Port finally alleges that West Cameron violated section 1704(a) by failing to file a MTO Agreement.[12] Initially, West Cameron re-asserts that it is not an MTO, especially under the definition of MTO set forth in 46 C.F.R. 535.104(q) in Part 535

[12] 46 C.F.R. 535.201(b) provides likewise.

of the Commission's regulations pertaining to ocean common carrier and MTO agreements subject to the Shipping Act. Also, note again that LC Port is complaining about agreements of which it is not a party and with parties who are not tenants or patrons of LC Port's facilities.

The agreements about which LC Port is complaining do not fit the definition of "agreement" under 46 C.F.R. 535.104(a). 46 C.F.R. 535.308(a) provides that "marine terminal agreement" is an agreement or association "that applies to future, prospective activities between or among the parties and that relates solely to marine terminal facilities and/or services among marine terminal operators. . .agreed to by the parties **for the facilities and/or services provided** for under the agreement." (emphasis added). Again, West Cameron does not own any facilities or furnish wharfage, dock, warehouse, or other terminal facilities.

D. LC Port's claim for reparations and injunctive relief

LC Port requests reparations "for the amount of actual injury suffered" and an order directing West Cameron to pay those reparations. Under 46 U.S.C. App. § 1710(g), the Commission shall "direct payment for reparations to the complainant for actual injury (which, for purposes of this subsection, also includes the loss of interest at commercial rates compounded from the date of injury)." There is no "actual injury" which the LC Port has suffered. LC Port is well aware that West Cameron cannot assess and has not assessed vessels passing through West Cameron territory and that West Cameron has never assessed or attempted to assess any such vessels.

LC Port also requests "an order directing West Cameron to cease and desist charging 'wharfage' fees. . . ." LC Port is again well aware that the Sabine Pass LNG

and Creole Trail LNG terminals **have not yet been built**. Until that time, the terms of the agreements are not effective, even assuming, *arguendo*, that such payments under the Memorandum of Understanding with Sabine Pass LNG and lease with Creole Trail LNG can somehow be construed as "wharfage." Simply stated, there are no LNG facilities whereat an LNG tanker could berth.

If LC Port is taking the position that the economic benefits to be paid to West Cameron under the Cheniere LNG agreements, certainly it must maintain a consistant position with respect to the "wharfage fee" which it has contracted to collect from Cameron LNG in its lease. (*See* Paragraph 6 of the Lease, **Exhibit 3**)

Conclusion

LC Port's complaint is flawed on a number of grounds. With all due respect to the Commission, it lacks jurisdiction over West Cameron as it is not a "marine terminal operator" as LC Port alleges. That inquiry aside, LC Port lacks standing to assert the injuries it alleges; LC Port cannot allege violations on behalf of CITGO, Sempra, and others. Those entities would be the ones damaged by any violation as their vessels would be the ones assessed. LC Port has not alleged and cannot allege that West Cameron in any way assessed the LC Port. For these reasons, WEST CAMERON, PORT HARBOR AND TERMINAL DISTRICT respectfully requests that the Complaint and all amended complaints filed by LAKE CHARLES HARBOR AND TERMINAL DISTRICT be dismissed.

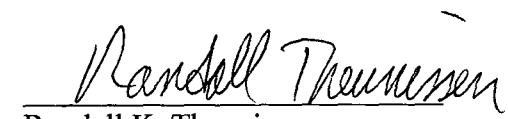
Respectfully submitted,

RANDALL K. THEUNISSEN
NEIL G. VINCENT
DAVID J. AYO
Allen & Gooch
1015 St. John Street
Lafayette, LA 70502-3768
337-291-1240 (telephone)
337-291-1245 (fax)
ATTORNEYS FOR RESPONDENT
WEST CAMERON PORT, HARBOR
AND TERMINAL DISTRICT

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all parties of record by facsimile and overnight mail a copy to each such person.

Dated at, Lafayette, Louisiana, this 16th day of February, 2006.



Randall K. Theunissen
On Behalf of Respondent, West
Cameron Port, Harbor and
Terminal District

ORIGINAL

FEDERAL MARITIME COMMISSION
WASHINGTON, D.C.

THE LAKE CHARLES HARBOR AND
TERMINAL DISTRICT
Claimant

VERSUS DOCKET NO. 06-02

WEST CAMERON PORT, HARBOR
AND TERMINAL DISTRICT
Respondent

****

AFFIDAVIT OF CLIFF CABELL

STATE OF LOUISIANA

PARISH OF CALCASIEU

BEFORE ME, the undersigned Notary Public, in and for the aforesaid Parish and State, personally came and appeared Cliff Cabell who after first being duly sworn did depose and state as follows:

1. That he is a person of the full age of majority and a resident of the State of Louisiana.
2. That he is a member of the West Cameron Port Commission, currently serving as its President.
3. That the West Cameron Port Commission (the "Commission") is the governing authority of the West Cameron Port, Harbor and Terminal District.
4. That the Commission has no paid employees.
5. That the Commission does not now and has never furnished wharfage facilities within or without its jurisdiction.
6. That the Commission does not now and has never furnished dock facilities within or without its jurisdiction.

EXHIBIT
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1

7. That the Commission does not now and has never furnished warehouse facilities within or without its jurisdiction.
8. That the Commission does not now and has never exercised control over terminal facilities within or without the its jurisdiction.
9. That the Commission does not now and has never limited access to terminals or any other facilities within or without its jurisdiction.
10. That the Commission does not now and has never levied, threatened or attempted to levy any charge, wharfage, tariff or other fee upon vessels passing through its jurisdiction en route to facilities of the Lake Charles Harbor and Terminal District.
11. That the Commission does not now and has never threatened or attempted to disrupt any lawful operation of the Lake Charles Harbor and Terminal District.
12. That the Commission has a sum less than $6,000.00 in its general fund.
13. That each and every averment provided in this affidavit is made of my own personal knowledge.

Cliff Cabell

SWORN TO AND SUBSCRIBED BEFORE ME THIS 15th DAY OF FEBRUARY, 2006.

Notary Public
Neil G. Vincent - Bar Role No.: 17184
(my commission expires at death)

ORIGINAL

FEDERAL MARITIME COMMISSION
WASHINGTON, D.C.

THE LAKE CHARLES HARBOR AND
TERMINAL DISTRICT
Claimant

VERSUS DOCKET NO. 06-02

WEST CAMERON PORT, HARBOR
AND TERMINAL DISTRICT
Respondent

****

AFFIDAVIT OF HOWARD ROMERO

STATE OF LOUISIANA

PARISH OF CALCASIEU

BEFORE ME, the undersigned Notary Public, in and for the aforesaid Parish and State, personally came and appeared Howard Romero, who after first being duly sworn did depose and state as follows:

1. That he is a person of the full age of majority and a resident of the State of Louisiana.
2. That he is a member of the West Cameron Port Commission.
3. That the West Cameron Port Commission (the "Commission") is the governing authority of the West Cameron Port, Harbor and Terminal District.
4. That the Commission has no paid employees.
5. That the Commission does not now and has never furnished wharfage facilities within or without its jurisdiction.
6. That the Commission does not now and has never furnished dock facilities within or without its jurisdiction.

EXHIBIT
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7. That the Commission does not now and has never furnished warehouse facilities within or without its jurisdiction.

8. That the Commission does not now and has never exercised control over terminal facilities within or without the its jurisdiction.

9. That the Commission does not now and has never limited access to terminals or any other facilities within or without its jurisdiction.

10. That the Commission does not now and has never levied, threatened or attempted to levy any charge, wharfage, tariff or other fee upon vessels passing through its jurisdiction en route to facilities of the Lake Charles Harbor and Terminal District.

11. That the Commission does not now and has never threatened or attempted to disrupt any lawful operation of the Lake Charles Harbor and Terminal District.

12. That the Commission has a sum less than $6,000.00 in its general fund.

13. That each and every averment provided in this affidavit is made of my own personal knowledge.

Howard Romero

Howard Romero

SWORN TO AND SUBSCRIBED
BEFORE ME THIS 15th DAY
OF FEBRUARY, 2006.

Notary Public
Neil G. Vincent - Bar Role No.: 17184
(my commission expires at death)

880

FILE #258684

STATE OF LOUISIANA

PARISH OF CALCASIEU

FILED AND RECORDED
CAMERON PARISH, LA.
'99 FEB 3 AM 10 08
CARL E. BROUSSARD
CLERK OF COURT
& RECORDER

Conveyance

880

CASH SALE AND ASSIGNMENT OF LEASE

BE IT KNOWN, that before me, the undersigned Notary Public, duly commissioned and qualified in and for the Parish and State aforesaid, and in the presence of the subscribing witnesses, personally appeared:

> **DEEP SEA, LLC,** a Louisiana Limited Liability Company (Tax Identification No. 72-1432756) appearing herein through David Reinauer, its Managing Member, whose mailing address is 409 Iris Street, Lake Charles, Louisiana 70601

herein called "SELLER", who declared that for the price of Five Hundred Fifty Thousand and 00/100 ($550,000.00) DOLLARS, cash, the receipt of which is acknowledged, SELLER hereby sells and delivers without warranty of title but with substitution and subrogation to all rights and actions of warranty SELLER may have, unto:

> **THE LAKE CHARLES HARBOR AND TERMINAL DISTRICT,** (Tax Identification No. 72-6000643) herein represented by Glenwood W. Wiseman, its duly authorized Executive Director.

herein called "BUYER", the following described property located in Cameron Parish, Louisiana, the possession of which BUYER acknowledges:

See Exhibit "A" attached hereto and made a part hereof

SELLER also assigns, transfers and delivers the BUYER all of its right title and interest in that Surface Lease dated February 13, 1978 by and between Amoco Production Company and Cities Service Company recorded under Clerk's File No. 153288 and in Conveyance Book 387, page 216 of the records of Cameron Parish, Louisiana and all rentals and payments thereunder from this day forward, the same having been prorated between the parties hereto, said lease being owned by Assignor and Dynegy Midstream, Inc.

This Cash Sale is given and accepted subject to the following exceptions on Exhibit "B" attached hereto and made a part hereof, any and all servitudes, restrictions, mineral leases on file and of record in Cameron Parish, Louisiana, and subject to a mineral reservation by Amoco Production Company of all of the oil, gas and other minerals of every kind, both similar and dissimilar, in, on and under and that may be produced the property, with the right of ingress and egress for the purpose of mining, drilling and exploring operating and development of the property for minerals and removing the same.

Taxes for the year 1999 have been prorated between the parties based on the assessments for the year 1998 and may be adjusted by the parties upon the filing of the current tax rolls. Taxes for all prior years have been paid.

All parties signing the within instrument have declared themselves to be of full legal capacity.

All agreements and stipulations herein, and all the obligations herein assumed shall inure to the benefit of and be binding upon the heirs, successors, and assigns of the respective parties, and the BUYER, his heirs and assigns shall have and hold the described property in full ownership forever.

Tax certificates and other certificates are dispensed with by the parties, and the parties release me, Notary Public, from any and all responsibility in connection therewith.

EXHIBIT
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3

BY THE ACCEPTANCE OF THIS DEED, GRANTEE TAKES THE PROPERTY "AS IS, WHERE IS" EXCEPT FOR THE WARRANTIES OF TITLE AS PROVIDED AND LIMITED HEREIN. GRANTOR HAS NOT MADE AND DOES NOT MAKE ANY REPRESENTATION AS TO THE PHYSICAL OR ENVIRONMENTAL CONDITION, LAYOUT, FOOTAGE, EXPENSES, ZONING, OPERATION, OR ANY OTHER MATTER AFFECTING OR RELATING TO THE PROPERTY, AND GRANTEE HEREBY EXPRESSLY ACKNOWLEDGES THAT NO SUCH REPRESENTATIONS HAVE BEEN MADE AND RELEASES GRANTOR FROM ANY AND ALL LIABILITY OF EVERY KIND AND CHARACTER WITH RESPECT THERETO, WHETHER OR NOT CAUSED BY OR ATTRIBUTABLE TO GRANTOR'S NEGLIGENCE. GRANTOR MAKES NO WARRANTIES, EXPRESS OR IMPLIED, OF MERCHANTABILITY, MARKETABILITY, FITNESS OR SUITABILITY FOR A PARTICULAR PURPOSE OR OTHERWISE. ANY IMPLIED WARRANTIES ARE EXPRESSLY DISCLAIMED AND EXCLUDED.

THUS DONE AND SIGNED by the parties at my office in Lake Charles, Louisiana, on the 1st day of February, 1999, in the presence of me, Notary Public, and the following competent witnesses who have signed in the presence of the parties and me, Notary Public.

WITNESSES:

James C. Watts

DEEP SEA, LLC

BY: _____
DAVID REINAUER, MANAGER

LAKE CHARLES HARBOR AND TERMINAL DISTRICT

BY: _____
Glenwood W. Wiseman,
Executive Director

_____
NOTARY PUBLIC

EXHIBIT "A"

Approximately 215 acres of land located in Sections 43 and 44, Township 12 South, Range 9 West, and in Sections 1 and 12, Township 12 South, Range 10 West, Louisiana Meridian, Cameron Parish, Louisiana, being a portion of the same property acquired by Stanolind Oil and Gas Company (predecessor of Amoco) from Wright Morrow by Act of Sale dated July 31, 1935, recorded in Conveyance Book 27 at page 280 of the Conveyance Records of said Parish, said land being more particularly described as follows:

Lot 12 of the captioned Section 43.

Lot 1 of the captioned Section 44.

All that portion of the South Half of the Southeast Quarter of the Captioned Section 1 and the north Half of the Northeast Quarter of the captioned Section 12 lying easterly of the centerline of Louisiana State Highway No. 27,

EXHIBIT "B"
(Tract 96)

1. Visible and apparent easements and/or rights-of-way on or over subject property.

2. Grantor makes no representation or warranty with respect to rights of ingress and egress from the Property to a Public roadway.

3. Right-of-Way executed by Yount-Lee Oil Company September 15, 1934, to Gulf Refining Company. Contract No. 003,616, formerly Contract No. 039,747.

4. Boundary Agreement between by Stanolind Oil and Gas Company et al and Stanolind Oil and Gas Company et al and being dated December 1, 1936, January 14, 1937, and August 10, 1937.

5. Canal Right-of-Way executed by Stanolind Oil and Gas Company March 15, 1938, to U. S. A. Contract No. 006,282.

6. Dumping Privilege executed by Stanolind Oil and Gas Company March 15, 1938, to U. S. A.

7. Dumping Privilege executed by Stanolind Oil and Gas Company July 13, 1938, to U. S. A.

8. Right-of-Way executed by Stanolind Oil and Gas Company August 29, 1947, to Gulf State Utilities Company.

9. Right-of-Way executed by Stanolind Oil and Gas Company August 29, 1954, to State of Louisiana. Contract No. 028,433.

10. Right-of-Way executed by Pan American Petroleum Corporation May 9, 1958, to Gulf State Utilities Company. Contract No. 039,855.

11. Right-of-Way executed by Pan American Petroleum Corporation January 9, 1964, to U. S. A. Contract No. 058,448.

12. Right-of-Way executed by Pan American Petroleum Corporation January 1, 1965, to Valley Gas Transmission, Inc. Contract No. 059,050.

13. Right-of-Way executed by Pan American Petroleum Corporation November 8, 1965, to United Gas Corporation. Contract No. 64,436.

14. Surface Lease executed by Amoco Production Company February 13, 1978, to Cities Service Company. Contract No. 92,676.

15. Right-of-Way executed by Amoco Production Company February 13, 1978, to Cities Service Company. Contract No. 92,678.

Surface Lease executed by Amoco Production Company September 7, 1983, to Entex, Inc. ntract No. 64,437.

endment executed by Amoco Production Company November 28, 1984, to Cities Service Oil Gas Corporation. Contract No. 92,676.

Temporary Easement, Servitude, and Right-of-Way Agreement executed by Amoco Production mpany October 14, 1997, to State of Louisiana. Contract No. 191,361.

. Subject to the rights and privileges of Amoco Production Company, its successors and assigns moco"), and there is hereby expressly reserved and retained by Amoco, its successors and signs, the right and privilege to use the Property or any portion or portions thereof, for all purposes cident to the exploration and drilling for, and the production, ownership, possession and nsportation of oil and gas, including rights of ingress and egress at all times to and from the operty for all such purposes, and the right to construct, maintain and use on the Property, roads, pelines, canals, tank batteries, gathering and flow line systems, saltwater disposal or injection wells d pipelines, and such other production and operating facilities as may be necessary to effect such rposes, all without further or prior consent from Grantee, its heirs, successors or assigns, and thout cost, rent or expense to Amoco, except for actual damages (if any) resulting from Amoco's llful misconduct or gross negligence.

Carl Bramard

RECORDED: FEBRUARY 26, 1999 CLERK OF COURT & RECORDER
********** LRG **********

THIRD AMENDMENT
TO SURFACE LEASE

STATE OF LOUISIANA §
§ KNOW ALL MEN BY THESE PRESENTS:
PARISH OF CAMERON §

THIS THIRD AMENDMENT TO SURFACE LEASE (hereinafter "Third Amendment") is made and entered into by and between LAKE CHARLES HARBOR AND TERMINAL DISTRICT, a political subdivision of the State of Louisiana and successor in interest to AMOCO PRODUCTION COMPANY (hereinafter "the District" or "Lessor") and CAMERON LNG, L.L.C., a limited liability company organized and existing under the laws of the State of Delaware, successor in interest to HACKBERRY LNG TERMINAL, L.L.C. ("Hackberry") and CITIES SERVICE OIL AND GAS CORPORATION (hereinafter "Lessee").

WHEREAS, on February 13, 1978, AMOCO PRODUCTION COMPANY did lease unto CITIES SERVICE COMPANY, a Delaware Corporation (hereinafter the "Original Lease") a certain tract of land for the purpose of loading, unloading, metering, storing, and processing of petroleum liquids, natural gas liquids, petroleum gases and/or petroleum products and petroleum by-products, said lease having been duly recorded bearing File No. 153288 in the records of Cameron Parish, Louisiana.

WHEREAS, on November 28, 1984, Lessor's and Lessee's respective predecessors in interest entered into a certain "Amendment" (the "First Amendment") amending and modifying certain provisions of the Original Lease (said First Amendment having been duly recorded bearing File No. 238921 in the records of Cameron Parish, Louisiana, on December 16, 1994); including, without limitation, the description of the premises subject to the Original Lease as modified by such First Amendment;

WHEREAS, Hackberry acquired all of the rights, title, interest and obligations of the Lessee under the Lease as modified by the First Amendment, pursuant to an assignment of same from its direct parent company Dynegy Midstream Services, Limited Partnership ("Dynegy Midstream"), which owned 100% of the ownership interests in and to Hackberry.

WHEREAS, on December 31, 2002, the District, as Lessor, and Hackberry, as Lessee, entered into a certain "Second Amendment to Surface Lease" (the "Second Amendment"), amending and modifying certain provisions of the Original Lease as modified the First Amendment (a Memorandum of said Second Amendment having been duly recorded bearing File No. 280138 in the records of Cameron Parish, Louisiana, on April 7, 2003), including, without limitation, modifying the description of the premises subject to the Original Lease as modified by the First Amendment (the Original Lease, as modified by the First Amendment and as further modified by the Second Amendment, being hereinafter referred to collectively as the "Lease").

EXHIBIT
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4

WHEREAS, in accordance with the Lease, Lessee is proposing to construct and operate an liquefied natural gas ("LNG") marine delivery, storage and regasification terminal, including two unloading docks, three to six storage tanks and associated equipment to vaporize the LNG into natural gas and to process the LNG to extract volumes of natural gas liquids (and to store and transport such natural gas liquids) and a related gas pipeline to transport revaporized LNG from the leased premises, all to be located on the premises subject to the Lease (the "LNG Facilities"), but such efforts require additional acreage and a change in the use of the premises subject to the Lease.

WHEREAS, Lessor, for the consideration set forth hereinbelow, has agreed to modify certain provisions of the Lease to allow for Lessee's construction and operation of the subject LNG Facilities.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Lessor and Lessee hereby amend the Lease in the following respects only:

Paragraph (1) of the Lease is hereby amended to read as follows:

(1) **Parties.** All references in the Lease to "Amoco Production Company" are amended to be references to the "LAKE CHARLES HARBOR AND TERMINAL DISTRICT" and all references to "Cities Service Oil and Gas Corporation" and/or "Cities Service Company" and/or Hackberry LNG Terminal, LNG are amended to be references to "CAMERON LNG, L.L.C".

Paragraph (2) of the Lease is hereby amended to read as follows:

(2) **Additional Property Subject to the Lease.** The description of the property subject to the lease is hereby amended to add an additional 99.68 acres ("Additional Acreage") to bring the total Leased Premises to 218.29 acres, more or less, with such Additional Acreage being described and/or indicated on Exhibit "B" to this Amendment, which is incorporated herein by reference, and the entire premises subject to the Lease now being described and/or indicated on Exhibit "A" to this Amendment, which is incorporated herein by reference (the "Amended Leased Premises").

Paragraph (5) of the Lease is hereby amended to add the following Paragraph (5b):

(5b)Annual Rental on Additional Acreage. The initial annual rental on the Additional Acreage shall be payable as follows:

Months 1 through 6: $50,000 total for the entire six month period, being due and payable within (5) business days after execution of this Third Amendment by Lessor;

Months 7 through 12: $100,000 total for the entire six month period, due and payable six months after the date of execution of this Third Amendment by Lessor;

Months 13 through 24: $200,000 total for the entire twelve month period, due and payable one year after the date of execution of this Third Amendment by Lessor;

Month 24 until expiration or termination of the Lease: $300,000 per year, due and payable the second anniversary of the date of execution of this Third Amendment by Lessor;

provided, however, that should Lessee determine, in Lessee's sole discretion, that all of any portion of the Additional Acreage is not suitable, from either a technical or permitting standpoint, for construction of facilities required for expansion of the LNG terminal, Lessee shall have the right to terminate the lease of the Additional Acreage at the end of 24th month. If Lessee shall have used any portion of the Additional Acreage for construction of terminal marine facilities, or other facilities required for the operation of the base LNG Terminal, the Additional Acreage subject to this lease amendment shall be reduced to that portion of the Additional Acreage actually used by Lessee to construct or host such facilities, and the annual rental on the Additional Acreage shall be at a rate of $3,000 per acre per year for each acre so utilized. After the 24th month, the annual rental on the Additional Acreage shall be due and payable and adjusted in accordance with the provisions of Paragraph (5) of the Second Amendment. Notwithstanding the forgoing, should Lessee obtain final FERC approval for expansion of the LNG terminal (as evidenced by Lessee's receipt of a letter from the FERC authorizing construction for the expansion of the LNG Terminal) the annual rental on the Additional Acreage will increase to $300,000 per year (and will be pro-rated for the balance of the year) as of the month in which Lessee receives the authorization from FERC.

Paragraph (6) of the Lease is hereby amended to read as follows:

(6) Wharfage Fees. The following terms shall become effective upon the first day of the calendar month in which natural gas is first delivered from the LNG Terminal into one or more natural gas pipelines ("Operations Commencement Date"). Commencing with the Contract Year in which the Operations Commencement Date occurs, Lessee will pay the Lessor, in addition to the base rent specified in Paragraph 5 of this Third Amendment and Paragraph 5 of the Second Amendment, wharfage fees assessed on LNG throughput and calculated on a per unit basis equal to 15/100's cent (or $0.0015) per dekatherm for natural gas either (i) delivered from the LNG Terminal into one or more natural gas pipelines or (ii) loaded from the LNG Terminal into an LNG transport vessel (other than for temporary storage purposes) (the parties acknowledging that the LNG Terminal is not currently intended to be constructed initially to allow loading of vessels) (e.g.: yearly revenue based on 1,500,000 dekatherms/day x $0.0015 per dekatherms 365 days = $821,250), but in no instance

will such fees be less than $410,625.00 ("Minimum Wharfage Fees") per Contract Year. In the event the LNG terminal is expanded to add 1.5 BCF per day of additional throughput capacity, the Minimum Wharfage Fees shall be no less than $500,000.00 per Contract Year commencing with the Contract Year following the Contract Year in which the additional capacity is placed in service. In the event the LNG terminal is expanded by a lesser amount, the increase in the Minimum Wharfage Fees shall be adjusted proportionately. The wharfage fees rate shall be applicable to all volumes of natural gas delivered from the LNG terminal, including incremental volumes delivered as a result of one or more terminal expansions constructed on the Amended Leased Premises. The $0.0015 per dekatherm wharfage fees rate will be increased annually on the anniversary of the Extended Term Commencement Date in the same manner as provided for the base rent under Paragraph 5 of the Second Amendment, pursuant to the CPI Index Terms. The wharfage fees will be paid annually, in arrears, based on the actual throughput volumes for the prior Contract Year, within 30 days after the end of such Contract Year. For the first Contract Year in which the Operations Commencement Date occurs, the Minimum Wharfage Fees amount, if applicable, will be prorated based on the beginning of the month in which the Operations Commencement Date occurs and the portion of the Contract Year which remains thereafter. Lessee acknowledges that vessels calling at the LNG Facilities may also be subject to a channel user fee should the District impose such a fee at a future date in accordance with a general channel user fee plan authorized by and in accordance with applicable law to be implemented by the District on all commercial vessels subject to the requirement of pilotage. Lessee, however, shall not be responsible for such channel usage fees or for arranging or requiring calling vessel owners or charterers to pay same; the District being solely responsible for dealing directly with such vessel owners and charterers regarding such channel user fees.

Paragraph (8) of the Lease is hereby amended to read as follows:

(8a) Dredging of the Slip and Ship Channel. Lessee shall have the right to remove soil and spoil from the Amended Leased Premises and to dredge the slip and dredge and widen the ship channel for construction and maintenance of the Facilities, and for the purpose of constructing, creating and maintaining a ship turning basin. Lessee shall have the right to deposit soil and spoil on designated disposal sites on the Amended Leased Premises and on Additional District Property, as defined in Paragraph (14) of the Lease. Initial dredging of the slip and dredging and widening of the ship channel will be the responsibility of Lessee.

(8b) **Consent of Corps and Relocation of Corps Culvert.** Lessor and Lessee hereby acknowledge that the Additional Acreage is subject to existing disposal easements in favor of the US Army, Corps of Engineers (the "Corps"). Lessor represents and warrants to Lessee that Lessor has obtained a letter from the Corps dated August 11, 2004, whereby the Corps has stated that they do not have a requirement to consent to Lessor leasing the Additional Acreage to Lessee. Lessor and Lessee further acknowledge that there is a culvert used by the Corps during dredging operations (the

"Corps Culvert"), which runs through the Additional Acreage, and that as part of the expansion of the LNG terminal, the Corps Culvert will likely need to be removed and/or relocated, said removal and/or relocation to be subject to the consent of the Corps. In the event the Corps Culvert is removed or relocated, Lessee acknowledges that Lessee will be responsible for the relocation and/or replacement and therefore may construct a new spoils disposal pipeline (the "New Spoils Pipeline") due to the amount of dredging that will be required for construction and maintenance of the marine berth and turning basin. In the event Lessee removes the Corps Culvert and replaces it with the New Spoils Pipeline, Lessee shall allow the Corps use of and access to the New Spoils Pipeline in connection with the Corps' dredging operations.

Except as specifically provided in this Third Amendment, all other terms and conditions of the Lease shall remain in full force and effect. The Lease and this Third Amendment thereto shall be binding upon the parties hereto, their heirs, beneficiaries, executors, administrators, successors and assigns.

IN WITNESS WHEREOF, the parties have hereunto executed this Amendment as of the 3RD day of DECEMBER, 2004.

LESSOR:

LAKE CHARLES HARBOR AND TERMINAL DISTRICT

By: _____
R. Adam McBride
A/ Port Director

LESSEE:

CAMERON LNG, L.L.C.

By: _____
Name: DARCEL HULSE
Title: PRESIDENT

ACKNOWLEDGMENTS

STATE OF LOUISIANA

PARISH OF CALCASIEU

On this 29th day of September, 2004, before me, the undersigned Notary Public, duly commissioned and qualified for the state and parish above, personally came and appeared R. Adam McBride, to me personally known, who, being by me duly sworn, declared that he is the Port Director of LAKE CHARLES HARBOR AND TERMINAL DISTRICT, a political subdivision of the State of Louisiana, and that the foregoing Third Amendment to Surface Lease was executed on behalf of the District by authority of its Board of Commissioners and further acknowledged the instrument to be the free act and deed of the District.

Notary Public

OFFICIAL SEAL

MICHAEL K. DEES
LOUISIANA BAR NO. 04796
NOTARY PUBLIC NO. 2630
STATE OF LOUISIANA
PARISH OF CALCASIEU
MY COMMISSION IS FOR LIFE

STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

On this 3RD day of DECEMBER, 2004, before me, the undersigned Notary Public, duly commissioned and qualified for the state and parish above, personally came and appeared DAICEL HULSE, to me personally known, who, being by me duly sworn, declared that (s)he is the PRESIDENT of CAMERON LNG, L.L.C., a limited liability company organized under the laws of the State of CALIFORNIA, and that (s)he executed the foregoing Third Amendment to Surface Lease as the free act and deed of said limited liability company, and by authority of the governing board of said limited liability company.

Barbara Hartfield
Notary Public
Printed Name: BARBARA HARTFIELD
Notary/Bar Roll No. 1395330
My Commission expires: JAN. 21, 2007

BARBARA HARTFIELD
Commission # 1395330
Notary Public - California
San Diego County
My Comm. Expires Jan 21, 2007

Exhibit A
Description of the Amended Lease Premises

In accordance with Paragraph 2 of this Third Amendment, the Amended Lease Promises includes the Original Lease, as modified by the First Amendment, as further modified by the Second Amendment, and as further modified by this Third Amendment. The description of the Amended Lease Premises is as follows:

All that certain tract or parcel of land containing 218.297 acres, more or less, and being situated in Sections 1 and 12, Township 12 South, Range 10 West, and Section 43 and 44, Township 12 South, Range 9 West, in the Southwestern Land District, Louisiana Meridian, Cameron Parish, Louisiana, and being more particularly described by metes and bounds as follows;

Commencing at the common corner of Sections 43 and 44, Township 12 South, Range 9 West, and Sections 1 and 12, Township 12 South, Range 10 West;

Thence South 01 degrees 01 minutes 28 seconds West (record), along the common line between said Sections 12 and 44, for a distance of 1321.82 feet (record, 1319.26 feet) to a found 3" transite pipe at the Southeast corner of the North Half of the Northeast Quarter of said Section 12, and the Point of Beginning of herein described parcel;

Thence North 88 degrees 40 minutes 17 seconds West (record, North 88 degrees 40 minutes 44 seconds West), passing a found 3" transite pipe, at a distance of 1855.90 feet (record), and continuing for a total distance of 1903.94 feet (record, 1904.03 feet) to a set P.K. Nail in the centerline of Louisiana Highway No. 27; and the beginning of a horizontal curve to the left, having a radius of 7873.75 feet (record), a delta angle of 08 degrees 28 minutes 25, for an arc length of 1164.46 feet (record, 1162.13 feet) to a set P.K. Nail, subtended by a chord bearing of North 06 degrees 23 minutes 24 seconds West (record, North 06 degrees 22 minutes 53 seconds West), and a chord distance of 1163.40 feet (record, 1161.08 feet);

Thence continuing along said Highway, and run thence North 08 degrees 26 minutes 09 seconds West (record, North 08 degrees 32 minutes 09 seconds West) for a distance of 536.51 feet (record) to a set P.K. Nail;

Thence North 08 degrees 47 minutes 25 seconds West (record), along said centerline of Louisiana State Highway 27, for a distance of 247.67 feet (record);

Thence North 09 degrees 22 minutes 57 seconds West (record North 09 degrees 20 minutes 28 seconds West), along said centerline of Louisiana State Highway 27, for a distance of 726.51 feet (record) to a set PK nail at the North line of the South half of the Southeast Quarter (South/2 of SE/4) of the aforesaid Section 1;

Thence leaving the centerline of Louisiana State Highway 27, and run South 88 degrees 40 minutes 11 seconds East (record South 88 degrees 40 minutes 13 seconds East), along said North line of the South half of the Southeast Quarter (South/2 of SE/4) of Section 1, passing over a found 1 inch rod at a distance of 40.7 feet, and passing over a set 5/8 inch rod with cap stamped RPLS 4750 at a distance of 334.2 feet and continue for a total distance of 2285.98 feet to a set 1.25 inch iron pipe at the Northeast corner of the South Half of the Southeast Quarter of Section 1, from whence bears a found 1.5 inch stainless steel rod bearing North 55 degrees 30 minutes 25 seconds East at a distance of 0.63 feet;

Thence South 88 degrees 40 minutes 20 seconds East (record South 88 degrees 40 minutes 13 seconds East), passing over a set 5/8 inch iron rod with cap stamped RPLS 4750 as an offset corner at a distance of 632.37 feet, and continue for a total distance of 1319.98 feet to a point;

Thence South 00 degrees 17 minutes 21 seconds East (record) for a distance of 1320.59 feet (record) to the common line of the aforesaid Sections 43 and 44;

Thence South 88 degrees 40 minutes 10 seconds East (record), along said common line of Sections 43 and 44, for a distance of 528.00 feet (record);

Thence South 11 degrees 28 minutes 42 seconds West (record) for a distance of 1339.93 feet (record);

Thence North 88 degrees 41 minutes 04 seconds West (record North 88 degrees 40 minutes 44 seconds West) for a distance of 768.38 feet (record 769.48 feet) to a point;

Thence North 88 degrees 40 minutes 17 seconds West (record, North 88 degrees 40 minutes 44 seconds West) for a distance of 836.01 feet (record) to the Point of Beginning, containing 9,509,025 square feet, or 218.297 acres, more or less.

Exhibit B
Description of the Additional Acreage

All that certain tract or parcel of land containing 99.683 acres, more or less more or less, situated in Sections Forty-Three (43) and Forty-Four (44) of Township Twelve (12) South, Range Nine (9) West and Section One (1), Township Twelve (12) South, Range Ten (10) West, all in the Southwestern Land District, Louisiana Meridian, Cameron Parish, Louisiana, and being more particularly described as follows;

Commencing at the corner common to said Sections 43 and 44 of Township 12 South, Range 9 West and Sections 1 and 12 of Township 12 South, Range 10 West, Southwestern Land District, Louisiana Meridian, Cameron Parish, Louisiana;

Thence North 00 degrees 17 minutes 18 seconds West (record North 00 degrees 17 minutes 21 seconds West), along the common line of said Sections 1 and 43, for a distance of 507.73 feet (record 507.49) feet to the intersection with the North line of an existing Amended Lease Area containing 118.61 acres, more or less;

Thence South 76 degrees 21 minutes 21 seconds West (record South 76 degrees 20 minutes 53 seconds West), along said North line of the existing Amended Lease Area, for a distance of 4.22 feet (record 3.54 feet) to a set 5/8 inch iron rod with cap stamped RPLS 4750 and the Point of Beginning of herein described tract;

Thence South 23 degrees 35 minutes 11 seconds West (record South 23 degrees 34 minutes 45 seconds West), along said North line of the existing Amended Lease Area, for a distance of 82.27 feet (record) to a found 1.5 inch galvanized iron pipe;

Thence South 85 degrees 04 minutes 23 seconds West (record South 85 degrees 03 minutes 56 seconds West), along said North line of the existing Amended Lease Area, for a distance of 1373.00 feet (record) to a found 1.5 inch galvanized iron pipe;

Thence North 84 degrees 12 minutes 17 seconds West (record), along said North line of the existing Amended Lease Area for a distance of 266.73 feet (record) to a found 1.5 inch galvanized iron pipe;

Thence North 81 degrees 11 minutes 34 seconds West (record North 81 degrees 30 minutes 01 seconds West), along said North line of the existing Amended Lease Area, for a distance of 468.38 feet (record 468.78 feet) to the centerline of Louisiana State Highway 27;

Thence North 08 degrees 47 minutes 25 seconds West (record), along said centerline of Louisiana State Highway 27, for a distance of 247.67 feet (record);

Thence North 09 degrees 22 minutes 57 seconds West (record North 09 degrees 20 minutes 28 seconds West), along said centerline of Louisiana State Highway 27, for a distance of 726.51 feet (record) to a set PK nail at the North line of the South half of the Southeast Quarter (South/2 of SE/4) of the aforesaid Section 1;

Thence leaving the centerline of Louisiana State Highway 27, and run South 88 degrees 40 minutes 11 seconds East (record South 88 degrees 40 minutes 13 seconds East), along said North line of the South half of the Southeast Quarter (South/2 of SE/4) of Section 1, passing over a found 1 inch rod at a distance of 40.7 feet, and passing over a set 5/8 inch rod with cap stamped RPLS 4750 at a distance of 334.2 feet and continue for a total distance of 2285.98 feet to a set 1.25 inch iron pipe at the Northeast corner of the South Half of the Southeast Quarter of Section 1, from whence bears a found 1.5 inch stainless steel rod bearing North 55 degrees 30 minutes 25 seconds East at a distance of 0.63 feet;

Thence South 88 degrees 40 minutes 20 seconds East (record South 88 degrees 40 minutes 13 seconds East), passing over a set 5/8 inch iron rod with cap stamped RPLS 4750 as an offset corner at a distance of 632.37 feet, and continue for a total distance of 1319.98 feet to a point;

Thence South 00 degrees 17 minutes 21 seconds East (record) for a distance of 1320.59 feet (record) to the common line of the aforesaid Sections 43 and 44;

Thence South 88 degrees 40 minutes 10 seconds East (record), along said common line of Sections 43 and 44, for a distance of 528.00 feet (record);

Thence South 11 degrees 28 minutes 42 seconds West (record) for a distance of 1339.93 feet (record);

Thence North 88 degrees 41 minutes 04 seconds West (record North 88 degrees 40 minutes 44 seconds West) for a distance of 768.38 feet (record 769.48 feet) to the Southeast corner of the aforesaid 118.61 acre existing Amended Lease Area;

Thence North 05 degrees 32 minutes 07 seconds East (record North 05 degrees 31 minutes 40 seconds East), along the East line of the existing Amended Lease Area, for a distance of 2300.02 feet (record 2300.01 feet) to the Northeast corner of said Amended Lease Area;

Thence North 86 degrees 39 minutes 43 seconds West (record North 86 degrees 40 minutes 11 seconds West), along the North line of said Amended Lease Area, for a distance of 314.46 feet (record 314.47 feet) to a point;

Thence South 04 degrees 34 minutes 56 seconds West (record South 04 degrees 34 minutes 21 seconds West), along the North line of said Amended Lease Area, for a distance of 187.13 feet (record) to a point;

Thence South 07 degrees 00 minutes 44 seconds West (record South 07 degrees 00 minutes 16 seconds West), along the North line of said Amended Lease Area, for a distance of 294.72 feet (record) to a point;

Thence North 79 degrees 20 minutes 14 seconds West (record North 79 degrees 20 minutes 43 seconds West), along the North line of said Amended Lease Area for a distance of 426.05 feet (record) to a found 1.5 inch galvanized iron pipe;

Thence South 76 degrees 21 minutes 21 seconds West (record South 76 degrees 20 minutes 53 seconds West), along the North line of said Amended Lease Area, for a distance of 264.10 feet (record) to the Point of Beginning; Containing an area of 4,342,189 square feet or 99.683 acres, more or less.

SECOND AMENDMENT
TO
SURFACE LEASE

STATE OF LOUISIANA §
§ KNOW ALL MEN BY THESE PRESENTS:
PARISH OF CAMERON §

THIS SECOND AMENDMENT TO SURFACE LEASE (hereinafter "Amendment) is made and entered into by and between LAKE CHARLES HARBOR AND TERMINAL DISTRICT, a political sub-division of the State of Louisiana and successor in interest to AMOCO PRODUCTION COMPANY (hereinafter "the District" or "Lessor") and HACKBERRY LNG TERMINAL, L.L.C., successor in interest to CITIES SERVICE OIL AND GAS CORPORATION (hereinafter "Lessee").

WHEREAS, on February 13, 1978, AMOCO PRODUCTION COMPANY did lease unto CITIES SERVICE COMPANY, a Delaware Corporation (hereinafter the "Original Lease") a certain tract of land for the purpose of loading, unloading, metering, storing, and processing of petroleum liquids, natural gas liquids, petroleum gases and/or petroleum products and petroleum by-products, said lease having been duly recorded bearing File No. 153288 in the records of Cameron Parish, Louisiana.

WHEREAS, on November 28, 1984, Lessor's and Lessee's respective predecessors in interest entered into a certain "Amendment" (the "First Amendment") amending and modifying certain provisions of the Original Lease (said First Amendment having been duly recorded bearing File No. 238921 in the records of Cameron Parish, Louisiana, on December 16, 1994); including, without limitation, the description of the premises subject to the Original Lease as modified by such First Amendment (the Original Lease as modified by the First Amendment is hereinafter referred to as the "Lease").

WHEREAS, Lessee acquired all of the rights, title, interest and obligations of the Lessor under the Lease pursuant to an assignment of same from its direct parent company Dynegy Midstream Services, Limited Partnership ("Dynegy Midstream"), which owns 100% of the ownership interests in and to Lessee.

DMSLP
↓ assign
Hackberry

WHEREAS, Lessee is proposing to construct and operate an liquefied natural gas ("LNG") marine delivery, storage and regasification terminal, including two unloading docks, three storage tanks and associated equipment to vaporize the LNG into natural gas and to process the LNG to extract volumes of natural gas liquids (and to store and transport such natural gas liquids) and a related gas pipeline to transport revaporized LNG from the

EXHIBIT
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leased premises, all to be located on the premises subject to the Lease (the "LNG Facilities"), but such efforts require additional acreage and a change in the use of the premises subject to the Lease.

WHEREAS, Lessor, for the consideration set forth hereinbelow, has agreed to modify certain provisions of the Lease to allow for Lessor's construction and operation of the subject LNG Facilities.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Lessor and Lessee hereby amend the Lease in the following respects only:

(1) **Parties.** All references in the Lease to "Amoco Production Company" are amended to be references to the "LAKE CHARLES HARBOR AND TERMINAL DISTRICT" and all references to "Cities Service Oil and Gas Corporation" and/or "Cities Service Company" are amended to be references to "HACKBERRY LNG TERMINAL, L.L.C.".

(2) **Additional Property Subject to the Lease.** The description of the property subject to the lease is hereby amended to add an additional 28.68 acres to bring the total to 118.68 acres, such that the entire premises subject to the Lease ("Amended Leased Premises") is now that described and/or indicated on Exhibit "A" to this Amendment, which is incorporated herein by reference. No Drawing.

(3) **Effectiveness of Amendment Terms.** All provisions of this Amendment other than Paragraph 1 above shall be effective only upon the occurrence of both of the following: a) Lessee's acceptance of a final Certificate issued by the Federal Energy Regulatory Commission pursuant to Section 157.20(a) of the Commission's regulations, [currently, 18 C.F.R. Sec. 157.20(a) (2001)], which Certificate expressly provides for, and authorizes immediate commencement of, construction of Lessee's proposed LNG Facilities on the Amended Leased Premises (as described in Paragraph 2 above); and (b) either closing on Lessee's project financing for construction of the LNG Facilities and the related gas pipeline or Lessee's written notice that it has elected to commence construction of such facilities on the Amended Leased Premises prior to closing its financing for the LNG Facilities. The date on which the foregoing conditions have been satisfied shall be referred to herein as the "Authorization Date."

(4) **Extended Term.** The term of the Lease is extended for a term of 30 years ("Extended Term"), commencing from and after the first day of the calendar month in which the Authorization Date occurs ("Extended Term Commencement Date"), with six option periods of five (5) years each ("Renewal Term"

or "Renewal Terms"), exercisable by Lessee alone, from and after the expiration of the Extended Term and the expiration of each successive Renewal Term thereafter. Lessee's election to exercise its right to renew the Lease for such Renewal Terms by delivering a notice of such exercise to Lessor by no later than six (6) months prior to the expiration of the Extended Term or the then current Renewal Term. The failure of Lessee to properly exercise its right to renew the Lease for any Renewal Term in accordance with the terms of this Paragraph shall terminate such renewal right of Lessee for such Renewal Term and any subsequent Renewal Term, unless otherwise mutually agreed by Lessor and Lessee and, in such instance, the Lease will expire and terminate at the end of the then current term. Subsequent to the occurrence of the Authorization Date, "Contract Year" under the Lease shall be understood to mean any full calendar year during either the Extended Term or any Renewal Term commencing, for the first such year, with the Extended Term Commencement Date and, thereafter, with each anniversary of the Extended Term Commencement Date.

(5) **Amended Annual Rental.** Commencing upon the Extended Term Commencement Date, the initial annual base rent shall be $3,000 per acre ($3,000 x 118.68 acres = $356,040.00), adjusted upward every five (5) years in accordance with any increase in the Consumer Price Index in the same manner as provided for under the terms of Paragraph 4 of the Original Lease ("CPI Index Terms") during the Extended Term and at the beginning of each five (5) year Renewal Term, if applicable. With the exception of the first payment due for the first year of the Extended Term, such base rental will be paid annually in advance on the anniversary of Extended Term Commencement Date. The first such payment for the first year of the Extended Term will be made within thirty (30) days of the Authorization Date and will be reduced by a credit equal to a pro rata portion of any rent previously paid under the prior terms of the Lease which is attributable to any time periods from and after the Extended Term Commencement Date (rounded to whole months only).

(6) **Wharfage Fees.** The following terms shall become effective upon the first day of the calendar month in which natural gas is first delivered from the LNG Terminal into one or more natural gas pipelines ("Operations Commencement Date"). Commencing with the Contract Year in which the Operations Commencement Date occurs, Lessee will pay the Lessor wharfage fees, in addition to the base rent specified in Paragraph 5 above, assessed on LNG throughput and calculated on a per unit basis equal to

15/100s cent (or $0.0015) per dekatherm for natural gas either (i) delivered from the LNG Terminal into one or more natural gas pipelines or (ii) loaded from the LNG Terminal into an LNG transport vessel (other than for temporary storage purposes) (the parties acknowledging that the LNG Terminal is not currently intended to be constructed initially to allow loading of vessels) (e.g.: yearly revenue based on 1,500,000 dekatherms/day x $0.0015 per dekatherm x 365 days = $821,250), but in no instance will such fees be less than $410,625 ("Minimum Wharfage Fees") per Contract Year. The $0.0015 per dekatherm wharfage fees rate will be increased annually on the anniversary of the Extended Term Commencement Date in the same manner as provided for the base rent under Paragraph 5 above pursuant to the CPI Index Terms. The wharfage fees will be paid annually, in arrears, based on the actual throughput volumes for the prior Contract Year, within 30 days after the end of such Contract Year. For the first Contract Year in which the Operations Commencement Date occurs, the Minimum Wharfage Fees amount, if applicable, will be pro-rated based on the beginning of the month in which the Operations Commencement Date occurs and the portion of the Contract Year which remains thereafter. Lessee acknowledges that vessels calling at the LNG Facilities may also be subject to a channel user fee should the District impose such a fee at a future date in accordance with a general channel user fee plan authorized by and in accordance with applicable law to be implemented by the District on all commercial vessels subject to the requirement of pilotage. Lessee, however, shall not be responsible for such channel usage fees or for arranging or requiring calling vessel owners or charterers to pay same; the District being solely responsible for dealing directly with such vessel owners and charterers regarding such channel user fees.

(7) **Additional Charges Legally Assessable by the District.** Lessee hereby acknowledges that the base rent and the wharfage fees are not intended to include, and will not include, reduce or abate, any charges legally accessible by the District against vessels calling on the LNG Terminal or using any other facilities or waterways or otherwise subject to the District's jurisdiction to assess fees and such fees and charges will be separately assessed, charged and paid by the vessel's owners or charterers in accordance with the District's assessments of same, all in accordance with applicable laws and regulations.

(8) **Initial Dredging of the Slip.** Initial dredging of the slip will be the responsibility of Lessee. At Lessee's option, the District will provide Lessee access to spoils disposal sites utilized by the District. The disposal fee will be the standard fee assessed to all similarly situated users of the District's disposal site (with regard

to spoil volumes and types), which is $3.50 per cubic yard as of the date of execution of this Amendment. On January 1, 2003, the charge increases to $3.75. Lessee's use of the disposal site will be subject to all applicable rules, laws and regulations, including the permit requirements of the US Army, Corps of Engineers.

(9) **Temporary Laydown Area and Construction Site.** At Lessee's option, the Lessor will provide Lessee temporary usage of the tracts of land included in the "Additional District Property" (as defined in Paragraph 14 below) located north of the Amended Leased Premises as a temporary laydown and construction site during the construction period for the LNG Facilities and related gas pipeline. The use of the Additional District Property will be subject to existing disposal easements in favor of the US Army, Corps of Engineers, and any other easements of record as of date of execution hereof, and such use will not interfere with such easements. All necessary permits and mitigation costs are the responsibility of Lessee. Lessee will pay $100 per acre, per month for use of the site on a month-to-month basis.

(10) **District to Support Lessee's FERC Application and Waive Certain Wetland Mitigation Rights.** The District, pursuant to prior agreement between the District and Dynegy Midstream which contemplated this Amendment, i) previously revised its intervention in the FERC proceeding to support the application to the FERC of Lessee related to the proposed facility; and ii) will hereafter continue to be obligated to execute appropriate documentation to waive its right to require wetlands mitigation to be completed on the Amended Leased Premises or other District property, in such form as necessary to allow Lessee to complete such wetlands mitigation at locations other than District property.

(11) **Additional Rights-of-Way.** The District will provide any rights-of-way across the Additional District Property (as defined in Paragraph 14 below), located north of the Amended Leased Premises, required to allow construction and operation of the LNG Facilities; including primarily, but without limitation, access rights-of-way and pipeline rights-of-way for the related natural gas pipeline.

(12) **Limited Use of the Amended Leased Premises.** Lessee's proposed use would be limited to use for any purpose relating to the receiving and unloading of LNG tankers and the related storage, regasification, processing of LNG, processing of natural gas and natural gas liquids (including handling and transportation of such LNG, natural gas and natural gas liquids), in accordance with applicable laws and, specifically, in accordance with any new or modified Certificates issued by FERC to authorize and govern such activities.

(13) **Channel Access and Usage.** Lessee and the District agree and acknowledge that nothing in this Lease amendment is intended to, or shall be construed as, granting vessels calling at Lessee's facilities any greater or lesser priority with regard to channel access and usage than existing users of the channel and vessels calling at Lessee's facilities are subject to the same vessel traffic controls and management as the District may, in compliance with applicable laws, impose on other vessels using the Calcasieu River Ship Channel.

(14) **Obligations Running With Additional District Property.** Should the District transfer, sell, assign or otherwise convey (hereinafter "Conveyance") any interest in any of District's below described properties which are referenced in this Lease but which are not part of the Amended Leased Premises (the "Additional District Property"), the District agrees that any such Conveyance shall be subject to the obligations of District set forth in this Amendment, and all obligations set forth herein and/or in the Lease, as amended, regarding the Additional District Property are agreed to be **covenants running with the land** which will survive any Conveyance of any interest therein by District or any of its successors in title thereto; with the "Additional District Property" being defined to include those lands currently owned by Lessor, or in which Lessor holds other possessory rights, located north of the Amended Leased Premises in **Section 1 of Township 12 South – Range 10 West; Section 43 of Township 12 South – Range 9 West; and Sections 30 and 31of Township 11 South – Range 9 West (Sec. 1, T12S-R10W; Sec. 43, T12S-R9W; and Secs. 30 & 31, T11S-R9W) (all in Cameron Parish, Louisiana)** (same being referenced in Paragraphs 9 and 11 above).

(15) **Indemnification.** Lessee and Lessor agree to the following additional terms related to Lessee's use of the entire Amended Leased Premises:

a. <u>Lessee's General Agreement to Indemnify</u>. The Lessee releases the District, its officers, representatives, employees, agents, successors and assigns, (individually and collectively, "District Indemnitees") from, assumes any and all liability for, and agrees to indemnify the District Indemnitees against all claims, liabilities, obligations, damages, penalties, litigation, costs, charges and expenses (including, without limitation, reasonable attorneys' fees, engineers' fees, architects' fees, and the costs and expenses of appellate action, if any), imposed on, incurred by or asserted against any District Indemnitee or its interest in real property in the Amended Leased Premises or the Additional District Property (collectively the "Project Site") arising out of (i) the use or occupancy of the Project Site by the Lessee, its officers, representatives, agents, and employees, (ii) the construction or operation of the LNG Facilities by the Lessee, its officers, representatives, agents, and employees, (iii) any claim arising out of the use, occupancy, operation, or construction of the Project Site by the Lessee, its officers, representatives, agents, and employees, and (iv) activities on or about the Project Site by the Lessee, its officers, representatives, agents, and employees, of any nature, whether foreseen or unforeseen, ordinary, or extraordinary, in connection with the construction use, occupancy, operation, maintenance, or repair of the LNG Facilities or the Project Site by the Lessee, its officers, representatives, agents,

and employees; provided, however, that any such claim, liability, obligation, damage or penalty arising solely as a result of the negligence or willful misconduct of any District Indemnitee shall be excluded from this indemnity. The indemnity provided in this section shall include within its scope any liability imposed by law on the District on a strict liability theory as landowner for physical defects in the Project Site (except for environmental contamination), it being the intention of the parties for Lessee to assume liability for such defects in the Amended Leased Premises during the term of the Lease and in the Additional District Property during the period of Lessee's use of same as provided for in this Amendment above. This Subparagraph 15(a) shall include within its scope but not be limited to any and all claims or actions for wrongful death, but any and all claims brought under the authority of or with respect to any local, state, or federal environmental statute or regulation shall be covered by Subparagraph 15(b) below not this Subparagraph 15(a).

b. **Lessee's Environmental Indemnification**. The Lessee agrees that it will comply with all environmental laws and regulations applicable to the Lessee, including without limitation, those applicable to the use, storage, and handling of hazardous substances in, on or about the Project Site. The Lessee agrees to indemnify and hold harmless each of the District Indemnitees against and in respect of, any and all damages, claims, losses, liabilities, and expenses (including, without limitation, reasonable attorneys, accounting, consulting, engineering, and other fees and expenses), which may be imposed upon, incurred by, or assessed against any of the District Indemnitees by any other party or parties (including, without limitation, a governmental entity), arising out of, in connection with, or relating to the subject matter of: (i) the Lessee's breach of the covenant set forth above in this Subparagraph 15(b) or (ii) any environmental condition of contamination on the Project Site which is in violation of any federal, state, or local environmental law with respect to the Project Site first occurring after the commencement date of the Original Lease and caused by the Lessee's operations or facilities.

c. **Defense & Settlement**: The indemnity obligations of Lessee under Subparagraphs 15(a) and 15(b) above shall be subject to the District or the applicable District Indemnitees giving Lessee prompt notice when either the District or any District Indemnitee becomes aware of any actual or threatened claim, action or administrative enforcement action which might give rise to a claim for indemnification under these provisions, including a description of the relevant facts and circumstances regarding any such actual or threatened claims or actions. Notice shall not be sufficient unless it is given promptly enough to allow Lessee to respond to same in a timely fashion such that all material defenses, legal or factual, are preserved. Lessee shall thereafter have sole responsibility and control over the defense and costs of defense, and any settlement, of any such claims or actions and any liability which arises as a result of any interference with Lessee's right to control such defense, or any failure to cede same, shall not be within the scope of Lessee's indemnity obligations hereunder. Provided, however, to the extent District or any District Indemnitees are dissatisfied with Lessee's conduct of the defense any such claims or actions, District or such District Indemnitees may retain their own separate counsel, at their sole cost and expense (unless and until Lessee is shown to be in breach of its obligations hereunder with regard to such claim or action) to protect their respective interests.

d. **Survival of Indemnities**. The foregoing indemnities shall survive the expiration or other termination of the Lease and shall be the sole and exclusive remedy of District and the District Indemnitees with regard to any and all damages, claims, losses, liabilities, and expenses (including, without limitation, reasonable attorneys, accounting, consulting, engineering, and other fees and expenses) ("Claims"), which are within the scope of the above stated indemnities. Provided, however, to the extent any such a Claim that is subject to Lessee's above indemnity obligations arises other than as a result of an enforcement action by a governmental entity or an actual claim or action by a third party not affiliated with the District or any District Indemnitee, any liability of Lessee with regard to same shall expire upon the passage of the fourth anniversary of the later to occur of the vacation of the Amended Leased Premises by Lessee or the expiration or other termination of the Ground Lease, unless a detailed notice of any such Claim is received in writing by Lessee prior to such fourth anniversary, including data supporting such Claim.

This Amendment shall be binding upon the parties hereto, their heirs, beneficiaries, executors, administrators, successors and assigns.

IN WITNESS WHEREOF the parties have hereunto executed this Amendment as of the 31st day of December, 2002.

LESSOR:
LAKE CHARLES HARBOR AND TERMINAL DISTRICT

By: _____

Name: Terry T. Jordan
Title: Executive Director

LESSEE:
HACKBERRY LNG TERMINAL, L.L.C.

By: _____

Name: Tammy Norman
Title: Vice President

ACKNOWLEDGEMENTS

STATE OF LOUISIANA §
§
PARISH OF CALCASIEU §

On this 22nd day of January, 2003, before me, the undersigned notary, personally appeared Terry T. Jordan, to me personally known, who, being by me duly sworn did say that he is the Executive Director of LAKE CHARLES HARBOR AND TERMINAL DISTRICT, a political subdivision of the State of Louisiana, and that the instrument was executed on behalf of the District by authority of its Board of Commissioners and further acknowledged the instrument to be the free act and deed of the District.

Notary Public

My Commission Expires:
at death

STATE OF TEXAS §
§
COUNTY OF HARRIS §

On this 14 day of January, 2003, before me, the undersigned Notary Public, duly commissioned and qualified in and for the State and County aforesaid, personally came and appeared Tammy Norman, to me personally known, who declared and acknowledged that he or she executed the above and foregoing instrument as Vice President of Hackberry LNG Terminal L.L.C. as the free act and deed of said limited liability company, and by authority of the governing board of said company.

LESLIE A. FAY
MY COMMISSION EXPIRES
December 10, 2006

Notary Public

EXHIBIT "A"
TO
SECOND AMENDMENT
TO
SURFACE LEASE

AMENDED LEASED PREMISES

118.74 ACRES
LOCATED IN SECTIONS 43 & 44, T12S-R9W & SECTIONS 1& 12, T12S-R10W
CAMERON PARISH, LOUISIANA

Description of 118.74 Acre tract being located in Sections 43 & 44, T12S-R9W & Sections 1 & 12, T12S-R10W, Cameron Parish, Louisiana, Being described as follows:

Commencing at a common corner of Sections 43 & 44, T12S-R9W & Sections 1 & 12, T12S-R10W having coordinates of X=1,367,236.30 and Y=504,216.47 thence along the common line between said sections 1 & 12, T10S-R10W South 01 degrees 01 minutes 28 seconds West for a distance of 1,321.82 feet to a found transite pipe and the point of beginning;

Thence North 88 degrees 40 minutes 17 seconds west along the south property line through a found transite pipe a distance of 1,855.90 feet and a total distance of 1,903.94 feet to the centerline of Louisiana State Highway 27;

Thence along said centerline of Louisiana State Highway 27 the following courses: thence along a curve to the left having a radius of 7,873.75 feet, an arc distance of 1,164.46 feet with a long chord of North 06 degrees 22 minutes 23 seconds West for a distance of 1,163.40 feet to a point; thence North 08 degrees 32 minutes 09 seconds West for a distance of 536.51 feet to a point on the north line of said tract and the centerline of said Louisiana Highway 27;

Thence South 81 degrees 30 minutes 01 seconds East for a distance of 468.38 feet to a point;

Thence South 84 degrees 12 minutes 17 seconds East for a distance of 266.73 feet to a point;

Thence North 85 degrees 03 minutes 56 seconds east for a distance of 1,373.00 feet to a point;

Thence North 23 degrees 34 minutes 45 seconds East for a distance of 82.27 feet to a point;

Thence North 76 degrees 20 minutes 53 seconds East for a distance of 264.10 feet to a point;

Thence South 79 degrees 20 minutes 43 seconds East for a distance of 426.05 feet to a point;

Thence North 07 degrees 00 minutes 16 seconds East for a distance of 294.72 feet to a point;

Thence North 04 degrees 34 minutes 21 seconds East for a distance of 187.13 feet to a point;

Thence South 86 degrees 40 minutes 15 seconds East for a distance of 314.46 feet to a point;

Thence South 05 degrees 31 minutes 40 seconds West for a distance of 2300.02 feet to a point;

North 88 degrees 51 minutes 18 seconds West for a distance of 835.96 feet to the point of beginning, containing 118.74 acres of land, more or less.

All bearings, distances and coordinates are based on the Louisiana Lambert Plane Coordinate System, South Zone, NAD 27 Datum

Alta Survey?

GUARANTY AGREEMENT

This Guaranty Agreement (the "Guaranty") is made on this 31st day of December, 2002 by Dynegy Holdings Inc., a Delaware corporation ("Guarantor") in favor of LAKE CHARLES HARBOR AND TERMINAL DISTRICT, a political sub-division of the State of Louisiana ("Beneficiary"), in consideration of the Beneficiary entering into that certain Second Amendment to Surface Lease, of even date herewith, which amends the terms of that certain "Lease" described more fully below concerning the lease from Beneficiary to Hackberry LNG Terminal, L.L.C. ("Obligor") (as immediate successor to Dynegy Midstream Services, Limited Partnership) of certain real property located in Cameron Parish, Louisiana, in connection with Obligor's plans to construct, own and operate a liquefied natural gas ("LNG") marine delivery, storage and regasification terminal on the property subject to that Surface Lease, as amended by the Second Amendment.

The Beneficiary and Obligor have entered into the Second Amendment for the purpose of amending the following described lease of real property:

> That certain "Surface Lease" dated February 13, 1978, wherein AMOCO PRODUCTION COMPANY, as Lessor (and Beneficiary's predecessor in interest) leased unto CITIES SERVICE COMPANY, as Lessee (and Obligor's predecessor in interest) (hereinafter the "Original Lease"), a certain tract of land for the purpose of loading, unloading, metering, storing, and processing of petroleum liquids, natural gas liquids, petroleum gases and/or petroleum products and petroleum by-products, said lease having been duly recorded bearing File No. 153288 in the records of Cameron Parish, Louisiana; and as such Surface Lease, on November 28, 1984, was previously amended by Beneficiary's and Obligor's respective predecessors in interest through a certain "Amendment" (the "First Amendment") amending and modifying certain provisions of the Original Lease, said First Amendment having been duly recorded bearing File No. 238921 in the records of Cameron Parish, Louisiana, on December 16, 1994, (the Original Lease as modified by the First Amendment and the Second Amendment is hereinafter referred to as the "Lease").

Obligor is a wholly owned subsidiary of the Guarantor and the Second Amendment and the Lease as a whole are necessary for Obligor's project concerning the LNG Facilities. In connection with the Lease and its amendment through the Second Amendment, the Beneficiary will be extending credit to the Obligor, and Guarantor wishes to provide this Guaranty to the Beneficiary as part of Obligor's consideration for execution

of the Second Amendment and Beneficiary's recognition of Obligor as the successor to the prior Lessee parties under the Lease and to induce the Beneficiary to extend the credit terms to the Obligor provided for in the Second Amendment.

Accordingly, the Guarantor and the Beneficiary hereby agree as follows:

1. Subject to the terms and conditions contained herein, Guarantor unconditionally and irrevocably guarantees to the Beneficiary, its successors, endorsees and assigns, the prompt payment when due of all future payments due Beneficiary from Obligor arising under the Lease ("Payment Obligations") and prompt and proper performance of all of Obligor's other obligations under the Lease ("Performance Obligations") (Payment Obligations and Performance Obligations are referred to collectively herein as the "Obligations"). Notwithstanding any other provision of this Guaranty, Guarantor shall not be liable for consequential, incidental, exemplary, equitable, loss of profits, punitive, or tort damages, except to the extent Obligor is obligated to indemnify, reimburse and/or hold Beneficiary harmless from and against same under the indemnity provisions expressly set forth in the Lease. Guarantor agrees to be responsible for the Obligations and agrees to pay and/or perform the Obligations upon the failure by the Obligor to do so at any time under the terms of the Lease. The Payment Obligations are deemed to include, without limitation, interest and any other charges due and payable, such as late fees, service charges, cover costs or liquidated damages (but only if, and to the extent, provided for in the Lease or the law applicable thereto) up to the maximum amount of the monetary payments due and payable by Obligor in its capacity as Lessee under the terms of the Lease and which are expressly provided for in the Lease (including, without limitation, all annual rentals, wharfage fees and indemnity related payments). With regard to all Payment Obligations, this Guaranty shall constitute a guarantee of payment and not of collection. Guarantor's obligations and liability under this Guaranty shall be limited to the Obligations in the same manner Obligor is obligated, and Guarantor shall have no obligation to provide any services or rights related to the premises subject to the Lease other than those already expressly set forth in the Lease.

2. The Guarantor's obligations hereunder with respect to any Obligations shall not be affected by the existence, validity, enforceability, perfection or extent of any collateral for such Obligations. The Beneficiary shall not be obligated to file any claim relating to the Obligations owing to it in the event that the Obligor becomes subject to a bankruptcy, reorganization or similar proceeding (whether voluntarily or involuntarily), and the failure of the Beneficiary to so file shall not affect the Guarantor's obligations hereunder. In the event that any payment to the Beneficiary in respect to any of the Obligations is rescinded or must otherwise be returned for any reason whatsoever, the Guarantor shall remain liable hereunder in respect to such Obligations as if such payment had not been made.

3. Upon the failure by the Obligor to either make payment due with regard to any Payment Obligations or to perform any Performance Obligations, the Beneficiary shall make demand on Guarantor for the payment or performance of same, as applicable. With regard to Payment Obligations, such demand shall be in writing and shall state the amount Obligor has failed to pay and an explanation of why such payment is due, with a specific statement that Beneficiary is calling upon Guarantor to pay under this Guaranty. With regard to Performance Obligations, such demand shall be in writing and shall state the performance obligations due under the Lease from Obligor which Obligor has failed to perform and an explanation of why such performance is due or otherwise required under the terms of the Lease, with a specific statement that Beneficiary is calling upon Guarantor to perform under this Guaranty. Other than such demands for payment or performance or notices of default or termination, the Guarantor hereby expressly waives notice of acceptance of this Guaranty, all notices between the Beneficiary and the Obligor, all notices with respect to the Lease and all other notices whatsoever. Guarantor also waives presentment and demand concerning the liabilities of Guarantor and any right to require that any action or proceeding be brought against Obligor or any other person, or to require that Beneficiary seek enforcement of any performance against Obligor or any other person, prior to any action against Guarantor under the terms hereof.

4. Until this Guaranty terminates by its own terms or by operation of law, the Guarantor consents to any extensions of time for the payment of the Obligations

guaranteed hereunder, to any changes in the terms of the Lease between the Obligor and the Beneficiary, and to any settlement or adjustment entered into between the Beneficiary and the Obligor. Guarantor hereby agrees that its obligations under the terms of this Guaranty shall not be released, diminished, impaired, reduced or affected by any failure of the Beneficiary to notify Guarantor of any renewal, extension or rearrangement of the Obligations guaranteed hereunder. No delays on the part of the Beneficiary in the exercise of any right or remedy shall operate as a waiver thereof, and no single or partial exercise by the Beneficiary of any right or remedy shall preclude any other or further exercise thereof or the exercise of any other right or remedy.

5. This instrument is a continuing guaranty and shall remain in full force and effect unless and until terminated as follows:

(i) Upon the consummation of any transaction involving sale of voting membership interests in the Obligor by Guarantor or Guarantor's then current intermediate majority-owned subsidiaries holding membership interests in Obligor, such that Guarantor and its directly or indirectly majority-owned subsidiaries will thereafter collectively own less than 50% of the outstanding, voting ownership interests in the Obligor (herein referred to as a "Change in Control Transaction"); provided, however, that such termination shall not be effective and Guarantor will not be released from its guaranty herein of any of the Obligations until both: a) the Guarantor complies with the requirements of Paragraph 6 below; and b) the new owner or owners of a majority of the membership interests in the Obligor, or one or more parent companies or such new owner or owners, deliver a replacement guaranty to Beneficiary, in a form substantially similar to this guaranty, together with documented credit information concerning the proposed replacement guarantor(s) which evidences that such new guarantor(s) (collectively, if more than one) are (at the time of the notice required under Paragraph 6 below) of creditworthiness equal to or greater than Guarantor's creditworthiness either x) at the same time as such notice; or y) as of the original date of this Guaranty; or

(ii) Upon the expiration or other termination of the Lease, provided that this Guaranty shall continue in full force and effect thereafter to the extent of any Obligations for which Obligor remains liable under the terms of the Lease after any expiration or other termination of the Lease, such as (without limitation) Obligor's indemnity obligations under Section 15 of the Lease, as added by the Second Amendment, and Guarantor's continuing

liability hereunder shall expire and terminate at the same time as Obligor's liability for the Obligations under the terms of the Lease.

6. Prior to any Change of Control Transaction, as described in Paragraph 5 above, Guarantor and/or Obligor shall comply with the following requirements:

(i) Guarantor and/or Obligor shall provide general information regarding the proposed transaction as soon as administratively feasible, together with financial information concerning the proposed new owner of Obligor and/or the proposed replacement guarantor, together with the proposed form of replacement guaranty. After receipt of such notice, financial information and the form of the proposed replacement guaranty, Beneficiary shall then have ten (10) business days thereafter to submit requests to Guarantor for any additional financial information reasonably required to allow Beneficiary to make a full evaluation of the new owner's or proposed replacement guarantor's creditworthiness. After the expiration of that ten (10) business day period, Beneficiary may notify Guarantor of any objections which Beneficiary has to either the creditworthiness of the proposed replacement guarantor or the terms of the replacement guaranty until the close of business at Guarantor's offices on the twentieth (20th) business day following delivery to Beneficiary of the notice required of Guarantor under this Paragraph 6(i) immediately above ("Objection Date"); provided, however, that any objections to the form of replacement guaranty shall be accompanied with specific changes to the language of the proposed replacement guaranty which Beneficiary would find sufficient to make the form of replacement guaranty acceptable.

(ii) Should any of the following occur, Guarantor may proceed with the Change of Control transaction without further notice to Beneficiary, subject to the replacement guarantor(s) executing and delivering the Approved Form of the replacement guaranty to Beneficiary:

a. Beneficiary fails to make any written objections to the creditworthiness of the proposed replacement guarantor or to the proposed form of the replacement guaranty, or has withdrawn all such objections in writing, by the end of business on the Objection Date; or

b. Beneficiary makes no written objections to the creditworthiness of the proposed replacement guarantor, or withdraws same in writing, but objects to (or proposes specific changes to) the language of the proposed form of the replacement guaranty by the Objection Date and Guarantor and the replacement guarantor agree to make Beneficiary's required changes to the form of the replacement guaranty, as detailed

in the Beneficiary's written objections to same in the manner required under Paragraph 6(i) above.

The "Approved Form" of replacement guaranty shall mean any of the following: x) any proposed form of replacement guaranty to which Beneficiary has made no written objections by the close of business on the Objection Date; y) any proposed form of replacement guaranty which has been modified to comport to Beneficiary's required changes; or z) any form approved by the Beneficiary in writing.

(iii) Beneficiary cannot unreasonably object to variations of the form of replacement guaranty from the provisions of this Guaranty, provided, however, that no variations shall result in Beneficiary's rights under the replacement guaranty being materially less than its rights under this Guaranty.

(iv) All notices related to a proposed Change of Control Transaction may be given by facsimile sent to the Beneficiary at the number designated below, or at such other facsimile number designated by the Beneficiary in writing to the Guarantor from time to time. If notice is given by facsimile, Guarantor shall also send a copy of the notice by regular mail to the address provided for below or such other address designated in writing by the Beneficiary from time to time. Any such Change of Control related termination of this Guaranty shall in no way affect any Obligation that arose prior to the effective date of the related Change of Control, except to the extent same in any way affects or relates to any amounts coming due thereafter. The term "business day" herein shall mean any day on which the offices of both Beneficiary and Guarantor are open to conduct business.

7. The Guarantor agrees to pay on demand, in addition to any amounts of the Obligor which it has guaranteed to pay, all fees and out-of-pocket expenses (including costs, expenses, and the reasonable fees and expenses of Beneficiary's attorneys) in any way relating to the enforcement or protection of the rights of the Beneficiary under this Guaranty, regardless of whether the Beneficiary actually files or institutes litigation.

8. The Guarantor reserves to itself all rights, setoffs, counterclaims and other defenses which Obligor may have to payment of any Obligation, other than (a) defenses arising from the bankruptcy or insolvency of the Obligor, and (b) any other defenses expressly waived by the Obligor in the Lease or otherwise waived in this Guaranty.

9. This Guaranty shall inure to the benefit of the Beneficiary, its successors, assigns and creditors, and can be modified only by a written instrument signed by the Beneficiary and the Guarantor. The Beneficiary shall have the right to assign this Guaranty to any person or entity without the prior consent of the Guarantor; provided, however, that no such assignment shall be binding upon the Guarantor until it receives written notice of such assignment from the Beneficiary. The Guarantor shall have no right to assign this Guaranty or its obligations hereunder without the prior written consent of the Beneficiary, which shall not be unreasonably withheld. Any reasonable uncertainty on the part of the Beneficiary concerning the ability on the part of any potential assignee of the Guarantor to carry out the Guarantor's obligations hereunder shall be considered a reasonable basis for withholding consent, unless and until the potential assignee can reasonably satisfy the Beneficiary that the assignee is capable of performing the obligations of the Guarantor hereunder.

10. THE VALIDITY AND INTERPRETATION OF THIS GUARANTY AND THE LEGAL RELATIONS OF THE PARTIES TO IT SHALL BE GOVERNED BY THE LAWS OF THE STATE OF LOUISIANA, EXCLUDING ANY CHOICE OF LAW RULES THAT WOULD OTHERWISE REQUIRE THE APPLICATION OF THE LAWS OF ANY OTHER JURISDICTION.

11. The Guarantor, in the person of the undersigned officer, represents and warrants to the Beneficiary that it is organized, validly existing, and in good standing under the laws of the jurisdiction of its formation, that it is authorized to guarantee the Obligations, that it has all of the rights and powers necessary to do so, and that the individual signing below is authorized to bind the Guarantor to its obligations under this Guaranty.

12. This Guaranty supersedes and terminates all prior guarantees to Beneficiary and its affiliates issued by Guarantor on behalf of the Obligor.

IN WITNESS WHEREOF, Guarantor has signed the Guaranty as of the date first above written.

DYNEGY HOLDINGS INC.
("Guarantor")

By: Jamie Olis
Name: Jamie Olis
Title: Vice President - Finance

1000 Louisiana, Suite 5800
Houston, TX 77002-5050
Phone No. (713) 507-6400
Fax No.: (713) 507-3786

Accepted by:
LAKE CHARLES HARBOR AND TERMINAL DISTRICT
("Beneficiary")

By: Terry T. Jordan
Name: Terry T. Jordan
Title: Executive Director

Address: P.O. BOX 3753
LAKE CHARLES, LA 70602

Phone: (337) 493-3504
Fax: (337) 493-3502

THE WEST CAMERON PORT, HARBOR AND TERMINAL DISTRICT

VERSUS

THE LAKE CHARLES HARBOR AND TERMINAL DISTRICT

38TH JUDICIAL DISTRICT COURT

DOCKET NO.: 10-17271

CAMERON PARISH, LOUISIANA

RECEIVED & FILED
'05 DEC 7 PM 1 44
CLERK OF COURT
CAMERON PARISH, LA.

PETITION FOR DECLARATORY JUDGMENT, INJUNCTIVE RELIEF AND DAMAGES

NOW INTO COURT, through undersigned counsel, comes and appears THE WEST CAMERON PORT HARBOR AND TERMINAL DISTRICT ("WC PORT"), a political subdivision of the State of Louisiana, with full corporate powers, who respectfully represents as follows:

1.

Made defendant herein is THE LAKE CHARLES HARBOR AND TERMINAL DISTRICT ("LC PORT"), a political subdivision of the State of Louisiana. The above named defendant is obligated for damages and other relief and subject to injunction as set forth herein.

2.

WC PORT is created by and is governed by La. R..S. 34:2551 et seq.

3.

LC PORT is created by and is governed by La. R..S. 34:201 et seq.

4.

LC PORT is the owner of land located in Cameron Parish, Louisiana, on the Calcasieu Ship Channel (the "Land") which it purchased for the purpose, among other things, of conducting activities related to port harbor and terminal activities (the "Illegal Activity").

5.

The Land upon which the Illegal Activity is conducted was approved by LC Port for acquisition for further development by the LC Port in furtherance of its mission for long-range planning.

EXHIBIT
tabbies
6

6.

In furtherance of such Illegal Activity and the LC Port long-range mission to operate outside of its territorial jurisdiction, LC Port leased the Land to Cameron LNG/Sempra (the "Lease") for operation of a Liquefied Natural Gas facility (the "Sempra Project"), which Lease specifically provides for charges identified as "wharfage." The Sempra Project is located outside of LC PORT's jurisdictional boundaries and solely within WC PORT's jurisdictional boundaries. Furthermore, LC PORT entered WC PORT's jurisdiction without the permission of WC PORT, and with complete disregard for the legal boundaries of LC PORT's jurisdiction.

7.

The Illegal Activity exceeds LC PORT's statutory authority and jurisdiction and the conduct thereof is beyond the scope of any applicable law, authority or enabling power of the LC Port.

8.

The Illegal Activity of LC PORT falls within the exclusive jurisdiction of WC PORT, and only the WC Port can legally conduct said activities within its jurisdiction.

9.

WC PORT seeks declaratory judgment, injunctive relief and damages, including, but not limited to the following:

(A) Judgment declaring LC Port can neither own or operate port, harbor and terminal facilities or render and/or offer port, harbor and terminal services outside of its territorial jurisdiction and within the territorial jurisdiction of the WC Port without a joint arrangement with the WC Port in accordance with the requirements of LSA-R.S. 33:1321;

(B) Judgment declaring the Lease, and all conduct of the LC Port on the Land in accordance with the terms of the Lease constitutes the ownership of land by LC Port for the purpose of conducting port, harbor and terminal facilities and/or the providing of port, harbor and terminal services.

(C) Injunction against LC Port, enjoining the LC Port from owning and/or operating port, harbor and terminal facilities or rendering and/or offering port, harbor and terminal services outside of its territorial jurisdiction and within the territorial jurisdiction of the WC Port without a joint arrangement with the WC Port in accordance with the requirements of LSA-R.S. 33:1321;

(D) Judgment transferring ownership of the Land from LC PORT to WC PORT;

(E) Judgment against the LC Port for damages in an amount sufficient to repatriate to WC PORT all revenues received by LC PORT from said Land as a result of operations by LC PORT outside of its territorial jurisdiction from date of acquisition of such Land to date, subject however, to a credit in favor of LC PORT for the purchase price of the Land and such other reasonable amounts expended by LC PORT with respect to the Land subject to all legal rights of Cameron LNG/Sempra to continue on the Land in accordance with the terms of the Lease;

(F) Injunction against the LC Port enjoining the LC Port from continuing the Lease absent either of the following:

i. grant of relief sought in items (D) and (E) of this paragraph; or

ii. an arrangement between the LC Port and the WC Port having been entered into prior to trial on the merits of this matter in accordance with the requirements of LSA-R.S. 33:1321; and

(G) All other equitable relief allowed by law and/or set for in LSA-C.C.P Article 862.

10.

WC Port is entitled to declaratory judgment, injunction, damages and relief sought herein for the following non-exclusive reasons, to wit:

(a) LC PORT cannot legally operate a port, harbor, or terminal facility or offer port, harbor or terminal services outside of LC PORT's jurisdictional boundaries;

(b) LC PORT cannot legally operate a port, harbor, or terminal facility and/or offer port, harbor and terminal services within WC PORT's jurisdictional boundaries without a joint arrangement with WC Port in accordance with the requirements of LSA-R.S. 33:1321;

(c) WC PORT has the exclusive authority to operate port, harbor and terminal facilities and services within WC PORT's jurisdictional boundaries;

(d) WC PORT has exclusive authority to regulate commerce and traffic in its jurisdictional district and LC PORT has no authority to regulate commerce and traffic in WC PORT's district;

11.

WC Port seeks and demands a trial by jury on all issues herein to the fullest extent allowed by law. The damages and relief sought exceed that which is required by law for jury trial.

12.

Cameron Parish is the appropriate venue for this lawsuit pursuant to LSA-R.S. 13:5204.

13.

WC Port is not required to furnish any bond in this proceeding pursuant to LSA-R.S. 13:4581.

14.

Under applicable law WC Port is entitled to injunctive relief herein an without a showing of irreparable injury by WC Port and, alternatively, failure by this court to enter injunctive relief will result in WC Port having no adequate remedy at law and will result in irreparable harm and injury to WC Port.

15.

Attached as Exhibit "A" is the resolution of WC Port authorizing the filing of this Petition.

16.

WC Port made amicable demand on all matters sought herein to no avail.

WHEREFORE, premises considered, WC Port prays that Defendant be served with a copy of this Petition and be cited to answer same, and that after all legal delays and due proceedings had, there be judgment rendered in favor of Petitioner, WC Port and against Defendant, LC Port for declaratory judgment, injunction, damages and relief set forth herein, together with legal interest there on from the earliest date allowed by law until paid, for all costs of these proceedings, and for all general and equitable relief, etc.

Petitioner prays for trial by jury to the fullest extent allowed by law on all issues herein.

AND FOR ALL GENERAL AND EQUITABLE RELIEF, ETC.

ALLEN & GOOCH,
A Law Corporation

Randall Theunissen

RANDALL K. THEUNISSEN/12727
NEIL G. VINCENT/17184
1015 St. John Street
Lafayette, LA 70502-3768
337-291-1240
337-291-1245 (fax)
ATTORNEYS FOR THE WEST CAMERON PORT HARBOR AND TERMINAL DISTRICT

Please serve Defendant as set forth in the cover letter.

RESOLUTION

STATE OF LOUISIANA
PARISH OF CAMERON

On July 26, 2005, at a properly noticed regular meeting of the West Cameron Port Commission, held at Holly Beach, Louisiana, and with a valid quorum being present, a Motion, Second, and official vote approving said resolutions, the West Cameron Port Commission did act in the following respects:

Whereas, the West Cameron Port, Harbor & Terminal District and the West Cameron Port Commission (together the "District") in its/their efforts to transact and conduct the business of the District hereby resolve:

Whereas, the District has raised issue with the Lake Charles Harbor and Terminal District (the "Lake Charles Port") with respect to operations of the business of the Lake Charles Port outside of the jurisdictional limits of the Lake Charles Port and particularly, that port's operations within the jurisdictional limits of the District.

Whereas, at a March 28, 2005 meeting between representatives from the Lake Charles Port and the District, the Lake Charles Port was advised of the position of the District that ownership of, operation by and particularly the agreement between the Lake Charles Port and Sempra are a usurpation by the Lake Charles Port of the territorial jurisdictional power of the District and constitutes illegal conduct by the Lake Charles Port (the "Extra-Jurisdictional Conduct").

Whereas, at a July 19, 2005 meeting between representatives from the Lake Charles Port and the District, the Lake Charles Port advised the District that it was firm on its position that it has the authority to maintain the Sempra Project without an intergovernmental agreement from the District and **the authority to conduct any additional operations which it deemed appropriate for its business within the territorial jurisdiction of the District without the necessity to obtain any approval or intergovernmental agreement from the District and could proceed in such endeavors under the same rules that any other private citizen conducting such activities would be subject.**

Whereas, the Lake Charles Port has chosen to summarily dismiss the positions of the District and based upon the positions confirmed in the July 19, 2005 meeting has refused to participate in any meaningful actions which could reasonably be calculated to lead to an amicable resolution of the issues.

Whereas, after due consideration, the District wishes to adopt and implement the following resolutions.

NOW, THEREFORE BE IT RESOLVED THAT, general counsel for the District be authorized to do such additional research and legal analysis as they may deem necessary and appropriate to institute legal action against the Lake Charles Port with respect to the Extra-Jurisdictional Conduct.

BE IT FURTHER RESOLVED THAT, general counsel for the District be authorized to prepare such pleadings as may be necessary to institute legal action in order to enforce and protect all of the Districts jurisdictional rights, powers and authorities, including but not limited to, pleadings and actions required to institute legal proceedings against the Lake Charles Port to address the Extra-Jurisdictional Conduct and that, absent the commencement of meaningful actions by Lake Charles Port which could reasonably be calculated to lead to an amicable resolution of the issues, such pleadings be filed to institute suit for judicial resolution of the issues.

BE IT FURHTER REDOLVED THAT the District authorizes the following duly appointed agents and officers acting together:

Cliff Cabell	President
Howard Romero	Commissioner

to execute any and all necessary documents, verifications, affidavits and/or pleadings to implement the resolutions adopted by the District herein and to institute litigation against the Lake Charles Port with regard to the Extra-Jurisdictional Conduct, or otherwise.

ADOPTED AND APPROVED, this 26th day of July, 2005.

APPROVED:

CLIFF CABELL, PRESIDENT
WEST CAMERON PORT, HARBOR & TERMINAL DISTRICT

ATTEST:

GREG WICKE, SECRETARY

THE WEST CAMERON PORT, HARBOR AND TERMINAL DISTRICT

VERSUS

THE LAKE CHARLES HARBOR AND TERMINAL DISTRICT

38TH JUDICIAL DISTRICT COURT

DOCKET NO.: 10-17271

CAMERON PARISH, LOUISIANA

RECEIVED & FILED
'05 DEC 7 PM 1 44
CLERK OF COURT
CAMERON PARISH, LA.

Verification

STATE OF LOUISIANA

PARISH OF CALCASIEU

BEFORE ME, the undersigned authority, a Notary Public duly commissioned and qualified in and for the aforesaid Parish and State, personally came and appeared Cliff Cabell and Howard Romero, who, after first being duly sworn, deposed and said:

That Affiants are duly appointed commissioners of The West Cameron Port, Harbor and Terminal District, Petitioner herein; that Affiants are familiar with the allegations contained in the Petition in the captioned matter either personally by Affiants, or under Affiant's direct supervision and direction, and are true and correct upon information and belief; and, that they execute this Verification in accordance with the requirements of the resolution of The West Cameron Port, Harbor and Terminal District attached to the Petition.

Cliff Cabell

Cliff Cabell

Howard Romero

Howard Romero

SWORN TO AND SUBSCRIBED before me this 7th day of December, 2005.

Randall Theunissen

NOTARY PUBLIC
Randall K. Theunissen
Bar Roll No. 12727

THE WEST CAMERON PORT, HARBOR AND TERMINAL DISTRICT

VERSUS

THE LAKE CHARLES HARBOR AND TERMINAL DISTRICT

38TH JUDICIAL DISTRICT COURT

DOCKET NO.: 10-17271

CAMERON PARISH, LOUISIANA

RECEIVED & FILED
DEC 1 PM 1 44
CLERK OF COURT
CAMERON PARISH, LA.

REQUEST FOR NOTICE OF TRIAL DATE, ETC.

TO: The Honorable Carl E. Broussard
Cameron Parish Clerk of Court
P. O. Box 549
Cameron, LA 70631-0549

PLEASE TAKE NOTICE THAT Neil G. Vincent and Randall K. Theunissen, attorneys for plaintiff, THE WEST CAMERON PORT, HARBOR AND TERMINAL DISTRICT, do hereby request written notice of the date of trial of the above matter, as well as notice of hearings (whether on the merits or otherwise), orders, judgments and interlocutory decrees, and any and all formal steps taken by the parties herein, the Judge or any member of the Court, as provided in Louisiana Code of Civil Procedure of 1960, particularly Articles 1572, 1913 and 1914.

ALLEN & GOOCH,
A Law Corporation

Randall Theunissen

RANDALL K. THEUNISSEN/12727
NEIL G. VINCENT/17184
1015 St. John Street
Lafayette, LA 70502-3768
337-291-1240
337-291-1245 (fax)
ATTORNEYS FOR THE WEST CAMERON PORT HARBOR AND TERMINAL DISTRICT

MEMORANDUM OF UNDERSTANDING AND AGREEMENT BETWEEN WEST CAMERON PORT COMMISSION AND SABINE PASS LNG, L.P.

This Memorandum of Understanding and Agreement is made and entered into as of the 27th day of October, 2003 by and between **WEST CAMERON PORT COMMISSION** ("WCPC"), as the governing authority of the **WEST CAMERON PORT, HARBOR & TERMINAL DISTRICT**, a political subdivision of the State of Louisiana, represented herein by its duly authorized President Cliff Cabell; and **SABINE PASS LNG, L.P.** ("Sabine"), a Delaware Limited Partnership whose principal place of business is at 333 Clay Street, Suite 3400, Houston, Texas 77002, represented herein by its duly authorized President, Keith M. Meyer.

WHEREAS the West Cameron Port, Harbor & Terminal District as created under the provisions of Louisiana Revised Statute 32:2551, et seq. encompasses the entirety of Ward Five of Cameron Parish, including the geographic area bounded on the south by the Gulf of Mexico to a point westerly along the Gulf of Mexico to the Sabine River and thence northerly along the line between the States of Louisiana and Texas to the Calcasieu Parish line, which District is governed by the West Cameron Port Commission; and,

WHEREAS the powers of the West Cameron Port Commission as set forth in R.S. 34:2553(A) include regulation of the commerce and traffic within the District in such manner as may, in its judgment, be for the best interest of the state; and furthermore the Commission is vested with authority, among other items set forth in R.S. 34:2553(B) to do, but not specifically obligated to do, the following:

(5) Maintain proper depths of water at all wharves and landings, and dredge and maintain shipways, channels, slips, basins and turning basins;

(6) Establish harbor lines within the port area by agreement with the Corps of Engineers of the United States;

(15) Make and enter into contracts, leases and other agreements with railroads, trucking companies, barge lines and with any and all companies interested in the transportation, storage and shipping of goods and other products, whether by rail, truck line, barge line, ocean going vessels or otherwise, for the use of facilities administered by the commission or any part or portion thereof, for a period not exceeding forty years; provided, however, that no exclusive franchise shall be granted to any carrier; and,

(16) Do any and all things necessary or proper for the government, regulation, development and control of the business of the district.

WHEREAS Sabine is currently in the process of developing plans for and applying for the

EXHIBIT

7

necessary permits for the construction and operation of an LNG import terminal to be known as the Sabine LNG Project ("Project") at Sabine Pass in Cameron Parish, Louisiana, approximately 3.7 nautical miles north of the Gulf of Mexico on the east side of the Sabine Pass Waterway within an area which is within the geographical boundaries of the West Cameron Port, Harbor & Terminal District and under the jurisdiction of the West Cameron Port Commission; and,

WHEREAS as an integral part of this development and this Project, a plan and procedure to safely bring LNG carriers in from the Gulf of Mexico, turn the carriers in a basin, berth them at the terminal, and return the empty carriers back to the Gulf of Mexico is required; and,

WHEREAS the aforesaid plan and procedure will require the employment of licensed and authorized navigation pilots to board the LNG carriers in the Gulf of Mexico and pilot them to the terminal, turn them, berth them, and then return them to the Gulf of Mexico; and,

WHEREAS under the Federal Boundary Waters Act, 46 U.S.C.A. Section 8501(b), vessels required to have a licensed pilot on board on waters that are a boundary between two states may employ a pilot licensed and authorized by the laws of either of the two states, i.e. in this case either Texas or Louisiana licensed and authorized pilots; and,

WHEREAS Cheniere LNG, Inc., Sabine's parent corporation, has on April 8, 2003 entered into a Memorandum of Understanding with the Sabine Pilots Association in the State of Texas for pilotage of LNG carriers to and from its proposed facility, which Memorandum of Understanding was the result of ongoing meetings with Sabine Pilots Association representatives in January and February of 2003, at which meetings the proposed Project was described and discussed in detail focusing on safety, the characteristics of deep draft ships in the Sabine Channel, and the safe handling of LNG carriers, among other items; and,

WHEREAS the said Memorandum of Understanding with the Sabine Pilots Association provides that the parties thereto will collaborate to develop and implement a safe and efficient plan for moving and berthing LNG carriers at Cheniere's LNG terminal site; and,

WHEREAS the Sabine Pilots Association in 1981 entered into a Ship Traffic Control Agreement with the United States Coast Guard and representatives of the Sabine Maritime Industry along the Sabine waterways, which Agreement has been in effect since January 12, 1981, whereby the Sabine Pilots Association is responsible for coordinating vessel traffic in the Sabine waterways utilizing best vessel dispatch consistent with overall safety on the waterway; and,

WHEREAS the Jefferson County Waterway and Navigation District, a political subdivision of the State of Texas, has previously undertaken and presently has responsibility, along with the United States Army Corps of Engineers for dredging and maintaining the Sabine channel to an appropriate depth at Sabine Pass in the area between the Gulf of Mexico and the Project site; and,

NOW THEREFORE, the parties hereto, the **WEST CAMERON PORT COMMISSION**, as governing authority of the **WEST CAMERON PORT, HARBOR & TERMINAL DISTRICT**, and **SABINE PASS LNG, L.P.**, hereby agree to the following:

1. The West Cameron Port Commission approves and ratifies the Memorandum of Understanding and Agreement between Cheniere LNG, Inc. and the Sabine Pilots Association for the Sabine pilots to be employed to pilot LNG carriers in from the Gulf of Mexico, turn the carriers in the basin, berth them at the Project terminal, and return the carriers back to the Gulf, and to perform all other acts necessary and appropriate for the handling of LNG carriers which will be berthing at Cheniere LNG's terminal site as set forth hereinabove;

2. The West Cameron Port Commission approves and ratifies the Ship Traffic Control Agreement between the United States Coast Guard, the Sabine Pilots Association, and the Sabine Maritime Industry, whereby the Sabine Pilots Association is and shall be responsible for coordinating vessel traffic in the Sabine waterways utilizing best vessel dispatch consistent with overall safety on the waterway;

3. The West Cameron Port Commission acknowledges the existence of the current program whereby the Jefferson County Waterway and Navigation District and United States Army Corps of Engineers are responsible for maintaining the channel and waterway of the Sabine River and Pass in the area from the Gulf of Mexico northward to and extending past the site of the proposed Project. The parties recognize and agree that the Sabine Pass LNG Project will include agreements with the Jefferson County Waterway and Navigation District which will obligate the Project to pay a reasonable share of the costs associated with the maintenance and dredging of the channel and waterway which is performed by the Jefferson County Waterway and Navigation District;

4(a). As a consideration for the assistance, cooperation, agreements, ratifications, and authorizations received herein and to be received throughout the term of this Memorandum of Understanding and Agreement by the West Cameron Port Commission as set forth hereinabove, Sabine Pass LNG, L.P. shall pay to the West Cameron Port Commission the sum of ONE THOUSAND & NO/100 ($1,000.00) DOLLARS for each LNG carrier brought from the Gulf of Mexico through the Sabine waterways and berthed at Sabine Pass LNG's terminal site during the term of this Memorandum of Understanding and Agreement. Payment shall be made by Sabine Pass LNG, L.P. to the West Cameron Port Commission on an annual basis with the first annual payment being made on the 31st day of January, following the year in which the first LNG carrier actually enters the Sabine waterway and berths at Sabine Pass LNG's facility and on the 31st day of January of each year thereafter during the term and existence of this Memorandum of Understanding and Agreement.

4(b). The amount of the payment for each LNG carrier brought from the Gulf of Mexico through the Sabine waterways and berthed at Cheniere LNG's terminal site shall be adjusted every ten (10) years during the initial term of

this Memorandum of Understanding and Agreement and during the ten (10) year option period which may be exercised as set forth in paragraph 5 hereinafter. The payment per LNG carrier during the second ten (10) years shall be the sum of ONE THOUSAND & NO/100 ($1,000.00) DOLLARS plus the amount obtained by multiplying One Thousand ($1,000.00) Dollars by the average percentage of annual increase in the Annual Average of the United States Department of Labor Consumer Price Index (CPI) during the first ten-year period of this Memorandum of Understanding and Agreement. However, in no event shall the payment per LNG carrier be reduced below $1,000.00 per carrier.

4(c). The payment for each LNG carrier during the third ten-year period and the additional ten (10) year option period if it is exercised shall be the amount of the payment for each LNG carrier paid for the last year of the preceding ten (10) year period plus the amount obtained by multiplying that payment by the average percentage of annual increase in the Annual Average of the United States Department of Labor Consumer Price Index (CPI) during the preceding ten year period. However, in no event shall the payment per LNG carrier be reduced below $1,000.00 per carrier.

5. The initial term of this Memorandum of Understanding and Agreement and all of the agreements contained herein shall be for a period of thirty (30) years from the date of execution hereof. Additionally, Sabine Pass LNG, L.P. is granted the option to renew and extend this agreement for one additional ten (10) year term, commencing on the expiration date of the initial thirty (30) year term. Sabine Pass LNG, L.P. shall exercise its option to extend this Memorandum of Understanding and Agreement by providing written notice thereof to the West Cameron Port Commission at least sixty (60) days in advance of the expiration of the initial term of this Memorandum of Understanding and Agreement.

6. The funds received by the West Cameron Port Commission from Sabine Pass LNG, L.P. may be used for further development and public improvements necessary or useful for port, harbor and/or terminal purposes, including, but not limited to, the elimination or abeyance of coastal erosion, and construction of such facilities and works of public improvement as it deems necessary and appropriate, and for any and all other purposes allowed by law.

7. The parties hereto specifically declare that this Memorandum of Understanding and Agreement is not and shall not be considered or deemed to be an exclusive franchise as prohibited by the provisions of Louisiana Revised Statute 34:2553(B)(15).

8. The parties hereto specifically declare that this Memorandum of Understanding and Agreement, and the payments provided for herein by Sabine Pass LNG, L.P. to the West Cameron Port Commission shall not be considered a violation of Louisiana Revised 34:2556 pertaining to Limitations on Charges.

9. Sabine Pass LNG, L.P. shall make a bonafide effort to hire and shall request its contractors, subcontractors and vendors to make a bonafide effort to hire and give all due consideration for employment to the greatest extent practicable to applicants who are residents of Cameron Parish, Louisiana.

10. All notices to be provided herein shall be addressed to the parties as follows:

West Cameron Port Commission
Post Office Box 366
Cameron, Louisiana 70631

Sabine Pass LNG, L.P.
333 Clay Street, Suite 3400
Houston, Texas 77002-4102

Said notices shall be sent by registered or certified mail.

This Memorandum of Understanding shall be effective as of the 27th day of October, 2003.

IN WITNESS WHEREOF, each of the parties has caused this Memorandum of Understanding to be duly executed by its duly authorized officer as of the dates set forth below.

THUS DONE AND SIGNED in Cameron, Louisiana, on the date set forth below before me, Notary Public, and two competent witnesses.

WITNESSES:

WEST CAMERON PORT COMMISSION AS GOVERNING AUTHORITY OF WEST CAMERON PORT, HARBOR & TERMINAL DISTRICT

By: _____
Cliff Cabell, President

Date: 10/27/03

_____
NOTARY PUBLIC

THUS DONE AND SIGNED in Harris, Texas, on the date set forth below before me, Notary Public, and two competent witnesses.

WITNESSES:

SABINE PASS LNG, L.P.

By: _____
Keith M. Meyer, President

Date: 11-7-2003

SANDY SCHRANK
Notary Public, State of Texas
Commission Expires 01-22-2006

_____
NOTARY PUBLIC

RESOLUTION

BE IT RESOLVED by the West Cameron Port Commission in regular session convened on the 27th day of October, 2003.

SECTION I. The Memorandum of Understanding and Agreement between Sabine Pass LNG, L.P. and West Cameron Port Commission be approved by the Commission.

SECTION II. Cliff Cabell, President of this West Cameron Port Commission, be and he is hereby authorized, empowered and directed to sign on behalf of the West Cameron Port Commission the Memorandum of Understanding Between West Cameron Port Commission and Sabine Pass LNG, L.P., a copy of which is attached hereto as Exhibit "A".

The foregoing Resolution was considered and a vote thereon was called for with the following results:

YEAS:	Cliff Cabell, Terry Hebert, Dwight Savoie Ricky Poole, Greg Wicke, Jimmy Brown, Howard Romero and J.P. Constance
NAYS:	None
ABSENT:	Wendell Wilkerson
NOT VOTING:	None

And the said Resolution was declared adopted and was approved this 27th day of October, 2003.

APPROVED:

Cliff Cabell

CLIFF CABELL, PRESIDENT

Greg Wicke

GREG WICKE, SECRETARY

RESOLUTION

BE IT RESOLVED by the voting members of **SABINE PASS LNG, L.P.** in special session convened on the 7th day of November, 2003.

SECTION I. Keith M. Meyer, President of the partnership, be and he is hereby authorized, empowered and directed to sign a Memorandum of Understanding and Agreement between West Cameron Port Commission and Sabine Pass LNG, L.P.in the form attached hereto as Exhibit "A"; and said Keith M. Meyer, as President of the partnership is further empowered and directed to sign such other instruments as are necessary at his discretion to accomplish the above.

The above Resolution was unanimously passed.

Keith M. Meyer, President

****

I, the undersigned Secretary of **SABINE PASS LNG, L.P.** do hereby certify that the above and foregoing is a true and correct copy of Resolution passed and duly adopted by the voting members of the partnership in special session convened on the 7th day of November, 2003, at which meeting all members of the partnership were present.

Harris, Texas, this 7th day of November, 2003.

Don A. Turkleson

Secretary

Exhibit "A"

MEMORANDUM OF UNDERSTANDING AND AGREEMENT BETWEEN WEST CAMERON PORT COMMISSION AND SABINE PASS LNG, L.P.

This Memorandum of Understanding and Agreement is made and entered into as of the ____ day of _____, 2003 by and between **WEST CAMERON PORT COMMISSION** ("WCPC"), as the governing authority of the **WEST CAMERON PORT, HARBOR & TERMINAL DISTRICT**, a political subdivision of the State of Louisiana, represented herein by its duly authorized President Cliff Cabell; and **SABINE PASS LNG, L.P.** ("Sabine"), a Delaware Limited Partnership whose principal place of business is at 333 Clay Street, Suite 3400, Houston, Texas 77002, represented herein by its duly authorized President, Keith M. Meyer.

WHEREAS the West Cameron Port, Harbor & Terminal District as created under the provisions of Louisiana Revised Statute 32:2551, et seq. encompasses the entirety of Ward Five of Cameron Parish, including the geographic area bounded on the south by the Gulf of Mexico to a point westerly along the Gulf of Mexico to the Sabine River and thence northerly along the line between the States of Louisiana and Texas to the Calcasieu Parish line, which District is governed by the West Cameron Port Commission; and,

WHEREAS the powers of the West Cameron Port Commission as set forth in R.S. 34:2553(A) include regulation of the commerce and traffic within the District in such manner as may, in its judgment, be for the best interest of the state; and furthermore the Commission is vested with authority, among other items set forth in R.S. 34:2553(B) to do, but not specifically obligated to do, the following:

(5) Maintain proper depths of water at all wharves and landings, and dredge and maintain shipways, channels, slips, basins and turning basins;

(6) Establish harbor lines within the port area by agreement with the Corps of Engineers of the United States;

(15) Make and enter into contracts, leases and other agreements with railroads, trucking companies, barge lines and with any and all companies interested in the transportation, storage and shipping of goods and other products, whether by rail, truck line, barge line, ocean going vessels or otherwise, for the use of facilities administered by the commission or any part or portion thereof, for a period not exceeding forty years; provided, however, that no exclusive franchise shall be granted to any carrier; and,

(16) Do any and all things necessary or proper for the government, regulation, development and control of the business of the district.

WHEREAS Sabine is currently in the process of developing plans for and applying for the

necessary permits for the construction and operation of an LNG import terminal to be known as the Sabine LNG Project ("Project") at Sabine Pass in Cameron Parish, Louisiana, approximately 3.7 nautical miles north of the Gulf of Mexico on the east side of the Sabine Pass Waterway within an area which is within the geographical boundaries of the West Cameron Port, Harbor & Terminal District and under the jurisdiction of the West Cameron Port Commission; and,

WHEREAS as an integral part of this development and this Project, a plan and procedure to safely bring LNG carriers in from the Gulf of Mexico, turn the carriers in a basin, berth them at the terminal, and return the empty carriers back to the Gulf of Mexico is required; and,

WHEREAS the aforesaid plan and procedure will require the employment of licensed and authorized navigation pilots to board the LNG carriers in the Gulf of Mexico and pilot them to the terminal, turn them, berth them, and then return them to the Gulf of Mexico; and,

WHEREAS under the Federal Boundary Waters Act, 46 U.S.C.A. Section 8501(b), vessels required to have a licensed pilot on board on waters that are a boundary between two states may employ a pilot licensed and authorized by the laws of either of the two states, i.e. in this case either Texas or Louisiana licensed and authorized pilots; and,

WHEREAS Cheniere LNG, Inc., Sabine's parent corporation, has on April 8, 2003 entered into a Memorandum of Understanding with the Sabine Pilots Association in the State of Texas for pilotage of LNG carriers to and from its proposed facility, which Memorandum of Understanding was the result of ongoing meetings with Sabine Pilots Association representatives in January and February of 2003, at which meetings the proposed Project was described and discussed in detail focusing on safety, the characteristics of deep draft ships in the Sabine Channel, and the safe handling of LNG carriers, among other items; and,

WHEREAS the said Memorandum of Understanding with the Sabine Pilots Association provides that the parties thereto will collaborate to develop and implement a safe and efficient plan for moving and berthing LNG carriers at Cheniere's LNG terminal site; and,

WHEREAS the Sabine Pilots Association in 1981 entered into a Ship Traffic Control Agreement with the United States Coast Guard and representatives of the Sabine Maritime Industry along the Sabine waterways, which Agreement has been in effect since January 12, 1981, whereby the Sabine Pilots Association is responsible for coordinating vessel traffic in the Sabine waterways utilizing best vessel dispatch consistent with overall safety on the waterway; and,

WHEREAS the Jefferson County Waterway and Navigation District, a political subdivision of the State of Texas, has previously undertaken and presently has responsibility, along with the United States Army Corps of Engineers for dredging and maintaining the Sabine channel to an appropriate depth at Sabine Pass in the area between the Gulf of Mexico and the Project site; and,

NOW THEREFORE, the parties hereto, the **WEST CAMERON PORT COMMISSION**, as governing authority of the **WEST CAMERON PORT, HARBOR & TERMINAL DISTRICT**, and **SABINE PASS LNG, L.P.**, hereby agree to the following:

1. The West Cameron Port Commission approves and ratifies the Memorandum of Understanding and Agreement between Cheniere LNG, Inc. and the Sabine Pilots Association for the Sabine pilots to be employed to pilot LNG carriers in from the Gulf of Mexico, turn the carriers in the basin, berth them at the Project terminal, and return the carriers back to the Gulf, and to perform all other acts necessary and appropriate for the handling of LNG carriers which will be berthing at Cheniere LNG's terminal site as set forth hereinabove;

2. The West Cameron Port Commission approves and ratifies the Ship Traffic Control Agreement between the United States Coast Guard, the Sabine Pilots Association, and the Sabine Maritime Industry, whereby the Sabine Pilots Association is and shall be responsible for coordinating vessel traffic in the Sabine waterways utilizing best vessel dispatch consistent with overall safety on the waterway;

3. The West Cameron Port Commission acknowledges the existence of the current program whereby the Jefferson County Waterway and Navigation District and United States Army Corps of Engineers are responsible for maintaining the channel and waterway of the Sabine River and Pass in the area from the Gulf of Mexico northward to and extending past the site of the proposed Project. The parties recognize and agree that the Sabine Pass LNG Project will include agreements with the Jefferson County Waterway and Navigation District which will obligate the Project to pay a reasonable share of the costs associated with the maintenance and dredging of the channel and waterway which is performed by the Jefferson County Waterway and Navigation District;

4(a). As a consideration for the assistance, cooperation, agreements, ratifications, and authorizations received herein and to be received throughout the term of this Memorandum of Understanding and Agreement by the West Cameron Port Commission as set forth hereinabove, Sabine Pass LNG, L.P. shall pay to the West Cameron Port Commission the sum of ONE THOUSAND & NO/100 ($1,000.00) DOLLARS for each LNG carrier brought from the Gulf of Mexico through the Sabine waterways and berthed at Sabine Pass LNG's terminal site during the term of this Memorandum of Understanding and Agreement. Payment shall be made by Sabine Pass LNG, L.P. to the West Cameron Port Commission on an annual basis with the first annual payment being made on the 31st day of January, following the year in which the first LNG carrier actually enters the Sabine waterway and berths at Sabine Pass LNG's facility and on the 31st day of January of each year thereafter during the term and existence of this Memorandum of Understanding and Agreement.

4(b). The amount of the payment for each LNG carrier brought from the Gulf of Mexico through the Sabine waterways and berthed at Cheniere LNG's terminal site shall be adjusted every ten (10) years during the initial term of

this Memorandum of Understanding and Agreement and during the ten (10) year option period which may be exercised as set forth in paragraph 5 hereinafter. The payment per LNG carrier during the second ten (10) years shall be the sum of ONE THOUSAND & NO/100 ($1,000.00) DOLLARS plus the amount obtained by multiplying One Thousand ($1,000.00) Dollars by the average percentage of annual increase in the Annual Average of the United States Department of Labor Consumer Price Index (CPI) during the first ten-year period of this Memorandum of Understanding and Agreement. However, in no event shall the payment per LNG carrier be reduced below $1,000.00 per carrier.

4(c). The payment for each LNG carrier during the third ten-year period and the additional ten (10) year option period if it is exercised shall be the amount of the payment for each LNG carrier paid for the last year of the preceding ten (10) year period plus the amount obtained by multiplying that payment by the average percentage of annual increase in the Annual Average of the United States Department of Labor Consumer Price Index (CPI) during the preceding ten year period. However, in no event shall the payment per LNG carrier be reduced below $1,000.00 per carrier.

5. The initial term of this Memorandum of Understanding and Agreement and all of the agreements contained herein shall be for a period of thirty (30) years from the date of execution hereof. Additionally, Sabine Pass LNG, L.P. is granted the option to renew and extend this agreement for one additional ten (10) year term, commencing on the expiration date of the initial thirty (30) year term. Sabine Pass LNG, L.P. shall exercise its option to extend this Memorandum of Understanding and Agreement by providing written notice thereof to the West Cameron Port Commission at least sixty (60) days in advance of the expiration of the initial term of this Memorandum of Understanding and Agreement.

6. The funds received by the West Cameron Port Commission from Sabine Pass LNG, L.P. may be used for further development and public improvements necessary or useful for port, harbor and/or terminal purposes, including, but not limited to, the elimination or abeyance of coastal erosion, and construction of such facilities and works of public improvement as it deems necessary and appropriate, and for any and all other purposes allowed by law.

7. The parties hereto specifically declare that this Memorandum of Understanding and Agreement is not and shall not be considered or deemed to be an exclusive franchise as prohibited by the provisions of Louisiana Revised Statute 34:2553(B)(15).

8. The parties hereto specifically declare that this Memorandum of Understanding and Agreement, and the payments provided for herein by Sabine Pass LNG, L.P. to the West Cameron Port Commission shall not be considered a violation of Louisiana Revised 34:2556 pertaining to Limitations on Charges.

9. Sabine Pass LNG, L.P. shall make a bonafide effort to hire and shall request its contractors, subcontractors and vendors to make a bonafide effort to hire and give all due consideration for employment to the greatest extent practicable to applicants who are residents of Cameron Parish, Louisiana.

10. All notices to be provided herein shall be addressed to the parties as follows:

West Cameron Port Commission
Post Office Box 366
Cameron, Louisiana 70631

Sabine Pass LNG, L.P.
333 Clay Street, Suite 3400
Houston, Texas 77002-4102

Said notices shall be sent by registered or certified mail.

This Memorandum of Understanding shall be effective as of the ____ day of _____, 2003.

IN WITNESS WHEREOF, each of the parties has caused this Memorandum of Understanding to be duly executed by its duly authorized officer as of the dates set forth below.

THUS DONE AND SIGNED in Cameron, Louisiana, on the date set forth below before me, Notary Public, and two competent witnesses.

WITNESSES:

_____

_____

WEST CAMERON PORT COMMISSION AS GOVERNING AUTHORITY OF WEST CAMERON PORT, HARBOR & TERMINAL DISTRICT

By:_____
Cliff Cabell, President

Date:_____

_____
NOTARY PUBLIC

THUS DONE AND SIGNED in _____, _____, on the date set forth below before me, Notary Public, and two competent witnesses.

WITNESSES:

_____

_____

SABINE PASS LNG, L.P.

By:_____
Keith M. Meyer, President

Date:_____

_____
NOTARY PUBLIC

OPTION TO SUBLEASE AND LEASE

THIS OPTION TO SUBLEASE AND LEASE ("Agreement") dated Nov 13, 2003 is made by and between **Gulf Coast Development, L.L.C. (Sublessor)** whose principal address is P.O. Box 1510, Cameron Parish, Louisiana 70605 and **West Cameron Port Commission (Owner)** whose principal address is P.O. Box 366, Cameron, Louisiana 70631 and **Cheniere LNG, Inc.**, a Delaware corporation whose principal address is 333 Clay Street, Suite 3400, Houston, Texas 77002, on behalf of itself and its successors and assigns ("Cheniere").

WITNESSETH:

1. Option. Subject to the terms and conditions set forth in this Agreement, and in consideration of the payment by Cheniere to Sublessor of Eighteen Thousand Seven Hundred and Fifty Dollars ($18,750.00), the receipt and sufficiency of which is hereby acknowledged by Sublessor, (the "Option Consideration"), which shall be paid to Sublessor within five (5) business days subsequent to the execution of this Agreement by Sublessor, Owner, and Cheniere, Sublessor and Owner hereby grant to Cheniere the sole, exclusive and irrevocable option (the "Option"), but not the obligation, to lease the lands situated in Cameron Parish, Louisiana and more particularly described on Exhibit "A" attached hereto and made a part hereof by reference, and more particularly outlined in red on the plat labeled Exhibit "B" attached hereto and made a part hereof by reference, together with the exclusive use of all easements, servitudes, rights and appurtenances thereto of every nature and kind and all buildings and other improvements as same may be situated on the Property (collectively, the "Property"). Cheniere reserves the right to revise the legal description attached as Exhibit "A" upon receipt of the Survey defined in Paragraph 5 of this Agreement. Cheniere has been provided with a certified copy of the lease between Sublessor and Owner.

2. Term. The term of this Agreement shall commence on the date of execution hereof by Cheniere, Sublessor, and Owner, and shall continue until the Option Termination Date defined in the following sentence, as same may be extended as set forth in this Paragraph 2. Cheniere shall exercise the Option by giving Sublessor and Owner written notice thereof (the "Option Notice") and by submitting therewith the Lease to Sublessor and Owner for its execution and delivery to Cheniere, at any time on or before Nov 13, 2004 (the "Option Termination Date"). Provided, however, that Cheniere may extend the Option Termination Date for up to an additional three successive periods of twelve (12) months each (collectively, the "Extension Period") by delivering to Sublessor written notice, given at least ten (10) days prior to the Option Termination Date, that Cheniere wishes to extend the then-applicable Option Termination Date prior to the expiration of the initial Option Termination Date or each Extension Period, or any such installment of any thereof, as the case may be. At any time that Cheniere exercises its right to so extend the Option Termination Date, it shall also deliver to Sublessor, along with the notice of extension thereof, additional consideration in the amount of $18,750.00 for each year of the extension period. 11-13-2004

3. Lease. As used in this Agreement, "Exercise Date" shall mean the date upon which Cheniere delivers the Option Notice to Sublessor and Owner; provided, however, that in no event shall the Exercise Date be after the expiration of the Option Termination Date, as same may be extended by the Extension Period. Within ten (10) days of the Exercise Date, Sublessor

EXHIBIT
8

and Owner agree to execute and deliver to Cheniere a lease substantially in the form of Exhibit "C" attached hereto and made a part hereof by reference for all purposes (the "Lease"), it being understood and agreed by Sublessor, Owner, and Cheniere that, notwithstanding any term, condition or provision of this Agreement or the Lease to the contrary, the Lease submitted to Sublessor and Owner for its execution and delivery to Cheniere shall be subject to such reasonable changes as may be requested by the project finance lender which has agreed to lend funds to Cheniere for, or in connection with, the liquefied natural gas degasification terminal, docking facilities, pipelines and other facilities, equipment and machinery, which Cheniere proposes to have constructed and operated on the Property, either by, through or under Cheniere or an Affiliate or the successors and assigns of either Cheniere or such Affiliates (the "Project"). For purposes of this Agreement, "Affiliate" means in respect to Cheniere LNG, Inc. a person or entity that directly or indirectly controls or is controlled by Cheniere LNG, Inc. or is, together with Cheniere LNG, Inc., under the common control of another person or entity, for which purpose "control" shall mean beneficial ownership of fifty percent (50%) or more of the voting shares of a company or other entity or of the equivalent rights to determine the decisions of such a company or other entity. The commencement date of the term of the Lease shall be within the sole discretion of Cheniere, but in no event shall be later than the date, which is sixty (60) days from the Exercise Date.

4. Right of First Refusal Unnecessary. Sublessor and Owner hereby agree not to offer for sale the property at any time during the Option Period, the Extension Period, and/or the Lease Period. Sublessor is without the right to sell, and Owner is a public body only with authority to lease, and not sell the property. No sale

5. Survey. During the term of this Agreement, Cheniere, at its expense, shall have the right to cause to be prepared a current plat or survey of the Property (the "Survey") by a duly licensed Louisiana land surveyor and registered professional engineer satisfactory to Cheniere.

6. Title. Prior to the Option Termination Date, Cheniere shall have the right, at Cheniere's expense, to conduct a title search of the Property to determine, among other things, the state of title of the Property and all liens, encumbrances, mortgages, and other matters of record, including easements, restrictions, rights-of-way, covenants, and reservations, if any, affecting the Property ("Title Exceptions"). Sublessor and Owner agree to use their best efforts to cure or remove all Title Exceptions and to satisfy the requirements reasonably made by Cheniere in regard thereto within thirty (30) days of the date Cheniere exercises this Option. Cheniere acknowledges that Sublessor has a lease on said property from owner, Cheniere has been provided with a certified copy of that lease between Owner and Sublessor, and Cheniere agrees that said lease between Owner and Sublessor is not a title defect.

7. Condemnation. In the event Sublessor, Owner, or Cheniere becomes aware or is notified that the Property or any part thereof is, or will become, the subject of a condemnation or expropriation proceeding, whether for public or quasi-public use, such party immediately shall give notice to the other of such proceeding. Upon the giving or receipt of such notice, Cheniere shall have the option, by giving notice to Sublessor and Owner within the immediately following thirty (30) days: (a) to execute the Lease in accordance with the terms and conditions of this Agreement and be entitled to exercise its rights and share in any condemnation award as provided for in the Lease; (b) to withdraw from the transactions made the subject of this

Agreement in accordance with the provisions of Paragraph 8 of this Agreement; or (c) exercise the Option at any time on or before the Option Termination Date and be entitled to exercise its rights and share in any condemnation award as provided for in the Lease.

8. Withdrawal. If at any time after the date on which Sublessor, Owner and Cheniere have executed this Agreement, Cheniere decides to not exercise the Option for any reason, Cheniere may withdraw from this transaction by providing Sublessor and Owner written notice of such withdrawal. Thereupon, Cheniere shall be released of all liability under this Agreement and Cheniere shall not have any further obligation or liability to Sublessor or Owner hereunder or otherwise with respect to the Property; provided, however, all Option Consideration paid by Cheniere prior to the date of such withdrawal shall be non-refundable to Cheniere, except as is otherwise provided for in this Agreement. During the Term, Sublessor and Owner shall allow Cheniere to enter the Property to conduct test, studies and perform other activities deemed necessary by Cheniere for the purpose of determining if it will exercise the option in this Agreement. In conjunction therewith Cheniere shall indemnify Sublessor and Owner pursuant to Article 3.4 (c) of the Lease attached as Exhibit C hereto.

9. Representations and Warranties of Sublessor, Owner, and Cheniere.

(a) Sublessor and Owner hereby makes the following representations and warranties to Cheniere, as of the date of Sublessor's and Owner's execution of this Agreement and as of the date the Lease is executed by Sublessor and Owner (except as otherwise set forth), all of which shall survive the execution of the Lease:

(i) Except for Sublessor, there are no parties in possession of all or any portion of the Property, as the case may be, as lessees, sublesses, tenants at sufferance or trespassers, except those identified on Exhibit "D" hereto.

(ii) There are no existing facts or conditions which would result in the termination of access to and from the Property.

(iii) Sublessor and Owner have not received any notice of any pending or threatened condemnation or similar proceeding by any governmental authority which would affect the Property or any part thereof.

(iv) To the best of Sublessor's and Owner's knowledge, Sublessor and Owner have complied with all applicable laws, ordinances, regulations, statutes, rules and restrictions relating to the Property or any part thereof.

(v) There is no pending or threatened litigation that could affect, encumber or burden the Property.

(vi) To the best of Sublessor's and Owner's knowledge, no Hazardous Materials (as hereinafter defined), toxic wastes, pollutants or contaminants have been produced, stored, disposed of or discharged on the Property or any portion thereof, into any waterbody on the Property, or into any underground water supplies/ground supplies under the Property.

(vii) To the best of Sublessor's and Owner's knowledge, existing conditions do not violate any Environmental Law (as hereinafter defined), and there have been no notices or complaints with respect to a violation of an Environmental Law at the Property.

(viii) With respect to the Property, Sublessor and Owner have not entered into, nor does Sublessor or Owner contemplate entering into, any consent decree or order and is not subject to any judgment, decree or judicial or administrative order relating to compliance with, or the cleanup of Hazardous Materials under, any applicable Environmental Law.

(ix) To the best of Sublessor's and Owner's knowledge, there are no facts or circumstances that could form the basis for the assertion of any claim against Owner under any Environmental Laws with respect to the Property.

(x) With respect to the Property, Sublessor and Owner have heretofore provided Cheniere with correct and complete copies of all files with respect to environmental matters of which Sublessor and Owner have knowledge, if any, including, without limitation, any reports of prior environmental assessments of the Property and any correspondence to or from any governmental authority with respect to environmental matters.

(xi) To the best of Sublessor's and Owner's knowledge, the Property does not contain, nor, to Sublessor's and Owner's knowledge, has ever contained, any friable asbestos, regulated PCBs or underground storage tanks.

(xii) Sublessor and Owner are in possession of all permits, licenses, registrations and governmental authorizations ("Environmental Permits") required under Environmental Laws for the current use of the Property, which is in compliance with all requirements, conditions, restrictions, standards, prohibitions, obligations, schedules, timetables, and limitations included either in such Environmental Permits or required under any Environmental Law or code, plan, order, decree, judgment, notice or demand letter issued, entered, promulgated or approved there under.

(xiii) Sublessor and Owner have full power, authority and legal right to make and perform this Agreement and are not currently a party to any agreement or any other restriction or obligation that would limit or preclude their rights to enter into and perform this Agreement, and each Sublessor or Owner who is an individual is a person of age of majority who is dealing with their separate property. Sublessor and Owner further represent and warrant that they have taken all necessary action and have obtained all requisite approvals to enter into and perform this Agreement. The persons executing this Agreement on behalf of Sublessor and Owner that is not an individual were authorized to do so and upon the request of Cheniere, such person shall deliver to Cheniere satisfactory evidence of his or her authority to execute this Agreement on behalf of Owner.

(xiv) Owner owns good and clear title to the Property, Sublessor has a valid and enforceable lease of said property, and the Property is not subject to any Title Exceptions or any other restrictions, easements, covenants or other encumbrances which would render Owner's title unmerchantable as deemed by project financers, including, but not limited to, leases applicable to oil, gas and other mineral interests in the Property except as set forth in Exhibit "D" of this Agreement.

(xv) Sublessor and Owner have and shall not enter into any agreement or lease for an interest in oil, gas or other minerals which grants, licenses or creates an interest in such oil, gas or other minerals to any person or entity, which allows access to or the right to enter the Property, under law or pursuant to an agreement, to explore, develop or otherwise exploit such oil, gas or mineral interest, except for agreements to explore, develop or otherwise exploit such oil and gas by directional drilling from other lands and by unitization, except as set forth in Exhibit "D" of this Agreement. During the term of this Agreement, Sublessor and Owner contract and agree not to enter, or take any action that would allow any other person or entity to enter the Property to conduct such exploration and exploitation activities.

(xvi) None of Sublessor's or Owner's representations and warranties shall be waived, released or modified by reason of any examinations, tests, due diligence or other independent review or investigation by Cheniere or its agents or independent contractors.

(xvii) To Sublessor's and Owner's knowledge, there is no wetlands determination by any governmental authority for the Property or any part thereof. *

(xviii) Sublessor and Owner, at Cheniere's cost, will cooperate with Cheniere in obtaining all changes of zoning, land use, special use or any other authorizations, and all approvals, licenses and permits required under local, county, state or federal law or regulation to allow the use of the Property for the Project and such ancillary businesses and operations as Cheniere may wish to conduct in connection therewith, and to construct, operate and maintain the Project, all as deemed necessary by Cheniere, and Sublessor and Owner will, if requested by Cheniere, execute all instruments reasonably requested by Cheniere to assist in pursuing all such applications therefor, and will appear at administrative proceedings in support of same.

(b) As used in this Agreement, the terms "Environmental Laws", "Hazard Materials", and "knowledge" shall be defined as follows:

(i) "Environmental Laws" shall mean local, state, and federal laws and regulations relating to protection of human health and the environment, pollution control, product registration, Hazardous Materials, and occupational health and safety.

(ii) "Hazardous Materials" shall mean any hazardous or toxic substances, materials or wastes, including, but not limited to, those substances, materials and wastes listed in the United States Department of Transportation Hazardous Materials Table (49 C.F.R. 172.101) or by the Environmental Protection Agency as hazardous substances (40 C.F.R. Part 302) and amendments thereto, or substances, materials and wastes which are or become regulated under any applicable local, state or federal law, rule, or regulation, including, without limitation, any material, waste or substance which is: (i) petroleum; (ii) asbestos; (iii) polychlorinated biphenyls; (iv) designated as a "hazardous substance" pursuant to Section 311 of the Clean Water Act, 33 U.S.C. 251, et seq. (33 U.S.C. Section 1321) or listed pursuant to Section 307 of the Clean Water Act (33 U.S.C. 1317); (v) defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., (42 U.S.C. 6903); or (vi) defined as a "Hazardous Substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601, et seq. (42 U.S.C. 9601).

(iii) "knowledge" shall mean the knowledge of Gulf Coast Development, L.L.C. and the West Cameron Port Commission after due inquiry has been made of them.

10. Inspections and Investigations. After the date hereof, Cheniere (or any agent or representative of Cheniere) shall have the right, upon twenty-four (24) hours' prior notice to Sublessor, to enter upon the Property without the prior permission of Sublessor or Owner (which permission is hereby given) for the purpose of making any and all inspections and investigations as Cheniere deems necessary, including, without limitation, any survey, environmental testing, geotechnical studies, soil sampling, title searches, groundwater quantity and quality analysis and boundary and topographical studies (collectively, the "Tests"). Any such Tests shall be subject to that certain confidentiality agreement by and between Cheniere and Sublessor dated Nov 13, 2003 (the "Confidentiality Agreement"), and the results of such Tests shall be shared by Cheniere with Sublessor. The foregoing notwithstanding, Cheniere may share the results of such Tests with lenders, title companies, consultants, sublessees, transferees, Affiliates and assignees, and prospective lenders, title companies, consultants, sublessees, transferees, Affiliates and assignees, and their respective agents and employees (collectively, the "Test Viewers") without the prior written consent of Sublessor; provided, however, that all Test Viewers shall also be subject to the Confidentiality Agreement. The Test Viewers shall execute such documents as may reasonably be required to evidence their prior consent to be bound by the Confidentiality Agreement.

11. Environmental Assessment. Prior to the Option Termination Date, Cheniere shall have the right to conduct an environmental assessment of the Property, which assessment shall be conducted by an environmental consultant of Cheniere's choice. Sublessor and Owner agree to grant Cheniere and its consultants and other agents' access to the Property to conduct such Phase I or Phase II assessments, tests, examinations, investigations, and studies as may be necessary or appropriate, in Cheniere's reasonable judgment, to evaluate the environmental

condition of the Property ("Environmental Assessment"). The Environmental Assessment shall be prepared for the sole and exclusive use of Cheniere. Subject to Sublessor's execution of the Confidentiality Agreement, Cheniere shall provide Sublessor a copy of such Environmental Assessment. Cheniere shall not release such Environmental Assessment, or any information contained therein, to any third party (including, without any limitation, any governmental agency), except if required by law, or upon the prior written consent of Sublessor, which consent may be withheld only in Sublessor's sole reasonable discretion ("Confidentiality Requirement"). The foregoing notwithstanding, Cheniere may share the results of such Environmental Assessment with lenders, title companies, consultants, sublessees and assignees and prospective lenders, sublessees and assignees and their respective agents (collectively, "Assessment Viewers") without the prior written consent of Sublessor. The Assessment Viewers shall be obligated to the Confidentiality Requirement. The Assessment Viewers shall execute such documents as may reasonably be required to evidence their prior consent to be bound by the Confidentiality Agreement. Cheniere shall indemnify, defend upon request, and hold Sublessor and Owner harmless from and against all costs, damages, claims, liabilities, expenses, losses, court costs, and attorney's fees suffered or claimed by or against Sublessor or Owner due to a breach of the Confidentiality Requirement by Cheniere, its Test Viewers or its Assessment Viewers.

12. Assignment. Cheniere may freely assign this Agreement in whole or in part with the prior written consent of Sublessor and Owner, provided each such party has a net worth of Twenty Million and No/100 Dollars ($20,000,000.00) or more. Sublessor's and Owner's consent to such assignment shall not be unreasonably withheld. Upon the assignment of Cheniere's interest in and to this Agreement, Cheniere's obligations for any actions taken after the date of the assignment hereunder shall terminate and Sublessor and Owner agree to look solely to the assignee for performance of Cheniere's obligations under this Agreement which occur or accrue after the date of the assignment. Cheniere shall still be obligated for any actions which accrue or occur prior to the assignment.

13. Remedies.

In the event that Cheniere gives notice of its exercise of this Agreement and then the Lease is not executed because of non-performance, default or breach (collectively herein called a "Default") on the part of any party to this Agreement the other party (if not itself then in Default) may elect at its sole option, as its exclusive remedy, to take either of the following courses of action:

(i) enforce specific performance of this Agreement according to the terms of this Agreement by all means available at law or in equity; or

(ii) terminate this Agreement upon (30) days' prior written notice to the other party; the party not in Default may also seek damages against the party in Default to compensate such party for all damages suffered as a result of the Default by the other party.

14. Notices. Notices hereunder shall be given only in writing and delivered by certified mail, air courier or by facsimile electronic transmission, and shall be deemed delivered, (unless otherwise set forth in this Agreement) when the notice is deposited in the mail, with the

air courier or facsimile electronic transmission service, postage or charges prepaid with confirmation of delivery requested, and directed to the party for whom intended at such party's address as specified below, or such address as such party may have substituted therefor by notice to the other, as follows:

If to Sublessor:

Gulf Coast Development, L.L.C.
P.O. Box 1510
Cameron, Louisiana 70631
Attn: David P. Bruchhaus and Chad E. Mudd

If to Owner:
West Cameron Port Commission
P.O. Box 366
Cameron, Louisiana 70631

If to Cheniere:

CHENIERE LNG, INC.
333 Clay Street
Suite 3400
Houston, Texas 77002
Attn: Charif Souki

15. Successors and Assigns. This Agreement shall bind and inure to the benefit of the respective transferees, successors and assigns of each party hereto.

16. Memorandum. Sublessor, Owner, and Cheniere shall within (5) days of the execution of this Agreement, execute and acknowledge a memorandum of this Agreement in a form reasonably satisfactory to Cheniere (the "Memorandum") which may, at Cheniere's sole option, be recorded in the real property records of Cameron Parish, Louisiana. Nothing in such Memorandum shall modify or amend any provision of this Agreement. Upon the termination of this Agreement and at the request of either party hereto, Sublessor, Owner, and Cheniere shall enter into and record a memorandum evidencing such termination in a form reasonably satisfactory to each of the parties.

17. Miscellaneous.

(a) This Agreement embodies the entire agreement between the parties and cannot be varied or amended except by the written agreement of the parties.

(b) Time is of the essence of this Agreement.

(c) Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, and vice versa, unless the context requires otherwise.

(d) The captions used in connection with Paragraphs of this Agreement are for convenience only and shall not be deemed to enlarge, limit or otherwise modify the meaning of the language of this Agreement.

(e) This Agreement and all of the terms and conditions hereof shall survive the closing and the execution of the Lease, and shall not be extinguished or modified thereby, or be merged into the Lease as a result of the execution thereof.

(f) This Agreement, and the rights and obligations of the parties hereunder, and any dispute arising in connection herewith, shall be governed by the laws of the State of Louisiana, not considering the applicable conflicts of laws principles thereof.

(g) All of the terms and conditions of this Agreement, including but not limited to the terms and conditions of the hereinafter defined Memorandum, shall constitute real rights, charges and obligations, and covenants running with the land described on Exhibit "A" and the Property, and shall apply to, bind and inure to the benefit of Sublessor, Owner, Cheniere and their respective successors, transferees and assigns.

(h) This Agreement may be executed in any number of counterparts, each of which shall be deemed an original binding on the party or parties so signing, regardless of whether all grantors, lessors, sublessors, or vendors, as the case may be, join in this Agreement. All counterparts, construed together, shall constitute one Agreement.

IN TESTIMONY WHEREOF, this Agreement is executed in duplicate originals, either of which shall be deemed to be an original, on the date first above mentioned.

Sublessor: Gulf Coast Development, L.L.C.

By: _____

Name: David P. Bruchhaus
Title: Member Manager – Gulf Coast Development L.L.C.

By: _____

Name: Chad E. Mudd
Title: Member Manager – Gulf Coast Development L.L.C.

Owner: West Cameron Port Commission

By: _____

Name: Charles T. Habert
Title: Officer and Duly authorized Representative of the West Cameron Port Commission

Cheniere

By: _____

Name: Charif Souiki
Title: ~~President~~ – Cheniere LNG, Inc.
Chairman

EXHIBIT "A"

Description of Lands

Tract I Approximately 95 acres situated in Cameron Parish, Louisiana, with said acreage being located west of the centerline of the Calcasieu Ship Channel in Section 32, Township 15 South, Range 10 West, as shown in Exhibit B attached hereto.

EXHIBIT "B"

Plat

[To be Attached]

Exhibit C

LEASE AGREEMENT

Between

Gulf Coast Development, L.L.C.

("Sublessor")

and

West Cameron Port Commission

("Lessor")

And

CHENIERE LNG, INC.

("Lessee")

_____, 200_

TABLE OF CONTENTS

Page

LEASE AGREEMENT 1

Article I LEASE OF PREMISES 1
1.1 Description of Premises and Term 1

Article II RENT 2
2.1 Annual Rent 2
2.2 Place of Payment 3
2.3 Utilities and Taxes 3
2.4 Right to Contest 4

Article III REPRESENTATIONS AND WARRANTIES 4
3.1 Representations and Warranties of Lessor 4
3.2 Definition 6
3.3 Representations and Warranties of Lessee 6
3.4 Survival and Indemnification 7
3.5 Definitions 9

Article IV USE OF LEASED PREMISES 9

Article V IMPROVEMENTS OR ALTERATIONS AND MAINTENANCE 9
5.1 Permanent Improvements 9
5.2 Maintenance and Return of Leased Premises 10
5.3 Laborers and Materials 10
5.4 Building Code 10
5.5 Permits 10
5.6 Ownership or Removal of Alterations, Modifications or Improvements by Lessee 10
5.7 Assistance by Lessor 11
5.8 Easements 11

Article VI QUIET ENJOYMENT 12

Article VII ASSIGNMENT AND TRANSFER 12
7.1 Sublease or Transfer 12
7.2 Conditions 12
7.3 Right of First Refusal 13

Article VIII TERMINATION AND SECURITY 13
8.1 Termination by Lessor 13
8.2 Effect of Termination 13

Article IX ENCUMBRANCES BY LESSEE 14
9.1 Right to Encumber 14

9.2 Leasehold Mortgage Authorized....14
9.3 Notice to Lessor....14
9.4 Consent of Leasehold Mortgagee Required....15
9.5 Default Notice....15
9.6 Notice to Leasehold Mortgagee....15
9.7 Procedure on Default....16
9.8 New Lease....18
9.9 New Lease Priorities....19
9.10 Takings....19
9.11 Casualty Loss....20
9.12 Legal Proceedings....20
9.13 Notices....20
9.14 Definitions....20

Article X ENVIRONMENTAL INDEMNITY AND INSURANCE....21
10.1 Insurance....21
10.2 Environmental Claims....22

Article XI CONDEMNATION....25
11.1 Total Taking....25
11.2 Partial Taking....25
11.3 Award on Partial Taking....25
11.4 Temporary Taking....26
11.5 Separate Awards....26
11.6 Receipt of Award....26
11.7 Notice of Taking....26
11.8 Participation by Lessee....26
11.9 Mortgagee Condemnation Award Requirement....26

Article XII ARBITRATION....27

Article XIII GENERAL PROVISIONS....27
13.1 Inspection....27
13.2 No Partnership....27
13.3 Payments and Notices....27
13.4 Estoppel Certificate....28

Article XIV MISCELLANEOUS....28
14.1 Parties Bound....28
14.2 Applicable Law....28
14.3 Severability....29
14.4 Rights and Remedies Cumulative....29
14.5 Attorney's Fees....29
14.6 Number and Gender, Captions, References....29
14.7 Brokers....29
14.8 Recordable Memorandum....29
14.9 Interpretation....29

14.10 Force Majeure 30
14.11 Third Parties 30
14.12 Entire Agreement 30
14.13 Further Assurances 30
14.14 Cooperation with Zoning and other Matters 30
14.15 No Waiver 31
14.16 Subordination of Lessor's Lien 31
14.17 Performance of Other Party's Obligations 31
14.18 Joint and Several 31
14.19 Counterparts 31

Exhibit A - Description of Leased Premises
Exhibit B - Plat
Exhibit C - Title Matters

LEASE AGREEMENT

This SUBLEASE AND LEASE AGREEMENT (this "*Lease*") is made this _____ day of _____, 200_, by and between Gulf Coast Development, L.L.C. ("Sublessor") and West Cameron Port Commission ("Lessor") all of which whose principal address is P.O. Box 1510, Cameron, Louisiana, 70631, and Cheniere LNG, Inc., a Delaware corporation and doing business at 333 Clay Street, Houston, Texas 77002, (hereinafter called "*Lessee*").

ARTICLE I
LEASE OF PREMISES

1.1 Description of Premises and Term. Sublessor and Lessor, in consideration of the rents to be paid, and subject to the terms, covenants, and conditions hereinafter set forth, hereby leases to Lessee, and Lessee hereby leases from Sublessor and Lessor, for the entire Term defined herein below, the following lands, together with the exclusive use of all easements, servitudes, rights and appurtenances thereto of every nature and kind and all buildings and other improvements as same may be situated on the Leased Premises, (collectively, the "Property"). The Leased Premises are all situated in Cameron Parish, Louisiana and are described as follows:

> One (1) tracts of property comprising approximately ninety five (95) acres of land, more or less, which tract is particularly described on "*Exhibit A*" attached hereto and incorporated herein by reference, and more particularly outlined in red on the plat labeled Exhibit "B" attached hereto and made a part hereof by reference (hereinafter called "*Leased Premises*"). The parties have reviewed Exhibit A and the plat previously forwarded and agree that the designated area is the Leased Premises.

TO HAVE AND TO HOLD the Leased Premises for a term of thirty (30) years, beginning on the _____ day of _____, 20__, and (subject to earlier termination as herein provided) ending at midnight, Central Time, the _____ day of _____, 20__ (the "*Primary Term*"). In addition, Lessor hereby grants to Lessee the option to renew the Primary Term for six (6) additional periods of ten (10) years each, beginning on the first day after the expiration of the Primary Term and the first and each succeeding renewal term hereof, as the case may be, and ending on the expiration of ten (10) years thereafter, as appropriate (each a "*Renewal Term*"). The right to renew shall be exercised by Lessee giving to Lessor notice in writing of such exercise at least twelve (12) months prior to the expiration of the Primary Term and each succeeding Renewal Term, as the case may be. (The Primary Term and any Renewal Term are collectively referred to herein as the "*Term*"). Notice to extend this Lease for a Renewal Term as contemplated above must be sent by certified mail to Lessor at the address provided in Section 13.3 (or such other address as may be specified from time to time by Lessor) and must be postmarked no later than the latest date provided in this Section for each such extension. In the event Lessee has not given Lessor notice of its intent to renew at the expiration of either the Primary Term or any Renewal Term, this Lease and the Term hereof shall not terminate or expire unless and until Lessor shall have given Lessee and each Leasehold Mortgagee (as defined in Section 9.14) notice of such failure to renew and shall have extended to such parties

the right to renew for a period of thirty (30) days beyond the date of receipt of such notice from Lessor by Lessee and each Leasehold Mortgagee.

ARTICLE II
RENT

2.1 Annual Rent. (a) Upon commencement of the Primary Term, Lessee agrees to pay to Sublessor during the term of the Sublease and to Lessor thereafter annual rent for the Leased Premises equal to Two Hundred and Eighty Six Thousand Dollars and no/00 ($286,000.00) (the "Base Rent"), payable in quarterly installments of Seventy One Thousand Five Hundred Dollars and no/00 ($71,500.00). The first quarterly installment of Base Rent hereunder is due and payable on or before the _____ day of _____, 20__. Base Rent for any portion of a year at the beginning or end of the Term shall be prorated on a per-day basis. Each quarterly installment of rent is due and payable on or before the first day of each month in which a quarterly installment is due.

(b) Adjustment of Base Rent. The Base Rent for each five year period during the Term shall be adjusted as of the first day of each such five (5) year period by a factor equal to the percentage increase in the Consumer Price Index as determined by the latest published figures next preceding the date of each such five (5) year period of this Lease ("Adjusted Index") compared to the Consumer Price Index last reported immediately preceding the beginning date of the Lease, or the beginning of the most immediately preceding five (5) year period, whichever is applicable ("Beginning Index"). If the Adjusted Index has increased over the Beginning Index, the annual rent payable during each succeeding five (5) year period shall be set by multiplying the Base Rent, or the adjusted Base Rent during the preceding five (5) year period, whichever is applicable, by a fraction, the numerator of which is the Adjusted Index and the denominator of which is the Beginning Index. If the Adjusted Index does not exceed the Base Rent or the adjusted Base Rent paid during the preceding five (5) year period, then no adjustment to the Base Rent or adjusted Base Rent paid during the preceding five (5) year period shall be made, and the Base Rent for the succeeding five (5) years shall be the same as for the preceding five (5) years. As soon as the adjusted Base Rent for each succeeding five (5) year period during the Term is determined by Lessee, Lessee shall give Sublessor and Lessor notice of the amount of the adjusted Base Rent for such period, and the method by which same was calculated. Sublessor and Lessor shall have the right to approve the calculation of the adjusted Base Rent.

(c) Consumer Price Index. As used herein, the term "Consumer Price Index" means the Consumer Price Index for all urban consumers (CPI-U), Southern Region (Houston Area), published by the Bureau of Labor Statistics, United States Department of Labor (1982-1984 equals 100). If the publication of the Consumer Price Index is discontinued prior to the expiration or termination of this Lease, or if the present method of ascertaining the index figure is materially or substantially changed, Sublessor, Lessor and Lessee will negotiate in good faith to arrive at a substitute standard which should produce substantially the same results as the Consumer Price Index was designed to give on the date of the execution of this Lease. In the event a new base for the Consumer Price Index is established, and thereafter, for the purposes of making computations as herein provided, the controlling indices stipulated in this Lease shall be adjusted to conform to the new base so that the calculations herein provided shall have the same results as if made on the Consumer Price Index "1982-1984 equals 100".

(d) Interest. All Rent or other sums due to Sublessor and and then to Lessor by Lessee shall bear interest at the rate of ten percent (10%) per annum from the due date until paid, together with all reasonable attorney's fees if placed in the hands of an attorney for collection.

2.2 Place of Payment. Rent shall be paid to Sublessor and then to Lessor at its address for notice hereunder or to such other person or at such other address as Sublessor and Lessor may from time to time designate in writing. Rent shall be paid in legal tender of the United States of America without notice, demand, abatement, deduction or offset.

2.3 Utilities and Taxes. The rent provided in this Lease shall be a net payment to Sublessor and then to Lessor. Sublessor and Lessor shall not be required to pay any costs or provide any services in connection with the Leased Premises. Lessee shall pay all utility bills, including, but not limited to electricity, gas, sewer charges and water, in connection with the use of the Leased Premises and subject to Lessee's right to contest as set forth in Section 2.4 of this Lease. Lessee, as additional rent but without credit to the base rent, shall pay all taxes and assessments on the land, buildings, improvements, machinery and equipment now or hereafter placed on the land, and all general or special ad valorem taxes, assessments, and charges, and all other charges and payment of every kind and nature whatsoever, extraordinary as well as ordinary, and whether or not within the contemplation of the parties, imposed by any governmental authority with respect to the Leased Premises or any part thereof, or on any streets or roads in front of or adjoining the Leased Premises, any and all taxes, assessments, and other charges levied, assessed, or imposed upon the Leased Premises or any part thereof, in lieu of or in addition to the foregoing, under or by reason of any present or future law or any governmental authority, for the construction, maintenance, use or occupancy of the Leased Premises and any improvements placed thereon during the Term of the Lease or any extended Term of this Lease. Sublessor and Lessor shall request the Parish Tax Assessor's office to send the tax notices directly to Lessee. Upon receipt of the annual taxes due the Parish of Cameron and the State of Louisiana, or any other applicable governmental authority, Lessee shall pay the taxes due on or before December 15th of the year in which those taxes are assessed and shall send Sublessor and Lessor proof of payment of same on or before December 31st of each such year. Lessee at its sole cost and expense shall also pay and discharge when due, all taxes and assessments that shall or may during the Term of the Lease be charged, levied, assessed, or imposed upon any furniture, fixtures, equipment or other movable property of every type and description that may be placed in or about the Leased Premises by any person or entity other than Sublessor and Lessor. If Lessee fails to pay any such taxes or assessments within this period, then, in addition to any interest due hereunder, Lessee will be responsible for and will pay to Sublessor and Lessor, upon demand, all fines, penalties, interest and costs that may be added thereto by or otherwise payable to the taxing authority for the non-payment or late payment thereof. In addition, if Lessee fails to pay any such taxes or assessments on or before the date required herein, then Sublessor and Lessor have the option, but not the obligation, to pay such taxes to the taxing authority, provided, however, that Sublessor and Lessor will have no obligation to pay such taxes to the taxing authority and will not be liable to Lessee or any other person or entity for any failure to do so. Neither Sublessor's nor Lessor's payment of such taxes to the taxing authority nor its failure to do so will relieve Lessee of its obligation to pay the amount of such taxes (together with interest payable hereunder and fines, penalties, interest, and costs paid to the taxing authority) or shall constitute a waiver of Sublessor's and Lessor's right to exercise any of its rights or remedies provided herein for Lessee's default in failing to pay such taxes when due if that failure continues beyond the period for notice and cure as hereafter set forth, Sublessor

and Lessor reserving its right to exercise all of its rights and remedies for default arising as a result of such failure.

2.4 Right to Contest. Lessee may, at its expense, contest any Taxes and any other tax, assessment, fee, or payment for which it is responsible under this Article (collectively the "*Charges*"). Lessee shall pay any such Taxes or Charges under protest and shall follow the procedure set forth in La. R. S. 47:2110, et seq in pursuing its contest of all such taxes. Any Taxes that are payable by Lessee for the tax year in which the Term of this Lease commences, as well as during the year in which the Term of this Lease terminates, shall be apportioned so that Lessee shall pay its proportionate share of the Taxes for such periods of time. Lessee may pay such Taxes or Charges in installments as and when such installments become due.

ARTICLE III
REPRESENTATIONS AND WARRANTIES

3.1 Representations and Warranties of Sublessor and Lessor. Sublessor and Lessor represent and warrant that:

(a) Except for Sublessor, there are no parties in possession of all or any portion of the Leased Premises, as the case may be, as lessees, tenants at sufferance or trespassers, except as set forth on Exhibit "C" hereto;

(b) There are no existing facts or conditions which would result in the termination of access to and from the Leased Premises;

(c) Sublessor and Lessor has not received any notice of any pending or threatened condemnation or similar proceeding by any governmental authority which would affect the Leased Premises or any part thereof;

(d) To the best of Sublessor's and Lessor's knowledge, they have complied with all applicable laws, ordinances, regulations, statutes, rules and restrictions relating to the Leased Premises or any part thereof;

(e) There is no pending or threatened litigation that could affect, encumber or burden the Leased Premises; and

(f) To the best of Sublessor's and Lessor's knowledge, no Hazardous Materials (as thereafter defined), toxic wastes, pollutants or contaminants have been produced, stored, disposed of or discharged on the Leased Premises or any portion thereof, into any waterbody on the Leased Premises, or into any underground water supplies/ground supplies under the Leased Premises.

(g) To the best of Sublessor's and Lessor's knowledge, existing conditions do not violate any Environmental Law (as hereinafter defined), and there have been no notices or complaints with respect to a violation of an Environmental Law at the Leased Premises.

(h) With respect to the Leased Premises, Sublessor and Lessor have not entered into, nor does Sublessor or Lessor contemplate entering into, any consent decree or order and is not subject to any judgment, decree or judicial or administrative order relating to compliance with, or the cleanup of Hazardous Materials under, any applicable Environmental Law.

(i) To the best of Sublessor's and Lessor's knowledge, there are no facts or circumstances that could form the basis for the assertion of any claim against Sublessor or Lessor under any Environmental Laws with respect to the Leased Premises.

(j) With respect to the Leased Premises, Sublessor and Lessor have heretofore provided Lessee with correct and complete copies of all files with respect to environmental matters, if any, including, without limitation, any reports of prior environmental assessments of the Leased Premises and any correspondence to or from any governmental authority with respect to environmental matters.

(k) To the best of Sublessor's and Lessor's knowledge, the Leased Premises does not contain, nor, to Sublessor's and Lessor's knowledge, has ever contained, any friable asbestos, regulated PCBs or underground storage tanks.

(l) Currently, Sublessor and Lessor have no permits for or related to the intended use of Lessee, and Lessee shall be solely responsible for obtaining any said permits.

(m) Sublessor and Lessor have full power, authority and legal right to make and perform this Lease and that it is not currently a party to any agreement or any other restriction or obligation that would limit or preclude its right to enter into and perform this Lease. Sublessor and Lessor further represent and warrant that they have taken all necessary action and has obtained all requisite approvals to enter into and perform this Lease and that it is a duly organized and existing legal entity in the State of Louisiana. The persons executing this Lease on behalf of Sublessor and Lessor were authorized to do so and upon the request of Lessee, such person shall deliver to Lessee satisfactory evidence of his or her authority to execute this Lease on behalf of Sublessor and Lessor.

(n) Lessor owns good and clear titleto the Leased Premises, and Sublessor has a valid and enforceable lease on said property, and the Leased Premises is not subject to any title exceptions or any other restrictions, easements, covenants or other encumbrances, including, but not limited to, leases applicable to oil, gas and other mineral interests in the Leased Premises except as set forth in "Exhibit C".

(o) Except as set forth in Exhibit "C", Sublessor and Lessor have not, and during the Term of this Lease, and any extended Term hereof, shall not enter into any agreement or lease for an interest in oil, gas or other minerals which grants, licenses or creates an interest in such oil, gas or other minerals to any person or

entity, which allows access to or the right to enter the Leased Premises, under law or pursuant to an agreement, to explore, develop or otherwise exploit such oil, gas or mineral interest, except for agreements to explore, develop or otherwise exploit such oil and gas by directional drilling from other lands and by unitization. Sublessor and Lessor hereby contract and agree not to enter, or take any action that would allow any other person or entity to enter the Leased Premises during the Term or any extended Term hereof to conduct such exploration and exploitation activities except by directional drilling from adjacent lands not leased hereunder, or by unitization. Sublessor and Lessor expressly reserves the right to receive any and all royalty payments, lease payments, or other revenues derived from any oil and gas lease and/or mineral rights.

(p) Sublessor and Lessor will not enter into any other agreement or document whatsoever concerning any uses of the surface or subsurface of the Leased Premises, or any rights, titles or interests therein (including but not limited to any minerals in, on or attributable to the Leased Premises), without Lessee's prior written consent, which may be withheld by Lessee for any reason in its sole discretion, including but not limited to the fact that any of same will interfere with Lessee's intended use of the Leased Premises or the Project.

3.2 Definition.

As used in this Lease, "*knowledge*" shall mean the knowledge of Gulf Coast Development, L.L.C., and West Cameron Port Commission after due inquiry has been made.

3.3 Representations and Warranties of Lessee. Lessee hereby represents and warrants to Sublessor and Lessor that:

(a) Lessee's construction, occupancy, operation or use of the Leased Premises shall not violate any applicable law, statute, ordinance, rule, regulation, order or determination of any governmental authority or any board of fire underwriters (or other body exercising similar functions), or any restrictive covenant or deed restriction (recorded or otherwise) affecting the Leased Premises, including but not limited to all applicable zoning ordinances and building codes, flood disaster laws and health and environmental laws and regulations (hereinafter sometimes collectively called "*Applicable Laws*").

(b) Without limitation of (a) above, in its use of the Leased Premises, Lessee shall not violate any Environmental Laws.

(c) The use, which Lessee intends to make of the Leased Premises, shall not result in the disposal or other release of any Hazardous Materials on or to the Leased Premises but may result in the storage and use of Hazardous Materials on the Leased Premises.

(d) Lessee has full power, authority and legal right to make and perform this Lease, and it is not currently a party to any agreement or any other restriction or

obligation that would limit or preclude its right to enter into and perform this Lease.

(e) Lessee has taken all necessary corporate action and has obtained all requisite corporate approvals to enter into and perform this Lease and that it is a duly organized and existing legal entity in the state of Delaware. The person executing this Lease on behalf of Lessee was authorized to do so and upon the request of Sublessor and Lessor, such person shall deliver to Sublessor and Lessor satisfactory evidence of his or her authority to execute this Lease on behalf of Lessee.

3.4 Survival and Indemnification.

(a) The representations, warranties and agreements of the parties hereto contained herein are continuing representations, warranties and agreements, and shall survive for a period of the later to occur of five (5) years from the date of this Lease, or any expiration or termination hereof, only with regard to said representations, warranties and agreements made prior to the expiration or termination of the Lease.

(b) To the fullest extent permitted under applicable law, Sublessor and Lessor agree to indemnify Lessee, its officers, directors, affiliates, successors, assigns, lenders and agents (collectively, the "*Lessee Indemnified Parties*") against, and agrees to hold the Lessee Indemnified Parties harmless from and against, any and all losses, demands, claims, fines, damages, suits, penalties, judgments, causes of action, costs and expenses (including but not limited to attorneys' and experts' fees) incurred or suffered by any Lessee Indemnified Party, caused by Sublessor's or Lessor's negligence (collectively, the "Damages"), or arising out of any of (i) any breach of or any inaccuracy in any representation or warranty made by Sublessor or Lessor in this Lease or any document delivered by Sublessor or Lessor to Lessee; and/or (ii) any breach or failure by Sublessor or Lessor to perform any covenant or obligation of Sublessor or Lessor set out in this Lease or any document delivered by Sublessor or Lessor to Lessee except to the extent that such liability may have been caused by the breach of a legal or contractual duty by Lessee.

(c) Except as to violations of any Environmental Law in effect during the Term of this Lease, which are governed by the provisions of Article X of this Lease, Lessee shall indemnify, defend and hold harmless Sublessor and Lessor of and from any and all damage and liability for anything whatsoever arising from, or out of, or in connection with, the occupation of the Leased Premises by Lessee, its agents, representatives or servants, except to the extent if such damage and liability is caused by Sublessor or Lessor as set forth in Section 3.4(b) above. Such damage and liability shall include but not be limited to any damage to any adjacent landowners or occupants of adjacent lands caused by Lessee's intended use of the property, including but not limited to, any of same caused by negligence, intentional acts, or otherwise of Lessee. Accordingly, to such extent,

Lessee assumes all responsibility for the Leased Premises and occurrences thereon and for its acts, negligence, and fault, and the acts, negligence, and fault of its servants, agents, employees, contractors, customers, invitees and licensees and, subject to the provisions hereof, sublessees or assigns, in or about the Leased Premises, and agrees to reimburse Sublessor and Lessor and its members, agents, employees, and representatives for, and to indemnify, defend, and hold harmless Sublessor and Lessor, and its officers, members, agents, employees, and representatives, from and against any and all loss or damage sustained by, liability or charges imposed on, and claims or causes of action asserted against, Sublessor and Lessor and its officers, members, agents, employees and representatives or any of them arising, in whole or in part, out of or by reason of (i) the Leased Premises, or any part thereof or appurtenance thereto, or any future condition, defect, matter, or thing, whether hidden or apparent in or about the Leased Premises; (ii) any business or operations conducted in the Leased Premises or accident or other occurrence on the Leased Premises; (iii) without limiting the generality of the foregoing, any damage to or loss of any property placed or used in the Leased Premises or any injury to or death of any person occurring in the Leased Premises; (iv) any damages to or loss of any property of Lessee or any of its servants, agents, employees, contractors, customers, invitees, or licensees, or, subject to the provisions hereof, sublessees or assigns, occurring in or about the Leased Premises or any adjacent sidewalks, parking areas, landscaped areas, or streets, or any injury to or death of Lessee or any of its servants, agents, employees, contractors, customers, invitees, or licensees, or, subject to the provisions hereof, sublessees or assigns, occurring in or about the Leased Premises or any adjacent sidewalks, parking areas, landscaped areas, or streets; (v) any act, negligence, or fault of Lessee or any of its servants, agents, employees, contractors, customers, invitees or licensees or, subject to the provisions hereof, sublessees or assigns while in or about the Leased Premises or any adjacent sidewalks, parking areas, landscaped areas, or streets; or (vi) Lessee's material violation of or material failure to comply fully with any of the provisions of this Lease. Notwithstanding anything in this Lease to the contrary, it is the intention of Sublessor and Lessor and Lessee that that each party to this Lease shall indemnify the other party for the indemnifying party's proportionate fault, including but not limited to negligence, which causes Damages to the indemnified party.

(d) Notwithstanding anything in this Lease to the contrary, in no event shall either Sublessor, Lessor or Lessee have any liability to the other or to any other person or entity for consequential, special, exemplary or similar damages or for any loss of or damage to improvements or to personal (movable) property stored or otherwise located in or about the Leased Premises, whether such property belongs to Lessee, Sublessor, Lessor or to another person or entity, whether such consequential, special, exemplary or similar damages or such loss of or damage to improvements or other personal (movable) property is caused by Sublessor or Lessor's negligence, whether ordinary or gross, or its strict liability, or its failure to perform any of its obligations under this Lease, or otherwise.

(e) Except as otherwise expressly limited in this Article III, it is the intent of Sublessor, Lessor and Lessee that all indemnity obligations and liabilities contracted for in this Lease shall be without monetary limit and without regard to the cause or causes thereof (including pre-existing conditions on the Leased Premises or as the result of an indemnification agreement with a third party). The indemnity contained in this Article III shall not apply to any violation of any Environmental Law in effect during the Term of this Lease, including any extensions, and any and all matters arising out of any act, omission, event or circumstance existing or occurring during the Term of this Lease, including any extensions (including without limitation the presence on the Leased Premises or release from the Leased Premises of Hazardous Materials). Such claims shall be governed by Section 10.2 below. Sublessor, Lessor and Lessee shall notify the other party promptly of any claim, demand, or action that may be presented to or served upon it for which indemnification will be sought pursuant to the terms of this Lease, and shall afford such other party full opportunity to assume the defense or participate in the defense of such claim, demand, or action and to protect itself under the obligations of its agreement to indemnify. Neither Sublessor, Lessor nor Lessee shall make any form of admission of liability in respect of any claim for which the other party is or might be liable for pursuant to an indemnity in this Lease, or take any action to settle or compromise any such claim, without the prior written approval, not to be unreasonably withheld, of the party from whom indemnification will be sought.

3.5 Definitions.

"*Environmental Laws*" shall mean local, state, and federal laws and regulations relating to protection of human health and the environment, pollution control, product registration, Hazardous Materials, and occupational health and safety.

"*Hazardous Materials*" shall have the meaning as set forth in Section 10.2 of this Lease.

ARTICLE IV
USE OF LEASED PREMISES

The Leased Premises shall be used for the receipt, processing, delivery and/or storage of hydrocarbons and their constituent products or byproducts, including but not limited to liquefied natural gas and natural gas, and for all other legal uses determined at any time during the Term by Lessee.

ARTICLE V
IMPROVEMENTS OR ALTERATIONS AND MAINTENANCE

5.1 Permanent Improvements. Lessee has the right to make all improvements, construct and erect all structures and engage in such other activities, as it deems necessary or advisable to utilize the Leased Premises during the Term. Lessee shall be entitled to dredge and remove soil from such areas of the Leased Premises as are deemed necessary by Lessee. Sublessor and Lessor agree to negotiate in good faith for such amendments of this Lease as are

reasonably required by Lessee to erect lights, power, water and gas lines and similar infrastructure requirements over adjacent lands controlled by Sublessor and Lessor. All improvements made, placed, or constructed on the Leased Premises by Lessee after the date of this Lease will be at the sole cost and expense of Lessee. Lessee must construct and install Lessee's improvements in a good and workmanlike manner. Improvements by Lessee may not be located on Sublessor or Lessor's property adjacent to the Leased Premises not leased by Lessee unless otherwise provided herein or unless Sublessor and Lessor consent to same in writing. Prior to the commencement of construction, Lessee shall present plans to Sublessor and Lessor that confirm compliance with such requirements.

5.2 Maintenance and Return of Leased Premises. Lessee shall, throughout the Term and, at its own expense and risk, maintain the Leased Premises and all improvements on them in good order and condition, including but not limited to making all repairs and replacements necessary to keep the premises and improvements in that condition. All maintenance, repairs, and replacements required by this Section must be performed promptly when required and so as not to cause depreciation in the value of the Leased Premises. At the expiration of the Term or any renewals or extensions thereof, Lessee shall surrender the premises in good order and repair, normal wear and tear and casualty excepted; provided however, that notwithstanding any term, condition or stipulation of this Lease to the contrary, Lessee shall never have any obligation whatsoever to fill in any areas of the ship entry slip and turning basin, and Lessee shall be entitled to leave the ship entry slip and turning basin "as is / where is" upon any termination or cancellation of this Lease.

5.3 Laborers and Materials. Lessee shall pay for all labor and services performed for, materials used by, or furnished to, any contractor employed by Lessee with respect to the Leased Premises, and Lessee shall defend, indemnify and hold Sublessor and Lessor and the Leased Premises harmless and free from, and cause immediate removal of, (or, in Lessee's sole discretion cause any of same to be bonded out) any liens, claims, encumbrances or judgments created or suffered by Lessee in connection therewith.

5.4 Building Code. All improvements placed on the Leased Premises by Lessee shall comply with applicable building and electric codes covering the location and type of structure to be placed by Lessee on the Leased Premises.

5.5 Permits. Lessee must obtain and maintain in effect at all times during the Term of this Lease all permits, licenses and consents required or necessary for the construction, installation, maintenance, use and operation of Lessee's improvements and Lessee's use and occupancy of, and operations at, the Leased Premises.

5.6 Ownership or Removal of Alterations, Modifications or Improvements by Lessee. Lessee shall have the right at any time and from time to time during the Term of this Lease to construct improvements on the Leased Premises, to make all additions, alterations or changes in any such improvements, and to demolish in whole or in part or remove any such improvements. All such improvements shall conform with all Applicable Laws, regulations and codes relating to the construction thereof. All matters as to design, manner or type of construction shall be within the sole discretion and responsibility of Lessee. All such alterations, modifications or improvements upon the Leased Premises made by Lessee, including all buildings, paneling,

decorations, partitions, heating, ventilating and air-conditioning machinery and equipment, lighting fixtures, plumbing equipment, sprinkler system, and the like, shall remain the property of Lessee during the Term of this Lease or any extension thereof. Subject to the notice and right to cure provisions of Article IX of this Lease, at the termination of this Lease for any cause, all such improvements shall, at the option of the Sublessor and Lessor, become the property of Sublessor and Lessor with no consideration owed to Lessee, or Sublessor and Lessor shall have the right within ninety (90) days after termination of said Lease to demand Lessee remove such improvements from the Leased Premises (solely at Lessee's expense) which Lessee within 180 days following said notice shall remove. Upon the failure of the Lessee to comply with such request, Sublessor and Lessor may have such improvements removed at the cost of Lessee, and Lessee shall reimburse Sublessor and Lessor upon demand for all costs and expenditures of Sublessor and Lessor in having Lessee's improvements removed from the Leased Premises.

5.7 Assistance by Sublessor and Lessor. To the extent necessary during the Term of this Lease and without risk or expense to Sublessor and Lessor, Sublessor and Lessor agree to provide reasonable support to Lessee and its Affiliates in Lessee's efforts to secure permits, certifications and/or inspections from governmental agencies and other permitting bodies in the United States required or desired in connection with the construction and operation of an LNG facility on the Leased Premises (the "*Project*"), all as set forth more fully in Section 14.14 of this Lease. In addition, Sublessor and Lessor shall provide such reasonable assistance and take such reasonable action as may be required to enable Lessee to gain access to all utilities and related services required by Lessee for its intended use of the Leased Premises. For purposes of this Agreement, "Affiliate" means in respect to Cheniere LNG, Inc. a person or entity that directly or indirectly controls or is controlled by Cheniere LNG, Inc. or is, together with Cheniere LNG, Inc., under the common control of another person or entity, for which purpose "control" shall mean beneficial ownership of fifty percent (50%) or more of the voting shares of a company or other entity or of the equivalent rights to determine the decisions of such a company or other entity. Sublessor and Lessor will exercise no control over development plans, operations, management, or submissions to obtain said permits. Furthermore, it is understood and agreed that Sublessor and Lessor hereby relinquishes any and all control to Lessee for operations during the Term.

5.8 Easements. During the Term of this Lease, in the event Lessee requires the use of easements, access routes and related infrastructure on adjacent property owned or controlled by Sublessor or Lessor including without limitation, easements for Lessee's installation, operation and maintenance of the power, water and gas lines necessary for the Lessee to occupy the Leased Premises for the permitted use, Sublessor and Lessor shall negotiate in good faith to facilitate agreement by and between the parties of reasonable terms and conditions, including payment where appropriate, to be applicable to the grant of such easements by Sublessor or Lessor and the use of such access routes and related infrastructure by Lessee, all at rates no more than the then-current rate for similar agreements in Cameron Parish, Louisiana.

ARTICLE VI
QUIET ENJOYMENT

Subject to Sublessor's and Lessor's right to notice and cure as set forth in Article IX of this Lease, Lessee, if not in material default of any of its material obligations under the Lease, on paying the rent and all other sums called for herein, and as set forth in this Lease, shall and may peaceably and quietly have, hold, occupy, use and enjoy the Leased Premises during the Term of this Lease. Sublessor and Lessor agree to warrant and forever defend Lessee's right to occupancy of the Leased Premises against the claims of any and all persons whomsoever claiming the same or any part thereof, by, through or under Sublessor or Lessor.

ARTICLE VII
ASSIGNMENT AND TRANSFER

7.1 Sublease or Transfer. Lessee may freely assign this Lease and/or the Project, in whole or in part, with the prior written consent of Sublessor and Lessor, which consent shall not be unreasonably withheld, provided each such party has a net worth of Twenty Million and No/100 Dollars ($20,000,000.00) or more. Lessee may freely sublease the Leased Premises, in whole or in part, to any party or entity. In the case of such an assignment of all or part of this Lease, (but not in the case of any sublease by Lessee), Lessee's obligations hereunder shall not terminate, but Sublessor and Lessor agree to look first to the assignee for performance of Lessee's obligations under this Lease. However, if assignee is not able to perform, then Sublessor and Lessor shall have the right to look to Lessee for performance unless Sublessor and Lessor have specifically waived such right in its written consent to the assignment. Lessee shall remain obligated for any actions or inactions that occurred prior to the assignment or transfer unless otherwise agreed to by Sublessor and Lessor in writing at the time of assignment.

7.2 Conditions. The following conditions automatically apply to each assignment or transfer by Lessee without the necessity of same being stated in or referred to in Sublessor and Lessor's written consent:

(a) Lessee must execute, have acknowledged and deliver to Sublessor and Lessor and cause the sublessee, assignee or other transferee ("*Transferee*") of any portion of Lessee's interest in this Lease, the leasehold estate created hereby or the Leased Premises to execute, have acknowledged and deliver to Sublessor and Lessor, an instrument in form and substance acceptable to Sublessor and Lessor in which:

(i) The Transferee adopts this Lease and assumes and agrees to perform all of the obligations of Lessee hereunder, as to the interest transferred to it; and the Lessee agrees that, notwithstanding anything in this Lease to the contrary, Lessee shall retain liability to the Sublessor and Lessor under all indemnities stipulated to by Lessee in this Lease, insofar as such liability shall have accrued as of the effective date of the Lessee's transfer to the Transferee and as is contained in Section 7.1 hereof;

(ii) The Transferee agrees to use and occupy the transferred space solely for the purposes permitted under Article IV and otherwise in accordance with this Lease; and

(b) Lessee must deliver to Sublessor and Lessor a counterpart of all instruments relative to the assignment or other transfer executed by all parties to such transaction (except Sublessor and Lessor).

7.3 Right of First Refusal. If during the Term of this Lease, Lessor receives a bona fide offer to purchase which it intends to accept, or makes a bona fide offer to sell, Lessor's interest in the Leased Premises, or any part thereof or any property which includes all or a part of the Leased Premises, Lessor shall give Lessee written notice setting forth the price and terms of the offer. Lessee shall thereupon have the prior right to purchase the entire property covered by such offer at the same price and on the same terms and conditions contained in the offer, which right Lessee may exercise by giving Lessor written notice within, but not later than, sixty (60) days after the date of Lessor's notice of the offer. At any time prior to the exercise of the right of first refusal contained herein, Lessor may withdraw its offer to sell or indicate its unwillingness to accept an offer to purchase and the rights of Lessee hereunder shall terminate with respect to that particular offer only. In the event that Lessee shall not exercise its prior right to purchase within the time period provided above, Lessor shall thereafter be free to sell the property covered by the offer at the same price and on substantially the same terms and conditions as contained in said offer. Should such a sale not be consummated, Lessee shall thereafter have the same right of first refusal to purchase on any subsequent offers. Notwithstanding anything herein to the contrary, in the event the Leased Premises is sold or transferred by Lessor, this Lease shall remain in full force and effect and the new owner of the Leased Premises shall agree to assume all of the rights and obligations of Lessor hereunder. The provisions hereof shall be considered as running with the land and shall apply to, bind and inure to the benefit of Lessor, Lessee and their respective heirs, successors and assigns.

ARTICLE VIII
TERMINATION AND SECURITY

8.1 Termination by Sublessor and Lessor. Subject always to the provisions of Article IX, if at any time during the Term of this Lease Lessee shall default in payment of rent due hereunder, Sublessor and Lessor may serve notice of its intent to terminate this Lease on a date specified in such notice, which shall be no earlier than sixty (60) days after the date such notice is received by Lessee. Sublessor and Lessor's right to terminate this Lease with respect to a default in payment of rent shall terminate in the event payment in full, plus interest and other late charges as hereinabove provided, is made before the termination date specified in the notice to Lessee from Sublessor and Lessor, subject to the provisions of Article IX of this Lease.

8.2 Effect of Termination. Neither Sublessor, Lessor, nor Lessee shall by the termination of this Lease be relieved of its respective obligations and liabilities arising from or incident to performance of this Lease up until the time of such termination. Additionally, any obligations to restore the property and to remove any improvements as is contained herein shall continue until such time as the restoration or removal is complete.

ARTICLE IX
ENCUMBRANCES BY LESSEE

9.1 Right to Encumber. At any time and from time to time during the Term of this Lease, Lessee may assign or encumber Lessee's interest in the Leasehold (as hereinafter defined) by one or more Leasehold Mortgages (as hereinafter defined) containing such terms and provisions as Lessee may, in its sole discretion, deem fit and proper, and without the consent or approval of Sublessor and Lessor. If Lessee encumbers the Leasehold by a Leasehold Mortgage and should Sublessor and Lessor be advised in writing of the name and address of the Leasehold Mortgagee (as hereinafter defined), then Sublessor and Lessor shall not terminate this Lease until Sublessor and Lessor shall comply with the provisions of this Article IX.

9.2 Leasehold Mortgage Authorized. On one or more occasions, without Sublessor and Lessor's prior consent, Lessee may take back a purchase money Leasehold Mortgage upon a sale and assignment of the Leasehold made in compliance with the terms of this Lease or may Mortgage or otherwise encumber the Leasehold under one or more Leasehold Mortgages and assign this Lease as security for such Leasehold Mortgage or Mortgages.

9.3 Notice to Sublessor and Lessor. If Lessee shall, on one or more occasions, take back a purchase money Leasehold Mortgage upon a sale and assignment of the Leasehold or shall otherwise Mortgage the Leasehold, Lessee and the Leasehold Mortgagee shall, within ten (10) days of the execution of such Mortgage, provide Sublessor and Lessor with notice of such Leasehold Mortgage together with a true copy of such Leasehold Mortgage and the name and address of the Mortgagee. Sublessor, Lessor and Lessee agree that, following receipt of such notice by Sublessor and Lessor, the provisions of this Article IX shall apply in respect to each such Leasehold Mortgage. In the event of any assignment of a Leasehold Mortgage or in the event of a change of address of a Leasehold Mortgagee or of an assignee of such Leasehold Mortgage, notice of the new name and address shall be provided to Sublessor and Lessor. Sublessor and Lessor shall promptly upon receipt of a communication purporting to constitute a notice provided for above acknowledge, by an instrument in recordable form, receipt of such communication as constituting the notice provided for above or, in the alternative, notify Lessee and the Leasehold Mortgagee of the rejection of such communication as not conforming with the provisions of this Section and specify the specific basis of such rejection. After Sublessor and Lessor has received notice of a Leasehold Mortgage, Lessee shall with reasonable promptness provide Sublessor and Lessor with complete and accurate copies of the note or other obligation secured by such Leasehold Mortgage and of any other documents pertinent to the Leasehold Mortgage. Lessee shall thereafter also provide Sublessor and Lessor from time to time with a copy of each amendment or other modification or supplement to such instruments within ten (10) days of the execution of any such document. All recorded documents shall be accompanied by the appropriate certification of the clerk of court as to their authenticity as true and correct copies of official records and all non-recorded documents shall be accompanied by a certification by Lessee that such documents are true and correct copies of the originals. From time to time upon being requested to do so by Sublessor and Lessor, Lessee shall also notify Sublessor and Lessor of the date and place of recording and other pertinent recording data with

respect to such instruments as have been recorded. Lessee authorizes any and all Leasehold Mortgagees to provide the information required under this subsection to Sublessor and Lessor upon Sublessor and Lessor's request.

9.4 Consent of Leasehold Mortgagee Required. No cancellation, surrender or modification of this Lease, other than a remedy pursued by Sublessor and Lessor in accordance with the terms of this Lease, shall be effective as to any Leasehold Mortgagee unless consented to in writing by such Leasehold Mortgagee.

9.5 Default Notice. Upon the occurrence of (i) a default under this Lease, or (ii) any event alleged to allow a termination of this Lease, or (iii) a matter on which Sublessor or Lessor may predicate or claim a default or event of default, or predicate or claim any right of termination of this Lease, Sublessor or Lessor shall provide Lessee written notice of same and shall allow Lessee the right to commence a cure of the alleged default within sixty (60) days of Lessee's receipt of such notice. In the event Lessee so commences such a cure, the notice given by Sublessor or Lessor shall be automatically withdrawn and shall become null and void without further action by Sublessor, Lessor or Lessee. Sublessor or Lessor, upon providing Lessee such notice, shall also at the same time provide a copy of such notice to every Leasehold Mortgagee (provided Sublessor and Lessor have been furnished the name and address of each such Leasehold Mortgagee), which notice shall only be effective upon confirmation of receipt by each Leasehold Mortgagee, signature by any person on a receipt for a properly addressed certified mail correspondence or express courier delivery, or confirmation of a successfully transmitted facsimile, shall constitute confirmation of receipt. No such notice by Sublessor or Lessor to Lessee shall be deemed to have been duly given unless and until a copy thereof has been so received by every Leasehold Mortgagee. From and after such notice has been given to a Leasehold Mortgagee, such Leasehold Mortgagee shall have the same period, after the giving of such notice upon it, for remedying any default or acts or omissions which are the subject matter of such notice or causing the same to be remedied, as is given Lessee after the giving of such notice to Lessee, plus in each instance, the additional periods of time specified in this Lease to remedy, commence remedying or cause to be remedied the defaults or acts or omissions which are the subject matter of such notice specified in any such notice. Sublessor and Lessor shall accept such performance by or at the instigation of such Leasehold Mortgagee as if the same had been done by Lessee. Lessee authorizes each Leasehold Mortgagee to take any such action at such Leasehold Mortgagee's option and does hereby authorize entry upon the Leased Premises by the Leasehold Mortgagee for such purpose.

9.6 Notice to Leasehold Mortgagee. Subject also to the provisions of Section 9.7 below, if any event of default shall occur which entitles Sublessor or Lessor to terminate this Lease or terminate Lessee's right to possession of the Leased Premises, Sublessor and Lessor shall have no right to terminate this Lease or to terminate Lessee's right to possession of the Leased Premises unless, following the expiration of the period of time given Lessee to cure such event of default or the act or omission which gave rise to such event of default, Sublessor and Lessor shall notify every Leasehold Mortgagee of Sublessor and Lessor's intent to so terminate or to terminate Lessee's right to possession of the Leased Premises at least sixty (60) days in advance of the proposed effective date of such termination or taking possession of the Leased Premises (such notice being referred to herein as a "*Termination Notice*", and the sixty (60) day period specified in such Termination Notice being referred to herein as the "*Termination Notice*

Period"). Sublessor's and Lessor's provision to a Leasehold Mortgagee with a copy of any Termination Notice provided to Lessee indicating Sublessor's and Lessor's intent to terminate shall serve as notice to such Leasehold Mortgagee. No termination shall occur if, during the Termination Notice Period, any Leasehold Mortgagee shall: (i) notify Sublessor and Lessor of such Leasehold Mortgagee's desire to nullify such notice, and (ii) pay or cause to be paid all rent and other payments, including taxes, then due and in arrears as specified in the Termination Notice to such Leasehold Mortgagee and which may become due during such Termination Notice Period, and (iii) comply or in good faith, with reasonable diligence commence to comply with all non-monetary requirements of this Lease then in default and reasonably susceptible of being complied with by such Leasehold Mortgagee, *provided however*, that such Leasehold Mortgagee shall not be required during such Termination Notice Period to cure or commence to cure any default consisting of Lessee's failure to satisfy and discharge any lien, charge or encumbrance against the Lessee's interest in this Lease or the Leased Premises which is junior in priority to the lien of the Mortgage held by such Leasehold Mortgagee.

9.7 Procedure on Default.

(a) If Sublessor or Lessor shall elect to terminate this Lease or to terminate Lessee's right to possession of the Leased Premises by reason of any event of default of Lessee, and a Leasehold Mortgagee shall have proceeded in the manner provided for herein, the specified date for the termination of this Lease or termination of Lessee's right to possession of the Leased Premises as fixed by Sublessor and Lessor in its Termination Notice shall be extended for a period of six (6) months, provided that such Leasehold Mortgagee shall, during such six (6) month period (i) pay or cause to be paid the rent and other monetary obligations of Lessee under this Lease as the same become due, and continue its good faith efforts to perform all of Lessee's other obligations under this Lease, excepting (A) obligations of Lessee to satisfy or otherwise discharge any lien, charge or encumbrance against Lessee's interest in this Lease or the Leased Premises which is junior in priority to the lien of the Mortgage held by such Leasehold Mortgagee and (B) non-monetary obligations then in default and not reasonably susceptible of being cured by such Leasehold Mortgagee; and (ii) if not enjoined or stayed, take steps to acquire or sell Lessee's interest in this Lease by foreclosure of the Leasehold Mortgage or other appropriate means and prosecute the same to completion with due diligence.

(b) If at the end of such six (6) month period such Leasehold Mortgagee is complying with the terms hereof, then this Lease shall not then terminate nor shall Sublessor or Lessor take possession of the Leased Premises, and the time for completion by such Leasehold Mortgagee of its proceedings shall continue so long as such Leasehold Mortgagee is enjoined or stayed from commencing or pursuing the foreclosure or assignment in lieu thereof or delayed by procedural requirements from completing the foreclosure or assignment in lieu thereof (including the pendency of any related litigation) and thereafter for so long as such Leasehold Mortgagee proceeds to complete steps to acquire or sell Lessee's interest in this Lease by foreclosure of the Leasehold Mortgage or by other appropriate means with reasonable diligence and continuity. Nothing in this

Section, however, shall be construed to extend this Lease beyond the original Term hereof or to require a Leasehold Mortgagee to continue such foreclosure proceedings after all monetary events of default and all other defaults reasonably susceptible of being cured have been cured. If all monetary events of default and all other defaults reasonably susceptible of being cured shall be cured and the Leasehold Mortgagee shall discontinue such foreclosure proceedings, then this Lease shall continue in full force and effect as if Lessee had not defaulted under this Lease.

(c) If a Leasehold Mortgagee is complying with this Section, then upon the acquisition of the Leasehold by such Leasehold Mortgagee or its designee or any other purchaser at a foreclosure sale or otherwise this Lease shall continue in full force and effect as if Lessee had not defaulted under this Lease, and Sublessor and Lessor shall recognize the Leasehold Mortgagee or its designee or purchaser at a foreclosure sale or otherwise, as applicable, as the Lessee hereunder.

(d) The making of a Leasehold Mortgage shall not be deemed to constitute an assignment or transfer of this Lease or of the Leasehold hereby created, nor shall any Leasehold Mortgagee, as such, be deemed to be an assignee or transferee of this Lease or of the Leasehold hereby created so as to require such Leasehold Mortgagee, as such, to assume the performance of any of the terms, covenants or conditions on the part of the Lessee to be performed hereunder, but the purchaser at any sale of this Lease and of the Leasehold in any proceedings for the foreclosure of any Leasehold Mortgage, or the assignee or transferee of this Lease and of the Leasehold under any instrument of assignment or transfer in lieu of the foreclosure of any Leasehold Mortgage shall be deemed to be an assignee and shall be deemed to have agreed to perform all of the terms, covenants and conditions on the part of the Lessee to be performed hereunder from and after the date of such purchase and assignment, but only for so long as such purchaser or assignee is the owner of the Leasehold. If the Leasehold Mortgagee or its designee shall become holder of the Leasehold and if the improvements situated on the Leased Premises shall have been or become materially damaged on, before or after the date of such purchase and assignment, the Leasehold Mortgagee or its designee shall be obligated to repair, replace, reconstruct or demolish such improvements (if and only to the extent expressly required under this Lease) only to the extent of the net insurance proceeds received by the Leasehold Mortgagee or its designee by reason of such damage. However, should such net insurance proceeds be insufficient to repair, replace, reconstruct or demolish such improvements to the extent expressly required by the terms of this Lease and should the Leasehold Mortgagee or its designee choose not to fully reconstruct or demolish the improvements to the extent expressly required by this Lease, such failure shall constitute a default under this Lease.

(e) Any Leasehold Mortgagee or other acquirer of the Leasehold pursuant to foreclosure, assignment in lieu of foreclosure or other proceedings may, upon acquiring the Leasehold, with the written consent of Sublessor and Lessor and pursuant to and in compliance with the terms and conditions of Section 7.1

hereof, sell and assign the Leasehold on such terms and to such persons and organizations as are acceptable to such Mortgagee or acquirer (whether or not the same is a permitted assignee), provided that such persons and organizations have a net worth of Twenty Million and No/100 Dollars ($20,000,000.00) or more, and thereafter be relieved of all obligations under this Lease; provided that such assignee has delivered to Sublessor and Lessor its written agreement to be bound by all of the provisions of this Lease arising from and after the date of such assignment.

(f) Notwithstanding any other provisions of this Lease, any sale of this Lease and of the Leasehold in any proceedings for the foreclosure of any Leasehold Mortgage, or the assignment or transfer of this Lease and of the Leasehold hereby created in lieu of the foreclosure of any Leasehold Mortgage shall be deemed to be a permitted sale, transfer or assignment of this Lease and of the Leasehold hereby created.

(g) Any Leasehold Mortgagee or other acquirer of the Leasehold pursuant to foreclosure, assignment in lieu of foreclosure or other proceedings shall, upon acquiring the Leasehold but subject to its rights under hereunder, diligently pursue a cure of all non-monetary requirements of this Lease of a continuing nature then in default and reasonably susceptible of being cured by the then-Lessee. In the event of an assignment as contemplated herein, the assignee Lessee shall diligently pursue a cure of all non-monetary requirements of this Lease of a continuing nature then in default and reasonably susceptible of being cured by the then-Lessee.

9.8 New Lease. The provisions concerning a "New Lease" shall apply only if and to the extent such provisions may be enforced under applicable Louisiana law at the time such enforcement is sought. In the event of the termination of this Lease as a result of Lessee's event of default Sublessor and Lessor shall, in addition to providing the notices of default (or event of default) and termination as required above, provide each Leasehold Mortgagee with written notice that this Lease has been terminated, together with a statement of all sums which would at that time be due under this Lease but for such termination, and of all other defaults or events of default, if any, then known to Sublessor and Lessor. Sublessor and Lessor agrees to enter into a new lease ("*New Lease*") of the Leased Premises with such Leasehold Mortgagee or its designee for the remainder of the Term of this Lease, effective as of the date of termination, at the rent and upon the terms, covenants and conditions (but excluding requirements which are not applicable or which have already been fulfilled) of this Lease, including, without limitation, all then-unexercised Renewal Terms provided under Section 1.1 of this Lease and the Right of First Refusal provided under Section 7.3 of this Lease, provided:

(a) Such Leasehold Mortgagee shall make written request upon Sublessor and Lessor for such New Lease within sixty (60) days after the date such Leasehold Mortgagee receives Sublessor's and Lessor's notice of termination of this Lease given pursuant hereto.

(b) Such Leasehold Mortgagee or its designee shall pay or cause to be paid to Sublessor and Lessor at the time of the execution and delivery of such New Lease, any and all sums which would at the time of execution and delivery thereof be due pursuant to this Lease but for such determination and, in addition thereto, all reasonable expenses, including reasonable attorney's fees, which Sublessor and Lessor shall have incurred by reason of such termination and the execution and delivery of the New Lease and which have not otherwise been received by Sublessor and Lessor from Lessee or other party in interest under Lessee. Upon the execution of such New Lease, Sublessor and Lessor shall allow to the Lessee named therein as an offset against the sums otherwise due under this subsection or under the New Lease, an amount equal to the net income derived by Sublessor and Lessor from the Leased Premises during the period from the date of termination of this Lease to the date of the beginning of the lease term of such New Lease. In the event of a controversy as to the amount to be paid to Sublessor and Lessor pursuant to this subsection, the payment obligation shall be satisfied if Sublessor and Lessor shall be paid the amount not in controversy, and the Leasehold Mortgagee or its designee shall agree to pay any additional sum ultimately determined to be due plus interest at the rate of ten percent (10%) per annum and such obligation shall be adequately secured.

(c) Such Leasehold Mortgagee or its designee shall agree to remedy any of Lessee's defaults of which said Leasehold Mortgagee was notified by Sublessor's or Lessor's notice of termination and which are reasonably susceptible of being so cured by Leasehold Mortgagee or its designee.

(d) Any New Lease made pursuant to this subsection shall be prior to any Mortgage or other lien, charge or encumbrance on the fee of the Leased Premises and the Lessee under such New Lease shall have the same right, title and interest in and to the Leased Premises as Lessee had under this Lease.

(e) The Lessee under any such New Lease shall be liable to perform the obligations imposed on the Lessee by such New Lease only during the period such person has ownership of such Leasehold.

9.9 New Lease Priorities. If more than one Leasehold Mortgagee shall request a New Lease, the Sublessor and Lessor shall enter into such New Lease with the Leasehold Mortgagee whose Mortgage is prior in lien, or with the designee of such Leasehold Mortgagee. Sublessor and Lessor, without liability to Lessee or any Leasehold Mortgagee with an adverse claim, may rely upon a mortgagee title insurance policy issued by a responsible title insurance company doing business within the state of Louisiana as the basis for determining the appropriate Leasehold Mortgagee who is entitled to such New Lease.

9.10 Takings. Lessee's share, as provided by Article XI of this Lease, of the condemnation award arising from any taking shall, subject to the provisions of such Article XI, be disposed of as provided for by any Leasehold Mortgage.

9.11 Casualty Loss. A standard mortgagee clause naming each Leasehold Mortgagee may be added to any and all insurance policies required to be carried by Lessee hereunder on condition that the insurance proceeds are to be applied in the manner specified in this Lease and the Leasehold Mortgage shall so provide; except that the Leasehold Mortgage may provide a manner for the disposition of such proceeds, if any, otherwise payable directly to Lessee (but not such proceeds, if any, payable to Sublessor and Lessor or payable jointly to Sublessor or Lessor and Lessee) pursuant to the provisions of this Lease.

9.12 Legal Proceedings. Sublessor and Lessor shall give each Leasehold Mortgagee prompt notice of any legal proceedings between Sublessor or Lessor and Lessee involving obligations under this Lease. Each Leasehold Mortgagee shall have the right to intervene in any such proceedings and be made a party to such proceedings, and the parties hereto do hereby consent to such intervention. In the event that any Leasehold Mortgagee shall not elect to intervene or become a party to any such proceedings, Sublessor and Lessor shall give the Leasehold Mortgagee notice of, and a copy of any award or decision made in any such proceedings, which shall be binding on all Leasehold Mortgagees not intervening after receipt of notice of legal proceedings.

9.13 Notices. Notices from Sublessor and Lessor to the Leasehold Mortgagee shall be mailed to the address furnished Sublessor and Lessor pursuant hereto, and those from the Leasehold Mortgagee to Sublessor and Lessor shall be mailed to the address designated pursuant to the provisions hereof. Such notices, demands and requests shall be given in the manner described in Section 13.3 and shall in all respects be governed by the provisions of that Section.

9.14 Definitions. The following terms used in this Article IX shall have the meanings set forth below (as such terms are used in this Article IX and elsewhere in this Lease):

(a) "*Leasehold*" means the estate for years, leasehold estate and other right, title and interest in the Leased Premises conveyed to Lessee by this Lease, including, without limitation, all then unexercised Renewal Terms provided under Section 1.1 and the Right of First Refusal provided under Section 7.3 hereof.

(b) "*Leasehold Mortgagee*" means a holder of a Leasehold Mortgage in respect to which the notice has been duly given and received by Sublessor and Lessor in conformance with the provisions of this Article IX and as to which the provisions of this Article IX are applicable.

(c) "*Leasehold Mortgage*" means a Mortgage of the Leasehold.

(d) "*Mortgage*" means, as a noun, a deed of trust, mortgage, deed to secure debt, security agreement or similar voluntary agreement creating a lien upon or security interest in or conveying title to the Leased Premises or any part thereof or any interest therein (including without limitation the Leasehold) as security for a debt or other obligation. As a verb, "Mortgage" means to grant any such a deed of trust, mortgage, deed to secure debt, security agreement or similar voluntary agreement creating a lien upon or security interest in or conveying title to the

Leased Premises or any part thereof or any interest therein (including without limitation the Leasehold) as security for a debt or other obligation. The term shall not include an assignment or sale of this Lease with a lease or sublease back to Lessee.

(e) "*Mortgagee*" means the holder of a Mortgage or security interest in the Leased Premises or any moveable property or immoveable property.

ARTICLE X
ENVIRONMENTAL INDEMNITY AND INSURANCE

10.1 Insurance. Without limiting the indemnity obligations or liabilities of Lessee, or its insurers, provided herein, Lessee agrees at all times this Lease is in effect to carry and maintain at its sole expense insurance of the types and in the minimum amounts as follows:

(a) Comprehensive general public liability and property damage insurance providing coverage for products liability, personal liability, and property damage, with a "broad form" endorsement that includes a contractual liability endorsement covering Lessee's agreement to indemnify Sublessor and Lessor as set out in this Lease, with minimum combined single limits for bodily injury and property damage of $2,000,000.00 per person per occurrence, which policy shall name Sublessor and Lessor as an additional insured;

(b) Workers' Compensation insurance in accordance with the statutory requirements of the State of Louisiana, and Employers' Liability insurance with a limit of $1,000,000.00;

(c) All risk property insurance on all buildings, facilities, improvements and other constructions forming part of the Leased Premises or located thereon (including, without limitation, all buildings and other constructions now forming part of the Leased Premises and all improvements) covering all risks covered by an "all risk form" policy of fire and extended coverage insurance, and such other risks as Sublessor and Lessor may reasonable require, with limits equal to the full replacement value thereof, which policy shall name Sublessor and Lessor as loss payees;

(d) All risk property insurance on all of Lessee's furniture, equipment, and other personal property located in, upon, or about the Leased Premises, or used in the conduct of Lessee's business in, upon, or from the Leased Premises, covering all risks covered by a "all risk form" policy of fire and extended coverage insurance, with limits equal to the full replacement value thereof;

Sublessor and Lessor shall have the right, but not the obligation, to increase the required minimum insurance limits stated above (as well as the required minimum insurance limits set out herein) from time to time as Sublessor and Lessor may reasonably require to assure that the coverage provided at the time of the increase is economically equivalent to the coverage

provided by the limits set out above on the execution of this Lease, which increase shall be calculated in the same manner as increases of rent under this Lease.

Each insurance policy required under this Section shall be issued by a company that is acceptable to Sublessor and Lessor, in its reasonable judgment, and is qualified to do business in the State of Louisiana. Lessee will deliver to Sublessor and Lessor the original (or a copy certified by the insurer) of each policy required hereunder before the Term of this Lease begins. Lessee will further deliver to Sublessor and Lessor the original (or a copy certified by the insurer) of each renewal thereof no later than fifteen (15) calendar days before any such insurance policy shall expire. Each such policy or renewal thereof, as the case may be, shall be accompanied by a certificate of the insurer that such policy may not be canceled except upon thirty (30) calendar days' prior written notice to Sublessor and Lessor.

Each policy of insurance maintained hereunder and each renewal or replacement thereof shall contain (i) a clause in a form acceptable to Sublessor and Lessor providing that each underwriter shall waive all of its rights of recovery, under legal or conventional subrogation or otherwise, against Sublessor and Lessor: (ii) a "breach of warranty" clause stating that the interests of Sublessor and Lessor, if any, including its members, managers, officers, employees, and agents, and the interests of any Mortgagee will not be affected by the failure of Lessee or any insurer to comply with any of the warranties expressed in the printed conditions of the policy; (iii) a clause providing that Sublessor and Lessor shall not liable to the insurance carrier for payment of any premiums for such insurance by reason of its being named an additional insured or loss payee, as the case may be, thereunder; and (iv) a clause providing that coverage is primary and not in excess or contributory with any other insurance or any self-insurance maintained by Lessee. Sublessor, Lessor and Lessee each waive every claim which arises or may arise in its favor and against the other party hereto during the Term of this Lease or any renewal or extension thereof for any and all loss of, or damage to, any of its property located within or upon, or constituting a part of, the Leased Premises, covered by applicable insurance policies, only to the extent that such loss or damage is recoverable under said insurance policies, except if such waiver would result in the denial of said coverage under any applicable insurance policy or if said party must be named to assert and action against said insurance company. Said mutual waivers shall be in addition to, and not in limitation or derogation of, any other waiver or release contained in this Lease with respect to any loss of or damage to property of the parties hereto. Each party agrees to immediately give to each insurance company which has issued to it policies of insurance applicable to provisions of this Lease written notice of the terms of the mutual waivers set forth in this Section, and to have said insurance policies properly endorsed, if necessary, to prevent the invalidation of said insurance coverage by reason of said waivers. Lessee shall ensure that all contractors providing services on the Leased Premises are properly insured and licensed.

10.2 Environmental Claims. As used in this Article, the term "Hazardous Materials" means any hazardous or toxic substances, materials or wastes, including, but not limited to, those substances, materials and wastes listed in the United States Department of Transportation Hazardous Materials Table (49 C.F.R. 172.101) or by the Environmental Protection Agency as hazardous substances (40 C.F.R. Part 302) and amendments thereto, or substances, materials and wastes which are or become regulated under any applicable local, state or federal law, rule, or regulation, including, without limitation, any material, waste or substance which is: (i)

petroleum; (ii) asbestos; (iii) polychlorinated biphenyls; (iv) designated as a "hazardous substance" pursuant to Section 311 of the Clean Water Act, 33 U.S.C. 251, et seq. (33 U.S.C. Section 1321) or listed pursuant to Section 307 of the Clean Water Act (33 U.S.C. 1317); (v) defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., (42 U.S.C. 6903); or (vi) defined as a "Hazardous Substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601, et seq. (42 U.S.C. 9601).

Lessee covenants and agrees from the date hereof, and as long as the provisions of this Lease shall remain in effect, to remove from the Leased Premises, if and as required by law, any Hazardous Materials placed in or on the Premises by Lessee, its agents, its employees or its independent contractors, and to comply in all respects with all federal, state and local governmental laws and regulations governing such removal. Lessee promises to give notice to Sublessor and Lessor of any claim, action, administrative proceeding (including, without limitation, informal proceedings), or other written demand by any governmental agency or other third party involving the existence of Hazardous Materials on the Leased Premises, and copies of any notice of any releases of Hazardous Materials given by Lessee pursuant to any law, rule or regulation, and any report of and response to any such incident.

Lessee agrees to indemnify, pay and protect, defend and save Sublessor and Lessor harmless from and against any and all claims (including, without limitation, third party claims for personal injury or real or personal property damage), actions, administrative proceedings (including informal proceedings), judgments, damages, punitive damages, penalties, fines, costs, liabilities (including sums paid in settlement of claims), interest, or losses, including reasonable attorneys' and paralegals' fees and expenses, consultant fees, and expert fees, together with all other reasonable costs and expenses of any kind or nature (collectively, the "*Costs*") that arise out of the release by Lessee or its agents, its employees or its independent contractors of any Hazardous Materials in or into the air, soil, ground water, or surface water at, on, about, under, or within the Premises, or any portion thereof, or elsewhere in connection with Lessee's operations on or in connection with the Premises. The indemnification provided in this Lease shall specifically apply to and include claims or actions brought by or on behalf of employees of Lessee. In the event Sublessor and Lessor shall suffer or incur any such costs, Lessee shall pay to Sublessor and Lessor the total of all such reasonable costs suffered or incurred by Sublessor and Lessor upon demand therefore by Sublessor and Lessor. Without limiting the generality of the foregoing, the indemnification provided in this Lease shall specifically cover costs, (including capital, operating and maintenance costs), incurred in connection with (1) any investigation or monitoring of site conditions, (2) any cleanup, containment, remedial, removal, or restoration work require or performed by any federal, state or local government agency or political subdivision or performed by any nongovernmental entity or person because of the presence, suspected presence, release, or suspected release of any Hazardous Material in or into the air, soil, ground water, or surface water at, on, about, under, or within the Premises or any portion thereof, or elsewhere in connection with Lessee's operations on or in connection with the Premises and (3) any claims of third parties for loss or damage due to such Hazardous Materials.

In the event Lessee is required to conduct or perform any investigation or monitoring of site conditions for any cleanup, containment, restoration, removal or other remedial work (collectively the "*Remedial Work*") under any applicable federal, state or local law or regulation,

by any judicial order or by any governmental entity, or in order to comply with any agreements affecting the Premises because of or in connection with any occurrence or event described in this Lease, Lessee shall perform or cause to be performed the Remedial Work in compliance with such law, regulation, order or agreement; provided that Lessee may withhold such compliance pursuant to a good faith dispute regarding the application, interpretation, or validity of the law, regulation, order or agreement, subject to the requirements of the following paragraph. All Remedial Work shall be performed by one or more contractors selected by Lessee after consultation with Sublessor and Lessor, and under the supervision of a consulting engineer selected by Lessee. Lessee shall incorporate Sublessor's and Lessor's reasonable comments regarding the selection of professionals. In the event a Remedial Work is required, Lessee shall apply to and conduct such Remedial Work under the Louisiana Voluntary Cleanup Program (the "*Program*") or equivalent brownfields program in place at the time of such Remedial Work. Sublessor and Lessor shall cooperate with Lessee in obtaining entry into the Program and other consents of owner required under the Program. All costs and expenses of such Remedial Work shall be paid by Lessee, including, without limitation, the charges of such contractors and/or the consulting engineer. If Lessee shall fail to timely commence or cause to be commenced, or fail to diligently prosecute to completion, such Remedial Work, Sublessor and Lessor may, but shall not be required to, cause such Remedial Work to be performed, and all reasonable costs and expenses thereof or incurred in connection therewith shall be Costs within the meaning of this Lease. All such Costs shall be due and payable upon demand therefore by Sublessor and Lessor.

Lessee shall be permitted to contest or cause to be contested, subject to compliance with the requirements of this paragraph, by appropriate action any Remedial Work requirement, and Sublessor and Lessor shall not perform such requirement on its behalf, so long as Lessee has given Sublessor and Lessor written notice that Lessee is contesting or shall contest or cause to be contested the application, interpretation, or validity of the governmental law, regulation, order or agreement pertaining to the Remedial Work by appropriate proceedings conducted in good faith with due diligence; provided, that such contests shall not subject Sublessor or Lessor or any assignees of Sublessor's or Lessor's interest in the Premises to civil liability and does not jeopardize any such parties' interest in the Premises. Lessee shall give such security or assurances as may be reasonably required by Sublessor and Lessor to insure compliance with the legal requirements pertaining to the Remedial Work (and payment of all Costs in connection therewith) and to prevent any sale, forfeiture, or loss by reason of such nonpayment or noncompliance.

This Section 10.2 shall be binding upon, inure to the benefit of, and be enforceable by Sublessor, Lessor, and Lessee, and their respective heirs, legal representatives, successors and assigns, including, without limitation, any assignee or purchaser of all or any portion of the Sublessor or Lessor's interest in the Premises. If any term of this Article or any application thereof shall be invalid, illegal, or unenforceable, the remainder of this Article and any other application of such term shall not be affected thereby. No delay or omission in exercising any right hereunder shall operate as a waiver of such right or any other right. The provisions of this Article shall survive the termination or expiration of this Lease.

ARTICLE XI
CONDEMNATION

11.1 Total Taking. Should the entire Leased Premises be taken (which term, as used in this Article XI, shall include any conveyance in avoidance or settlement of eminent domain, condemnation, expropriation or other similar proceedings) by any governmental authority, corporation or other entity under the right of eminent domain condemnation or similar right, then this Lease shall terminate and all rents shall abate as of the date of taking possession by the condemning authority and upon the determination of the final award, the award therefore will be distributed first to Sublessor and Lessor for the value of the land leased pursuant to this Lease only (without any value being attributed to such land as a result of Lessee's improvements and without reduction of the value because of the existence of this Lease), plus the then present value of the rental payments through the then Term of this Lease, and then to Lessee for the value of the improvements taken, the Lessee's expenses of relocation of its operations, value of Lessee's fixtures and trade fixtures and any other portion of the condemnation award as it relates to the value of the Leasehold, with the balance, if any, to be distributed equally between Sublessor and Lessor and Lessee. As used herein, the term "award" shall mean any and all awards, damages or settlements which may be paid or made in connection with any taking of possession by any condemning authority of all or any portion of the Leased Premises.

11.2 Partial Taking. Should a portion of the Leased Premises (including without limitation the improvements) be taken by any governmental authority, corporation or other entity under the right of eminent domain, condemnation or similar right, this Lease shall nevertheless continue in effect as to the remainder of the Leased Premises unless so much of the Leased Premises shall be so taken as to make it economically unsound for Lessee to use the remainder for the uses and purposes contemplated hereby, whereupon, in the sole discretion of Lessee, this Lease shall terminate as of the date of taking of possession by the condemning authority in the same manner as if the whole of the Leased Premises had been thus taken, and the award therefore shall be distributed as provided in Section 11.1. In the event of a partial taking where this Lease is not terminated, the rent payable during the remainder of the Term after taking of possession by the condemning authority shall be reduced on a just and proportionate basis. If Sublessor and Lessor and Lessee are unable to agree as to a just reduction in rent, the matter shall be submitted to arbitration as provided in Article XII.

11.3 Award on Partial Taking. If a portion of the Leased Premises is taken and this Lease is not terminated as a result thereof, then Lessee, to the extent condemnation proceeds are available to Lessee, may restore, repair and refurbish the remainder of the Leased Premises in order to put them in a usable condition; any portion of the award not used for such repair and refurbishment work shall be paid as provided in the next sentence. If a portion of the Leased Premises is taken and no repair or restoration work is required thereof or if repair or restoration work is required and performed and a portion of such award is not used for such repair or restoration, then the award therefore or such portion shall be distributed first, to Sublessor and Lessor in the amount equal to the sum of full value of that portion of the Leased Premises condemned reduced by the value of the Leasehold therein (including in such Leasehold the value of the improvements) resulting from such taking, all as determined by Sublessor, Lessor, and Lessee, and if they are unable to agree, the matter shall be submitted to arbitration as

provided in Article XII, and second, the balance, if any, shall be distributed to Lessee. Any such restoration, repair or refurbishment shall be performed in accordance with the provisions of this Lease.

11.4 Temporary Taking. If the whole or any portion of the Leased Premises shall be taken for temporary use or occupancy, the Term shall not be reduced or affected, and Lessee shall have a proportionate abatement in rent. Except to the extent Lessee is prevented from so doing pursuant to the terms of the order of the condemning authority, Lessee shall continue to perform and observe all of the other covenants, agreements, terms and provisions of this Lease. In the event of a temporary taking, Lessee shall be entitled to receive the entire amount of any award therefore unless the period of temporary use or occupancy shall extend beyond the expiration of the final Term, whether the Primary Term or Renewal Term, in which case such award, after payment to Sublessor and Lessor therefrom for the estimated cost of restoration of the Leased Premises to the extent that any such award is intended to compensate for damage to the Leased Premises, shall be apportioned between Lessee and Sublessor or Lessor as of the day of expiration of such Term in the same ratio that the part of the entire period for which such compensation is made falling before the day of expiration and that part falling after, bear to such entire period.

11.5 Separate Awards. The court in condemnation proceedings shall, if not prohibited by law, be requested to make separate awards to Sublessor, Lessor, and Lessee and Sublessor, Lessor, and Lessee shall request such action by such court. The terms of this Article XI shall apply and shall be taken into account by the court in rendering separate awards.

11.6 Receipt of Award. If separate condemnation awards are not made, all sums, including damages and interest, constituting the condemnation award shall be deposited promptly with a mutually agreeable escrow agent, and shall be distributed and disbursed pursuant to the terms of this Lease.

11.7 Notice of Taking. Lessee shall immediately notify Sublessor and Lessor of the commencement of any eminent domain, condemnation or other similar proceedings with regard to the Leased Premises. Sublessor and Lessor shall similarly notify Lessee and all Leasehold Mortgagees of the commencement of any such proceedings.

11.8 Participation by Lessee. Lessee and any Leasehold Mortgagee shall have the right to appear, participate in any condemnation proceedings (including any and all negotiations, hearings, trials and appeals therein) and to prove and recover out of the award any amounts that Lessee would be legally entitled to.

11.9 Mortgagee Condemnation Award Requirement. Notwithstanding the provisions contained in this Article XI, if any, Leasehold Mortgagee elects in accordance with the terms of the Mortgage, to require all of that portion of a condemnation award that is attributable to the improvements and structures on the Leased Premises, or that would otherwise be payable to Lessee hereunder, to be paid to the Leasehold Mortgagee on account of the indebtedness secured by such Mortgage, then subject to rights of any other Leasehold Mortgagee with respect thereto, such payment shall be made to such Leasehold Mortgagee, and Lessee shall be relieved

of all obligations, monetary or otherwise, established under this Article XI to the extent of such payment.

ARTICLE XII
ARBITRATION

Any controversy, claim or dispute arising out of, connected with or relating in any way to this Lease, or the breach thereof, or the relation of the parties, will be settled by three (3) arbitrators pursuant to arbitration proceedings in Houston, Texas, in accordance with the Commercial Arbitration Rules of the American Arbitration Association. Claimant shall name the first arbitrator within ten (10) days after the initiation of arbitration proceedings. The respondent shall appoint the second arbitrator within ten (10) days after the appointment of the first arbitrator. The two party-appointed arbitrators shall appoint the third arbitrator within ten (10) days after the appointment of the second arbitrator. If (i) the respondent fails to appoint an arbitrator or (ii) the two party-appointed arbitrators fail to appoint a third arbitrator within the above-described time limitations, then the American Arbitration Association shall appoint the second and/or third arbitrator, as applicable. All arbitrators shall be and remain at all times wholly impartial and shall provide the parties with a statement that they can and shall decide the case impartially. No arbitrator shall have any financial interest (directly or indirectly) in the dispute or any financial dependence (directly or indirectly) upon any of the parties. The award shall be final and binding. Judgment may be entered in any court having jurisdiction over the person or the assets of the party owing the award to confirm or enforce the award. The arbitrators shall render a written, reasoned award.

ARTICLE XIII
GENERAL PROVISIONS

13.1 Inspection. With prior written approval from Lessee, Lessee shall permit Sublessor and Lessor and Sublessor's and Lessor's agents, representatives or employees, at their sole risk, to enter on the Leased Premises for the purpose of inspection to determine whether Lessee is in compliance with the terms of this Lease, for purposes of maintaining, repairing or altering the premises, or for the purposes of showing the Leased Premises to prospective lessees, purchasers, mortgagees or beneficiaries under deeds of trust. Sublessor and Lessor will abide by Lessee's environmental health and safety rules when entering the Leased Premises.

13.2 No Partnership. The relationship between Sublessor, Lessor, and Lessee at all times shall remain solely that of Sublessor, Lessor, and Lessee and not be deemed a partnership or joint venture. Sublessor and Lessor relinquishes control of the Property to Lessee at the execution of this Lease in an "as is, where is" condition. Thereafter, Sublessor and Lessor and Lessee acknowledge that Sublessor and Lessor shall have no control or supervision, except as provided herein, over any of the activities, work, or employer on the Leased premises or over any of Lessee's employees.

13.3 Payments and Notices. All payments, notices, demands or requests from Lessee to Sublessor shall be given to Sublessor, Attention: David P Bruchhaus and Chad E. Mudd, Gulf Coast Development, L.L.C., P.O. Box 1510, Cameron, Louisiana, 70631 or at such other

address as Sublessor shall request in writing. All payments, notices, demands or requests from Lessee to Lessor shall be given to Lessor, Attention: President of the West Cameron Port Commission, P.O. Box 366, Cameron, Louisiana, 70631 or at such other address as Lessor shall request in writing. All payments, notices, demands or requests from Sublessor and Lessor to Lessee shall be given to Lessee, Attention: Cheniere LNG, Inc., 333 Clay Street, Suite 3400, Houston, Texas 77002 or at such other address as Lessee shall request in writing. Any notice required or permitted under this Lease must be in writing. Any and all written notices required or permitted to be given under this Lease shall be deemed to have been properly given when sent to the other party by facsimile (when such facsimile has been acknowledged by answer back code of recipient) or when received by the other party if sent by certified mail, postage prepaid, or courier at the addresses set out above.

13.4 Estoppel Certificate. At any time and from time to time, but no more often than three (3) times yearly, in connection with a financing or a renewal of financing, Sublessor and Lessor shall, promptly and in no event later than twenty (20) days after a request from Lessee or any Leasehold Mortgagee, execute, acknowledge and deliver to Lessee or any present or proposed mortgagee of the leasehold estate, a certificate in the form supplied by Lessee, certifying: (i) that this Lease is in full force and effect and has not been modified (or if modified, setting forth all modifications), or if this Lease is not in full force and effect, the certificate shall so specify the reasons therefore; (ii) the commencement and expiration dates of this Lease; (iii) the date to which the rentals have been paid under this Lease and the amount thereof then payable, (iv) whether there are then, to the best of Sublessor's and Lessor's knowledge, any existing defaults by Lessee in the performance of its obligations under this Lease, and, if there are any such defaults, specifying the nature and extent thereof; (v) that no notice has been received by Sublessor or Lessor of any default under this Lease which has not been cured, except as to defaults specified in the certificate; (vi) the capacity of the person executing such certificate, and that such person is duly authorized to execute the same on behalf of Sublessor and Lessor; (vii) an agreement to provide notice of default to any Leasehold Mortgagee and an opportunity for such Leasehold Mortgagee to cure any such default, consistent with the terms of this Lease; (viii) the number of options remaining in this Lease, and (ix) any other information reasonably requested by Lessee or its present or proposed purchaser or mortgagee.

ARTICLE XIV
MISCELLANEOUS

14.1 Parties Bound. This Lease, and the rights and obligations of Sublessor, Lessor, and Lessee, shall bind and inure to the benefit of Sublessor, Lessor, and Lessee, and their respective legal representatives, heirs, distributees, successors and assigns where assignment is permitted by this Lease.

14.2 Applicable Law. This Lease shall be construed in accordance with and be governed by the laws of the State of Louisiana, without reference to the conflict of laws principles thereof.

14.3 Severability. If any part of this Lease is for any reason found to be unenforceable, all other portions nevertheless remain enforceable and the parties agree to enter into good faith negotiations to agree upon new terms which reflect as closely as possible the original intent of the parties as set forth in such unenforceable provisions.

14.4 Rights and Remedies Cumulative. The rights and remedies provided by this Lease are cumulative, and the use of any one right or remedy by either party shall not preclude or waive its right to use any or all other remedies. Said rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise. All the rights and remedies may be exercised and enforced concurrently or whenever occasion for the exercise arises.

14.5 Attorney's Fees. In the event Sublessor, Lessor, or Lessee breach or default upon any of the terms of this Lease and the party not in default employs attorneys to protect or enforce its rights hereunder and prevails, then the defaulting party agrees to pay the reasonable attorneys' fees incurred by the prevailing party.

14.6 Number and Gender, Captions, References. Pronouns, wherever used herein, and of whatever gender, shall include natural persons and corporation and associations of every kind and character, and the singular shall include a plural wherever and as often as may be appropriate. Article and Section heading of this Lease are for convenience of reference and shall not affect the construction of interpretation of this Lease. Whenever the terms "hereof," "hereby," "herein" or words of similar import are used in this Lease they shall be construed as referring to this Lease in its entirety rather than to a particular Section or provision, unless the context specifically indicates to the contrary. Any reference to a particular "Article" or "Section" shall be construed as referring to the indicated Article or Section of this Lease.

14.7 Brokers. Lessee hereby warrants and represents unto Sublessor and Lessor that it has not incurred or authorized any brokerage commission, finder's fees or similar payments in connection with this Lease, and agrees to defend, indemnify and hold harmless Sublessor and Lessor from and against any claim for brokerage commission, finder's fees or similar payment arising by virtue of authorization by, through or under Lessee in connection with this Lease.

14.8 Recordable Memorandum. At any time and from time to time and upon the execution of this Lease, at the request of Lessee, Sublessor and Lessor will execute a memorandum setting forth the material terms of this Lease all in a recordable form reasonably acceptable to Lessee. Such instrument shall not in any way amend or modify any terms of this Lease. This Lease and any modifications, amendments or supplements hereto or a memorandum hereof may be filed for recordation in the official land records of Cameron Parish, Louisiana, and in such other location as may from time to time be provided by law as the proper place for recording this Lease.

14.9 Interpretation. This Lease shall be construed without regard to the identity of the person who drafted the various provisions hereof. Each provision of this Lease shall be construed as though both parties participated equally in its drafting. Consequently, the parties acknowledge and agree that any rule of construction that a document is to be construed against the drafting party shall not be applicable to this Lease.

14.10 Force Majeure. In the event either party to this Lease shall be delayed or hindered in or prevented from the performance required hereunder by reason of an event of force majeure, which includes, but is not limited to, strikes, lockouts, labor troubles (which strikes, lockouts or labor troubles the party suffering same shall not be obligated to settle except for reasons within its sole discretion), failure of power, riots, insurrection, war, acts of God, inability to obtain power, fuel, supplies, feedstock, machinery or equipment, any Federal or State law, or any order, rule, or regulation of any governmental authority, or any other reason of similar or dissimilar nature not the fault of the party delayed in performing work or doing acts (herein, "*force majeure*"), such party shall be excused for the period of time equivalent to the delay caused by such force majeure.

14.11 Third Parties. Except as herein specifically and expressly otherwise provided with regard to notices, opportunities to cure defaults and certain other enumerated rights, including but not limited to the rights of Leasehold Mortgagees, the terms and provisions of this Lease are for the sole benefit of Sublessor, Lessor, and Lessee.

14.12 Entire Agreement. This Lease, including any exhibits, constitutes the parties' final and mutual agreement. There are no written or oral representations or understandings that are not fully expressed in this Lease. No change, waiver or discharge is valid unless in writing that is signed by the party against whom it is sought to be enforced.

14.13 Further Assurances. Sublessor and Lessor shall execute any documents, reasonably requested by or on behalf of Lessee, including but not limited to any right, permit, license or authorization with respect to the Leased Premises or the Project, and to further evidence the obligations of Sublessor and Lessor, or the rights or obligations of Lessee under this Lease. Sublessor and Lessor shall cooperate in good faith with Lessee in Lessee's efforts to obtain permitting and financing for the Project.

14.14 Cooperation with Zoning and other Matters. In addition to the assistance to be provided by Sublessor and Lessor under Section 5.7 of this Lease, Sublessor and Lessor shall assist and cooperate with Lessee in connection with obtaining and/or preserving any zoning or rezoning of the Leased Premises, or any variances with respect thereto, as well as with obtaining and/or preserving any site plan approvals, grading permits, construction permits, development permits, building permits, sign permits or any other permits, approvals or licenses required of or from any governmental entities or officials in connection with the development, construction and operation of the improvements, and the Project, and will further cooperate with Lessee in connection with all other matters affecting the Leased Premises and the Project and/or Lessee's operations and therein, including all matters involving Taxes. Sublessor and Lessor hereby agrees to execute any applications for any such rezoning, variances, approvals, permits or licenses and such other matters and hereby irrevocably appoints and authorizes Lessee, as Sublessor's and Lessor's agent and attorney-in-fact, to seek, apply for and pursue such rezoning, variances, approvals, permits or licenses in the name, place and stead of Sublessor and Lessor, but at the sole cost and expense of Lessee. Sublessor and Lessor will immediately confirm Sublessor's and Lessor's appointment of Lessee as Sublessor's and Lessor's agent upon request of Lessee.

14.15 No Waiver. Failure on the part of either party to complain of any action or non-action on the part of the other party, no matter how long the same may continue, shall not be deemed to be a waiver by the non-complaining party of any of its rights hereunder. Further, it is covenanted and agreed that no waiver at any time of any of the provisions shall be construed as a waiver of any of the other provisions hereof and that a waiver at any time of any of the provisions hereof may not be construed as a waiver at any subsequent time of the same provisions. The consent or approval by one party to or of any action by the other requiring the approving party's consent or approval shall not be deemed to waive or render unnecessary such party's consent or approval to or of any subsequent similar act.

14.16 Subordination of Sublessor and Lessor's Lien. Lessee shall have the right to place at the premises such furniture, trade fixtures, equipment, machinery, inventory and other property as Lessee deems necessary or desirable for the conduct of its business and the Project, and Lessee may remove from the Leased Premises or the Project all or any portion of such furniture, trade fixtures, equipment, machinery, inventory and other property at any time and from time to time whenever desired by Lessee. This Lease and any of the foregoing items may be leased from or mortgaged or encumbered to (or in favor of) some other party. Accordingly, such other party, whether Sublessor and Lessor or mortgagee, shall at all times have the right (as against Sublessor and Lessor) to remove any of such trade fixtures, equipment, machinery, inventory and other property from the Leased Premises or the Project at any time. At the request of Lessee, Sublessor and Lessor will execute such instrument(s) as may be presented for signature by any such Sublessor and Lessor or mortgagee solely for the purpose of further evidencing the rights of such Sublessor and Lessor or mortgagee or other holder of an encumbrance as may be agreed to by Sublessor and Lessor. If Sublessor and Lessor should fail or refuse to execute any such instrument within fifteen (15) days following submission of such instrument to Sublessor and Lessor, then Lessee shall be authorized to execute such instrument on Sublessor's and Lessor's behalf, and Lessee hereby irrevocably appoints Lessee as Sublessor's and Lessor's agent and attorney-in-fact for such purposes.

14.17 Performance of Other Party's Obligations. If either party hereto fails to perform or observe any of its covenants, agreements or obligations hereunder, in a timely manner after having received notice from the other party, then the other party shall have the right, but not the obligation, at its sole election (but not as its exclusive remedy) to perform or observe the covenants, agreements or obligations which are asserted to have not been performed or observed at the expense of the failing party and to recover all costs or expenses incurred in connection therewith.

14.18 Joint and Several. If either Sublessor, Lessor, or Lessee at any time is composed of more than one person or entity, the obligation of all such persons or entities shall be joint and several.

14.19 Counterparts. This Lease may be executed in any number of counterparts, each of which shall be deemed an original binding on the party or parties so signing, regardless of whether all grantors, lessors or vendors, as the case may be, join in this Lease. All counterparts, construed together, shall constitute one Lease.

IN TESTIMONY WHEREOF, this Lease is executed in duplicate originals, either of which shall be deemed to be an original, on the date first above mentioned.

SUBLESSOR:

By: _____

Name: David P. Bruchhaus
Title: Member Manager – Gulf Coast Development, L.L.C.

By: _____

Name: Chad E. Mudd
Title: Member Manager – Gulf Coast Development, L.L.C.

LESSOR:

By: _____

Name:
Title: Officer and duly authorized Representative Of the West Cameron Port Commission

LESSEE:

By: _____

Name: Charif Souiki
Title: Chairman – Cheniere LNG, Inc.

EXHIBIT A

Description of Leased Premises

Tract I Approximately 95 acres situated in Cameron Parish, Louisiana said acreage being located west of the centerline of the Calcasieu Ship Channel in Section 32, Township 15 South, Range 10 West, as shown in Exhibit B attached hereto.

EXHIBIT B

Plat

EXHIBIT C

Title Matters

1. ATTACHED HERETO IS A CERTIFIED COPY OF THE LEASE BETWEEN GULF COAST DEVELOPMENT, L.L.C. AND THE WEST CAMERON PORT COMMISSION.
2. ATTACHED HERETO IS A COPY OF THE RESOLUTION OF THE WEST CAMERON PORT COMMISSION.
3. ATTACHED HERETO IS A CERTIFICATE OF AUTHORITY FROM GULF COAST DEVELOPMENT, L.L.C.
4. This property is subject to all easements, right of ways, and restrictions recorded in the public records including but not limited to the following: utilities rights of way, a pipeline right of way in favor of the Department of Energy on the West End of Said Property, the ship channel right of way in favor of United States Government on the East End of the property leased along with associated rights, the road right of way along with existing rights to the State of Louisiana.

EXHIBIT "D"

Title Matters

1. ATTACHED HERETO IS A CERTIFIED COPY OF THE LEASE BETWEEN GULF COAST DEVELOPMENT, L.L.C. AND THE WEST CAMERON PORT COMMISSION.
2. ATTACHED HERETO IS A COPY OF THE RESOLUTION OF THE WEST CAMERON PORT COMMISSION.
3. ATTACHED HERETO IS A CERTIFICATE OF AUTHORITY FROM GULF COAST DEVELOPMENT, L.L.C.
4. This property is subject to all easements, right of ways, and restrictions recorded in the public records including but not limited to the following: utilities rights of way, a pipeline right of way in favor of the Department of Energy on the West End of Said Property, the ship channel right of way in favor of United States Government on the East End of the property leased along with associated rights, the road right of way along with existing rights to the State of Louisiana.

MEMORANDUM OF OPTION TO SUBLEASE AND LEASE

STATE OF LOUISIANA

PARISH OF CAMERON

This Memorandum of Option to Sublease and Lease, effective as of Nov 13, 2003 (the "Effective Date"), is by and between **Gulf Coast Development, L.L.C. (Sublessor)** whose principal address is P.O. Box 1510, Cameron Parish, Louisiana 70605 and **West Cameron Port Commission (Owner)** whose principal address is P.O. Box 366, Cameron, Louisiana 70631 and **CHENIERE LNG, INC.**, a Delaware corporation whose principal address is 333 Clay Street, Suite 3400, Houston, Texas 77002, on behalf of itself and its successors and assigns (collectively, "Cheniere").

WITNESSETH:

1. Subject to the terms and conditions more fully set forth in that certain Option to Lease dated Nov 13, 2003 and effective as of the Effective Date, by and between Sublessor, Owner, and Cheniere, (the "Agreement"), and in consideration for the payment by Cheniere to Sublessor of Ten and No/100 Dollars ($10.00), and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by Sublessor, Sublessor and Owner hereby grant to Cheniere the sole, exclusive and irrevocable option (the "Option"), but not the obligation, to lease the lands situated in Cameron Parish, Louisiana and more particularly described on Exhibit "A" attached hereto and made a part hereof by reference, and more particularly outlined in red on the plat labeled Exhibit "B" attached hereto and made a part hereof by reference, together with the exclusive use of all easements, servitudes, rights and appurtenances thereto of every nature and kind and all buildings and other improvements as same may be situated on the Property, (collectively, the "Property"). Cheniere has been provided with a certified copy of the lease between Sublessor and Owner.

2. The term of the Agreement and this Memorandum of Option to Sublease and Lease shall commence on the date of execution hereof by Sublessor,Owner, and Cheniere , and shall continue until the Option Termination Date defined in the following sentence, as same may be extended as set forth in this Paragraph 2. Cheniere shall exercise the Option by giving Sublessor and Owner written notice thereof (the "Option Notice") and by submitting therewith the said Lease to Sublessor and Owner for its execution and delivery to Cheniere, at any time on or before Nov 13, 2004 (the "Option Termination Date"). Provided, however, that Cheniere may extend the Option Termination Date for up to an additional three (3) successive periods of twelve (12) months each (collectively, the "Extension Period") by delivering to Sublessor and Owner written notice, given at least ten (10) days prior to the Option Termination Date, that Cheniere wishes to extend the then-applicable Option Termination Date prior to the expiration of the initial Option Termination Date or each Extension Period, or any such installment of any thereof, as the case may be. At any time that Cheniere exercises its right to so extend the Option Termination Date, it shall also deliver to Sublessor and Owner, along with the notice of extension thereof, additional consideration as particularly set forth in the Agreement to Sublessor.

3. Should Cheniere exercise the Option, Sublessor and Owner shall execute and deliver to Cheniere a lease of the Property containing the terms and conditions of that certain Lease Agreement attached as Exhibit "C" to the Agreement, as same may be amended by Sublessor, Owner, and Cheniere (the "Lease"). The term of the said Lease shall be for thirty (30) years, commencing, no later than sixty (60) days from the date on which Cheniere delivers notice to Owner that Cheniere exercises the Option (the "Primary Term"). In addition, Cheniere has the option of renewing the Primary Term for six (6) additional periods of ten (10) years each, beginning on the first day after the expiration of the Primary Term and the first and each succeeding renewal term thereof, as the case may be, and ending on the expiration of ten (10) years thereafter, as appropriate.

4. Reference is hereby made to the Agreement and all of the provisions contained therein, including all Exhibits thereto, all of which are incorporated herein by reference and made a part hereof in all respects as though fully set forth herein for all purposes.

5. This Memorandum of Option to Sublease and Lease is executed by the parties signatory hereto for the purpose of memorializing the Agreement as set forth in the said Agreement and herein, and pursuant to the provisions of La.R.S.9:2721.1, for purposes of recordation of same in the records of Cameron Parish, Louisiana in order to give third parties notice of the Agreement and its terms and conditions.

6. This Memorandum of Option to Sublease and Lease does not modify or change the terms of the Agreement, and in the event of any inconsistencies between the two, the terms of the Agreement shall control.

7. This Memorandum of Option to Sublease and Lease and the Agreement, and the terms and conditions of both such agreements, shall constitute covenants running with the lands comprising Property, and shall be binding on Sublessor, Owner, and Cheniere, and their respective successors, assigns and transferees.

IN TESTIMONY WHEREOF, this Memorandum of Option to Sublease and Lease is executed in duplicate originals, either of which shall be deemed to be an original, on the date first above mentioned.

Sublessor: Gulf Coast Development, L.L.C.

By: _____

Name: David P. Bruchhaus
Title: Member Manager – Gulf Coast Development L.L.C.

By: _____

Name: Chad E. Mudd
Title: Member Manager – Gulf Coast Development L.L.C.

Owner: West Cameron Port Commission

By: _____

Name: Charles T. Hebert
Title: Officer and Duly authorized Representative of the West Cameron Port Commission

Cheniere

By: _____

Name: Charif Souiki
Title: ~~President~~ – Cheniere LNG, Inc.
Chairman

ACKNOWLEDGEMENTS

STATE OF Texas
COUNTY/PARISH OF Harris

On this 13 day of Nov, 2003, before me, the undersigned Notary Public duly commissioned and qualified in and for the State and County/Parish aforesaid, personally appeared Charif Souki, to me known, who, being by me duly sworn, did say that he is the CEO of Cheniere LNG, Inc., a Delaware corporation, and that the foregoing instrument was signed on behalf of said corporation by authority of its Board of Directors, and said appearer acknowledged said instrument to be the free act and deed of said corporation.

KIM PFEIFER
MY COMMISSION EXPIRES
September 03, 2006

Kim Pfeifer
NOTARY PUBLIC

STATE OF LOUISIANA
PARISH OF CAMERON

On this 13th day of November, 2003, before me, the undersigned Notary Public duly commissioned and qualified in and for the State and County/Parish aforesaid, personally appeared David P. Bruchhaus and Chad E. Mudd to me known, who, being by me duly sworn, did say that they are the members/managers of Gulf Coast Development, L.L.C., a Louisiana Limited Liability Company, and that the foregoing instrument was signed on behalf of said company by authority of its members/managers, and said appearers acknowledged said instrument to be the free act and deed of said company.

Maria D. January
NOTARY PUBLIC

STATE OF LOUISIANA
PARISH OF CAMERON

On this 13th day of November, 2003, before me, the undersigned Notary Public duly commissioned and qualified in and for the State and Parish aforesaid, personally appeared Charles T. Hebert, an officer and duly authorized agent of the West Cameron Port Commission, being by me duly sworn, did say that he is authorized by a duly approved resolution of the West Cameron Port Commission to execute said instrument.

Maria D. January
NOTARY PUBLIC

EXHIBIT "A"

Description of Lands

Approximately 95 acres situated in Cameron Parish, Louisiana, said acreage being located west of the centerline of the Calcasieu Ship Channel in Section 32, Township 15 South, Range 10 West, as shown in Exhibit B attached hereto.

This property is subject to all easements, right of ways, and restrictions recorded in the public records including but not limited to the following: utilities rights of way, a pipeline right of way in favor of the Department of Energy on the West End of Said Property, the ship channel right of way in favor of United States Government on the East End of the property leased along with associated rights, the road right of way along with existing rights to the State of Louisiana.

EXHIBIT "B"

Plat

FIRST AMENDMENT TO OPTION TO LEASE AND SUBLEASE

THIS FIRST AMENDMENT TO OPTION TO LEASE AND SUBLEASE (the "Amendment") dated effective as of April 27, 2005 is made by and between **Gulf Coast Development, L.L.C.**, whose address is P.O. Box 1510, Cameron, Louisiana, 70631 ("Sublessor"), **West Cameron Port Commission**, whose address is P. O. Box 366, Cameron, Louisiana, 70631 (the "Owner"), **Cheniere LNG, Inc.**, a Delaware corporation whose principal address is 717 Texas Avenue, Suite 3100, Houston, Texas 77002, on behalf of itself and its successors and assigns ("Cheniere LNG") and **Creole Trail LNG, LP.**, a Delaware limited partnership whose principal address is 717 Texas Avenue, Suite 3100, Houston, Texas 77002, on behalf of itself and its successors and assigns.

RECITALS:

Whereas, Sublessor, Owner and Cheniere LNG are parties to that Option to Sublease and Lease agreement dated as of November 13, 2003 wherein Sublessor and Owner granted unto Cheniere LNG an option to lease the Property (the "Option").

Whereas, Cheniere LNG has generally agreed with Owner and Sublessor that the Project Holder shall lease the Property if the Project Holder is successful in locating a LNG Project on the Calcasieu River Waterway, within the boundaries of Cameron Parish.

Whereas, Cheniere LNG has generally agreed with Owner and Sublessor that the Project Holder shall exercise each Renewal Term (as defined in the Lease) if at the time of the expiration of the Primary Term (as defined in the Lease) under the Lease or any Renewal Term thereof,

(i) Project Holder is operating an LNG Project at any location on the Calcasieu River Waterway within the boundaries of Cameron Parish; or

(ii) Project Holder continues to lease, own or in any manner occupy, any property which is included in the North Site.

Whereas, Cheniere LNG has formed an entity by the name of Creole Trail LNG, LP, which entity it has identified as the entity which will be making the initial FERC application and in whose name the FERC Action will be taken with regard to the Creole Trail LNG Project.

Whereas, the parties hereto wish to enter into this Amendment in order to evidence the terms, conditions and limitations of their Agreement.

EXHIBIT

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Whereas, terms not otherwise defined in this Amendment shall have the meanings ascribed thereto in the Option.

WITNESSETH:

Section 1. Definitions. The following words and terms shall have the following meanings as used in this Addendum.

"Calcasieu River Waterway" shall mean the water navigational channel that commences in the Gulf of Mexico south of Cameron Parish at the opening of the Calcasieu Ship Channel and/or Cameron Jetties and extends in a northerly direction to the northern boundary of Cameron Parish, consisting of a combination of the original Calcasieu River course and man-made "shortcuts" dredged between the various, tortuous loops, said channel being more particularly identified in red on Exhibit "1", attached hereto and made a part hereof.

"Cheniere" shall mean Cheniere LNG and Creole Trail LNG, LP, their agents, affiliates, subsidiaries, assigns, transferees, or successors in interest.

"FERC" shall mean the Federal Energy Regulatory Commission.

"FERC Action" shall mean the application with, and any action by FERC resulting from an application by Cheniere with FERC, pursuant to Section 157.20(a) of the FERC regulations (or any other applicable provisions), for the construction of an LNG Project, together with any amendments thereto, assignments thereof or substitutions therefore, including but not limited to any certificate and/or permit issued, or to be issued by FERC in response thereto.

"North Site" shall mean the site of property or properties identified and optioned by Cheniere from Westlands Corporation, WJH, LLC and other persons or entities for possible location of the LNG Project, such property to include the following:

Tract B
Beginning at a point in T-15S, R-10W where the southwest corner of Section 33 intersects the south line of Section 2, proceed north approximately 13,250 feet to a Point of Beginning located on the common line between Sections 23 and 26 of T-14S, R-10W; then proceed south a distance of approximately 5280 feet to a point located on the common line between Section 26 and Section 35; then proceed east along the south line of Section 26 approximately 4300 feet to a point on the west boundary of the Calcasieu River Channel; then proceed in a northerly direction along the west boundary of the Calcasieu River Channel to the point of intersection with the north line of Section 26; then proceed west along the north line of Section 26 approximately 4100 feet to the

point of beginning; containing 510 acres, more or less, SAVE AND EXCEPT TRACT B-1, leaving 450 acres, more or less.

Tract B-1
Beginning at a Point at the intersection of the west boundary of the Calcasieu River Channel and the north line of Section 26, T-14S, R-10W, proceed west along the north line of Section 26 a distance of 500 feet from the west boundary of the Channel to a point; then proceed in a southerly direction along a line running parallel to and remaining 500 feet west of the west boundary of the Calcasieu River Channel a distance of approximately 5280 feet to a point on the south line of Section 26, then proceed east along the south line of Section 26 to a point on the west boundary of the Calcasieu River Channel; then proceed in a northerly direction along the west boundary of the Calcasieu River Channel to the Point of Beginning; containing 60 acres more or less.

Tract C
Beginning at a Point at the intersection of the west boundary of the Calcasieu River Channel and the south line of Section 26, T-14S, R-10W, proceed west along the south line of Section 26 approximately 4300 feet to a point on the south line of Section 26, then proceed north to a point located 500 feet from the south line of Section 26, then proceed east a distance of approximately 4300 feet to a point on the west boundary of the Calcasieu River channel, then proceed south along the west boundary for a distance of approximately 500 feet to the Point of Beginning; containing 49 acres, more or less, SAVE AND EXCEPT TRACT C-1, leaving 43 acres, more or less.

Tract C-1
Beginning at a Point at the intersection of the west boundary of the Calcasieu River Channel and the south line of Section 26, T-14S, R-10W, proceed west along the south line of Section 26 a distance of 500 feet to a point on the south line of Section 26, then proceed in a northerly direction along a line running parallel to and remaining 500 feet west from the west boundary of the Calcasieu River Channel to a point, then proceed east a distance of approximately 500 feet to a point on the west boundary of the Calcasieu River Channel, then proceed south along the west boundary for a distance of approximately 500 feet to the Point of Beginning.; containing 6 acres, more or less.

That certain tract or parcel of land containing 213 acres, more or less, being all that portion of the South Half (S/2) of Section 23,

situated South of West Fork Bayou and all that portion of the South Half (S/2) of Section 22, situated South of West Fork Bayou, all in Township 14 South - Range 10 West, Cameron Parish, Louisiana. Said tract being further described as Lots 4, 5, 6 and 7 of Section 23 and Lot 8 of Section 22, all in Township 14 South - Range 10 West, Cameron Parish, Louisiana.

The aforedescribed properties include, cover and affect all right, title and interest of the owners in and to all lands, waterbottoms, banks, shores and other property adjacent to any and all water bodies near or contiguous to the aforedescribed property (including particularly, but not limited to, the Calcasieu River Channel), whether or not such lands, waterbottoms, banks, shores and other property are properly or accurately described hereinabove.

"Creole Trail LNG Project" shall mean any liquefied natural gas degasification terminal facility owned, operated or controlled by the Project Holder and located on or near the Calcasieu River Waterway, within the boundaries of Cameron Parish.

"Project Holder" shall mean initially Cheniere, and thereafter, any party to whom an assignment may be made of the Option, the rights currently in favor of Cheniere with regard to the North Site or any rights with regard to the construction and operation of any natural gas degasification terminal facility by the Project Holder on the Calcasieu River Waterway sought to be permitted pursuant to the FERC Action.

Section 2. Amendment of Option Provision. Section "1, Option" of the Option is amended and restated to read as follows:

"1. Option. Subject to the terms and conditions set forth in this Agreement, and in consideration of the payment by Cheniere to Sublessor of Eighteen Thousand Seven Hundred Fifty and no/100 Dollars ($18,750.00), the receipt and sufficiency of which is hereby acknowledged by Sublessor (the "Option Consideration"), which shall be paid to Sublessor within five (5) business days subsequent to the execution of this Agreement by Sublessor, Owner and Cheniere, Sublessor and Owner hereby grants to Cheniere the sole, exclusive and irrevocable option (the "Option"), but, **except in the instance that a Trigger Event occurs**, not the obligation, to lease the lands situated in Cameron Parish, Louisiana and more particularly described on Exhibit "A" attached hereto and made a part hereof by reference, and more particularly outlined in red on the plat labeled Exhibit "B" attached hereto and made a part hereof by reference, together with the exclusive use of all easements, servitudes, rights and appurtenances thereto of every nature and kind and all buildings and other improvements as same may be situated on the Property (collectively, the "Property"). Cheniere reserves the right to revise the legal description attached as Exhibit "A" upon receipt of the Survey defined in Paragraph 5 of this Agreement."

Section 3. Trigger Event. The Option to Sublease and Lease is amended to add a section "1.1. Mandatory Exercise of Option to Sublease and Lease" to read as follows:

"1.1 Mandatory Exercise of Option to Sublease and Lease. Notwithstanding anything contained in the Option to the contrary, Cheniere hereby agrees to exercise the Option by issuance of an Option Notice, and thereafter, in accordance with the terms of the Option, to enter into the Lease upon the occurrence of any one of the following events (the "Trigger Events"):

a.. Exercise by the Project Holder of an option to lease or otherwise occupy any or all of the property or properties which form the North Site; or

b. Should the Project Holder lease, acquire, or otherwise enter into an agreement for occupancy of any property on the Calcasieu River Waterway, within the boundaries of Cameron Parish for intended use as a LNG Project.

Section 4. Mandatory Exercise of Renewal Options under Sublease and Lease. The Option to Sublease and Lease is amended to add a section "1.2. Mandatory Exercise of Renewal Terms under the Option to Sublease and Lease" to read as follows:

"1.2 Mandatory Exercise of Renewal Terms under Sublease and Lease. Notwithstanding anything contained in the Option or the Lease to the contrary, Cheniere hereby further agrees to exercise each successive Renewal Term (as defined in the Lease) if at the time, in each instance, that the Primary Term or the then existing Renewal Term, as the case may be, expires and any of the following events exists:

a. The Project Holder is operating an LNG Project on the Calcasieu River Waterway within the boundaries of Cameron Parish, whether or not such project is on the Owner's Property; or

b. Project Holder has exercised and is bound to a lease term, or other right of occupancy, with regard to any or all of the property or properties which form the North Site which extends beyond the expiring Primary Term or the then expiring Renewal Term of the Lease.

Notwithstanding anything to the contrary in the Option or the Lease, the commencement date for the Primary Term shall be the date which is ten (10) days from the earlier of the following:

a. The date of the Option Notice;

b. The occurrence of one of the Trigger Events.

A provision similar to Section 1.2 shall be included in the Lease prior to execution of the Lease by the parties.

Section 5. Section "8 Withdrawal" of the Option to Sublease and Lease is amended and restated to read as follows:

"8. Withdrawal. Neither Cheniere, Sublessor or the Owner may withdraw from the Option prior to the Option Termination Date. Subsequent to the Option Termination Date, the Sublessor and Owner, acting together may terminate any obligations of Cheniere under Section 1.1 Mandatory Exercise of Option to Sublease and Lease and Section 1.2 Mandatory Exercise of Renewal Terms under Sublease and Lease, by providing to Cheneire notice of such termination (a "Sublessor and Owner Termination"). Subsequent to the Option Termination Date, the Property shall remain subject to the Option, without additional payments by Cheniere LNG, until such time as a Sublessor and Owner Termination is issued. If at any time after the Option Termination Date, but prior to the issuance of an Option Notice by Cheniere, Sublessor and Owner, acting together, decides to terminate the obligations of Cheniere under Section 1.1 Mandatory Exercise of Option to Sublease and Lease and Section 1.2 Mandatory Exercise of Renewal Terms under Sublease and Lease, for any reason, the Property shall no longer be subject to the Option, except as specifically otherwise provided for in this Agreement, Cheniere shall have no further obligation or liability to Sublessor or Owner hereunder or otherwise with respect to the Property; provided, however, all Option Consideration paid by Cheniere prior to the date of such termination shall be non-refundable to Cheniere. During the Term, Sublessor and Owner shall allow Cheniere to enter the Property to conduct test, studies and perform other activities deemed necessary by Cheniere for evaluation and inspection of the Property. In conjunction therewith Cheniere shall indemnify Sublessor and Owner pursuant to Article 3.4 (c) of the Lease attached as Exhibit C hereto." A Sublessor and Owner Termination shall be effective upon Sublessor and Owner providing to Cheniere written notice of such termination.

Section 6. Section "9. Representations and Warranties of Sublessor, Owner and Cheniere" of the Option is amended to add the following section "(b)" to read as follows:

"(b) Cheniere makes the following representations and warranties to Sublessor and Owner, as of the date of execution of the Amendment, all of which shall survive the execution of the Lease:

(i) Creole Trail LNG, LP shall be the applicant in the application with FERC pursuant to Section 157.20(a) of the FERC regulations, for the commencement and construction of an LNG Project on the North Site or any other site on the Calcasieu River Waterway, within the boundaries of Cameron Parish (the "Application").

(ii) Creole Trail LNG, LP has full power, authority and legal right to make and perform and make the Application and is not currently a party to any agreement or any other restriction or obligation that would limit or preclude its right to apply for the issuance of a permit or certificate from FERC in accordance with the request in the Application.

(ii) The persons executing this Agreement on behalf of Cheniere LNG and Creole Trail LNG, LP were authorized to do so and upon the request of Sublessor and Owner, such

person shall deliver to Sublessor and Owner satisfactory evidence of his or her authority to execute the Agreement on their behalf."

Section 7. The Option to Sublease and Lease is amended to add a Section "8.1 Suspension of Lease Payments in Event of Interruption of Plant Operations" to read as follows:

The lease form attached as Exhibit "C" to the Amendment to Option to Sublease and Lease shall be amended to included a provision that after the Creole Trail LNG Project becomes operational, thereafter in the event that at any time its operations are completely interrupted or suspended for a continuous period of one year, then and in that event after the one year period of non-operation, Lessee shall have the right exercisable by written notice to Lessor and Sublessor to reduce the Base Rent provided for in the lease to an annual Base Rent of $400.00 per acre commencing with the next full calendar year (the "Reduced Rental Rate"). Upon resumption of any operations to the levels provided below at its LNG Project, thereupon the lease payments shall again resume to the original Base Rent and continue thereafter as provided for in the lease during the primary term and during any renewals thereof. For purposes of reducing rental obligations in accordance with this provision, operations must be reduced to a level of throughput at the LNG Project to a level of less than 100 million cubic feet of gas per day for 365 days after notice by Lessee to Lessor and Sublessor of Lessee's intention to interrupt or suspend operations. For purposes of reinstating the rental obligations, resumption of any operations shall mean the date upon which throughput at the LNG Project increases to a level in excess of 100 million cubic feet of gas per day.

During any time period when the Reduced Rental Rate is in effect, Lessor and Sublessor shall have the right to terminate the lease in its entirety by giving sixty (60) days advance written notice of its intention to terminate to Cheniere.

Section 8. The Option to Sublease and Lease is amended to add a Section "3.1 Amendment to Lease Concerning Owner Additional Rent" to read as follows:

The lease form attached as Exhibit C" to the Option shall be amended to include a provision for the payment of rentals to the Owner in accordance with the following terms, to wit:

Lessee shall pay to the Owner the sum of ONE THOUSAND & NO/100 ($1,000.00) DOLLARS for each LNG carrier brought from the Gulf of Mexico through the Calcasieu Ship Channel and berthed at the site of the LNG Project during the term of this Lease. Payment shall be made

by Lessee to the West Cameron Port Commission on an annual basis with the first annual payment being made on the 31st day of January, following the year in which the first LNG carrier actually enters the Calcasieu Ship Channel and berths at the site of the LNG Project and on the 31st day of January of each year thereafter during the term of this Lease (the "Owner Additional Rent").

The amount of the payment for each LNG carrier under the Owner Additional Rent shall be adjusted in the same manner as the Base Rent is adjusted under Section s 2.1 (b) and 2.1 (c) of the Lease, except that the adjustment shall be after each ten (10) year period as opposed to each five (5) year period. However, in no event shall the payment per LNG carrier be reduced below $1,000.00 per carrier.

Owner/Lessor and Lessee/Cheniere agree that Lessee shall be entitled to a credit against the Owner Additional Rental (but not the Base Rent) for all amounts paid by Lessee/Cheniere to Owner/Lessor for fees, rates, tariffs, or other charges or wharfage fees authorized to be imposed by Owner pursuant to Louisiana Revised Statute 34:2553 and its subparts (the "Owner Assessments"). The application of credit shall be on a year by year basis and can only be applied for Owner Assessments for a particular calendar year against Owner Additional Rent for that same year. In no instance shall the Owner Additional Rent fall below zero ($0) as a result of credits for Owner Assessments paid by Lessee.

Sublessor, Owner/Lessor and Lessee/Cheniere agree that all amounts owed as Owner Additional Rent shall be due and payable directly to Owner/Lessor. Notwithstanding any provision to the contrary which may be included in the lease between Owner/Lessor and Sublessor, Sublessor shall have no right to any of the Owner Additional Rent.

The lease form attached as Exhibit C" to the Option shall be amended to include a similar provision for the payment of Additional Rentals to the Owner with regard to each LNG carrier brought from the Gulf of Mexico through the Sabine River and berthed at the site of the Sabine Pass LNG, L.P. facility. In the event that the Lease is executed to include an Owner Additional Rent for the Sabine Pass LNG Project, Owner and Cheniere agree to amend the current Memorandum of Understanding and Agreement Between West Cameron Port Commission and Sabine Pass LNG, L.P. to delete any obligations for a Vessel fee as provided for in Sections 4 (a) and 4 (b) and 4 (c) of said agreement.

Section 9. Miscellaneous.

(a) This Amendment embodies the entire Amendment between the parties and cannot be varied or amended except by the written agreement of the parties.

(b) Time is of the essence of this Amendment.

(c) Words of any gender used in this Amendment shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, and vice versa, unless the context requires otherwise.

(d) The captions used in connection with paragraphs of this Amendment are for convenience only and shall not be deemed to enlarge, limit or otherwise modify the meaning of the language of this Amendment.

(e) This Amendment and all of the terms and conditions hereof shall survive the closing and the execution of the Lease, and shall not be extinguished or modified thereby, or be merged into the Lease as a result of the execution thereof.

(f) This Amendment, and the rights and obligations of the parties hereunder, and any dispute arising in connection herewith, shall be governed by the laws of the State of Louisiana, not considering the applicable conflicts of laws principles thereof.

(g) All of the terms and conditions of this Amendment, constitute real rights, charges and obligations, and covenants running with the land described on Exhibit "A" and the Property, and shall apply to, bind and inure to the benefit of Sublessor, Owner, Cheniere and their respective successors, transferees and assigns.

(h) This Amendment may be executed in any number of counterparts, each of which shall be deemed an original binding on the party or parties so signing, regardless of whether all grantors, lessors or vendors, as the case may be, join in this Amendment. All counterparts, construed together, shall constitute one Amendment.

(REST OF PAGE LEFT BLANK INTENTIONALLY)

IN TESTIMONY WHEREOF, this Amendment is executed in duplicate originals, either of which shall be deemed to be an original, on the date first above mentioned.

Gulf Coast Development, L.L.C

By: _____

Name: Chad E. Mudd

Title: MEMBER

West Cameron Port Commission

By: _____

Name: Cliff Cabell

Title: President

Cheniere LNG, Inc.

By: _____

Name: Keith Meyer

Title: President

Creole Trail LNG, LP

By: _____

Name: Keith Meyer

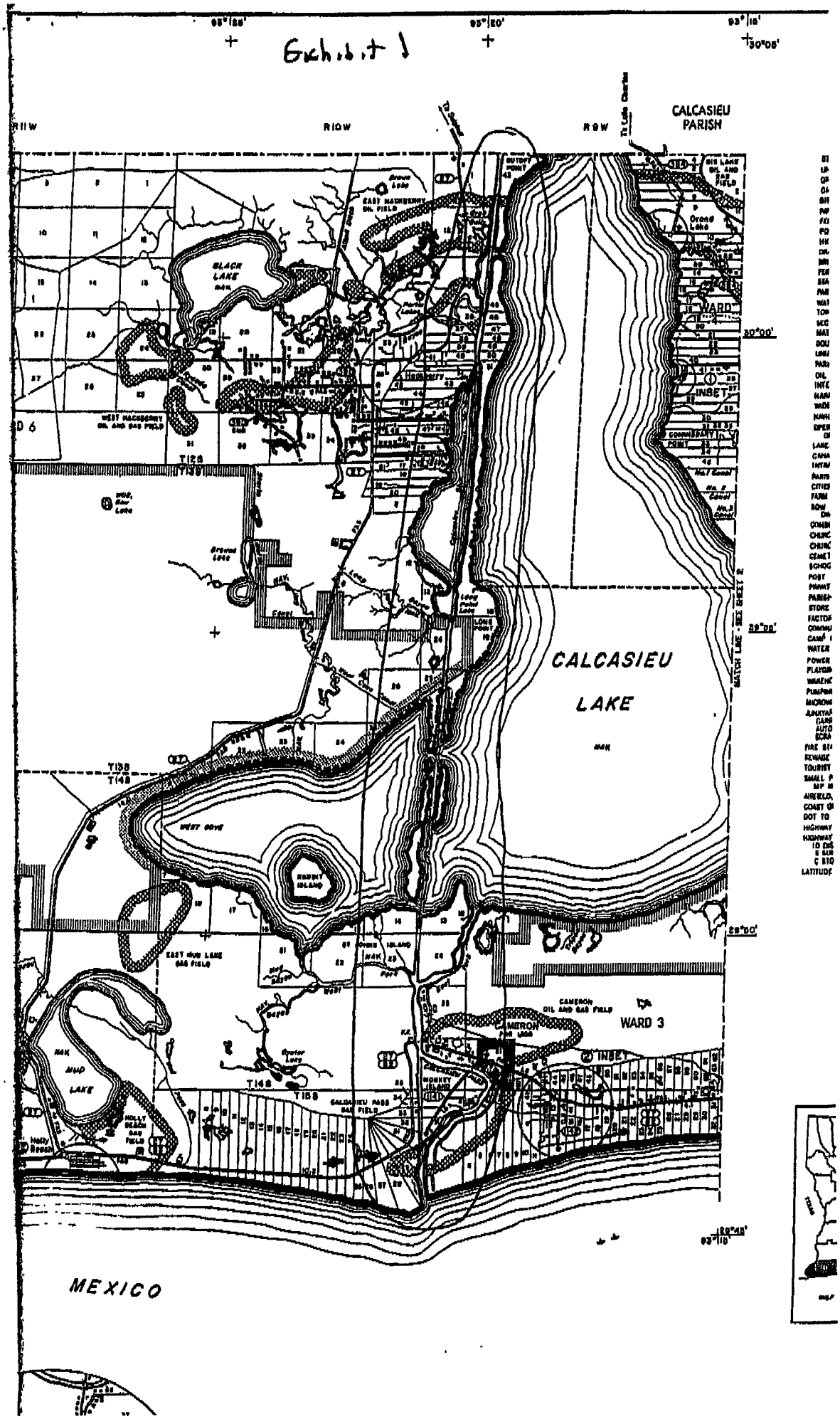
Title: President

EXHIBIT "1"

Identification of Calcasieu River Waterway

Cheniere to provide Exhibit

Exhibit 1


CALCASIEU PARISH
R11W
R10W
R9W
BLACK LAKE
EAST HACKBERRY OIL FIELD
WEST HACKBERRY OIL AND GAS FIELD
WARD
INSET
CALCASIEU LAKE
WEST CROW
HAWKS ISLAND
EAST HOW LAKE GAS FIELD
CAMERON OIL AND GAS FIELD
CAMERON
WARD 3
INSET
MAK MUD LAKE
HOLLY BEACH GAS FIELD
CALCASIEU PASS GAS FIELD
MEXICO

ALLEN & GOOCH

Allen & Gooch
A Law Corporation

August 26, 2005

Mr. Nicholas Gachassin, Jr.
First Assistant Attorney General
State of Louisiana
Office of the Attorney General
P. O. Box 94005
Baton Rouge, LA 70804-9005

Via email/Hard Copy to Follow

Re: Operations by Lake Charles Harbor and Terminal District ("Lake Charles") within the territorial jurisdiction of West Cameron Port, Harbor and Terminal District ("West Cameron")

Dear Mr. Gachassin:

This letter is in response by the West Cameron Port Harbor & Terminal District ("CAMERON") to the twenty two (22) page paper provided by the Lake Charles Harbor & Terminal District (the "LCP") in support of its operations outside of its legal boundaries and within the legal boundaries of CAMERON (the "LCP Paper").

A review of the LCP Paper reveals the following:

1. Approximately 10 ½ pages were devoted to the economic impact and strength of the LCP while attempting to disparage any attempts by CAMERON to improve, expand and grow as a thriving port, which has no bearing on the issue at hand.

2. Approximately 4 pages were devoted to LCP's designation as the Local Sponsor for the Calcasieu River Ship Channel (the "Channel") and LCP's operation and maintenance of the Channel, which has no bearing on the issue at hand.

3. Approximately 2 pages were devoted to attacks on other projects or activities of CAMERON in another attempt to disparage CAMERON by misguided facts and short sited analysis, which has no bearing on the issue at hand.

4. Approximately 2 pages devoted to case law surrounding the expropriation of property to maintain and operate the Channel, which has no bearing on the issue at hand.

Seventeen and one half (17 ½) pages, or approximately eighty (80%) percent of the LCP Paper was devoted to facts and legal issues other than the one at hand. CAMERON will further show in this paper why the balance of the LCP Paper's legal analysis must fail.

1015 St. John Street
Lafayette LA 70501-6711
P O Box 3768
Lafayette LA 70502-3768
Phone 337.291.1000
Fax 337.291.1200

Offices in

Lafayette LA
New Orleans LA

EXHIBIT
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The LCP analysis tends to focus on LCP's operation and maintenance of the Channel and the bootstrapping or expanding of those operations into the right to operate port harbor and terminal facilities and services outside of its jurisdictional boundaries. CAMERON has shown that there is no legal justification for that position. The Sempra Project is the first time that LCP has attempted to provide port, harbor and terminal facilities and services outside of its boundaries. In fact, an informal survey of the general counsels to a number of the larger inland ports has revealed that none of them have provided port, harbor and terminal facilities and services outside of their respective boundaries. Each has affirmatively indicated that it would vigorously challenge such extra-jurisdictional activities should they be attempted within their boundaries. The ambitions of the LCP have grown beyond its legislative grant and the Sempra Project, without CAMERON involvement, is an example of the LCP exerting its economic prowess without regard for its legal limitations and without regard for the jurisdiction bestowed upon CAMERON to operate within its boundaries.

The concise legal issue between the ports is as follows: (the "Issue"):

Can LCP legally own land to operate a port facility outside of its jurisdictional boundaries and within Cameron's jurisdictional boundaries?

To be more straightforward, can LCP, using the extracted provisions 203 (b) and 203 (c) (iii) in isolation and out of context with other applicable provisions justify the ownership and operation of a port facility outside of its statutory jurisdiction and within the statutory jurisdiction of an opposing authority?

There is no dispute that: (i) the Sempra Project is located outside of LCP's jurisdictional boundaries and within CAMERON's jurisdictional boundaries, (ii) LCP entered CAMERON's jurisdiction without the permission of CAMERON, disregarding the legal boundaries of LCP's jurisdiction; and (iii) CAMERON has the power and legal authority to make the Sempra Project legal by cooperative agreement with LCP pursuant to La. R.S. 33:1324.

THE APPLICABLE LAW

In Title 34 of the Louisiana Revised Statues, the Louisiana legislature created the various inland port authorities (collectively hereinafter the "Port Authorities" and singularly referred to as a "Port Authority"). This body of law (i) determines the objects and purposes of the respective Port Authorities generally, and the objects and purposes of LCP particularly (the "Objects and Purposes"), and (ii) sets the limitations intended by the legislature in creating each Port Authority by specific territorial limits (the "Jurisdictional Boundaries").

The Louisiana Civil Code provides standards for statutory interpretation which apply in evaluating and defining the Objects and Purposes as well as the intended limitations set by the Jurisdictional Boundaries:

> Art. 9. Clear and unambiguous law
>
> When a law is clear and unambiguous and its application does not lead to absurd consequences, the law should be applied as written and no further interpretation may be made in search of the intent of the legislature. (hereinafter "Art. 9")
>
> Art. 13. Laws on the same subject matter
>
> Laws on the same subject matter must be interpreted in reference to each other. (hereinafter "Art. 13")

The Louisiana Supreme Court, in *Montgomery v. City of Lafayette*, 154 LA. 822, 98 So. 259 (1923), set the standards of statutory construction and review applicable to the issue:

> A municipal corporation possesses and can exercise the following powers, and no others: First, those granted in express words; those necessarily or fairly implied in or incident to the powers expressly granted; and, third, those essential to the declared object and purpose of the corporation, not simply convenient but indispensable. [citations omitted]
>
> All fair and reasonable doubts concerning the existence of a power are to be resolved against a municipal corporation, and the power denied. [citations omitted]

In *Town of Pineville vs. Vandersypen*, 212 La. 521, 33 So.2d 56 (1947), the States Highest Court reaffirmed its position and set the standard of statutory construction and review of the powers which an instrumentality of the state has been legislatively granted:

> Municipal corporations, being creatures of the legislature, possess only such powers as are granted to them by the legislature in express words, or those that are necessarily or fairly implied in or incident to the powers so expressly conferred. They also possess those that are essential to the accomplishment of the purposes and objects of the corporation. 37 Am. Jur. 722, § 112; 19 R.C.L. 768, § 75; 43 C.J. 176, § 174; and Montgomery vs. City of Lafayette, 154 La. 822, 98 So. 259, and the authorities therein cited.

THE ANALYSIS

<u>First Step, Express Words of the Statutes</u>

First, the enabling statutes must be viewed to determine the powers granted to each Port Authority in express words. Each statute in Title 34 for the respective inland Port Authorities commences with the establishment of specific geographical territories and

limitations. The statutory titles are named accordingly[1]. Read together with Article 6, Section 43 of the Louisiana Constitution, it is evident that the legislature's intent was to create Port Authorities to operate within specific geographical boundaries.

Furthermore, it is clear that the following are the specific Objects and Purposes for creating each of the Port Authorities:

(i) to regulate traffic and commerce within each Port Authority's Jurisdictional Boundaries;

(ii) to provide port, harbor and terminal facilities and services within each Port Authority's Jurisdictional Boundaries; and

(iii) to tax within each Port Authority's Jurisdictional Boundaries.

By clear statutory dictate, these are the specific objects and purposes assigned to each Port Authority, restricted to the Jurisdictional Boundaries of each.

Second Step, Powers Necessarily or Fairly Implied

The second step in the analysis is to identify those powers and authorities that "are necessarily or fairly implied in or incident to the powers so expressly conferred." Port Authorities are unique in that they depend heavily upon maintenance of navigable waterways to achieve the operations of a port (the "Channel Maintenance Requirements"). The fact that the Channel Maintenance Requirements may include "necessary and incidental" port activities outside of a Port Authority's Jurisdictional Boundaries does not expand the Jurisdictional Boundaries or the right to indiscriminately provide port, harbor and terminal facilities and services outside those Jurisdictional Boundaries. The Objects and Purposes can only occur within the Jurisdiction Boundaries, however, as indicated by LCP, there are many other activities and actions which are "necessary and incidental" to the Objects and Purposes which must occur outside such Jurisdictional Boundaries.

Although the position can be taken that all these functions come under the "business of the port", the Port Authority system as created by statute does not allow for a bootstrapping of actions (those allowed within together with those allowed without) to posture that all activities included within the "business of the port" can occur everywhere, even beyond the Jurisdictional Boundaries of the Port Authority. For example, dredging and maintenance of navigable waterways providing access to a port and marketing around the world for shipping opportunities to or through port facilities located within its Jurisdictional Boundaries will necessarily occur where the navigable

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[1] *See LSA RS 34:2251. Creation of district, 2451. Creation of district, 2401 Creation of district, 2501. Creation of district, 201 Creation and territorial limits, 1701 Creation and territorial limits, 1351 Creation and territorial limit, 334.31 Creation and territorial limits, 241 Creation and territorial limits, 1601 Creation and territorial limits, 231 Creation and territorial limit, 335.1 Creation and territorial limits, 331.1 Creation and territorial limits, 334 1 Creation: territorial limits and 291 Creation: territorial limits and jurisdiction.*

waters flow and where the business opportunities originate. While these activities, "incidental to and necessary for" the operation of a port must be allowed to occur outside of the Jurisdictional Boundaries of a Port Authority, the provision of port, harbor and terminal facilities and services can only occur within the Jurisdictional Boundaries.

Third Step, Powers that are Essential and Indispensable

The third step in the analysis calls for consideration of those powers which are essential to the declared Objects and Purposes of the Port Authority, not simply those that are convenient, but only those that are indispensable. It simply cannot be argued with credibility that LCP's provision of port, terminal and harbor facilities and services outside of its Jurisdictional Boundaries is essential or indispensable to the declared Objects and Purposes of providing port, terminal and harbor facilities and services within its Jurisdictional Boundaries.

Again, the analysis starts with the enabling legislation for each Port Authority. When the statutory provisions are read together, the clear intent of the legislature was to create inland Port Authorities with specified geographical operating areas to serve the port, harbor and terminal needs within those Jurisdictional Boundaries. Next, the analysis should turn to the statutes governing the LCP to determine the particular powers and authorities granted to that body in fulfilling its Objects and Purposes as a port, harbor and terminal district and particularly, in this instance, the provisions concerning the acquisition of land.

To date, LCP has avoided the applicable statutes altogether, totally disregarding any jurisdictional boundaries imposed upon it, totally disregarding the statutorily prescribed Objects and Purposes, and selectively focusing on individual statutory provisions that, read in isolation and out of context with other applicable statutes, appear to support its legal position. Those selective provisions warrant extra scrutiny:

> 203 (b) It has all the rights, privilege, and immunities granted to corporations in Louisiana;
>
> and
>
> 203 (c) (iii) It may acquire land necessary for the business of the district; . . .

The proper statutory construction would also require consideration and application of the following provisions in the LCP statutes selected for omission from the LCP Paper, but specifically addressing jurisdiction and acquisition of land:

> §201. Creation and territorial limits
>
> The Lake Charles Harbor and Terminal District is created as a political subdivision of the state and its territorial limits are fixed as follows:
>
> . . .

§203. Powers of Board; title to structures and facilities

(2)(c)(iv) It may acquire industrial plant sites and necessary property or appurtenance therefor, and it may acquire or construct industrial plant buildings with necessary machinery and equipment within the district;

§206. Acquisition of Lands

The Board may acquire by purchase, donation, expropriation, lease or otherwise, any and all lands in the district needed for railways, warehouses, docks, wharves, sheds, buildings, canals, channels, slips, basins and other facilities to be owned and operated by the board or to lease to others for manufacturing, commercial and business purposes to promote the industrial development of the district and may provide for the payment of such land out of the funds under its control not otherwise specially appropriated.

§207. Construction of Works of Public Improvement

The board may make or construct any of the works of public improvement in the district and anything in connection therewith that may be necessary or useful for the business of the board: it may purchase machinery, materials and equipment for performing such work, and supervise the making of the same, or make and construct such works through contracts with others; and generally it may do all other acts necessary or proper to carry out the powers hereby vested with regard to such works of public improvement.

§215 Powers and authority of district

(3) to acquire, by right of eminent domain purchase, tease, or otherwise, the land that may be necessary for the business of the district, including industrial plant sites and necessary property or appurtenances thereto, and to acquire or construct industrial plant buildings with necessary machinery and equipment within the district;

It is no surprise that for the second time, LCP excluded these provisions from its legal analysis. After considering all of the applicable statutes and applying Art 9, Art. 13, and the standards provided by *Montgomery*, supra and *Town of Pineville*, supra, there can be only one conclusion on the issue, that each respective Port Authority, including LCP, can render and/or provide port, harbor and terminal facilities and services only within its Jurisdictional Boundaries.

LCP Statutory Construction Leads to Absurd Results

The extension of the analysis provided in the LCP Paper to other matters with respect to its powers and authorities will lead to equally absurd results. The LCP has the following general power to tax:

> §203 (2)(c)(xiii) It may levy and collect taxes;

LCP also has the following power to acquire land:

> § 203 (2) (c) (iii) It may acquire land necessary for the business of the district;

If the LCP takes the position that it can acquire land outside of its district for any purpose, because the "within the district" language was not placed upon the power to acquire land, then surely we may be able to expect the levy and collection of taxes by the LCP throughout the Parish of Cameron, the State of Louisiana, and even maybe in Mexico, Canada and the Far East, for that matter. However, if § 203(2)(c)(xiii) is read together with the more specific statutory provision on the issue, §209, the absurd consequences would not occur. LSA RS 34:209 provides in pertinent part that:

> . . . The board may, when necessary, levy annually an ad valorem tax not to exceed two and one-half mills on the dollar on the property subject to taxation situated in the district. . . .

When §203 (2)(c)(xiii) is read together with §209, it is clear and unambiguous that the LCP can only tax property within its territorial jurisdiction. When §203 (c)(iii) is read together with §201, §203 (2) (c) (iv), §206, §207 and 215, it is clear and unambiguous that LCP can only acquire property within its Jurisdictional Boundaries for purposes of providing and rendering port, harbor and terminal facilities and services. To read §203 (c)(iii) in isolation and out of context with other applicable provisions leads to the absurd position that creation of Jurisdictional Boundaries applies only to ability and power to tax and that no import should be given to §203 (2) (c) (iv), §206, §207 and 215 and their limitations on the use of property acquired by LCP.

The thrust of LCP's position is that it is bigger, stronger and more powerful than Cameron. In an effort to further this message, LCP focuses on its own "corporate like" powers asserting that Cameron is not afforded such statutory power. It is a misrepresentation of the status of the parties. LCP has apparently chosen to ignore the clear provision of L.S.A. R.S. 34:2551, which specifically states that Cameron "is hereby created as a political subdivision of the state, with full corporate powers." Thus LCP's attempts to create a superior position for itself and an inference that a broad grant of authority has been provided only to it by the legislature is erroneous under any reasonable interpretation of the law.

The Louisiana Supreme Court in *City of Shreveport vs. Southwest Gas and Electric Co. et al* 92 S. 365 (LA 1922) aptly addressed the scope of authority which should be applied to the grant of corporate powers as follows:

> In reading the city charter for ascertaining whether it confers this power we are to bear in mind that grants of power to a city beyond those necessary for its properly functioning as a municipality are construed strictly, and that any reasonable doubt is resolved against the corporation. 28 Cyc. 265.
>
> > 'The Legislature of a state, merely by establishing a municipal corporation, does not delegate to such corporation the right to exercise all the governmental powers of the state within its territorial limits, or even such powers as are commonly exercised by a municipal corporation of the same class. It is well settled that a municipal corporation has only such powers as are clearly and unmistakably granted to it by its charter or by other acts of the Legislature, and consequently can exercise no powers not expressly granted to it, except those which are necessarily implied or incident to the powers expressly granted and those which are indispensable to the declared objects and purposes of the corporation. Any fair and reasonable doubt concerning the existence of the power, or any ambiguity in the statute upon which the assertion of the power rests, is to be resolved against the corporation and the power denied.' 19 R. C. L. 768.

This analysis must be applied to political subdivisions which are created with Jurisdictional Boundaries and declared Objects and Purposes. Again, the Objects and Purposes of each Port Authority are to (i) regulate commerce and traffic in the District, (ii) levy and collect taxes in the district and (iii) provide port, harbor and terminal facilities and services in the District, no more, no less. The granting of "corporate like" powers does not, in and of itself, expand the Object and Purposes or the Jurisdictional Boundaries.

The LCP Paper espouses a statutory construction theory that general statutes control over specific. It further espouses a practice of ignoring specific statutes when their specific statutory intent is contrary to LCP's position. In fact, the theories of statutory construction sought to be applied by LCP tend to mirror the dissent in the *Hospital Service District No. 2* case, the only legal precedent on an analogous issue[2]. In Hospital Service District No. 2, supra, the intruding Terrebonne District had available to it a vehicle to implement the operation of a hospital in Lafourche District, it could do so with the consent of Lafourche. Similarly in this instance, LCP has a vehicle

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[2] *In Hospital Service District of the Parish of Lafourche dba St. Anne General Hospital vs. Hospital Service District No. 1 of the Parish of Terrebonne*, 716 So. 2d 168 (La. App., 1st Cir., 1998), *the Terrebonne Hospital District opened a hospital within the jurisdiction of the Lafourche Parish District. The Lafourche Parish District filed suit to stop such extra-jurisdictional activity and prevailed in a two to one decision. The case was discussed at length in the previous submission by Cameron.*

available to it to legally conduct operations outside of its jurisdictional boundaries and within the jurisdictional boundaries of Cameron, namely the execution of a cooperative agreement between the two ports in accordance with LSA. R.S: 33:1324. LCP chose not to consider or pursue such vehicle when it purchased the land; LCP chose not to avail itself of such vehicle when it entered into agreements to do the Sempra Project, and it apparently has again chosen not to consider this vehicle at this time to resolve its current problem. Like the Terrebonne situation, if litigation is necessary to resolve this issue, CAMERON believes and asserts that the actions and positions of LCP will be pronounced illegal, thus jeopardizing the Sempra Project. LCP's current position, which CAMERON contends is without legal authority, can only be legitimized by a cooperative agreement between the two ports. Only a cooperative agreement with CAMERON, the only party with the clear authority to act as LCP has, can legally resolve this exposure and safeguard the project. CAMERON has always been amenable to entering into such a cooperative agreement which is economically fair to both ports.

With kindest wishes, I remain

With kindest regards, I am

Very truly yours,

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West Cameron Port Commission