
**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

FORM 10-Q

☒ **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the quarterly period ended September 30, 2004

OR

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from _____ to _____

Commission File No. 001-16383

CHENIERE ENERGY, INC.

(Exact name as specified in its charter)

Delaware

(State or other jurisdiction of incorporation or organization)

95-4352386

(I.R.S. Employer Identification No.)

717 Texas Avenue, Suite 3100

Houston, Texas

(Address of principal executive offices)

77002

(Zip Code)

(713) 659-1361

(Registrant's telephone number, including area code)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐.

Indicate by check mark whether the registrant is an accelerated filer (as defined in Rule 12b-2 of the Securities Exchange Act of 1934). Yes ☐ No ☒.

As of November 10, 2004, there were 20,201,582 shares of Cheniere Energy, Inc. Common Stock, \$.003 par value, issued and outstanding.

**CHENIERE ENERGY, INC.
INDEX TO FORM 10-Q**

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**CAUTIONARY STATEMENT
REGARDING FORWARD-LOOKING STATEMENTS**

This quarterly report contains certain statements that may include “forward-looking statements” within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. All statements, other than statements of historical facts, included herein or incorporated herein by reference are “forward-looking statements.” Included among “forward-looking statements” are, among other things: statements regarding our business strategy, plans and objectives; statements expressing beliefs and expectations regarding the development of our LNG receiving terminal business; statements expressing beliefs and expectations regarding our ability to successfully raise the additional capital necessary to meet our obligations under our current exploration agreements; statements expressing beliefs and expectations regarding our ability to secure the leases necessary to facilitate anticipated drilling activities; statements expressing beliefs and expectations regarding our ability to attract additional working interest owners to participate in the exploration and development of our exploration areas; and statements about non-historical information. These forward-looking statements are often identified by the use of terms and phrases such as “expect,” “estimate,” “project,” “plan,” “believe,” “achievable,” “anticipate” and similar terms and phrases. Although we believe that the expectations reflected in these forward-looking statements are reasonable, they do involve assumptions, risks and uncertainties, and these expectations may prove to be incorrect. You should not place undue reliance on these forward-looking statements, which speak only as of the date of this quarterly report.

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**CHENIERE ENERGY, INC. AND SUBSIDIARIES
CONSOLIDATED BALANCE SHEET**

	September 30, 2004 (Unaudited)	December 31, 2003
ASSETS		
CURRENT ASSETS		
Cash and Cash Equivalents	\$ 7,126,266	\$ 1,257,693
Restricted Certificate of Deposit	1,128,272	—
Accounts Receivable		
Affiliates	—	1,000,000
Other	798,017	1,828,065
Prepaid Expenses	214,306	401,594
Total Current Assets	9,266,861	4,487,352
OIL AND GAS PROPERTIES, full cost method		
Proved Properties, net	1,024,793	1,087,152
Unproved Properties, not subject to amortization	18,381,681	18,047,802
Total Oil and Gas Properties	19,406,474	19,134,954
LNG SITE & OTHER RELATED COSTS	534,999	310,500
FIXED ASSETS, net	984,809	578,281
INVESTMENT IN UNCONSOLIDATED AFFILIATE	—	—
INVESTMENT IN LIMITED PARTNERSHIP	84,473	—
DEBT ISSUANCE COSTS	509,180	—
INTANGIBLE LNG ASSETS	80,670	79,670
OTHER	15,910	—
Total Assets	\$ 30,883,376	\$ 24,590,757
LIABILITIES AND STOCKHOLDERS' EQUITY		
CURRENT LIABILITIES		
Accounts Payable	\$ 1,145,790	\$ 1,984,314
Accrued Liabilities	1,748,273	1,347,512
Note Payable	—	1,000,000
Total Current Liabilities	2,894,063	4,331,826
DEFERRED REVENUE	1,000,000	1,000,000
MINORITY INTEREST	288,720	120,032
COMMITMENTS AND CONTINGENCIES	—	—
STOCKHOLDERS' EQUITY		
Preferred Stock, \$.0001 par value		
Authorized: 5,000,000 shares		
Issued and Outstanding: none	—	—
Common Stock, \$.003 par value		
Authorized: 40,000,000 shares		
Issued and Outstanding: 19,761,154 shares at September 30, 2004 and 16,488,187 shares at December 31, 2003	59,284	49,465
Additional Paid-in-Capital	72,906,607	48,034,244
Deferred Compensation	(2,553,333)	—
Accumulated Deficit	(43,711,965)	(28,944,810)
Total Stockholders' Equity	26,700,593	19,138,899
Total Liabilities and Stockholders' Equity	\$ 30,883,376	\$ 24,590,757

The accompanying notes are an integral part of these financial statements.

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**CHENIERE ENERGY, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENT OF OPERATIONS
(Unaudited)**

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2004	2003	2004	2003
Revenues				
Oil and Gas Sales	\$ 465,249	\$ 135,245	\$ 1,132,240	\$ 366,665
Total Revenues	<u>465,249</u>	<u>135,245</u>	<u>1,132,240</u>	<u>366,665</u>
Operating Costs and Expenses				
Production Taxes	14,956	—	29,184	—
Depreciation, Depletion and Amortization	265,601	101,003	631,956	251,006
General and Administrative Expenses				
LNG Terminal Development	3,334,982	2,343,534	12,664,635	3,360,643
Non-Cash Compensation	438,542	—	2,699,375	—
Other	<u>1,916,300</u>	<u>615,254</u>	<u>5,157,211</u>	<u>1,728,055</u>
General and Administrative Expenses	5,689,824	2,958,788	20,521,221	5,088,698
Total Operating Costs and Expenses	<u>5,970,381</u>	<u>3,059,791</u>	<u>21,182,361</u>	<u>5,339,704</u>
Net Loss from Operations	(5,505,132)	(2,924,546)	(20,050,121)	(4,973,039)
Equity in Net Income (Loss) of Limited Partnership	(582,798)	(595,688)	84,473	(2,655,635)
Gain on Sale of LNG Assets	—	—	—	4,760,000
Gain on Sale of Limited Partnership Interest	—	—	—	423,454
Reimbursement from Limited Partnership Investment	—	—	2,500,000	—
Interest and Other Income	<u>31,810</u>	<u>1,002</u>	<u>48,283</u>	<u>2,288</u>
Net Loss Before Income Taxes and Minority Interest	(6,056,120)	(3,519,232)	(17,417,365)	(2,442,932)
Provision for Income Taxes	—	—	—	—
Net Loss Before Minority Interest	(6,056,120)	(3,519,232)	(17,417,365)	(2,442,932)
Minority Interest	<u>416,831</u>	<u>1,132,211</u>	<u>2,650,210</u>	<u>1,552,978</u>
Net Loss	<u>\$ (5,639,289)</u>	<u>\$ (2,387,021)</u>	<u>\$ (14,767,155)</u>	<u>\$ (889,954)</u>
Net Loss Per Share – Basic & Diluted	<u>\$ (0.29)</u>	<u>\$ (0.16)</u>	<u>\$ (0.79)</u>	<u>\$ (0.06)</u>
Weighted Average Number of Shares Outstanding - Basic & Diluted	<u>19,273,175</u>	<u>15,180,473</u>	<u>18,768,228</u>	<u>14,306,270</u>

The accompanying notes are an integral part of these financial statements.

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CHENIERE ENERGY, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENT OF STOCKHOLDERS' EQUITY
(Unaudited)

	Common Stock		Additional Paid-In Capital	Deferred Compensation	Accumulated Deficit	Total Stockholders' Equity
	Shares	Amount				
Balance - December 31, 2002	13,297,393	\$ 39,892	\$ 41,414,236	\$ —	\$ (23,656,793)	\$ 17,797,335
Issuances of Stock	2,511,701	7,535	3,899,805	—	—	3,907,340
Issuances of Warrants	—	—	945,049	—	—	945,049
Expenses Related to Offerings	—	—	(57,956)	—	—	(57,956)
Net Loss	—	—	—	—	(889,954)	(889,954)
Balance - September 30, 2003	<u>15,809,094</u>	<u>\$ 47,427</u>	<u>\$ 46,201,134</u>	<u>\$ —</u>	<u>\$ (24,546,747)</u>	<u>\$ 21,701,814</u>
Balance - December 31, 2003	16,488,187	\$ 49,465	\$ 48,034,244	\$ —	\$ (28,944,810)	\$ 19,138,899
Issuances of Stock	3,017,634	9,053	22,008,379	—	—	22,017,432
Issuances of Restricted Stock	255,333	766	3,829,234	(3,830,000)	—	—
Amortization of Deferred Compensation	—	—	—	1,276,667	—	1,276,667
Expenses Related to Offerings	—	—	(965,250)	—	—	(965,250)
Net Loss	—	—	—	—	(14,767,155)	(14,767,155)
Balance - September 30, 2004	<u>19,761,154</u>	<u>\$ 59,284</u>	<u>\$ 72,906,607</u>	<u>\$ (2,553,333)</u>	<u>\$ (43,711,965)</u>	<u>\$ 26,700,593</u>

The accompanying notes are an integral part of these financial statements.

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CHENIERE ENERGY, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENT OF CASH FLOWS
(Unaudited)

	Nine Months Ended September 30,	
	2004	2003
CASH FLOWS FROM OPERATING ACTIVITIES:		
Net Loss	\$ (14,767,155)	\$ (889,954)
Adjustments to Reconcile Net Loss to Net Cash Used in Operating Activities:		
Depreciation, Depletion and Amortization	631,956	251,006

Non-Cash Compensation	2,699,375	—
Equity in Net (Income) Loss of Limited Partnership	(84,473)	2,655,635
Gain on Sale of LNG Assets	—	(4,760,000)
Gain on Sale of Limited Partnership Interest	—	(423,454)
Reimbursement from Limited Partnership Investment	(2,500,000)	—
Minority Interest	(2,650,210)	(1,552,978)
Other	(21,088)	(3,636)
Changes in Operating Assets and Liabilities		
Accounts Receivable - Affiliates	1,000,000	—
Other Accounts Receivable	(314,205)	377,746
Prepaid Expenses	126,468	(248,852)
Accounts Payable and Accrued Liabilities	(781,941)	95,744
NET CASH USED IN OPERATING ACTIVITIES	(16,661,273)	(4,498,743)
CASH FLOWS FROM INVESTING ACTIVITIES:		
Purchases of Fixed Assets	(880,528)	(210,840)
Oil and Gas Property Additions	(1,123,932)	(1,434,161)
Sale of Interest in Oil and Gas Prospects	1,631,783	391,350
LNG Site and Other Related Costs	(204,553)	—
Purchase of Intangible LNG Asset	(1,000)	—
Sale of LNG Assets	—	2,250,000
Reimbursement from Limited Partnership Investment	2,500,000	—
Sale of Limited Partnership Interest	883,333	400,000
Purchase of Restricted Certificate of Deposit	(1,123,094)	—
NET CASH PROVIDED BY INVESTING ACTIVITIES	1,682,009	1,396,349
CASH FLOWS FROM FINANCING ACTIVITIES:		
Proceeds from Issuances of Notes Payable	—	225,000
Repayment of Note Payable	(1,000,000)	(225,000)
Sale of Common Stock	20,102,432	2,594,840
Offering Costs	(965,250)	(57,956)
Debt Issuance Costs	(108,243)	—
Partnership Contributions by Minority Owner	2,818,898	1,675,000
NET CASH PROVIDED BY FINANCING ACTIVITIES	20,847,837	4,211,884
NET INCREASE IN CASH AND CASH EQUIVALENTS	5,868,573	1,109,490
CASH AND CASH EQUIVALENTS – BEGINNING OF PERIOD	1,257,693	590,039
CASH AND CASH EQUIVALENTS – END OF PERIOD	\$ 7,126,266	\$ 1,699,529

The accompanying notes are an integral part of these financial statements.

CHENIERE ENERGY, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(Unaudited)

Note 1 – Basis of Presentation

The unaudited consolidated financial statements of Cheniere Energy, Inc. (“Cheniere”) have been prepared in accordance with generally accepted accounting principles for interim financial information and with the instructions to Form 10-Q and Rule 10-01 of Regulation S-X. Accordingly, they do not include all of the information and footnotes required by generally accepted accounting principles for complete financial statements. In our opinion, all adjustments, consisting only of normal recurring adjustments necessary for a fair presentation, have been included.

For further information, refer to the consolidated financial statements and footnotes included in our Annual Report on Form 10-K for the year ended December 31, 2003, as amended. Interim results are not necessarily indicative of results to be expected for the full fiscal year ending December 31, 2004. Certain reclassifications have been made to conform prior period amounts to the current period presentation. These reclassifications have no effect on net income (loss) or stockholders’ equity.

New Accounting Pronouncements

In January 2003, the Financial Accounting Standards Board (FASB) issued Interpretation No. 46, *Consolidation of Variable Interest Entities*, and subsequently revised the Interpretation in December 2003 (FIN 46R). This Interpretation of Accounting Research Bulletin No. 51, *Consolidated Financial Statements*, addresses consolidation by business enterprises of variable interest entities, which have certain characteristics. As revised, FIN 46R is now generally effective for financial statements for interim or annual periods ending on or after March 15, 2004. We adopted FIN 46R effective January 1, 2004, with no material effect on our consolidated financial statements.

Other Recent Developments

In July 2003, an issue was brought before the FASB regarding whether or not contract-based oil and gas mineral rights held by lease or contract (“mineral rights”) should be recorded or disclosed as intangible assets. The issue presents a view that these mineral rights are intangible assets as defined in Statement of Financial Accounting Standards (SFAS) No. 141, “Business Combinations,” and, therefore, should be classified separately on the balance sheet as intangible assets. SFAS No. 141 and SFAS No. 142, “Goodwill and Other Intangible Assets,” became effective for transactions subsequent to June 30, 2001, with the disclosure requirements of SFAS No. 142 required as of January 1, 2002. SFAS No. 141 requires that all business combinations initiated after June 30, 2001 be accounted for using the purchase method and that intangible assets be disaggregated and reported separately from goodwill. SFAS No. 142 established new accounting guidelines for both finite lived intangible assets and indefinite lived intangible assets. Under the statement, intangible assets should be separately reported on the face of the balance sheet and accompanied by disclosure in the notes to financial statements. SFAS No. 142 does not apply to accounting utilized by the oil and gas industry as prescribed by SFAS No. 19, and is silent about whether or not its disclosure provisions apply to oil and gas companies.

In September 2004, the FASB issued final FASB Staff Position (FSP) FAS 142-2, "Application of SFAS No. 142 to Oil and Gas Producing Entities." The FSP clarifies that the exception in paragraph 8(b) of SFAS No. 142 includes the balance sheet classification and disclosures for drilling and mineral rights of oil and gas producing entities. Accordingly, the FASB staff believes that the exception extends to the disclosure provisions of SFAS No. 142 for drilling and mineral rights of oil and gas producing entities.

Stock-Based Compensation

We account for employee stock-based compensation granted under our long-term incentive plans using the intrinsic value method prescribed by Accounting Principles Board Opinion No. 25, *Accounting for Stock Issued to Employees*, and related interpretations. Stock-based compensation expense associated with option grants was not recognized in the net loss for the three and nine month periods ended September 30, 2004 and 2003, as all options granted had exercise prices equal to the market value of the underlying common stock on the dates of grant. The following table illustrates the effect on the net loss and the net loss per share if we had applied the fair value recognition provisions of SFAS 123 to stock-based employee compensation:

		Three Months Ended September 30,		Nine Months Ended September 30,	
		2004	2003	2004	2003
Net loss, as reported		\$ (5,639,289)	\$ (2,387,021)	\$ (14,767,155)	\$ (889,954)
Deduct:	Total stock-based employee compensation expense determined under fair value based method for all awards, net of related tax effects	(567,833)	(331,164)	(1,480,246)	(696,132)
Pro forma net loss		\$ (6,207,122)	\$ (2,718,185)	\$ (16,247,401)	\$ (1,586,086)
Net loss per share:					
Basic and Diluted - as reported		\$ (0.29)	\$ (0.16)	\$ (0.79)	\$ (0.06)
Basic and Diluted - pro forma		\$ (0.32)	\$ (0.18)	\$ (0.87)	\$ (0.11)

Note 2 – Restricted Certificate of Deposit

In connection with our office lease, we are required to provide a letter of credit. On June 23, 2004, we purchased a certificate of deposit in the amount of \$1,123,094 (the same amount as the letter of credit) and entered into a pledge agreement in favor of the commercial bank that issued the letter of credit. Under the terms of the pledge agreement, the commercial bank was assigned a security interest in the certificate of deposit as collateral for the letter of credit. As a result, the certificate of deposit and accrued interest are classified as restricted on our balance sheet at September 30, 2004. The certificate of deposit matures on November 15, 2004 and bears a fixed interest rate of 1.7% per annum. Through September 30, 2004, \$5,178 in interest was accrued for the certificate of deposit.

Note 3 – Investment in Unconsolidated Affiliate

Prior to January 1, 2003, we accounted for our investment in Gryphon Exploration Company ("Gryphon") using the equity method of accounting because our participation on the Gryphon board of directors provided us with the ability to exercise significant influence over the operating and financial policies of Gryphon. In December 2002, the extent of such influence was diminished when one of the two Cheniere-appointed representatives on the Gryphon board of directors resigned from his position as an officer of Cheniere. Accordingly, effective January 1, 2003, we began accounting for our investment in Gryphon using the cost method of accounting. As of December 31, 2002, Warburg, Pincus Equity Partners, L.P. ("Warburg") had invested \$85,000,000 in Gryphon convertible preferred stock. If Warburg

had converted its investment to common stock as of such date, our ownership interest would have been 9.3%. This effective percent ownership remains unchanged as of September 30, 2004.

As of December 31, 2002, as a result of Gryphon's cumulative losses and preferred dividend arrearages, our investment in Gryphon was reduced to zero, but not below zero, because we have not guaranteed any obligations of Gryphon, and we are not committed to provide additional financial support to Gryphon.

Note 4 – Investment in Limited Partnership

In August 2002, we entered into an agreement with entities controlled by Michael S. Smith (the "Smith Entities") to sell a 60% interest in the Freeport LNG receiving terminal site and project. On February 27, 2003, we sold our interest in the site and project to Freeport LNG Development, L.P. ("Freeport LNG"), in which we held a 40% limited partner interest. One of the Smith Entities holds a 60% limited partner interest in Freeport LNG. We recovered \$1,740,426 in costs that we had incurred on the project and received an additional \$5,000,000 (\$2,500,000 during 2003 and \$2,500,000 in January 2004) from Freeport LNG. For the funding of Freeport LNG project development costs, the Smith Entities also committed to contribute up to \$9,000,000 and to allocate available proceeds from any sales of options or capacity reservations and/or proceeds from loans related to capacity reservations to these costs. In connection with the closing, we issued warrants to one of the Smith Entities to purchase 700,000 shares of Cheniere common stock at a price of \$2.50 per share, exercisable for a period of 10 years.

Effective March 1, 2003, we sold a 10% limited partner interest in Freeport LNG to an affiliate of Contango Oil & Gas Company ("Contango") for \$2,333,333 payable over time, including the cancellation of our \$750,000 short-term note payable. We also issued warrants to Contango to purchase 300,000 shares of Cheniere common stock at a price of \$2.50 per share, exercisable for a period of 10 years. As a result of the sale, we now hold a 30% limited partner interest in Freeport LNG.

We accounted for the transfer of the site and planned LNG receiving terminal to Freeport LNG in accordance with Emerging Issues Task Force Issue No. 01-2, *Interpretations of APB Opinion No. 29*. Accordingly, in February 2003, we recorded a \$4,760,000 gain on the sale of LNG assets to the extent of the 60% interest not retained.

We account for our 30% limited partnership investment in Freeport LNG using the equity method of accounting. During 2003, we received installment payments totaling \$2,500,000 from Freeport LNG, which amounts were recorded as a reduction to the basis of our investment in the partnership. In addition, we recorded \$4,471,529 related to our 30% equity share of the 2003 net loss of Freeport LNG. This non-cash loss reduced the basis of our investment in Freeport LNG to zero, and as a result, we did not record \$278,071 of our equity share of the loss of the partnership as of December 31, 2003.

In January 2004, we received the final \$2,500,000 payment from Freeport LNG. As our investment basis in Freeport LNG had been reduced to zero as of December 31, 2003, the payment was recorded as a reimbursement from limited partnership investment in our consolidated statement of operations for the nine months ended September 30, 2004. For the three and nine months ended September 30, 2004, our 30% equity share of net income (loss) from the Freeport partnership was \$(582,798) and \$84,473

(after deducting the \$278,071 loss that was not recorded as of December 31, 2003 discussed above), respectively.

The financial position of Freeport LNG at September 30, 2004 and December 31, 2003 and the results of Freeport LNG's operations for the three and nine months ended September 30, 2004 and 2003 are summarized as follows (in thousands):

	September 30, 2004 (Unaudited)	December 31, 2003
Current assets	\$ 2,493	\$ 295
Fixed assets, net, and security deposit	164	150
Construction-in-progress	4,746	—
Other long-term assets	609	—
Total assets	<u>\$ 8,012</u>	<u>\$ 445</u>
Current liabilities	\$ 4,046	\$ 5,887
Deferred revenue	3,500	—
Note payable	6,970	—
Partners' capital	(6,504)	(5,442)
Total liabilities and partners' capital	<u>\$ 8,012</u>	<u>\$ 445</u>

	Three Months Ended September 30, 2004	2003	Nine Months Ended September 30, 2004	2003
Revenue	\$ 3	\$ —	\$ 10,007	\$ —
Income (loss) from continuing operations	(1,943)	(1,993)	1,208	(8,852)
Net income (loss)	(1,943)	(1,986)	1,208	(8,852)
Cheniere's equity in net income (loss) of limited partnership	(583)	(596)	84 (1)	(2,656)

(1) Represents equity in net income for the nine months ended September 30, 2004, less \$278,071 equity in loss not recorded as of December 31, 2003.

Note 5 – Debt Issuance Costs

As of September 30, 2004, we had incurred \$509,180 of costs directly associated with arranging project debt financing related to the construction of our planned LNG receiving terminals. Such costs are being capitalized and are included in our consolidated balance sheet as of September 30, 2004. These costs are expected to be amortized as interest expense over the term of the loan. If we do not enter into a definitive loan agreement, then these costs will be expensed.

Note 6 - Minority Interest in Limited Partnership

In May 2003, we formed a limited partnership, Corpus Christi LNG, L.P. ("Corpus LNG"), to develop an LNG receiving terminal near Corpus Christi, Texas. Under the terms of the limited partnership agreement, we contributed our technical expertise and know-how, and all of the work in progress related to the Corpus Christi project, in exchange for a 66.7% interest in Corpus LNG. We also manage the project through the general partner interest held by our wholly-owned subsidiary.

Our consolidated financial statements include the accounts of Corpus LNG. Substantially all Corpus LNG expenditures incurred through March 31, 2004 were the obligation of the minority owner, as the minority owner was required to fund 100% of the first \$4,500,000 of partnership expenditures. As partnership expenditures had reached \$4,500,000 as of March 31, 2004, the minority interest owner began sharing all subsequent expenditures based on its 33.3% limited partner interest.

Note 7 – Accrued Liabilities

Accrued liabilities consist of the following:

	September 30, 2004 (Unaudited)	December 31, 2003
Taxes other than income	\$ 31,628	\$ 36,986
LNG terminal development costs	1,202,594	1,183,191
Other accrued liabilities	514,051	127,335
	<u>\$ 1,748,273</u>	<u>\$ 1,347,512</u>

Note 8—Deferred Revenue

On December 23, 2003, Cheniere LNG Services, Inc. ("Cheniere LNG Services"), a wholly-owned subsidiary of Cheniere, entered into a shareholders agreement whereby it became a minority owner of J&S Cheniere S.A., a Switzerland joint-stock company ("J&S Cheniere"). We account for this investment using the cost method of accounting. At September 30, 2004, our investment basis was \$15,910.

Also on December 23, 2003, Cheniere LNG, Inc. ("Cheniere LNG"), a wholly-owned subsidiary of Cheniere, and J&S Cheniere entered into an option agreement providing J&S Cheniere an option to purchase liquefied natural gas ("LNG") storage tank capacity and regas capacity of up to 200 million cubic feet per day ("Mmcf/d") in each of Cheniere LNG's Sabine Pass and Corpus LNG facilities. Following execution of the option agreement, \$1,000,000 was paid by J&S Cheniere to Cheniere LNG in January 2004. The option agreement may be terminated by J&S Cheniere and the option fee refunded in the event that Cheniere LNG does not receive approval from the Federal Energy Regulatory Commission ("FERC") for at least one of the facilities or if Cheniere LNG decides not to proceed with the development of at least one of the facilities, in either case before December 15, 2005. J&S Cheniere may exercise the option as to each facility by entering into a terminal use agreement no later than 60 days after receipt of written notification by Cheniere LNG that such facility has been approved by FERC and all other approvals and permits have been received which are necessary to begin construction of the facility. Cheniere LNG has recorded the option fee as deferred revenue, and it is anticipated that the option fee will be recognized as revenue over the initial five-year period of the terminal use agreement contemplated by the option agreement.

Note 9 – Note Payable

On June 23, 2004, we terminated our line of credit with a commercial bank. This facility was originally established on July 25, 2003 as a \$5,000,000 line of credit, with a borrowing base of \$2,000,000. During 2003, we borrowed \$1,000,000 under the facility to acquire oil and gas leases. The balance was repaid in January 2004.

Note 10 – Non-Cash Transactions

On February 2, 2004, under the Cheniere Energy, Inc. 2003 Stock Incentive Plan (the “2003 Stock Incentive Plan”), 383,000 shares of common stock were issued to employees and outside directors in the form of bonus and restricted stock awards. We recorded \$1,915,000 of non-cash compensation in February 2004 related to the issuance of 127,667 shares (bonus stock awards) valued at \$15.00 per share, which shares were fully vested on the date of grant. In addition, we recorded \$3,830,000 of deferred compensation as a reduction to stockholders’ equity related to the issuance of 255,333 shares (restricted stock awards) valued at \$15.00 per share on the grant date that vests on each of the first and second anniversaries of the grant date. As of September 30, 2004, \$1,276,667 of deferred compensation had been amortized.

In August 2003, we issued 378,308 shares of common stock in exchange for the surrender of warrants to purchase 700,000 shares in a cashless transaction.

In April 2003, pursuant to a contingent contractual obligation related to our 2001 acquisition of an option to lease the Freeport LNG terminal site, we issued 750,000 shares of Cheniere common stock, valued at \$1,312,500 on the date of issuance, to satisfy a closing requirement related to our February 2003 sale of a 60% interest in our Freeport LNG project.

In February 2003, in connection with the sale of a 60% interest in our Freeport LNG project, we issued warrants valued at \$540,015 to purchase 700,000 shares of Cheniere common stock to one of the Smith Entities. In connection with the closing of the Freeport transaction, we also issued additional warrants valued at \$173,576 to purchase 225,000 shares of Cheniere common stock to LNG consultants for services previously performed for us. In March 2003, in connection with the sale of a 10% interest in the limited partnership, we issued warrants valued at \$241,893 to purchase 300,000 shares of Cheniere common stock to Contango, and Contango canceled the \$750,000 note previously payable by Cheniere to Contango.

During the nine months ended September 30, 2004, 162,700 and 56,461 shares of Cheniere common stock were issued in satisfaction of cashless exercises of stock options and warrants to purchase 195,062 and 62,500 shares, respectively.

Note 11 – Net Loss Per Share

Basic net loss per share is computed by dividing the net loss by the weighted average number of common shares outstanding for the period. The computation of diluted net loss per share reflects the potential dilution that could occur if securities or other contracts to issue common stock that are dilutive to net income were exercised or converted into common stock or resulted in the issuance of common stock that would then share in the earnings of the Company.

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The following table is a reconciliation of the basic and diluted weighted average shares outstanding for the three and nine months ended September 30, 2004 and 2003:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2004	2003	2004	2003
Weighted average common shares outstanding:				
Basic	19,273,175	15,180,473	18,768,228	14,306,270
Dilutive common stock options (a)	—	—	—	—
Dilutive common stock warrants (b)	—	—	—	—
Diluted	19,273,175	15,180,473	18,768,228	14,306,270

(a) Options to purchase 214,861 shares of common stock were outstanding but not included in the computations of diluted net loss per share for the three months ended September 30, 2003 because the exercise prices of the options were greater than the average market price of the common shares and would be anti-dilutive to the computations. In-the-money options representing 1,572,048 shares and 1,792,500 shares of common stock were not included in the computation of diluted net loss per share for the three months ended September 30, 2004 and 2003, respectively, because they have an anti-dilutive effect to net loss per share. Options to purchase 110,000 and 264,861 shares of common stock were outstanding but not included in the computations of diluted net loss per share for the nine months ended September 30, 2004 and 2003, respectively, because the exercise prices of the options were greater than the average market price of the common shares and would be anti-dilutive to the computations. In-the-money options representing 1,462,048 shares and 1,742,500 shares of common stock were not included in the computation of diluted net loss per share for the nine months ended September 30, 2004 and 2003, respectively, because they have an anti-dilutive effect to net loss per share.

(b) Warrants to purchase 313,750 shares of common stock were outstanding but not included in the computations of diluted net loss per share for the three months ended September 30, 2003 because the exercise prices of the warrants were greater than the average market price of the common shares and would be anti-dilutive to the computations. In-the-money warrants representing 444,167 and 1,502,427 shares of common stock were not included in the computation of diluted net loss per share for the three months ended September 30, 2004 and 2003, respectively, because they have an anti-dilutive effect to net loss per share. Warrants to purchase 492,460 shares of common stock were outstanding but not included in the computations of diluted net loss per share for the nine months ended September 30, 2003 because the exercise prices of the warrants were greater than the average market price of the common shares and would be anti-dilutive to the computations. In-the-money warrants representing 444,167 and 1,323,717 shares of common stock were not included in the computation of diluted net loss per share for the nine months ended September 30, 2004 and 2003, respectively, because they have an anti-dilutive effect to net loss per share.

Note 12 – Commitments and Contingencies

We are party to a technical services agreement and a memorandum of understanding with an engineering, procurement and construction contractor which provide, respectively, for the front-end engineering and design work for two LNG receiving terminals and the development of an estimate for a lump sum turnkey contract (“Turnkey Contract”) with respect to each terminal. Under the terms of the memorandum of understanding, the contractor is to perform certain services, at its cost, in developing

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Turnkey Contract estimates and proposed scope of work and related schedules that would be required in connection with each Turnkey Contract. If a Turnkey Contract is not signed with this contractor by December 31, 2004, then we will be obligated to reimburse the contractor for its actual costs incurred under the memorandum of understanding, up to a maximum of \$500,000.

On May 11, 2004, we amended our office lease agreement in order to expand our existing office space (the "Expansion Space"). The term for the Expansion Space is five years with an option, subject and subordinate to another tenant's renewal option, to renew for a term that would coincide with the term of our existing space that terminates in January 2014. No rent is payable for the first nine months of the five-year term. Total payments for the remainder of the five-year Expansion Space lease term are \$200,292 per year.

Note 13 – Business Segment Information

Our business activities are conducted within two principal operating segments: LNG receiving terminal development and oil and gas exploration and development. These segments operate independently, and there are no intercompany revenues or expenses between them.

Our LNG receiving terminal segment is in the preliminary stage of developing LNG receiving terminals along the U.S. Gulf Coast, primarily near Corpus Christi, Texas, Cameron Parish (Sabine Pass), Louisiana and Freeport, Texas.

Our oil and gas exploration and development segment explores for oil and natural gas using a regional database of 7,000 square miles of regional 3D seismic data. Exploration efforts are focused on the shallow waters of the Gulf of Mexico offshore of Louisiana and Texas and consist primarily of seismic data interpretation and prospect generation activities. This segment participates in drilling and production operations with industry partners on the prospects that we generate.

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The following table summarizes our revenues, net income (loss) and total assets for each of our operating segments:

	Three Months Ended		Nine Months Ended	
	September 30, 2004	September 30, 2003	September 30, 2004	September 30, 2003
Revenues:				
LNG Receiving Terminal	\$ —	\$ —	\$ —	\$ —
Oil & Gas Exploration and Development	465,249	135,245	1,132,240	366,665
Total	465,249	135,245	1,132,240	366,665
Corporate and Other (1)	—	—	—	—
Total Consolidated	\$ 465,249	\$ 135,245	\$ 1,132,240	\$ 366,665
Net Income (Loss):				
LNG Receiving Terminal	\$ (3,674,621)	\$ (1,839,411)	\$ (8,241,688)	\$ 638,954
Oil & Gas Exploration and Development	232,678	103,313	636,601	283,162
Total	(3,441,943)	(1,736,098)	(7,605,087)	922,116
Corporate and Other (1)	(2,197,346)	(650,923)	(7,162,068)	(1,812,070)
Total Consolidated	\$ (5,639,289)	\$ (2,387,021)	\$ (14,767,155)	\$ (889,954)
Total Assets:				
LNG Receiving Terminal	\$ 1,416,147	\$ 2,952,816		
Oil & Gas Exploration and Development	19,939,245	20,219,541		
Total	21,355,392	23,172,357		
Corporate and Other (1)	9,527,984	1,418,400		
Total Consolidated	\$ 30,883,376	\$ 24,590,757		

(1) Includes corporate activities and certain intercompany eliminations.

Note 14 – Subsequent Events

On November 12, 2004, FERC issued the Final Environmental Impact Statement ("FEIS") for our proposed Sabine Pass LNG receiving terminal. In the FEIS, FERC concluded that the facility, with appropriate mitigating measures as recommended, would have limited adverse environmental impact. We currently anticipate that we will receive FERC approval and complete the permitting process for this terminal by the end of 2004.

On November 9, 2004, our wholly-owned limited partnership, Sabine Pass LNG, L.P. ("Sabine Pass LNG"), received an advance capacity reservation fee payment of \$10,000,000 from Total LNG USA, Inc. ("Total"), a subsidiary of Total SA, upon Total's exercise of its option to proceed to take 1.0 billion cubic feet per day ("Bcf/d") of LNG regasification capacity at the 2.6 Bcf/d LNG receiving terminal being developed by Sabine Pass LNG in Cameron Parish, Louisiana. Total also delivered a guarantee by Total SA for certain obligations of Total. These transactions were contemplated under a terminal use agreement and omnibus agreement previously entered into by Sabine Pass LNG and Total on September 2, 2004.

The terminal use agreement provides for Total to pay a tariff of \$0.32 per million British thermal units ("Mmbtu"), subject in part to adjustment for inflation, for 1.0 Bcf/d of regasification capacity for a 20-year period beginning not later than April 1, 2009. In addition, under the omnibus agreement, if Sabine Pass LNG enters into a new terminal use agreement with a third party, other than Cheniere affiliates, for capacity of 50 Mmcfd or more, with a term of five years or more, prior to the commercial start date of the

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LNG receiving terminal, Total will have the option, exercisable within 30 days of the receipt of notice of such transaction, to adopt the pricing terms contained in such new terminal use agreement for the remainder of the term of the Total terminal use agreement.

Because Total has elected to proceed with the transaction, an additional advance capacity reservation fee payment of \$10,000,000 will be payable to Sabine Pass LNG upon satisfaction of two conditions: (i) approval by FERC of the pending application to build the Sabine Pass LNG receiving terminal; and (ii) confirmation of evidence of the ability to finance construction of the facility. Total has the right to terminate this transaction if these conditions are not satisfied by June 30, 2005.

The capacity reservation fee payments will be amortized over a ten-year period as a reduction of Total's regasification capacity tariff under the terminal use agreement. As a result, we intend to record the \$20,000,000 in advance payments as deferred revenue to be amortized to income over the corresponding ten-year period.

On November 8, 2004, Sabine Pass LNG entered into a terminal use agreement to provide Chevron USA, Inc. ("Chevron USA"), a wholly-owned subsidiary of ChevronTexaco Corporation ("ChevronTexaco"), with 700 Mmcfd of LNG regasification capacity also at its receiving terminal under development. Additionally, Sabine Pass LNG entered into an omnibus agreement, under which Chevron USA agreed to make advance capacity reservation fee payments and, in addition, agreed to continue to negotiate for Chevron USA to make a \$200 million equity investment to acquire a 20% limited partner interest in Sabine Pass LNG. The terminal use agreement and omnibus agreement remain subject to final corporate approvals, including approval by the ChevronTexaco Board of Directors, by December 20, 2004.

The terminal use agreement provides for Chevron USA to pay a tariff of \$0.32 per Mmbtu, subject in part to adjustment for inflation, for 700 Mmcfd of regasification capacity for a 20-year period beginning not later than July 1, 2009. Under the omnibus agreement, Chevron USA has the option, at the same tariff, either to reduce its reserved capacity at the Sabine Pass LNG receiving terminal to 500 Mmcfd by July 1, 2005 or to increase its reserved capacity to 1.0 Bcf/d by December 1, 2005. ChevronTexaco will guarantee certain Chevron USA obligations under the terminal use agreement.

The omnibus agreement requires Chevron USA to make advance capacity reservation fee payments to Sabine Pass LNG totaling up to \$20,000,000, beginning with an unconditional payment of \$5,000,000 by November 23, 2004. Except for this \$5,000,000 payment, Chevron USA has the right to terminate the terminal use agreement, the omnibus agreement and the transactions under those agreements if final corporate approvals, including approval of ChevronTexaco's board of directors, is not obtained by December 20, 2004. If the agreements and transactions are not terminated, further advance capacity reservation fee payments will be due – \$7,000,000 after ChevronTexaco's board approval; \$5,000,000 after December 20, 2004, conditioned upon both FERC approval of the pending application to build the Sabine Pass terminal and confirmation of evidence of the ability to finance construction of the facility; and \$3,000,000 if Chevron USA exercises the option to increase its capacity at the Sabine Pass LNG facility to 1.0 Bcf/d. These capacity reservation fee payments will be amortized over a ten-year period as a reduction of Chevron USA's regasification capacity tariff under the terminal use agreement. As a result, we intend to record the advance payments, when received, as deferred revenue to be amortized to income over the corresponding ten-year period.

On November 8, 2004, Sabine Pass LNG signed agreements with HSBC Securities (USA) Inc. and SG Corporate & Investment Banking, an arm of Societe Generale, to arrange the \$741 million debt component of the project financing for the construction of the Sabine Pass LNG receiving terminal.

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On October 25, 2004, both our letter of credit and certificate of deposit were amended to decrease the face amounts by \$224,619 to \$898,475. The letter of credit matures on November 30, 2005. The certificate of deposit currently matures on November 15, 2004. However, it is anticipated that a new certificate of deposit for the same amount will be purchased at that time with a maturity date of November 30, 2005.

On October 13, 2004, our Board of Directors adopted a stockholder rights plan (the "Stockholder Rights Plan") in which preferred stock purchase rights (each, a "Right") were distributed as a dividend at the rate of one right for each share of common stock of Cheniere held by stockholders of record as of the close of business on November 1, 2004. The Rights will expire on October 14, 2014. While not initially exercisable, each Right will entitle stockholders to buy one unit of a share of preferred stock for \$200, subject to adjustment. The Rights generally will be exercisable only if a person or group acquires beneficial ownership of 15% or more of our common stock or commences a tender or exchange offer upon consummation of which the person or group would beneficially own 15% or more of our common stock. After the occurrence of such an event, each Right will entitle its holder (other than such persons or group) to receive, upon exercise, units of a share of preferred stock having a value equal to two times the then-current exercise price.

From October 1 through November 9, 2004, 382,883 shares of Cheniere common stock were issued pursuant to the exercise of stock options, resulting in net cash proceeds of \$565,179. An additional 57,545 shares of Cheniere common stock were issued in cashless exercises of warrants to purchase 62,500 shares.

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Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

General

We are engaged primarily in the development of a liquefied natural gas, or LNG, receiving terminal business and related LNG business opportunities centered on the U.S. Gulf Coast. The LNG receiving terminal business consists of receiving deliveries of LNG from LNG carriers, processing such LNG to return it to a gaseous state and delivering it to pipelines for transportation to purchasers. We own interests in three limited partnerships that are developing LNG receiving terminals:

- Sabine Pass LNG, in which we own a 100% interest, is developing an LNG receiving terminal near Sabine Pass in Cameron Parish, Louisiana;
- Corpus LNG, in which we own a 66.7% interest, is developing an LNG receiving terminal near Corpus Christi, Texas; and
- Freeport LNG, in which we own a 30% interest, is developing an LNG receiving terminal on Quintana, Island, near Freeport, Texas.

Sabine Pass LNG. Our 100%-owned limited partnership entity, Sabine Pass LNG, is developing an LNG receiving terminal with an anticipated regasification capacity of 2.6 Bcf/d. In November 2004, FERC issued the FEIS (Final Environmental Impact Statement) for our proposed Sabine Pass LNG receiving terminal. In the FEIS, FERC concluded that the facility, with appropriate mitigating measures as recommended, would have limited adverse environmental impact. We currently anticipate that we will receive FERC approval and complete the permitting process for this terminal by the end of 2004, with construction beginning in the first quarter of 2005 and commercial operations commencing in 2008.

On September 2, 2004, Sabine Pass LNG entered into a terminal use agreement to provide Total with 1.0 Bcf/d of LNG regasification capacity at the Sabine Pass LNG receiving terminal. In November 2004, Total exercised its option to proceed with the transaction by delivering to Sabine Pass LNG (i) an advance capacity reservation fee payment of \$10,000,000, and (ii) a guarantee by Total SA of certain Total obligations under the terminal use agreement. Cheniere, Sabine Pass LNG and Total also entered into an omnibus agreement on September 2, 2004, under which the terminal use agreement remains subject to certain conditions described below.

The terminal use agreement provides for Total to pay a tariff of \$0.32 per Mmbtu, subject in part to adjustment for inflation, for 1.0 Bcf/d of regasification capacity for a 20-year period beginning not later than April 1, 2009. In addition, under the omnibus agreement, if Sabine Pass LNG enters into a new terminal use agreement with a third party, other than Cheniere affiliates, for capacity of 50 Mmcfd or more, with a term of five years or more, prior to the commercial start date of the terminal, Total will have the option, exercisable within 30 days of the receipt of notice of such transaction, to adopt the pricing terms contained in such new terminal use agreement for the remainder of the term of the Total terminal use agreement.

Because Total has elected to proceed with the transaction, an additional advance capacity reservation fee payment of \$10,000,000 will be payable to Sabine Pass LNG upon satisfaction of two conditions: (i) approval by FERC of the pending application to build the Sabine Pass LNG receiving terminal; and (ii) confirmation of evidence of the ability to finance construction of the facility. Total has the right to terminate this transaction if these conditions are not satisfied by June 30, 2005.

On November 8, 2004, Sabine Pass LNG entered into a terminal use agreement to provide Chevron USA with 700 Mmcfd of LNG regasification capacity at the

agreement, under which Chevron USA agreed to make advance capacity reservation fee payments and the companies agreed to continue to negotiate for Chevron USA to make a \$200 million equity investment to acquire a 20% limited partner interest in Sabine Pass LNG. The terminal use agreement and omnibus agreement remain subject to final corporate approvals, including approval by the ChevronTexaco Board of Directors, by December 20, 2004.

The terminal use agreement provides for Chevron USA to pay a tariff of \$0.32 per Mmbtu, subject in part to adjustment for inflation, for 700 Mmcfd of regasification capacity for a 20-year period beginning not later than July 1, 2009. Under the omnibus agreement, Chevron USA has the option, at the same tariff, either to reduce its reserved capacity at Sabine Pass to 500 Mmcfd by July 1, 2005 or to increase its reserved capacity to 1.0 Bcf/d by December 1, 2005. ChevronTexaco will guarantee certain Chevron USA obligations under the terminal use agreement.

The omnibus agreement requires Chevron USA to make advance capacity reservation fee payments to Sabine Pass LNG totaling up to \$20,000,000, beginning with an unconditional payment of \$5,000,000 made by November 23, 2004. Except for this \$5,000,000 payment, Chevron USA has the right to terminate the terminal use agreement, the omnibus agreement and the transactions under those agreements if final corporate approvals, including approval of ChevronTexaco's board of directors, is not obtained by December 20, 2004. If the agreements and transactions are not terminated, further advance capacity reservation fee payments will be due as described below.

In November 2004, we entered into agreements with HSBC Securities (USA) Inc., a subsidiary of HSBC Holdings plc, and SG Corporate & Investment Banking, an arm of Societe Generale, to arrange \$741 million of non-recourse project debt financing to fund a substantial majority of the Sabine Pass LNG facility's construction costs.

In December 2003, we entered into an option agreement with J&S Cheniere S.A. (an entity in which we are a minority owner) providing J&S Cheniere with an option to purchase LNG storage tank capacity and regasification capacity of up to 200 Mmcfd in each of our Sabine Pass and Corpus LNG facilities. We were paid \$1,000,000 in connection with the execution of the option agreement by J&S Cheniere in January 2004. The option agreement may be terminated by J&S Cheniere and the option fee refunded in the event that Cheniere LNG does not receive FERC approval for at least one of the facilities or if Cheniere LNG decides not to proceed with the development of at least one of the facilities, in either case, before December 15, 2005. J&S Cheniere may exercise the option as to each facility by entering into a terminal use agreement no later than 60 days after receipt of written notification by us that such facility has been approved by FERC and all other approvals and permits have been received which are necessary to begin construction of the facility.

Corpus LNG. We own a 66.7% interest in Corpus LNG, which is developing an LNG receiving terminal with an anticipated regasification capacity of 2.6 Bcf/d. We currently anticipate that we will receive FERC approval and complete the permitting process for this terminal by the second quarter of 2005, with construction beginning in the third quarter of 2005 and commercial operations commencing in 2009.

Freeport LNG. Freeport LNG is developing an LNG receiving terminal with an anticipated regasification capacity of 1.5 Bcf/d. We developed this project and then sold a 60% limited partner interest to an affiliate of the general partner of Freeport LNG and a 10% limited partner interest to another unaffiliated party. We continue to own a 30% limited partner interest in Freeport LNG. Freeport LNG has received FERC approval for this terminal. We currently anticipate that construction will begin by the first quarter of 2005, with commercial operations to commence in late 2007.

In June 2003, The Dow Chemical Company ("Dow") signed an agreement with Freeport LNG for the potential long-term use of the receiving terminal beginning with commercial start-up of the facility in 2007. On March 1, 2004, Freeport LNG and Dow entered into a 20-year terminal use agreement providing

for a firm commitment by Dow for the use of 250 Mmcfd of regasification capacity. In August 2004, Dow exercised its option under the agreement and committed to an additional 250 Mmcfd of regasification capacity for a total of 500 Mmcfd of regasification capacity.

On December 21, 2003, ConocoPhillips and Freeport LNG signed an agreement under which ConocoPhillips would reserve 1.0 Bcf/d of regasification capacity in the Freeport LNG receiving terminal. ConocoPhillips would also obtain a 50% interest in the general partner of Freeport LNG and provide a substantial majority of the financing to construct the facility. Freeport LNG received a non-refundable capacity reservation fee of \$10,000,000 from ConocoPhillips in January 2004. The ConocoPhillips transaction closed in July 2004, at which time ConocoPhillips paid Freeport LNG an additional non-refundable \$3,500,000 to secure an option on 500 Mmcfd of additional capacity in the event the terminal is expanded.

We are pursuing additional potential LNG receiving terminal projects and are also engaged, to a lesser extent, in oil and gas exploration, development and exploitation activities in the Gulf of Mexico.

Because we are in the preliminary stage of developing our LNG receiving terminals, substantially all the costs to-date, related to such activities, have been expensed. These costs primarily include professional fees associated with front-end engineering and design work and obtaining FERC approval and other required permitting for the Sabine Pass LNG and Corpus LNG receiving terminals and their related natural gas pipelines. As a result, we are incurring substantial net losses and negative operating cash flow. We anticipate that our LNG terminal construction projects will be financed with project-level debt or equity securities, capital contributions from Cheniere and other limited partners or a combination thereof. We intend to finance our capital contributions to these projects through the issuance of Cheniere equity or debt securities or other Cheniere borrowings.

Our unaudited consolidated financial statements and notes thereto relate to the three-month and nine-month periods ended September 30, 2004 and 2003. These statements, the notes thereto and the consolidated financial statements included in our Annual Report on Form 10-K for the year ended December 31, 2003, as amended, contain detailed information that should be referred to in conjunction with the following discussion.

Results of Operations—Comparison of the Three-Month Periods Ended September 30, 2004 and 2003

Overview—Our financial results for the three months ended September 30, 2004 reflect a net loss of \$5,639,289, or \$0.29 per share (basic and diluted), compared to a net loss of \$2,387,021, or \$0.16 per share (basic and diluted), during the corresponding period in 2003. The major factors contributing to our loss during the third quarter of 2004 were: (1) LNG receiving terminal development expenses of \$3,334,982 (which were offset by a \$416,831 minority interest in the operations of Corpus LNG), (2) other general and administrative expenses of \$1,916,300, and (3) our equity share of the net loss in Freeport LNG of \$582,798.

LNG Terminal Development Activities—LNG terminal development expenses were 42% higher in the third quarter of 2004 (\$3,334,982) than in the third quarter of 2003 (\$2,343,534) primarily as a result of increased LNG employee-related costs and increased development costs related to our Sabine Pass LNG receiving terminal project.

During the third quarter of 2004, we recorded \$1,251,745 in terminal development expenses related to the Corpus LNG terminal in which we are the general partner and own a 66.7% limited partner interest. This amount was partially offset by \$416,831 related to the minority interest of our 33.3% limited

partner. We also incurred \$1,408,000 in direct terminal development expenses during the third quarter of 2004 related to the Sabine Pass LNG terminal, in which we own 100% of the project. In addition, in the third quarter of 2004, we incurred \$677,000 (before overhead recovery of \$225,000 from Corpus LNG) in LNG employee-related costs. In connection with the expansion of our LNG terminal development business, our employee costs increased, as we expanded our average LNG staff from 5 employees during the third quarter of 2003 to 16 employees during the third quarter of 2004.

During the third quarter of 2003, we incurred \$2,343,534 in LNG receiving terminal development expenses. Of this amount, \$1,132,211 related to development costs for the Corpus LNG project. However, these costs were entirely offset by the minority interest of our 33.3% limited partner, which provided 100% of the funding for the first \$4,500,000 of partnership expenditures. Because partnership expenditures had reached \$4,500,000 as of March 31, 2004, the minority owner began sharing in all subsequent expenditures based on its 33.3% limited partner interest. Also during the third quarter of 2003, we incurred \$1,196,000 primarily for development expenses related to the Sabine Pass LNG project.

During the third quarter of 2004, our 30% equity share of the loss from Freeport LNG was \$582,798 compared to our equity share of the loss of \$595,688 for the third quarter of 2003.

Non-Cash Compensation—Non-cash compensation during the third quarter of 2004 is related to restricted stock awards issued in February 2004 to employees and non-employee directors based on Cheniere's performance in 2003. The value of these restricted shares was recorded as a reduction to stockholders' equity as deferred compensation to be amortized over two years as vesting occurs. The \$438,542 of non-cash compensation (net of \$40,208 capitalized as oil and gas property costs) recorded in the third quarter of 2004 is entirely related to the amortization of such deferred compensation.

Other General and Administrative Expenses—Other general and administrative ("G&A") expenses are primarily related to our general corporate and other activities. These expenses increased \$1,301,046, or 211%, to \$1,916,300 in the third quarter of 2004 compared to \$615,254 in the corresponding quarter in 2003. G&A increased primarily because of the expansion of our business (including increases in our average corporate staff from 5 employees during the third quarter of 2003 to 15 employees during the third quarter of 2004) and increased professional and other fees primarily in connection with securities compliance filings and increased securities registrations. We capitalize as oil and gas property costs that portion of G&A expenses directly related to our exploration and development activities. We capitalized \$197,005 (in addition to the \$40,208 related to non-cash compensation mentioned earlier) in the third quarter of 2004 compared to \$248,000 during the comparable period in 2003.

Depreciation, Depletion and Amortization Expenses—Depreciation, depletion and amortization ("DD&A") expenses increased \$164,598, or 163%, to \$265,601 in the third quarter of 2004 from \$101,003 in the third quarter of 2003. The increase is primarily related to increased oil and gas DD&A as a result of increased production volumes discussed below and higher depreciation related to increased furniture, fixtures and equipment associated with the expansion of our business.

Oil and Gas Activities—Oil and gas revenues increased by \$330,004, or 244%, to \$465,249 in the third quarter of 2004 from \$135,245 in the third quarter of 2003 as a result of a 201% increase in production volumes (80,488 thousand cubic feet of natural gas equivalent ("Mcf") in the third quarter of 2004 compared with 26,725 Mcf in the third quarter of 2003) and a 13% increase in average natural gas prices to \$5.73 per thousand cubic feet ("Mcf") in the third quarter of 2004 from \$5.06 per Mcf in the third quarter of 2003. We produced from an average of 10 wells in the third quarter of 2004 compared to an average of 7 wells in the third quarter of 2003. We incurred little or no production cost in 2003 and 2004 because all of our revenues were generated from non-cost bearing overriding royalty interests. The small

amount of production taxes in 2004 is attributable to our share of production taxes on a producing well located in Texas state waters.

Results of Operations—Comparison of the Nine-Month Periods Ended September 30, 2004 and 2003

Overview—Our financial results for the nine months ended September 30, 2004 reflect a net loss of \$14,767,155, or \$0.79 per share (basic and diluted), compared to a net loss of \$889,954, or \$0.06 per share (basic and diluted), during the corresponding period in 2003.

The major factors contributing to our net loss during the first nine months of 2004 were: (1) LNG receiving terminal development expenses of \$12,664,635 (which were offset by a \$2,650,210 minority interest in the operations of Corpus LNG), (2) non-cash compensation of \$2,699,375 related to 2004 stock awards to employees and non-employee directors based on Cheniere's performance in 2003 and (3) other general and administrative expenses of \$5,157,211. These factors were partially offset by a \$2,500,000 reimbursement from our limited partnership investment in Freeport LNG.

LNG Terminal Development Activities—LNG terminal development expenses were 277% higher in the first nine months of 2004 (\$12,664,635) than in the first nine months of 2003 (\$3,360,643). These expenses were significantly higher because we accelerated, beginning in the third quarter of 2003, the schedule of terminal development for our Sabine Pass and Corpus Christi LNG receiving terminals.

During the first nine months of 2004, we recorded \$5,135,293 in terminal development expenses related to the Corpus LNG terminal. This amount was partially offset by \$2,650,210 related to the minority interest of our 33.3% limited partner. Substantially all expenditures incurred through March 31, 2004 were the obligation of the minority owner, as the minority owner was required to fund 100% of the first \$4,500,000 of project expenditures. As project expenditures had reached \$4,500,000 by March 31, 2004, the minority owner began sharing all subsequent project expenditures based on its 33.3% limited partner interest. Also during the first nine months of 2004, we incurred \$5,617,000 in direct terminal development expenses related to our Sabine Pass LNG terminal, in which we own 100% of the project. In addition, during the first nine months of 2004, we incurred \$2,064,000 (before overhead recovery of \$675,000 from Corpus LNG) in LNG employee-related costs. In connection with the expansion of our LNG business, our employee costs increased, as we expanded our average LNG staff from 4 employees during the first nine months of 2003 to 14 employees during the first nine months of 2004.

During the first nine months of 2003, we incurred \$3,360,643 in LNG receiving terminal development expenses. Of this amount, \$1,552,978 related to development costs for the Corpus LNG project. However, these costs were entirely offset by the minority interest of our 33.3% limited partner as discussed above. Also during the first nine months of 2003, we incurred \$1,624,000 primarily for development expenses related to the Sabine Pass LNG project.

In February 2003, our Freeport LNG terminal project was acquired by Freeport LNG in which we received a 40% limited partnership interest and payments to us totaling \$5,000,000 over time. In connection with the sale of LNG assets to Freeport LNG, we reported a gain of \$4,760,000. We also sold a 10% interest in Freeport LNG in March 2003 for \$2,333,333, resulting in a gain of \$423,454. During 2003, we received payments totaling \$2,500,000 from Freeport LNG, which were recorded as a reduction to our investment in the partnership. In addition, during 2003 we recorded equity in the 2003 loss incurred by Freeport LNG attributable to our 30% limited partner interest, which reduced our investment basis to zero as of December 31, 2003. In January 2004, we received the final \$2,500,000 payment from Freeport LNG. Because our investment basis in Freeport LNG had been reduced to zero, the payment was recorded

as a reimbursement from limited partnership investment in our consolidated statement of operations for the nine months ended September 30, 2004.

During the first nine months of 2004, our 30% equity share of net income from Freeport LNG was \$84,473, after deducting \$278,071 of loss that was not recorded as of December 31, 2003. This compares to our equity share of the loss of \$2,655,635 for the first nine months of 2003. The significant improvement from a loss to net income between periods for Freeport LNG was a result of Freeport LNG's receipt of a non-refundable capacity reservation fee of \$10,000,000 from ConocoPhillips in January 2004, upon the delivery of specific engineering and design studies.

Non-Cash Compensation—Non-cash compensation of \$2,699,375 (net of \$492,292 capitalized as oil and gas property costs) incurred during the first nine months of 2004 resulted from bonus and restricted stock awards issued in February 2004 to employees and non-employee directors based on our performance in 2003. We expensed non-cash compensation in February 2004 related to the issuance of 127,667 shares (bonus stock awards) valued at \$15.00 per share, which shares were fully vested on the date of grant. In addition, we have recorded non-cash compensation related to eight months amortization of restricted stock awards previously recorded as deferred compensation and amortizable over two years as vesting occurs.

Other General and Administrative Expenses—Other G&A expenses primarily relate to our general corporate and other activities. These expenses increased \$3,429,156, or 198%, to \$5,157,211 in the first nine months of 2004 compared to \$1,728,055 in the first nine months of 2003. The increase in G&A resulted primarily from the expansion of our business (including increases in average corporate staff from 5 employees during the first nine months of 2003 to 14 employees during the first nine months of 2004) and increased professional and other fees incurred in connection with securities compliance filings and securities registrations. We capitalize as oil and gas property costs that portion of G&A expenses directly related to our exploration and development activities. We capitalized \$720,908 (in addition to the \$492,292 related to non-cash compensation mentioned earlier) in the first nine months of 2004 compared to \$728,000 during the comparable period in 2003.

Depreciation, Depletion and Amortization Expenses—DD&A expenses increased \$380,950, or 152%, to \$631,956 in the first nine months of 2004 from \$251,006 in the first nine months of 2003. The increase primarily resulted from higher oil and gas DD&A as a result of greater production volumes discussed below and also from more depreciation expense resulting from the acquisition of furniture, fixtures and equipment associated with the expansion of our business.

Oil and Gas Activities—Oil and gas revenues increased by \$765,575, or 209%, to \$1,132,240 in the first nine months of 2004 from \$366,665 in the first nine months of 2003 as a result of a 195% increase in production volumes (194,328 Mcfe in the first nine months of 2004 compared with 65,900 Mcfe in the first nine months of 2003) and a 4% increase in average natural gas prices to \$5.82 per Mcf in the first nine months of 2004 from \$5.57 per Mcf in the first nine months of 2003. We produced from an average of 10 wells in the first nine months of 2004 as compared with an average of 6 wells in the first nine months of 2003. We incurred little or no production cost in 2003 and 2004 because all of our revenues were generated from non-cost bearing overriding royalty interests. The small amount of production taxes in 2004 is attributable to our share of production taxes on a producing well located in Texas state waters.

Liquidity and Capital Resources

LNG Terminal Development

We are primarily engaged in developing LNG receiving and regasification terminals. These LNG terminal development projects will require very significant amounts of capital and, even if successfully completed, will not begin to generate significant cash flows for several years. As a result, our business

success will depend to a significant extent upon our ability to obtain the funding necessary to construct these LNG terminals, to bring them into operation on a commercially viable basis and to finance the costs of staffing, operating and expanding our company during that process.

We own interests in three announced LNG terminal development projects — a 100% interest in Sabine Pass LNG, a 66.7% interest in Corpus LNG and a 30% interest in Freeport LNG. We currently estimate that, in the aggregate, these three terminal projects will require in excess of \$2.1 billion to construct and place in service. In addition, we have other potential additional terminal and pipeline projects in different stages of development. These projects, if successfully pursued, will require comparable amounts of capital.

In January 2004, we initiated the marketing of regasification capacity for our proposed Sabine Pass and Corpus Christi LNG receiving terminals. We have been actively engaged in the marketing process since that time, seeking long-term contracts for our planned regasification capacity. Upon execution of each terminal use agreement, we typically receive an advance payment for regasification capacity sold. This provides additional capital to help meet our ongoing liquidity needs. Furthermore, each terminal use agreement will serve as collateral to facilitate project level debt financing that we intend to obtain with respect to the construction of the related LNG receiving terminal.

As of September 30, 2004, we had working capital of \$6,372,798. In November 2004, we received an advance payment of \$10,000,000 from Total and expect to receive \$5,000,000 that Chevron USA is obligated to pay us on or prior to November 23, 2004, for capacity reservations at the Sabine Pass facility under agreements through which we will receive an additional \$10,000,000 from Total and an additional \$15,000,000 from Chevron USA if specified conditions are satisfied. We must augment these sources of cash with significant additional funds in order to carry out our business plan.

We currently expect that capital requirements for our three current LNG terminal projects will be financed in part through issuances of project-level debt, equity or a combination of the two and in part with net proceeds of debt or equity securities issued by Cheniere or other Cheniere borrowings. Our financing plans and anticipated capital requirements for our three current LNG terminal development projects follow.

Sabine Pass LNG. We currently estimate that the cost of constructing the Sabine Pass LNG receiving terminal facility will be approximately \$750 million to \$850 million, before financing costs. We entered into agreements with HSBC Securities (USA) Inc. and SG Corporate & Investment Banking to arrange \$741 million of non-recourse project debt financing to fund a substantial majority of these construction costs. In addition, we are negotiating with Chevron USA to make a \$200 million equity investment in Sabine Pass LNG in exchange for a 20% limited partner interest. There is no assurance that we will reach definitive agreements for the proposed project debt financing or the proposed Sabine Pass LNG limited partner equity investment. If we are unable to complete either of these financing arrangements, we will be required to seek alternative sources of financing, which may not be available on acceptable terms, if at all.

Total has paid Sabine Pass LNG an advance capacity reservation fee of \$10,000,000 in connection with the reservation of 1.0 Bcf/d of LNG regasification capacity at the Sabine Pass LNG receiving terminal. An additional advance capacity reservation fee payment of \$10,000,000 will be payable to Sabine Pass LNG upon satisfaction of certain conditions described above. The capacity reservation fee payments will be amortized over a ten-year period as a reduction of Total's regasification capacity tariff under the terminal use agreement. As a result, we intend to record the \$20,000,000 in advance payments, though non-refundable, as deferred revenue to be amortized to income over the corresponding ten-year period.

Chevron USA is obligated to pay Sabine Pass LNG an unconditional advance capacity reservation fee of \$5,000,000 by November 23, 2004. If the agreements and transactions are not terminated, further

FERC approval of the pending application to build the Sabine Pass receiving terminal and confirmation of evidence of the ability to finance construction of the facility; and \$3,000,000 if Chevron USA exercises the option to increase its capacity at Sabine Pass to 1.0 Bcf/d. These capacity reservation fee payments will be amortized over a ten-year period as a reduction of Chevron USA's regasification capacity tariff under the terminal use agreement. As a result, we intend to record the advance payments, though non-refundable, as deferred revenue to be amortized to income over the corresponding ten-year period.

In January 2004, we were paid \$1,000,000 by J&S Cheniere in connection with an option to purchase LNG storage tank capacity and regasification capacity in each of our Sabine Pass and Corpus LNG facilities. We have recorded the option fee as deferred revenue, and it is anticipated the option fee will be recognized as revenue over the initial five-year period of the terminal use agreement contemplated by the option agreement.

Corpus LNG. We currently estimate that the cost of constructing the Corpus Christi facility will be approximately \$650 million to \$750 million, before financing costs. The minority owner was required to fund 100% of the first \$4,500,000 of Corpus LNG's expenditures, which amount was reached as of March 31, 2004. Since that date, we have funded 66.7% of the expenditures of Corpus LNG, with the minority owner funding the balance. We currently expect to finance the construction cost of the Corpus Christi terminal in similar manner as the Sabine Pass facility, with a combination of debt project financing and capital contributions by partners. We plan to finance future capital contributions through equity or debt offerings or borrowings by Cheniere. If these types of financing are not available, we will be required to seek alternative sources of financing, which may not be available on acceptable terms, if at all.

Freeport LNG. We developed the Freeport LNG project and received cash proceeds of approximately \$9,073,759 in connection with the disposition of a 60% limited partner interest to an affiliate of the general partner of Freeport LNG and the disposition of a 10% limited partner to another unaffiliated party.

We currently estimate that the cost of constructing this facility will be approximately \$650 million to \$750 million, before financing costs. ConocoPhillips has agreed to provide a substantial majority of the financing to construct this facility. ConocoPhillips has also paid Freeport LNG an aggregate of \$10,000,000 in connection with the reservation of 1.0 Bcf/d of LNG regasification capacity at the terminal and \$3,500,000 for options on 500 Mmc/d of additional capacity in the event the terminal is expanded.

Under the limited partnership agreement of Freeport LNG, development expenses of the Freeport LNG project generally are to be funded out of Freeport LNG's own cash flows and by its 60% limited partner. We have not been called upon to contribute any cash to Freeport LNG for development activities. However, we have been advised by the general partner that it plans to expand the capacity of the Freeport facility. We expect that a portion of the funding for this proposed capacity expansion will be made through calls upon us and the other limited partners in Freeport LNG to contribute additional capital. In the event of each such capital call, we will have the option either to contribute the requested capital or to decline to contribute. If we decline to contribute, the other limited partners could elect to make our contribution and receive back twice the amount contributed on our behalf, without interest, out of future Freeport LNG cash flows otherwise distributable to us. We currently expect to meet these capital calls using cash on hand, revenues from advance capacity reservation fees and funds raised in the future through the issuance of Cheniere equity or debt securities or other Cheniere borrowings.

Short-term Liquidity Needs

We anticipate funding our more immediate liquidity requirements, including some expenditures related to the construction of the LNG receiving terminals, through the combination of any or all of the following:

- cash balances;
- collection of receivables;
- issuances of Cheniere debt and equity securities, including issuances of common stock pursuant to exercises by the holders of existing warrants and options;
- LNG receiving terminal capacity reservations fees; and
- sales of prospects generated by our exploration group.

Historical Cash Flows

Net cash used in operations for the nine months ended September 30, 2004 totaled \$16,661,275, compared to net cash used in operations of \$4,498,743 for the same period in 2003. The increase in cash used in operations was a direct result of the expansion of our LNG receiving terminal business. In the first quarter of 2003, we phased out our direct involvement in developing the Freeport LNG terminal site, but in subsequent periods, we accelerated the development schedule of our Sabine Pass and Corpus LNG receiving terminals. Net cash provided by investing activities was \$1,682,009 for the nine months ended September 30, 2004 as a result of the reimbursement from limited partnership investment, sales of our interests in oil and gas prospects and collection of proceeds from the sale of a limited partnership interest, partially offset by oil and gas property and fixed asset additions, LNG site costs and the purchase of the restricted certificate of deposit. Net cash provided by investing activities was \$1,396,349 for the nine months ended September 30, 2003 as a result of the sale of LNG assets, a limited partnership interest and interests in oil and gas prospects, partially offset by oil and gas property and fixed asset additions. Net cash provided by financing activities was \$20,847,837 for the nine months ended September 30, 2004 and \$4,211,884 for the nine months ended September 30, 2003. Net cash provided by financing activities in these periods consisted primarily of private sales of common stock, exercises of warrants and stock options, and partnership contributions by a minority owner, partially offset by repayments of notes payable.

At September 30, 2004, we had working capital of \$6,372,798 compared to \$155,526 at December 31, 2003. The increase is primarily attributable to the sale of our common stock through a private placement offering in January 2004 and exercises of warrants and stock options that resulted in aggregate net proceeds of \$19,137,182. We also received a \$2,500,000 payment from Freeport LNG from the sale of a 60% interest in the Freeport LNG project and \$2,818,898 in partnership contributions from our Corpus LNG minority owner. Major uses of working capital included \$17,821,846 related to LNG terminal development and other general and administrative expenses during the nine months ended September 30, 2004.

Bank Line of Credit

On June 23, 2004, we terminated our \$5,000,000 line of credit with a commercial bank. This facility was originally established on July 25, 2003 with a borrowing base of \$2,000,000. During 2003, we borrowed \$1,000,000 under the facility to acquire oil and gas leases. The balance was repaid in January 2004.

Restricted Certificate of Deposit and Letter of Credit

Under the terms of our office lease, we are required to post a standby letter of credit to be reduced \$224,619 per annum over a five-year period. The initial letter of credit amount of \$865,142 which

matured on October 24, 2004, was increased to \$1,123,094 in April 2004 related to the expansion of our office space. This letter of credit was initially established under the terms of our bank line of credit.

Upon the termination of our bank line of credit on June 23, 2004, we purchased a certificate of deposit in the amount of \$1,123,094 and entered into a pledge agreement in favor of the commercial bank that had previously issued the standby letter of credit for \$1,123,094. Under the terms of the pledge agreement, the commercial bank was assigned a security interest in the certificate of deposit as collateral for the letter of credit. As a result, the certificate of deposit plus accrued interest is classified as restricted on our balance sheet at September 30, 2004. The certificate of deposit matures on November 15, 2004 and accrues interest at a fixed rate of 1.7% per annum.

On October 25, 2004, both the letter of credit and certificate of deposit were amended to decrease the face amounts by \$224,619 to \$898,475. The renewed letter of credit matures on November 30, 2005. The certificate of deposit currently matures on November 15, 2004. However, it is anticipated that a new certificate of deposit for the same amount will be purchased at that time with a maturity date of November 30, 2005.

Off-Balance Sheet Arrangements

As of September 30, 2004, we had no "off-balance sheet arrangements" that may have a current or future material affect on our consolidated financial condition or results of operations.

Lease Obligation

On May 11, 2004, we amended our office lease in order to expand our existing office space. The term for the Expansion Space is for five years with an option, subject and subordinate to another tenant's renewal option, to renew for a term that would coincide with the term of our existing space that terminates January 2014. No rent is payable for the first nine months of the five-year term. Total payments for the remainder of the five-year Expansion Space lease term are \$200,292 per year.

Other Matters

New Accounting Pronouncements

In January 2003, the FASB issued Interpretation No. 46, *Consolidation of Variable Interest Entities*, and subsequently revised the Interpretation in December 2003 (FIN 46R). This Interpretation of Accounting Research Bulletin No. 51, *Consolidated Financial Statements*, addresses consolidation by business enterprises of variable interest entities, which have certain characteristics. As revised, FIN 46R is now generally effective for financial statements for interim or annual periods ending on or after March 15, 2004. We adopted FIN 46R effective January 1, 2004, with no material effect on our consolidated financial statements.

Other Recent Developments

In July 2003, an issue was brought before the FASB regarding whether or not contract-based oil and gas mineral rights held by lease or contract ("mineral rights") should be recorded or disclosed as intangible assets. The issue presents a view that these mineral rights are intangible assets as defined in Statement of Financial Accounting Standards (SFAS) No. 141, "Business Combinations," and, therefore, should be classified separately on the balance sheet as intangible assets. SFAS No. 141 and SFAS No. 142, "Goodwill and Other Intangible Assets," became effective for transactions subsequent to June 30, 2001, with the disclosure requirements of SFAS No. 142 required as of January 1, 2002. SFAS No. 141 requires that all business combinations initiated after June 30, 2001 be accounted for using the purchase method and that intangible assets be disaggregated and reported separately from goodwill. SFAS

No. 142 established new accounting guidelines for both finite lived intangible assets and indefinite lived intangible assets. Under the statement, intangible assets should be separately reported on the face of the balance sheet and accompanied by disclosure in the notes to financial statements. SFAS No. 142 does not apply to accounting utilized by the oil and gas industry as prescribed by SFAS No. 19, and is silent about whether or not its disclosure provisions apply to oil and gas companies.

In September 2004, the FASB issued final FASB Staff Position (FSP) FAS 142-2, "Application of SFAS No. 142 to Oil and Gas Producing Entities." The FSP clarifies that the exception in paragraph 8(b) of SFAS No. 142 includes the balance sheet classification and disclosures for drilling and mineral rights of oil and gas producing entities. Accordingly, the FASB staff believes that the exception extends to the disclosure provisions of SFAS No. 142 for drilling and mineral rights of oil and gas producing entities.

Item 3. Quantitative and Qualitative Disclosures About Market Risk

The development of our LNG receiving terminal business is based upon the foundational premise that prices of natural gas in the U.S. will be sustained at levels of \$3.00 per Mcf or more. Should the price of natural gas in the U.S. decline to sustained levels below \$3.00 per Mcf, our ability to develop and operate LNG receiving terminals could be materially adversely affected.

We produce and sell natural gas, crude oil and condensate. As a result, our financial results can be affected as these commodity prices fluctuate widely in response to changing market forces. We have not entered into any derivative transactions.

Item 4. Disclosure Controls and Procedures

We maintain a set of disclosure controls and procedures that are designed to ensure that information required to be disclosed by us in the reports filed by us under the Securities Exchange Act of 1934, as amended ("Exchange Act"), is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms. As of the end of the period covered by this report, we evaluated, under the supervision and with the participation of our management, including our Chief Executive Officer and our Chief Financial Officer, the effectiveness of our disclosure controls and procedures pursuant to Rule 13a-15 of the Exchange Act. Based on that evaluation, our Chief Executive Officer and our Chief Financial Officer concluded that our disclosure controls and procedures are effective.

During the most recent fiscal quarter, there have been no changes in our internal control over financial reporting that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II. Other Information

Item 1. Legal Proceedings

The Company has been, and may in the future be involved as, a party to various legal proceedings, which are incidental to the ordinary course of business. Management regularly analyzes current information and, as necessary, provides accruals for probable liabilities on the eventual disposition of these matters. In the opinion of management and legal counsel, as of September 30, 2004, there were no threatened or pending legal matters that would have a material impact on the Company's consolidated results of operations, financial position or cash flows.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds

Issuances of Common Stock

In January 2004, we issued 1,100,000 shares of common stock in a private placement to twelve accredited investors for total consideration of \$14,850,000, or \$13.50 per share. We paid a 6.5% sales commission totaling \$965,250, resulting in \$13,884,750 of net proceeds received from the offering. The proceeds of the private placement are being used primarily for the development of LNG receiving terminals and for general corporate purposes.

On February 2, 2004, under the 2003 Stock Incentive Plan, 383,000 shares were issued to employees and outside directors in the form of bonus and restricted stock awards related to our overall 2003 performance. We recorded \$1,915,000 of non-cash compensation in February 2004 related to the issuance of 127,667 shares (bonus stock awards) valued at \$15.00 per share that were fully vested on the date of grant. In addition, we recorded \$3,830,000 of deferred compensation as a reduction to stockholders' equity related to the issuance of 255,333 shares (restricted stock awards) valued at \$15.00 per share on the grant date that vests 50% on each of the first and second anniversaries of the grant date. As of September 30, 2004, \$1,276,667 of deferred compensation had been amortized.

During the first nine months of 2004, a total of 777,890 shares of common stock were issued pursuant to the exercise of stock options, resulting in net cash proceeds of \$2,059,308. An additional 162,700 shares of common stock were issued in satisfaction of cashless exercises of options to purchase 195,062 shares of common stock. A total of 792,916 shares of common stock were also issued pursuant to the exercise of warrants, resulting in net proceeds of \$3,193,124. An additional 56,461 shares of common stock were issued in satisfaction of cashless exercises of warrants to purchase 62,500 shares of common stock.

Stockholder Rights Plan

On October 13, 2004, our Board of Directors adopted the Stockholder Rights Plan in which preferred stock purchase rights will be distributed as a dividend at the rate of one right for each share of common stock of Cheniere held by stockholders of record as of the close of business on November 1, 2004. The Stockholder Rights Plan is designed to deter coercive takeover tactics, including the accumulation of shares in the open market or through private transactions, and to prevent an acquirer from gaining control of Cheniere without offering a fair price to all of our stockholders. The Stockholder Rights Plan was not adopted in response to any specific threat or takeover offer. The rights under the Stockholder Rights Plan will expire on October 14, 2014.

Each Right under the Stockholder Rights Plan will entitle stockholders to buy one unit of a share of preferred stock for \$200, the effect of which would be to significantly dilute the holdings of an acquiring person and to substantially increase the cost of acquiring control in a transaction not approved by our board of directors. The rights under the Stockholder Rights Plan generally will be exercisable only if a person or group acquires beneficial ownership of 15% or more of our common stock or commences a tender or exchange offer upon consummation of which the person or group would beneficially own 15% or more of our common stock.

The rights under the Stockholder Rights Plan are intended to enable all stockholders to realize the long-term value of their investment in Cheniere. The rights under the Stockholder Rights Plan will not prevent a takeover attempt, but are intended to encourage anyone seeking to acquire Cheniere to negotiate with the board of directors prior to attempting a takeover.

Item 6. Exhibits

Each of the following exhibits is incorporated by reference or filed herewith:

Exhibit No.	Description
3.1	Certificate of Designation of Series A Junior Participating Preferred Stock (incorporated by reference to Exhibit 3.1 to the Company's Current Report on Form 8-K, filed on October 14, 2004 (SEC File No. 001-16383))
4.1	Rights Agreement by and between Cheniere Energy, Inc. and U.S. Stock Transfer Corp., as Rights Agent, dated as of October 14, 2004 (incorporated by reference to Exhibit 4.1 to the Company's Current Report on Form 8-K, filed on October 14, 2004 (SEC File No. 001-16383))
10.1.	LNG Terminal Use Agreement, dated September 2, 2004, by and between Total LNG USA, Inc. and Sabine Pass LNG, L.P.
10.2	Omnibus Agreement, dated September 2, 2004, by and between Total LNG USA, Inc. and Sabine Pass LNG, L.P.
10.3	Guaranty, dated as of November 9, 2004, by Total S.A. in favor of Sabine Pass LNG, L.P.
10.4	LNG Terminal Use Agreement, dated November 8, 2004, between Chevron U.S.A. Inc. and Sabine Pass LNG, L.P.
10.5	Omnibus Agreement, dated November 8, 2004, between Chevron U.S.A., Inc. and Sabine Pass LNG, L.P.
31.1	Certification by Chief Executive Officer required by Rule 13a-14(a) and 15d-14(a) under the Exchange Act
31.2	Certification by Chief Financial Officer required by Rule 13a-14(a) and 15d-14(a) under the Exchange Act
32.1	Certification of Chief Executive Officer Pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
32.2	Certification of Chief Financial Officer Pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002

SIGNATURES

Pursuant to the requirements of the Securities and Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned

thereunto duly authorized.

CHENIERE ENERGY, INC.

/s/ Craig K. Townsend

Vice President and Controller (on behalf of the
registrant and as principal accounting officer)

Date: November 12, 2004

LNG TERMINAL USE AGREEMENT

between

TOTAL LNG USA, INC.

and

SABINE PASS LNG, L.P.

dated September 2, 2004

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LNG TERMINAL USE AGREEMENT

This LNG TERMINAL USE AGREEMENT (the “**Agreement**”), dated as of this 2nd day of September, 2004 (the “**Effective Date**”), is made by and between **TOTAL LNG USA, INC.**, a company incorporated under the laws of Delaware with its principal office at One Memorial City Plaza, 800 Gessner, Suite 700, Houston, Texas U.S.A. 77024 (“**Customer**”); and **SABINE PASS LNG, L.P.**, a Delaware limited partnership with a place of business at 717 Texas Avenue, Suite 3100, Houston, Texas, U.S.A. 77002 (“**SABINE**”).

RECITALS

WHEREAS, SABINE intends to construct, own and operate an LNG terminal facility in Cameron Parish, Louisiana capable of performing certain LNG terminalling services, including: the berthing of LNG vessels; the unloading, receiving and storing of LNG; the regasification of LNG; and delivery of natural gas to the Delivery Point;

WHEREAS, Customer desires to purchase such LNG terminalling services from SABINE;

WHEREAS, SABINE desires to make such LNG terminalling services available to Customer and to Other Customers in accordance with the terms hereof; and

WHEREAS, as an essential inducement for SABINE entering into this Agreement, Total S.A., a societe anonyme (“**Guarantor**”), will execute in favor of SABINE the Guarantee;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties hereto and for the mutual covenants contained herein, SABINE and Customer hereby agree as follows:

ARTICLE 1 DEFINITIONS

In addition to any terms or expressions defined elsewhere in this Agreement, the terms or expressions set forth below shall have the following meanings in this Agreement:

- 1.1** “**Adverse Weather Conditions**” means weather and sea conditions actually experienced at or near the Sabine Pass Facility that are sufficiently severe either: (a) to prevent an LNG vessel from proceeding to berth, or unloading or departing from berth, in accordance with one or more of the following: (i) regulations published by a Governmental Authority, (ii) an Approval or (iii) an order of a Pilot; or (b) to cause an actual determination by the Master of an LNG Vessel that it is unsafe for such vessel to berth, unload or depart from berth.
- 1.2** “**Affiliate**” means a Person (other than a Party) that directly or indirectly controls, is controlled by, or is under common control with, a Party to this Agreement, and for such purposes the terms “control”, “controlled by” and other derivatives shall mean the direct or indirect ownership of fifty percent (50%) or more of the voting rights in a Person.

- 1.3** “**Aggregate Actual Throughput**” means the sum of Customer Actual Throughput and the aggregate of Other Customers’ Gas delivered at the Delivery Point in the relevant month.
- 1.4** “**Agreement**” means this agreement, together with the Annexes and Exhibits attached hereto, which are hereby incorporated into and made a part hereof, as the same may be hereafter amended.
- 1.5** “**Annual Delivery Program**” shall have the meaning set forth in Section 5.1(c).
- 1.6** “**Approvals**” means all consents, authorizations, licenses, waivers, permits, approvals and other similar documents from or by a Governmental Authority.
- 1.7** “**Base Rate**” means: (a) the interest rate per annum equal to (i) the prime rate (sometimes referred to as the base rate) for corporate loans as published by *The Wall Street Journal* in the money rates section on the applicable date, or (ii) in the event *The Wall Street Journal* ceases or fails to publish such a rate, the prime rate (or an equivalent thereof) in the United States for corporate loans determined as the average of the rates referred to as prime rate, base rate or the equivalent thereof, quoted by J.P. Morgan Chase & Co., or any successor thereof, for short term corporate loans in New York on the applicable date; plus (b) two percent (2%). The Base Rate shall change as and when the underlying components thereof change, without notice to any Person.

- 1.8 “**British Thermal Unit**” or “**BTU**” means the amount of heat required to raise the temperature of one (1) avoirdupois pound of pure water from 59.0 degrees Fahrenheit to 60.0 degrees Fahrenheit at an absolute pressure of 14.696 pounds per square inch.
- 1.9 “**Business Day**” means any day that is not a Saturday, Sunday or legal holiday in the State of Texas, or a day on which banking institutions chartered by the State of Texas, or the United States of America, are legally required or authorized to close.
- 1.10 “**Cargo**” means a quantity of LNG expressed in MMBTU carried by an LNG Vessel in relation to which SABINE will render Services to Customer hereunder.
- 1.11 “**Central Time**” means U.S. Central Time Zone, as adjusted for Daylight Saving Time and Standard Time.
- 1.12 “**Claims**” shall have the meaning set forth in Section 9.2 of this Agreement.
- 1.13 “**Commercial Start Date**” shall have the meaning set forth in Section 6.2.
- 1.14 “**Commercial Operations Completion**” means completion of the Sabine Pass Facility so that it is ready to be used for its intended purpose to provide the Services hereunder, with the contractor under the engineering, procurement and construction contract for the facilities described in Section 7.1(b) having achieved all minimum acceptance requirements under such contract sufficient to provide the Services under this Agreement and any agreements with Other Customers.

- 1.15 “**Contract Year**” means each annual period starting on January 1 and ending on December 31 during the Term of this Agreement; provided, however, that (a) the first Contract Year shall commence on the Commercial Start Date and end on the following December 31, and (b) the last Contract Year shall commence on January 1 immediately preceding the last day of the Term and end on the last day of the Term as set forth in Section 6.1.
- 1.16 “**Cubic Meter**” means a volume equal to the volume of a cube each edge of which is one (1) meter.
- 1.17 “**Customer**” means Total LNG USA, Inc., unless and until substituted by an assignee in accordance with Article 17, whereupon such assignee shall become Customer to the extent of such assignment.
- 1.18 “**Customer Actual Throughput**” means the aggregate quantity of Gas delivered in MMBTUs at the Delivery Point for Customer’s account in the relevant month.
- 1.19 “**Customer LNG Receipt Schedule**” shall have the meaning set forth in Section 5.1(b).
- 1.20 “**Customer’s Inventory**” means, at any given time, the quantity in MMBTUs that represents LNG and Gas held for Customer’s account. For the avoidance of doubt, Customer’s Inventory shall be determined after deduction of Retainage in accordance with Section 4.2.
- 1.21 “**Customer’s LNG**” means, for the purposes of Services, LNG received at the Receipt Point for Customer’s account.
- 1.22 “**Delivery Point**” means the point of interconnect between the tailgate of the Sabine Pass Facility and a Downstream Pipeline.
- 1.23 “**Dispute**” means any dispute, controversy or claim (of any and every kind or type, whether based on contract, tort, statute, regulation or otherwise) arising out of, relating to or connected with this Agreement, including any dispute as to the construction, validity, interpretation, termination, enforceability or breach of this Agreement, as well as any dispute over arbitrability or jurisdiction.
- 1.24 “**Downstream Pipeline**” means all Gas pipelines downstream of the Delivery Point which transport Gas from the Sabine Pass Facility.
- 1.25 “**Effective Date**” means the date set forth in the preamble of this Agreement.
- 1.26 “**Excess Gas**” shall have the meaning set forth in Section 5.2(f).
- 1.27 “**Expected Receipt Quantity**” means, with respect to a given Cargo, Customer’s reasonable estimate of the quantity of LNG (in MMBTUs) expected to be unloaded at the Receipt Point, as set forth in the notice delivered pursuant to Section 5.1(b)(iii), as such notice may be subsequently amended pursuant to Section 8.4(a).

- 1.28 “**Extension Term**” shall have the meaning set forth in Section 6.1.
- 1.29 “**Fee**” shall have the meaning set forth in Section 4.1.
- 1.30 “**FERC**” means the Federal Energy Regulatory Commission or a successor regulatory agency.
- 1.31 “**FERC Approval Date**” shall have the meaning set forth in Section 6.2.
- 1.32 “**Fixed Component**” shall have the meaning set forth in Section 4.1(a)(i).
- 1.33 “**FOC Component**” shall have the meaning set forth in Section 4.1(a)(ii).
- 1.34 “**Force Majeure**” shall have the meaning set forth in Section 15.1.
- 1.35 “**For Customer**”, “**for Customer’s account**”, “**on behalf of Customer**” or other phrases containing similar wording shall include LNG delivered to the Sabine Pass Facility at Customer’s direction as well as Customer’s Inventory derived therefrom.
- 1.36 “**Gas**” means any hydrocarbon or mixture of hydrocarbons consisting predominantly of methane which is in a gaseous state.
- 1.37 “**Gas Redelivery Rate**” or “**GRR**” shall have the meaning set forth in Section 3.3(b).
- 1.38 “**Governmental Authority**” means, in respect of any country, any national, regional, state, or local government, any subdivision, agency, commission or authority thereof (including any maritime authorities, port authority or any quasi-governmental agency) having jurisdiction over a Party, the Sabine Pass Facility, Customer’s Inventory, an LNG Vessel, a Transporter, or a Downstream Pipeline, as the case may be, and acting within its legal authority.

- 1.39 “GPA” shall have the meaning set forth in Annex I.
- 1.40 “Gross Heating Value” means the quantity of heat expressed in BTUs produced by the complete combustion in air of one (1) cubic foot of anhydrous gas, at a temperature of 60.0 degrees Fahrenheit and at an absolute pressure of 14.696 pounds per square inch, with the air at the same temperature and pressure as the gas, after cooling the products of the combustion to the initial temperature of the gas and air, and after condensation of the water formed by combustion.
- 1.41 “Guarantee” means the Guarantee executed by Guarantor in favor of SABINE in the form attached as Exhibit A, or any other successor as allowed pursuant to the Guarantee.
- 1.42 “Guarantor” shall have the meaning set forth in the recitals to this Agreement.
- 1.43 “Henry Hub Price” shall mean, with respect to any month, the final settlement price in dollars per MMBTU as published by the New York Mercantile Exchange for the Henry Hub Natural Gas futures contract for Gas to be delivered during such month, such final

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price to be based upon the last trading day for the contract for such month; provided, however, that if the Henry Hub Natural Gas futures contract ceases to be traded, the Parties shall select a comparable index to be used in its place that maintains the intent and economic effect of the original index.

- 1.44 “Incremental Costs” shall have the meaning set forth in Section 4.1(b).
- 1.45 “Initial Term” shall have the meaning set forth in Section 6.1.
- 1.46 “International LNG Terminal Standards” means, to the extent not inconsistent with the express requirements of this Agreement, the international standards and practices applicable to the design, equipment, operation or maintenance of LNG receiving and regasification terminals, established by the following (such standards to apply in the following order of priority): (i) a Governmental Authority having jurisdiction over SABINE; (ii) the Society of International Gas Tanker and Terminal Operators (“SIGTTO”); and (iii) any other internationally recognized non-governmental agency or organization with whose standards and practices it is customary for Reasonable and Prudent Operators of LNG receiving and regasification terminals to comply. In the event of a conflict between any of the priorities noted above, the priority with the lowest roman numeral noted above shall prevail.
- 1.47 “International LNG Vessel Standards” means, to the extent not inconsistent with the expressed requirements of this Agreement, the international standards and practices applicable to the ownership, design, equipment, operation or maintenance of LNG vessels established by the following (such standards to apply in the following order of priority): (i) a Governmental Authority; (ii) the International Maritime Organization; (iii) SIGTTO; and (iv) any other internationally recognized non-governmental agency or organization with whose standards and practices it is customary for Reasonable and Prudent Operators of LNG vessels to comply. In the event of a conflict between any of the priorities noted above, the priority with the lowest roman numeral noted above shall prevail.
- 1.48 “Lender” means any entity providing temporary or permanent debt financing to SABINE in connection with construction of the Sabine Pass Facility.
- 1.49 “Liabilities” means all liabilities, costs, claims, disputes, demands, suits, legal or administrative proceedings, judgments, damages, losses and expenses (including reasonable attorneys’ fees and other reasonable costs of litigation or defense), and any and all fines, penalties and assessments of, or responsibilities to, Governmental Authorities.
- 1.50 “Liquids” means liquid hydrocarbons capable of being extracted from LNG at the Sabine Pass Facility, consisting predominately of ethane, propane, butane and longer-chain hydrocarbons.
- 1.51 “LNG” means Gas in a liquid state at or below its boiling point at a pressure of approximately one (1) atmosphere.

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- 1.52 “LNG Suppliers” means, in relation to performance of the obligations of SABINE and Customer under this Agreement, those Persons who agree in writing pursuant to an LNG purchase and sale agreement to supply or sell LNG to Customer for delivery to the Sabine Pass Facility.
- 1.53 “LNG Vessel” means an ocean-going vessel suitable for transporting LNG that Customer or an LNG Supplier uses for transportation of LNG to the Sabine Pass Facility.
- 1.54 “Loading Port” means the port at which a Cargo is loaded on board an LNG Vessel.
- 1.55 “Major Customer” means Customer and any Other Customer whose LNG terminal use agreement entitles such Other Customer to berth, unload and deliver at the Sabine Pass Facility quantities of LNG not less than 182,500,000 MMBTUs per year over a contractual term of at least five (5) years.
- 1.56 “Major Customer Aggregate Contracted Capacity” means the sum of (a) the Maximum LNG Reception Quantity of Customer; and (b) the maximum LNG reception quantity (or similar maximum contractual entitlement to receive LNG berthing, unloading and receipt services) of each other Major Customer for the relevant Contract Year.
- 1.57 “Major Customer Allocation Priority” shall have the meaning set forth in Section 15.7.
- 1.58 “Make-Up Quantity” shall have the meaning set forth in Section 4.4(c).
- 1.59 “Maximum LNG Reception Quantity” means 390,915,000 MMBTUs per Contract Year; provided, however, that for purposes of the first and last Contract Years, the Maximum LNG Reception Quantity shall be prorated based upon the ratio that the number of days during such Contract Year bears to three hundred sixty-five (365).
- 1.60 “MMBTU” means 1,000,000 BTUs.
- 1.61 “NAESB WGQ” shall have the meaning set forth in Section 5.2(g)(iii).
- 1.62 “Non-Major Customer” means any Other Customer other than a Major Customer.
- 1.63 “Non-Major Customer Aggregate Contracted Capacity” means the sum of the maximum LNG reception quantity (or similar maximum contractual entitlement to receive LNG berthing, unloading and receipt services) of each Non-Major Customer for the relevant Contract Year.

- 1.64 “**NOR Window**” shall have the meaning set forth in Section 8.5(b)(ii).
- 1.65 “**Notice of Readiness**” or “**NOR**” shall have the meaning set forth in Section 8.5.
- 1.66 “**Other Customers**” means, from time to time, Persons (other than Customer) purchasing LNG terminalling services from SABINE similar to the Services.

- 1.67 “**Party**” and “**Parties**” means SABINE and Customer, and their respective successors and assigns.
- 1.68 “**Person**” means any individual, sole proprietorship, corporation, trust, company, voluntary association, partnership, joint venture, limited liability company, unincorporated organization, institution, Governmental Authority or any other legal entity.
- 1.69 “**Pilot**” means any Person engaged by Transporter to come on board an LNG Vessel to assist the Master in pilotage, mooring and unmooring of such LNG Vessel.
- 1.70 “**Pilot Boarding Station**” shall have the meaning set forth in Section 8.5(a).
- 1.71 “**Port Charges**” means all charges of whatsoever nature (including rates, tolls and dues of every description) in respect of an LNG Vessel entering or leaving the Sabine Pass Facility, including charges imposed by fire boats, tugs and escort vessels, the U.S. Coast Guard, a Pilot, and any other Person assisting an LNG Vessel to enter or leave the Sabine Pass Facility. For purposes of this Agreement, the term “Port Charges” shall include port use fees, thru-put fees and similar fees payable by users of the Sabine Pass Facility (or by SABINE on behalf of such users) to the West Cameron, Louisiana Port Commission and Jefferson County, Texas Waterway and Navigation District.
- 1.72 “**Psig**” means pounds per square inch gauge.
- 1.73 “**Reasonable and Prudent Operator**” means a Person seeking in good faith to perform its contractual obligations, and in so doing, and in the general conduct of its undertaking, exercising that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced operator engaged in the same type of undertaking under the same or similar circumstances and conditions.
- 1.74 “**Receipt Point**” means the point at the Sabine Pass Facility at which the flange coupling of the Sabine Pass Facility’s receiving line joins the flange coupling of the LNG unloading manifold on board an LNG Vessel.
- 1.75 “**Regasified LNG**” means Gas derived from the conversion of LNG (received by SABINE at the Receipt Point) from its liquid state to a gaseous state.
- 1.76 “**Reservation Fee**” shall have the meaning set forth in Section 4.1(a).
- 1.77 “**Retainage**” shall have the meaning set forth in Section 4.2.
- 1.78 “**Round Up Quantity**” shall have the meaning set forth in Section 3.1(b)(i)a.
- 1.79 “**SABINE**” means Sabine Pass LNG, L.P., unless and until substituted by an assignee by novation in accordance with Article 17, whereupon such assignee shall become SABINE for all purposes.

- 1.80 “**Sabine Pass Facility**” means the LNG receiving terminal facility as further described in Section 7.1(b) (including the port, berthing and unloading facilities, LNG storage facilities, and regasification facilities, together with equipment and facilities related thereto) used to provide Services hereunder, as such facilities will be constructed and modified from time to time in accordance with this Agreement.
- 1.81 “**Sabine Pass Marine Operations Manual**” shall have the meaning set forth in Section 8.2.
- 1.82 “**Sabine Pass Services Manual**” shall have the meaning set forth in Section 3.6.
- 1.83 “**Sabine Pass Website**” means the internet based computer system used by SABINE to communicate with Customer and Other Customers regarding LNG terminalling services at the Sabine Pass Facility.
- 1.84 “**Scheduled Unloading Window**” means, for any applicable Contract Year, an Unloading Window allocated either to Customer or any Other Customer pursuant to Article 5.
- 1.85 “**Scheduling Representative**” means the individual appointed by Customer in accordance with Section 5.4.
- 1.86 “**Services**” shall have the meaning set forth in Section 2.1, as expanded from time to time in accordance with Section 2.2.
- 1.87 “**Services Quantity**” shall have the meaning set forth in Section 3.1(b).
- 1.88 “**Standard Cubic Foot**” means the quantity of Gas, free of water vapor, occupying a volume equal to the volume of a cube whose edge is one (1) foot, at a temperature of 60.0 degrees Fahrenheit and at an absolute pressure of 14.696 pounds per square inch.
- 1.89 “**Storage**” means the retention by SABINE of Customer’s Inventory for a period of time at the Sabine Pass Facility.
- 1.90 “**Taxes**” means all customs, taxes, royalties, excises, fees, duties, levies, sales and use taxes and value added taxes, charges and all other assessments, which may now or hereafter be enacted, levied or imposed, directly or indirectly, by a Governmental Authority, except Port Charges.
- 1.91 “**Term**” shall have the meaning set forth in Section 6.1.
- 1.92 “**Total Vaporization Capacity**” shall have the meaning set forth in Section 5.2(b)(ii).
- 1.93 “**Transporter**” means any Person who owns or operates an LNG Vessel.

- 1.94 “**Unloading Window**” means a forty-eight (48) hour window starting at 6:00 a.m. Central Time on a specified day and ending forty-eight (48) consecutive hours thereafter during which SABINE would make available berthing and LNG unloading services at the

Sabine Pass Facility to either Customer or one of the Other Customers; provided, however, that if an LNG Vessel berths on the second day of the Scheduled Unloading Window, then the forty-eight (48) hour window shall be deemed extended to complete unloading in accordance with the time restrictions in Section 8.9(b).

ARTICLE 2 SERVICES AND SCOPE

2.1 Services to be Provided by SABINE

During the Term and subject to the provisions of this Agreement, SABINE shall, acting as a Reasonable and Prudent Operator, make available the following services to Customer (such available services being herein referred to as the “**Services**”) in the manner set forth in Article 3:

- (a) the berthing of LNG Vessels at the Sabine Pass Facility;
- (b) the unloading and receipt of LNG from LNG Vessels at the Receipt Point;
- (c) Storage of Customer’s Inventory;
- (d) the regasifying of LNG held in Storage;
- (e) the transportation and delivery of such Regasified LNG to the Delivery Point (it being acknowledged that SABINE may, at its option, cause Gas to be redelivered to Customer at the Delivery Point from sources other than Regasified LNG); and
- (f) other activities directly related to performance by SABINE of the foregoing.

2.2 Additional Services

From time to time during the Term, the representatives of SABINE and Customer may supplement this Agreement in accordance with Section 24.2 to provide that SABINE will also make available services to Customer in addition to the Services set forth in Section 2.1.

2.3 Activities Outside Scope of this Agreement

For greater certainty, the Parties confirm that the following activities, *inter alia*, are not Services provided by SABINE to Customer and, therefore, such activities are outside of the scope of this Agreement:

- (a) harbor, mooring and escort services, including those relating to tugs, service boats, fire boats, and other escort vessels;
- (b) the construction, operation, ownership, maintenance, repair and removal of facilities downstream of the Delivery Point; provided, however, that SABINE shall construct, or permit the construction of, such downstream pipeline interconnections at the Sabine Pass Facility as Customer may reasonably request, subject to the following conditions:
 - (i) receipt by SABINE of all Approvals for such construction and operation;

- (ii) such construction and interconnection not impairing the operation of the Sabine Pass Facility or causing SABINE to be in breach of its contractual obligations to Other Customers; and
- (iii) Customer’s advancing to SABINE on a timely basis funds sufficient to fund the reasonable cost of design, permitting, construction and operation of such interconnection facilities as may actually be incurred by SABINE;

provided, however, that notwithstanding anything herein to the contrary, Customer shall use reasonable efforts to keep to a minimum the number of such downstream pipeline interconnection requests it submits to SABINE;

- (c) the transportation of Gas beyond the Delivery Point;
- (d) the marketing of Gas and all activities related thereto (except as expressly provided in Section 3.4); and
- (e) the removal, marketing and transportation of Liquids and all activities related thereto. For the avoidance of doubt, SABINE reserves the right to separate and/or extract Liquids from LNG upstream of the Delivery Point, provided that such separation does not result in Gas failing to meet the quality specifications at the Delivery Point required under Section 10.3 and provided, further, that SABINE delivers at the Delivery Point a quantity of Gas that is, less Retainage and Customer’s Inventory, the thermal equivalent of the quantity of LNG received by SABINE for Customer’s account at the Receipt Point.

ARTICLE 3 SALE AND PURCHASE OF SERVICES

3.1 Services Quantity

- (a) Purchase and Sale of Services. During each Contract Year, SABINE shall make available to Customer, and Customer shall purchase and pay for in an amount equal to the Fee, the Services Quantity.
- (b) Services Quantity. The quantity of Services (the “**Services Quantity**”) SABINE shall make available to Customer during a Contract Year, and for which Customer shall purchase and pay for pursuant to Section 3.1(a), shall consist of the following:
 - (i) Unloading of LNG. SABINE shall make the Sabine Pass Facility available during Unloading Windows to allow berthing, unloading and receipt of Customer’s LNG in a quantity up to the Maximum LNG Reception Quantity; provided, however, that SABINE shall use reasonable efforts to allow

berthing, unloading and receipt of Customer's LNG in quantities in excess of the Maximum LNG Reception Quantity, under the following circumstances only:

- a. to the extent that an additional quantity of LNG in excess of the Maximum LNG Reception Quantity (such excess being the **Round Up Quantity**) must be delivered in order to permit the

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delivery of the Maximum LNG Reception Quantity in whole cargo lots in any Contract Year, the Maximum LNG Reception Quantity shall be increased by such Round-Up Quantity, subject to Customer's payment to SABINE of additional compensation in the amount of \$0.28 per MMBTU of such Round Up Quantity; and

- b. subject to Section 5.1(b)(i), in the event that any Cargo of LNG that was originally scheduled, pursuant to the Customer LNG Receipt Schedule, to be unloaded in December of a Contract Year is, as a result of changes to the Customer LNG Receipt Schedule, unloaded in the first fourteen (14) days of the subsequent Contract Year, such Cargo shall be deemed to have been received by SABINE in the Contract Year in which such Cargo was originally scheduled to be unloaded and shall not be applied against the Maximum LNG Receipt Quantity in such subsequent Contract Year.

- (ii) Storage of Customers' Inventory. SABINE shall cause Customer's Inventory, net of Retainage, to be held temporarily in Storage until redelivered in accordance with Section 3.1(b)(iii) below; and
- (iii) Redelivery of Gas at Delivery Point. Subject to the provisions of this Agreement, including Section 3.3(a), SABINE shall, on a daily basis, make Gas from Customer's Inventory available to Customer at the Delivery Point at the rate nominated by Customer pursuant to Section 5.2(g), which nominated rate shall be at the Gas Redelivery Rate; provided, however, that SABINE shall, on a daily basis, make Excess Gas available to Customer and Other Customers at the Delivery Point in the quantities determined and allocated pursuant to Section 5.2.

- (c) Expiration of Services Quantity. Except as provided in Section 3.1(b)(i)b above and Section 4.4(c), if Customer does not use any portion of the Services Quantity made available to Customer pursuant to the terms of this Agreement during the relevant period, Customer shall not accrue any right to receive any Services in excess of the Services Quantity with respect to any subsequent period.

3.2 Customer's Use of Services Quantity

Customer shall be entitled to use the Services Quantity (and Services in respect of any Make-Up Quantity) in whole or in part by itself, or may assign its rights and obligations as provided in Article 17.

3.3 Gas Redelivery

- (a) No Pre-Delivery Right. On any given day during a Contract Year, Customer shall not be entitled to receive quantities of Gas in excess of Customer's Inventory.
- (b) Gas Redelivery Rate. For purposes of this Agreement, the term "**Gas Redelivery Rate**" means, subject to the last sentence of this Section 3.3(b), 1,050,000 MMBTU per day or such lesser rate nominated by Customer; provided, however that at no time shall Customer's Inventory exceed six (6) billion Standard Cubic

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Feet. At all times when an LNG Vessel is unloading on behalf of Customer, Customer shall be required to nominate Gas for redelivery at the Delivery Point at a minimum rate equivalent to the rate required to manage boil-off generated during unloading of such LNG.

3.4 Failure to Take Delivery of Gas at Delivery Point

If on any day Customer materially fails to take redelivery of any Gas at the Delivery Point at the rate nominated by Customer and confirmed by SABINE pursuant to Article 5 and such failure is for reasons other than Force Majeure affecting a Downstream Pipeline, then SABINE may, at its sole discretion, take title to same free and clear of any Claims, and sell or otherwise dispose of such Customer's Inventory using good faith efforts to obtain the best available prices and to minimize costs. Customer shall indemnify, defend and hold harmless SABINE, its Affiliates, and their respective directors, officers, members and employees, for the actual and reasonable costs incurred by SABINE as a result of such sale or other disposition of same by SABINE. SABINE shall credit to Customer's account the net proceeds from the sale or other disposition of Customer's Inventory to which it takes title hereunder, minus transportation costs, third party charges, and an administrative fee of U.S. \$0.05 per MMBTU; provided, however, that if the amount of the credit exceeds the amount due to SABINE under the next monthly statement, then SABINE agrees to pay any such excess amount to Customer within five (5) Business Days after delivery of such monthly statement.

3.5 Services Provided to Other Customers

- (a) Identity of Other Customers. Subject to any obligations of confidentiality, SABINE shall inform Customer of the identity of all Other Customers who have signed terminal use agreements with SABINE.
- (b) Terminal Use Agreements with Other Customers. In its negotiation of terminal use agreements with Other Customers, SABINE shall use reasonable efforts to include shipping and operational provisions that are consistent in all material respects with the provisions in Article 7, Article 8, Article 9, and Article 10 herein.

3.6 Sabine Pass Services Manual

SABINE and Customer shall discuss in good faith with the objective of developing a services manual applicable to Customer that contains detailed implementation procedures necessary for performance of this Agreement with regard to the matters set forth in Exhibit B (but excluding the matters governed by the Sabine Pass Marine Operations Manual). In developing such a manual, SABINE shall provide Customer at least eighteen (18) months prior to the Commercial Start Date, a draft of the Services Manual (the "**Preliminary Services Manual**") which shall be consistent, to the maximum extent possible, with International LNG Terminal Standards and, to the extent not inconsistent with International LNG Terminal Standards, such good and prudent practices as are generally followed in the LNG industry by Reasonable and Prudent Operators of LNG receiving and regasification terminals. If Customer desires to consult with SABINE regarding the contents of the Preliminary Services Manual, Customer shall, no later than

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sixty (60) days from delivery of said manual by SABINE, request to meet with SABINE by providing notice thereof to SABINE, and SABINE shall, no later than thirty (30) days after receipt of such notice, meet with Customer to discuss said manual. SABINE shall not unreasonably propose terms and conditions for the Preliminary Services Manual, and Customer shall not unreasonably withhold or delay its agreement to the Preliminary Services Manual. If (a) Customer does not submit the foregoing notice to SABINE on a timely basis or (b) Customer and SABINE meet pursuant to such a notice and are able during such meeting to agree upon revisions to the draft, then such draft, as so revised (and as amended from time to time), shall constitute the “**Sabine Pass Services Manual**”. If Customer and SABINE meet pursuant to the foregoing notice and are unable during such meeting to agree upon revisions to the Preliminary Services Manual two hundred seventy (270) days prior to the Commercial Start Date, then the subject matter with respect to which the Parties have been unable to agree shall be subject to arbitration in accordance with Article 20. In the event SABINE intends to amend the Sabine Pass Services Manual, then SABINE shall follow the procedure set forth above in relation to the Preliminary Services Manual. SABINE shall deliver to Customer and all Other Customers a copy of the Sabine Pass Services Manual and any amendments thereto promptly after they have been finalized or amended, as the case may be. Customer shall comply, and shall cause its Scheduling Representative to comply, with such Sabine Pass Services Manual in all respects. The Parties will undertake to develop a Sabine Pass Services Manual that is consistent with this Agreement; however, in the event of a conflict between the terms of this Agreement and the Sabine Pass Services Manual, the terms of this Agreement shall control.

ARTICLE 4 COMPENSATION FOR SERVICES

4.1 Fee

From the Commercial Start Date, provided that the Sabine Pass Facility has achieved Commercial Operations Completion, and subject to the adjustment in Section 4.5, Customer shall, as full compensation for the performance by SABINE of its obligations under this Agreement, bear the Retainage and pay to SABINE the sum of the components specified in paragraphs (a) and (b) below (such amount collectively referred to as the “**Fee**”):

- (a) Reservation Fee. A monthly reservation fee (the “**Reservation Fee**”), payable in advance, consisting of the following two (2) components:
 - (i) a monthly component (the “**Fixed Component**”) that, during the Initial Term, shall be equal to nine million one hundred twenty one thousand three hundred fifty dollars (\$9,121,350). The Fixed Component with respect to any Extension Term shall be determined in accordance with Section 4.5; and
 - (ii) a monthly component in relation to certain fixed operating costs of SABINE (the “**FOC Component**”) that shall be equal to one million three hundred three thousand fifty dollars (\$1,303,050), such amount to be adjusted annually for changes in the United States Consumer Price Index

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using the United States Consumer Price Index (All Urban Consumers) as of the Commercial Start Date as a base.

- (b) Incremental Costs. The following incremental costs (the “**Incremental Costs**”) payable monthly in arrears:
 - (i) compensation for any Round-Up Quantity under Section 3.1(b)(i);
 - (ii) premiums for business interruption insurance purchased pursuant to Section 13.1(f); and
 - (iii) excess berth fees, if any, under Section 8.9(b).

4.2 Retainage

For purposes of this Agreement “**Retainage**” means a quantity of LNG equal to two percent (2%) of LNG received for Customer’s account at the Receipt Point; provided, however, that Retainage shall be increased temporarily for any additional losses in the event Customer fails to nominate Gas at the minimum GRR during unloading of an LNG Vessel on behalf of Customer or at such minimum GRR required to redeliver Customer’s share of boil-off Gas.

4.3 Governmental Authority Taxes and Costs

If, subsequent to the Effective Date, any Governmental Authority:

- (a) imposes any Taxes on SABINE (excluding any Taxes on the capital revenue or income derived by SABINE) with respect to the Services, or the Sabine Pass Facility (“**SABINE Taxes**”); or
- (b) enacts any safety or security related regulation which materially increases the costs of SABINE in relation to the Services or the Sabine Pass Facility (“**New Regulatory Costs**”);

then Customer shall bear such SABINE Taxes and New Regulatory Costs at the rate of forty percent (40%); provided, however, that if the total LNG regasification facilities of the Sabine Pass Facility are expanded to exceed 3,000,000 MMBTUs, then Customer’s share shall instead be determined for the given Contract Year based on the following ratio:

- (x) Maximum LNG Reception Quantity; divided by
- (y) the sum of the Maximum LNG Reception Quantity plus the aggregate quantity of LNG contracted at the Sabine Pass Facility for the account of each Other Customer in such Contract Year,

provided, however, in no event shall Customer’s share of SABINE Taxes and New Regulatory Costs under this Section 4.3 be in excess of forty percent (40%). For the purposes hereof, SABINE Taxes shall include the inability to obtain, or the loss or expiration of, any abatement of Taxes on the Services or the Sabine Pass Facility (despite SABINE having used reasonable efforts to obtain such abatements). Notwithstanding the foregoing, SABINE agrees to bear and pay one-half (1/2) of ad valorem taxes otherwise

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payable by Customer in accordance with the above provisions, up to a maximum annual amount of three million nine hundred nine thousand dollars (\$3,909,000).

4.4 Effect of Services Unavailability on Payments

- (a) **Force Majeure.** If some or all of the Services are unavailable to Customer on any day during the Term as a result of an event that constitutes Force Majeure and such event of Force Majeure exceeds thirty (30) consecutive days, the Fee shall be adjusted until the date on which SABINE declares the Force Majeure event at an end, as follows:
 - (i) If the event of Force Majeure lasts for at least thirty (30) consecutive days but no more than one hundred eighty (180) consecutive days, the Fee shall be reduced by an amount equal to any business interruption insurance proceeds actually received by SABINE and payable in relation to such event of Force Majeure; and
 - (ii) If the event of Force Majeure lasts for at least one hundred eighty (180) consecutive days, from such 180th day onward until the date on which SABINE declares the Force Majeure event at an end, the Fee shall be reduced to an amount sufficient to compensate SABINE fully for (a) all debt service of the debt incurred by SABINE to finance the construction of the Sabine Pass Facility that is secured by such facility (“**Project Debt**”) and (b) the FOC Component. Such amounts payable by Customer shall be reduced by an amount equal to any business interruption insurance proceeds received by SABINE payable in relation to such event of Force Majeure.
- (b) **Services Unavailability.** If some or all of the Services Quantity is unavailable to Customer on any day (or portion of a day) as a result of an event that does not constitute Force Majeure or scheduled maintenance which such scheduled maintenance not to exceed ten (10) days per year (such event being a “**Services Unavailability**”), the Fee shall not be reduced until the day after the date on which the cumulative reduction in Customer’s Gas throughput at the Delivery Point exceeds 20,000,000 MMBTUs in a twelve (12) month period (the “**Adjustment Date**”). During any period of Services Unavailability after the Adjustment Date, the Fee shall be reduced to an amount sufficient to compensate SABINE fully for: (a) Project Debt; and (b) the FOC Component.
- (c) **Make-Up Services.**
 - (i) If some or all of the Services Quantity is unavailable to Customer on any day as a result of an event that constitutes Force Majeure, as a result of SABINE’s breach of this Agreement or as a result of scheduled or unscheduled maintenance, and, as a result, the quantity of Customer’s Gas that is delivered by SABINE hereunder at the Delivery Point (or the quantity of Customer’s LNG that is received at the Receipt Point, as the case may be) is less than the quantity that Customer scheduled or would have scheduled but for such unavailability of Services, then the portion of

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the Services Quantity not made available shall constitute the “**Make-Up Quantity**”. At any time there is an outstanding balance of Make-Up Quantity, Customer shall have the right, within twenty four (24) months of such unavailability of Services, to schedule any of the Services above the Services Quantity to the extent of uncommitted available capacity of the Sabine Pass Facility. Such Make-Up Quantity may be scheduled from time to time, except during an event that constitutes Force Majeure. Capacity shall be deemed to be available and uncommitted for purposes of this Section 4.4(c) if such capacity is available after SABINE has fulfilled any contractual obligations to Other Customers under firm agreements in existence at the time of the circumstances giving rise to the Make-Up Quantity. All Services related to the Make-Up Quantity shall be provided without additional compensation to SABINE, including the unloading of LNG, the storage of Customer’s LNG, and the redelivery of Customer’s Gas. Nothing herein is intended to allow Customer’s Inventory to exceed 6.0 billion Standard Cubic Feet.

- (ii) Customer’s rights under this Section 4.4(c) are in addition to, and not in lieu of, any or all of Customer’s other rights and remedies under this Agreement.

4.5 Adjustment During Extension Terms

The Fee for the Extension Terms shall be the lesser of: (a) the Fee for the Initial Term, except that the Fixed Component shall be adjusted for inflation based on the increase in the United States Consumer Price Index (All Urban Consumers) from a basis set on January 1 following the Commercial Start Date to the beginning of such Extension Term; or (b) the prevailing market rate for regasification terminals in the United States offering similar services.

ARTICLE 5 SCHEDULING

5.1 Customer LNG Receipt Schedule

- (a) **SABINE Deliverables.** Not later than one hundred eighty (180) days prior to the beginning of each Contract Year, SABINE shall provide to the Scheduling Representative a non-binding written assessment of the dates of any planned maintenance to or modifications of the Sabine Pass Facility for such Contract Year pursuant to Section 16.1 and the expected impact of such activities on the availability of Services. SABINE shall use best efforts to limit the number of days of any planned maintenance to or modifications of the Sabine Pass Facility.
- (b) **Notice of Customer LNG Receipt Schedule.** Not later than one hundred twenty (120) days prior to the beginning of each Contract Year, the Scheduling Representative shall notify SABINE of a programming schedule for the unloading of up to the Maximum LNG Reception Quantity over the course of the next Contract Year, which schedule shall meet the following requirements in all

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respects (the schedule meeting such requirements herein referred to as the “**Customer LNG Receipt Schedule**”):

- (i) it shall result in an LNG delivery pattern whereby deliveries in any given month do not materially exceed one twelfth (1/12) of the Maximum LNG Reception Quantity, provided however Customer shall not have the right to utilize both unloading berths simultaneously;
- (ii) it shall take into consideration the planned maintenance and modification dates for such Contract Year furnished to Customer by SABINE as set forth in Section 5.1(a);
- (iii) it shall specify for each Unloading Window for a Cargo, the name of the LNG Vessel expected to deliver LNG to the Sabine Pass Facility and the corresponding Expected Receipt Quantity to be delivered. The Customer Proposed LNG Receipt Schedule shall be based only on the usage of LNG Vessels which Customer in good faith expects will actually deliver LNG to the Sabine Pass Facility in relation to a particular Unloading Window for a Cargo; and
- (iv) it shall specify for each Unloading Window for a Cargo, the anticipated quality (expressed in terms of Gross Heating Value) of the LNG to be delivered at the Receipt Point.

SABINE acknowledges that, although Other Customers may submit similar notices to SABINE regarding the programming schedule for the unloading of such Other Customer's LNG over the course of the next Contract Year (the "**Other Customer LNG Receipt Schedules**"), the Customer LNG Receipt Schedule shall have priority over all such scheduling notices of Other Customers and shall be binding on SABINE.

- (c) SABINE Notice of Annual Delivery Program. SABINE shall take into consideration the Customer LNG Receipt Schedule and the notices that it receives from Other Customers regarding the matters provided for in Section 5.1(b) and, not later than sixty (60) days prior to the beginning of each Contract Year, SABINE shall issue to Customer via the Sabine Pass Website (or via an alternative electronic means of transmitting written communications if the Sabine Pass Website is unavailable) a schedule (the "**Annual Delivery Program**") for such Contract Year that shall set forth (i) the Scheduled Unloading Windows allocated by SABINE to Customer; and (ii) all Unloading Windows not presently allocated to Customer or Other Customers; provided, however, that SABINE shall not:
- (i) allocate any Unloading Window to any Other Customer unless such Other Customer has agreed to pay compensation, on a commercial basis, to SABINE for LNG terminalling services in relation to such Unloading Window; or
 - (ii) allocate to any Other Customer a number of Unloading Windows greater than the number reasonably expected for such Other Customer to unload

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its maximum LNG reception quantity (or similar maximum annual contractual entitlement to unload LNG at the Sabine Pass Facility).

- (d) Customer Changes to Customer LNG Receipt Schedule.
- (i) Subject to the terms of this Section 5.1(d), at any time following the issuance of the Annual Delivery Program, the Scheduling Representative may submit to SABINE a written request to change a Scheduled Unloading Window to any Unloading Window that is not presently allocated to Customer or Other Customers under the Annual Delivery Program (such request to change, a "**Customer Open Window Request**"). Customer understands that (x) Other Customers shall also have the right to submit to SABINE similar scheduling requests (each an "**Other Customer Open Window Request**"), (y) SABINE shall have no obligation to consult with the Scheduling Representative, Customer, and Other Customers regarding any Customer Open Window Request or Other Customer Open Window Request (collectively, "**Open Window Request**") and (z) SABINE shall accept any Open Window Request on a first-come, first-served basis as soon as possible but not later than 5:00 p.m. Central Time of the Business Day following the date of receipt by SABINE of the applicable Open Window Request. Provided that no Other Customer Open Window Request that pertains to the same window preceded the Customer Open Window Request, SABINE shall exercise reasonable efforts to grant the Customer Open Window Request. Upon accepting an Open Window Request, SABINE shall notify Customer and Other Customers thereof by issuing a revised Annual Delivery Program via the Sabine Pass Website (or via an alternative electronic means of transmitting written communications if the Sabine Pass Website is unavailable). Notwithstanding anything herein to the contrary, Customer shall use its reasonable efforts to keep to a minimum the number of Customer Open Window Requests it submits to SABINE.
 - (ii) Subject to the terms of this Section 5.1(d), at any time following the issuance of the Annual Delivery Program, the Scheduling Representative may submit to SABINE a written request to change a Scheduled Unloading Window to a forty-eight (48) hour period that is unavailable to Customer under the Annual Delivery Program (such change, a "**Change Request**"). Customer acknowledges that any Change Request will (x) likely conflict with the Scheduled Unloading Windows allocated to Other Customers in the Other Customer LNG Receipt Schedules and (y) be conditional upon the agreement of the Other Customers. Accordingly, SABINE shall use reasonable efforts to obtain the consent of any Other Customer that would be affected by Customer's proposed revised schedule, and if such consent is not obtained, SABINE shall have the right to accept or deny, in its sole discretion, any Change Request and shall notify Customer thereof via the Sabine Pass Website (or via an alternative electronic means of transmitting written communications if the Sabine Pass Website is unavailable) within three (3) Business Days of its receipt

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of a Change Request. Notwithstanding anything herein to the contrary, Customer shall use its reasonable efforts to keep to a minimum the number of Change Requests it submits to SABINE, and SABINE shall use its reasonable efforts to accommodate Customer's Change Requests.

- (e) Modifications to Customer LNG Receipt Schedule Due to Force Majeure. If, for any Scheduled Unloading Window, SABINE is unable, due to Force Majeure, to berth and unload an LNG Vessel, each affected Scheduled Unloading Window allocated to Customer in the Customer LNG Receipt Schedule during such period of Force Majeure shall be cancelled.
- (f) Adjustment to Schedules. Upon written request by the Customer, SABINE shall use reasonable efforts to modify the time periods expressly set forth in Sections 5.1(a), 5.1(b), 5.1(c), and 5.1(d) to allow Customer to interface these periods with corresponding time periods for scheduling agreed upon by Customer and its LNG Suppliers. For purposes of this Section 5.1(f), SABINE shall be deemed to have used reasonable efforts if SABINE rejects Customer's request because it determines, acting as a Reasonable and Prudent Operator, that any such modification would infringe on the rights of Other Customers.

5.2 Gas Delivery Procedure

- (a) Preliminary Nomination Schedule. Not later than the fifteenth (15th) day of each month, commencing the month immediately prior to the Commercial Start Date, Scheduling Representative shall provide to SABINE a nomination schedule (the "**Preliminary Nomination Schedule**") that sets forth Customer's estimate of the Gas Redelivery Rate for each day of the ensuing month, such estimate to be determined based on the then existing Annual Delivery Program.
- (b) Daily Records. Commencing on the Commercial Start Date, SABINE shall, on each Day by 7:00 a.m. Central Time post on the Sabine Pass Website for access by Customer certain daily records (the "**Daily Records**"), including the following:
 - (i) a projection of Customer's Inventory as of 9:00 a.m. Central Time on the day of the posting of the Daily Records;
 - (ii) the expected total capacity of the Sabine Pass Facility to vaporize and deliver gas, as of 9:00 a.m. Central Time on the day following the posting of the Daily Records, determined by SABINE as a Reasonable and Prudent Operator ("**Total Vaporization Capacity**"), such capacity to be exclusive of one vaporizer unit which shall be held in reserve by SABINE solely in order to replace a vaporizer unit that is unavailable for service; and
 - (iii) the sum of all Other Customers' maximum Gas redelivery rate (or similar maximum daily contractual entitlement to receive Gas at the Delivery Point other than Excess Gas).

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- (c) Preliminary Gas Nomination
- (i) Commencing on the day before the Commercial Start Date, the Scheduling Representative shall, by 7:30 a.m. each Day, notify to SABINE a preliminary nomination (the “**Preliminary Nomination Notice**”) of the quantities of Gas (including any desired share of Excess Gas) that Customer desires to be delivered to it at the Delivery Point commencing at 9:00 a.m. on the subsequent day.
 - (ii) The quantities nominated by the Scheduling Representative in a Preliminary Nomination Notice shall in no event be less than the Gas Redelivery Rate.
 - (iii) Nominations of Excess Gas may only be requested if the Scheduling Representative has stated, in the Preliminary Nomination Notice, a GRR of 1,050,000 MMBTUs per day.
 - (iv) In the event SABINE does not receive a Preliminary Nomination Notice on a timely basis, the Scheduling Representative shall be deemed to have nominated the Gas Redelivery Rate as per Section 3.3(b).
- (d) Other Customer Preliminary Nomination Notices. Customer acknowledges that Other Customers shall provide to SABINE notices similar to the Preliminary Nomination Notice described in Section 5.2(c).
- (e) Spare Vaporization. Long-term contracts (in excess of three (3) months) for sales of Services by SABINE shall in no event burden one (1) LNG vaporizer (excluding the vaporizer held in reserve in determining Total Vaporization Capacity) under such contracts. By way of example (but without in any way limiting SABINE’s right to expand or modify the Sabine Pass Facility), if the total LNG regasification facilities have a daily capacity (excluding the spare vaporizer held in reserve) of 2,730,000 MMBTUs, then the total long term sales of Gas vaporization Services to Customer and Other Customers shall not exceed 2,541,000 MMBTUs.
- (f) Preliminary Gas Scheduling. SABINE shall, by 8:00 a.m. Central Time, provisionally allocate the Total Vaporization Capacity as follows:
- (i) SABINE shall allocate to Customer and all Other Customers an amount of vaporization capacity equal to the lesser of each such customer’s nomination or its maximum Gas redelivery rate (or similar maximum daily contractual entitlement to receive Gas at the Delivery Point);
 - (ii) SABINE shall allocate the excess of the Total Vaporization Capacity (“**Excess Gas**”) over the sum of the nominations confirmed by SABINE pursuant to Section 5.2(f)(i) above as follows:
 - a. First, to each Nominee in an amount not to exceed the lesser of (a) the quantity of Excess Gas nominated by such Nominee, and (b) the product of (x) the quantity of Excess Gas and (y) a fraction, the numerator of which is such Nominee’s Gas Redelivery Rate and

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the denominator of which is the aggregate Gas Redelivery Rates of all Nominees;

- b. Second, if any excess quantity of Excess Gas remains available, then to each Nominee with unfulfilled nominations for such Excess Gas in an amount not to exceed the lesser of (a) the quantity of Excess Gas nominated by such Nominee and not received under the prior allocation, and (b) the product of (x) the excess quantity of Excess Gas remaining available and (y) a fraction, the numerator of which is the Nominee’s Gas Redelivery Rate, and the denominator of which is the aggregate Gas Redelivery Rates of all Nominees with unfulfilled nominations for such Excess Gas; and
- c. Third, if any excess quantity of Excess Gas remains available, then by repeating the allocation in Section 5.2(f)(ii)b above until the entire quantity of Excess Gas has been allocated or all nominations for such Excess Gas have been filled.

“**Nominees**” for the purpose of this Section 5.2(f)(ii)b shall be Customer and those Other Customers which SABINE has elected, in its sole right and opinion, to be eligible to be entitled to such Excess Gas capacity.

- (g) Nominations and Scheduling
- (i) Customer’s nomination with regard to the timely nomination cycle of the quantities of Gas (including Excess Gas) that Customer desires to be delivered to it at the Delivery Point shall be equal to or less than the amount allocated to Customer pursuant to Section 5.2(f).
 - (ii) SABINE shall allocate the amount of Total Vaporization Capacity actually available as provided in Section 5.2(f).
 - (iii) The process for final nominations of Gas deliveries hereunder shall be set forth in the Sabine Pass Services Manual and shall be reasonably consistent with the North American Energy Standards Board Wholesale Gas Quadrant (“**NAESB WGQ**”) standards and models relating to nominations, which as of the date hereof are contained in NAESB WGQ Version 1.7, Standards 1.3.1 through 1.3.79, as such may be amended from time to time by NAESB WGB or any successor organization; provided that the NAESB WGQ standards and models relating to nominations set forth in the Sabine Pass Services Manual shall be adjusted by the Parties consistent with good and prudent practices as are generally followed in the LNG industry by Reasonable and Prudent Operators of LNG receiving and regasification terminals.
 - (iv) Upon the receipt of a nomination for Gas delivery during any nomination cycle after the preliminary nomination cycle, SABINE shall allocate the Total Vaporization Capacity in the same manner as provided in Section 5.2(f) above, except that any confirmed nomination of Excess Gas shall not be interrupted unless such interruption is necessary to deliver any Other Customer’s daily contractual entitlement to receive Gas at the

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Delivery Point. SABINE shall advise Customer of the quantities of Excess Gas that may be subject to being interrupted.

5.3 Standard

SABINE shall act as a Reasonable and Prudent Operator in performing the scheduling activities required by this Article 5.

5.4 Scheduling Representative

By no later than one month prior to the Commercial Start Date, Customer shall appoint an individual to act as Scheduling Representative for the purposes of this Article 5; provided, however, that Customer shall have the right to change the identity of the Scheduling Representative at any time by notice to SABINE. Unless otherwise stated herein, Customer hereby authorizes the Scheduling Representative to do and perform any and all acts for and on behalf of Customer with regard to scheduling matters provided for in this Article 5.

ARTICLE 6 TERM

6.1 Term

Subject to the provisions of this Agreement, the term of this Agreement (the “**Term**”) shall consist of the Initial Term and, if applicable, any Extension Term. The initial term of this Agreement (the “**Initial Term**”) shall commence on the Effective Date and shall continue thereafter until the twentieth (20th) anniversary of the Commercial Start Date. Customer shall have the option of up to six (6) additional ten (10) year extension terms (each an “**Extension Term**”), the first of which shall commence at the expiration of the Initial Term. Customer must (a) notify SABINE of its good faith desire to elect the applicable Extension Term at least five (5) years prior to the expiration of the then current Term and (b) send SABINE a binding confirmation (“**Binding Confirmation**”) that the Term is extended by an Extension Term no later than four (4) years prior to the expiration of the then current Term. Upon Customer’s delivery of a Binding Confirmation to SABINE, this Agreement will then be automatically extended for the applicable Extension Term; provided, however, that if, with respect to the fifth or sixth Extension Terms the Parties are unable to agree upon the applicable Reservation Fee by a date that is three (3) years prior to the expiration of the then current Term, the Binding Confirmation shall not be effective.

6.2 Commencement of Deliveries

In accordance with the procedure set forth in this Section 6.2, SABINE shall notify Customer of the date on which Services for Customer will commence at the Sabine Pass Facility (the final date so notified being the “**Commercial Start Date**”). The Commercial Start Date shall be a date within the period that (a) commences on the third anniversary of the date of issuance by FERC of the order granting authorization under Section 3(a) of the Natural Gas Act for SABINE to carry out the construction of the Sabine Pass Facility (such approval date being the “**FERC Approval Date**”); and (b)

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ends eighteen (18) months after such anniversary date (such period being the “**First Window Period**”). The First Window Period shall be narrowed pursuant to the following provisions:

- (a) No later than sixty (60) days following the FERC Approval Date, SABINE shall notify Customer of a two hundred seventy (270) day window (“**Second Window Period**”) falling within the First Window Period for the Commercial Start Date; provided that if SABINE fails to give timely notice of same, the Second Window Period shall be the latest possible two hundred seventieth (270th) day window period within the First Window Period;
- (b) No later than ninety (90) days following the FERC Approval Date, Customer may notify SABINE of a date, which shall be the Commercial Start Date, that shall be no earlier than the last day of the Second Window Period and no later than the later of (x) the last day of the Second Window Period and (y) April 1, 2009; and
- (c) In the event Customer has not exercised its right, pursuant to Section 6.2(b) above, to specify the Commercial Start Date, then:
 - (i) No later than ninety (90) days in advance of the first day of the Second Window Period, SABINE shall notify Customer of a one hundred eighty (180) day window (“**Third Window Period**”) falling within the Second Window Period for the Commercial Start Date; provided that if SABINE fails to give timely notice of same, the Third Window Period shall be the latest possible one hundred eighty (180) day window period within the Second Window Period;
 - (ii) No later than sixty (60) days in advance of the first day of the Third Window Period, SABINE shall notify Customer of a ninety (90) day window (“**Fourth Window Period**”) falling within the Third Window Period for the Commercial Start Date; provided that if SABINE fails to give timely notice of same, the Fourth Window Period shall be latest possible ninety (90) day window period within the Third Window Period;
 - (iii) No later than thirty (30) days in advance of the first day of the Fourth Window Period, SABINE shall notify Customer of a sixty (60) day window (“**Fifth Window Period**”) falling within the Fourth Window Period for the Commercial Start Date; provided that if SABINE fails to give timely notice of same, the Fifth Window Period shall be the latest possible sixty (60) day period within the Fourth Window Period;
 - (iv) No later than fifteen (15) days in advance of the first day of the Fifth Window Period, SABINE shall notify Customer of a thirty (30) day window (“**Sixth Window Period**”) falling within the Fifth Window Period for the Commercial Start Date; provided that if SABINE fails to give timely notice of same, the Sixth Window Period shall be the latest possible thirty (30) day period within the Fifth Window Period;
 - (v) No later than seven (7) days in advance of the first day of the Sixth Window Period, SABINE shall notify Customer of a fifteen (15) day window (“**Final Window Period**”) falling within the Sixth Window

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Period for the Commercial Start Date; provided that if SABINE fails to give timely notice of same, the Final Window Period shall be the latest possible fifteen (15) day period within the Sixth Window Period; and

- (vi) No later than three (3) days in advance of the first day of the Final Window Period, SABINE shall notify Customer of the Commercial Start Date falling within the Final Window Period; provided that if SABINE fails to give timely notice of same, the Commercial Start Date shall be the latest possible day in the Final Window Period.

The Commercial Start Date shall be the date so notified, regardless of whether any unloading of Customer’s LNG at the Sabine Pass Facility actually occurs on such date.

6.3 Delay Caused by Force Majeure

The Commercial Start Date shall be postponed to the extent that an event of Force Majeure has the effect of delaying Commercial Operations Completion to a date that would otherwise be after the Commercial Start Date.

6.4 Construction Progress Reports

Beginning on the Effective Date and every month thereafter until the Commercial Start Date, SABINE shall furnish to Customer an interim progress report (collectively the “**Progress Reports**”) specifying the progress since the last report and the expected progress towards completing the construction, testing and operational start-up of the Sabine Pass Facility. Each Progress Report shall include the status and progress of all construction, an update of the construction schedule, and any other information which Customer has reasonably requested in writing in advance to enable Customer to evaluate the status and progress of construction, testing and operational start-up of the Sabine Pass Facility.

ARTICLE 7 SABINE PASS FACILITY

7.1 Sabine Pass Facility

- (a) Standard of Operation. By the Commercial Start Date, SABINE shall cause the Sabine Pass Facility to be constructed and commissioned so as to achieve Commercial Operations Completion. On and after the Commercial Start Date, SABINE shall at all times provide, maintain and operate (or cause to be provided, maintained and operated) the Sabine Pass Facility in accordance with the following: (i) International LNG Terminal Standards; and (ii) to the extent not inconsistent with International LNG Terminal Standards, such good and prudent practices as are generally followed in the LNG industry by Reasonable and Prudent Operators of LNG receiving and regasification terminals.
- (b) Facilities to be Provided. Subject to Section 7.1(a), the Sabine Pass Facility shall include the following:
 - (i) appropriate systems for communications with LNG Vessels;
 - (ii) two unloading berths, each capable of berthing an LNG Vessel having a displacement of no more than 166,600 tonnes, an overall length of no more than 1,140 feet, a beam of no more than 175 feet, and a draft of no more than 40 feet, which LNG Vessels can safely reach, fully laden, and safely depart, and at which LNG Vessels can lie safely berthed and unload safely afloat.
 - (iii) lighting sufficient to permit unloading operations by day or by night, to the extent permitted by Governmental Authorities and Pilots (it being acknowledged, however, that SABINE shall in no event be obligated to allow nighttime berthing operations at the Sabine Pass Facility if SABINE determines, acting as a Reasonable and Prudent Operator, that such operations during nighttime hours could pose safety risks to the Sabine Pass Facility, an LNG Vessel, or a third party);
 - (iv) unloading facilities capable of receiving LNG at a rate of up to an average of 12,000 Cubic Meters per hour when the pressure at the Receipt Point is at least 5.6 bars (gauge), with three (3) unloading arms each having a reasonable operating envelope to allow for ship movement and manifold strainers of sixty (60) mesh;
 - (v) a vapor return line system of sufficient capacity to transfer to an LNG Vessel quantities of Gas necessary for the safe unloading of LNG at required rates, pressures and temperatures;
 - (vi) facilities allowing ingress and egress between the Sabine Pass Facility and the LNG Vessel by (x) representatives of Governmental Authorities for purposes of unloading operations; and (y) an independent surveyor for purposes of conducting tests and measurements of LNG on board the LNG Vessel in accordance with Annex I;
 - (vii) LNG storage facilities with a total gross capacity of at least four hundred eighty thousand (480,000) Cubic Meters of LNG; and
 - (viii) LNG regasification facilities with a total daily capacity of up to 2,730,000 MMBTUs.
- (c) Expansion. SABINE shall have the right, but not the obligation, to from time to time expand the Sabine Pass Facility or to construct or acquire other facilities in order to perform the Services.
- (d) Facilities Not Provided. For the avoidance of doubt, services and facilities not provided at the Sabine Pass Facility include the following: (i) facilities and loading lines for liquid or gaseous nitrogen to service an LNG Vessel; (ii) facilities for providing bunkers; and (iii) facilities for the handling and delivery to the LNG Vessel of ship's stores, provisions and spare parts.

7.2 Compatibility of Sabine Pass Facility with LNG Vessels

- (a) Sabine Pass Facility General Specifications. SABINE has provided to Customer the general specifications for the LNG berthing and unloading facilities of the Sabine Pass Facility and in this regard SABINE acknowledges that such

specifications have taken into consideration the necessary ship-shore compatibility in relation to typical LNG vessels existing as of the Effective Date.

- (b) Compatibility Generally. Customer shall ensure, at no cost to SABINE, that each of the LNG Vessels is fully compatible with the Sabine Pass Facility as set forth in such general specifications. Should an LNG Vessel fail materially either to be compatible with the Sabine Pass Facility, or to be in compliance with the provisions of Article 8, Customer shall not employ such LNG Vessel until it has been modified to be so compatible or to so comply.
- (c) Modifications to Terminal Generally. The Parties agree that, after the date hereof, SABINE shall be entitled to modify the Sabine Pass Facility in any manner whatsoever, provided that (i) such modifications do not render the Sabine Pass Facility incompatible with an LNG Vessel that was previously compatible with the Sabine Pass Facility; (ii) such modifications, once finalized, do not reduce the Services Quantity; and (iii) such modifications do not otherwise conflict with SABINE's obligations under this Agreement. Notwithstanding the foregoing, SABINE may modify the Sabine Pass Facility in a manner that would render it incompatible with an LNG Vessel, provided that such modification is necessary for SABINE to comply with its obligations under Section 7.1(a).
- (d) Modifications to Terminal Resulting From Changes in International LNG Vessel Standards. In the event of a change in International LNG Vessel Standards which requires an LNG Vessel to be modified but such vessel modification would render such LNG Vessel incompatible with the Sabine Pass Facility, then SABINE shall use its best efforts to modify the Sabine Pass Facility to render it compatible with such modified LNG Vessel provided that: (i) such modifications do not render the Sabine Pass Facility incompatible with another LNG vessel that was previously compatible with the Sabine Pass Facility; (ii) such modifications, once finalized, do not reduce the Services Quantity; and (iii) such modifications do not otherwise conflict with SABINE's obligations

under this Agreement.

7.3 Customer Inspection Rights

Upon obtaining SABINE's prior written consent, which consent shall not be unreasonably withheld or delayed, a reasonable number of Customer's designated representatives (including LNG Suppliers) may from time to time (including during the period of initial construction) inspect the operation of the Sabine Pass Facility so long as such inspection occurs from 8:00 a.m. Central Time to 5:00 p.m. Central Time on a Business Day. Any such inspection shall be at Customer's sole risk and expense. Customer (and its designees) shall carry out any such inspection without any interference with or hindrance to the safe and efficient operation of the Sabine Pass Facility. Customer's right to inspect and examine the Sabine Pass Facility shall be limited to verifying SABINE's compliance with SABINE's obligations under this Agreement and shall not entitle Customer to make direct requests to SABINE regarding any aspect of the Sabine Pass Facility. No inspection (or lack thereof) of the Sabine Pass Facility by Customer hereunder, or any requests or observations made to SABINE or its representatives by or on behalf of Customer in connection with any such inspection, shall (a) modify or amend SABINE's obligations, representations, warranties and covenants

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under this Agreement or under any agreement or instrument contemplated by this Agreement; or (b) constitute an acceptance or waiver by Customer of SABINE's obligations under this Agreement.

ARTICLE 8 TRANSPORTATION AND UNLOADING

8.1 LNG Vessels

- (a) Customer to Cause LNG Vessels to Comply. Customer shall be responsible for the transportation of LNG from the Loading Port to the Receipt Point. In this regard, Customer shall cause each LNG Vessel to comply with the requirements of this Article 8 in all respects.
- (b) Approvals and Documentation. Each LNG Vessel shall comply with the regulations of, and obtain all Approvals required by, Governmental Authorities to enable such LNG Vessel to enter, leave and carry out all required operations at the Sabine Pass Facility. Each LNG Vessel shall at all times have on board valid documentation evidencing all such Approvals. Each LNG Vessel shall comply fully with the International Safety Management Code for the Safe Operation of Ships and Pollution Prevention effective July 1, 1998, and at all times be in possession of a valid safety management certificate.
- (c) Fireboats, Escort Vessels and Port Charges. Customer shall arrange for, or cause the appropriate Person to arrange for, such number and types of fireboats and escort vessels as are required by Governmental Authorities to attend the LNG Vessel so as to permit safe and efficient movement of the LNG Vessel within the maritime safety areas located in the approaches to and from the Sabine Pass Facility. Customer shall pay all Port Charges directly to the appropriate Person.
- (d) Requirements. Each LNG Vessel must satisfy the following requirements:
 - (i) Specifications. Except as otherwise mutually agreed in writing by the Parties, each LNG Vessel shall be compatible with the specifications of the Sabine Pass Facility identified in Section 7.1(b). Notwithstanding the foregoing, in the event an LNG Vessel is compatible with the specifications set forth in Section 7.1(b) or otherwise acceptable to SABINE, but a Governmental Authority or Pilot prohibits or otherwise hinders the utilization of such LNG Vessel, Customer's obligations under this Agreement shall not be excused or suspended by reason of Customer's inability (pursuant to the foregoing) to use such a vessel as an LNG Vessel.
 - (ii) LNG Vessel Capacity. Except as otherwise agreed in writing by SABINE, each LNG Vessel shall have an LNG cargo containment capacity of no less than eighty-seven thousand six hundred (87,600) Cubic Meters, determined at the time of loading of LNG.
 - (iii) Condition of the LNG Vessel. Each LNG Vessel shall be (x) fitted in every way for the safe loading, unloading, handling and carrying of LNG

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in bulk at atmospheric pressure; and (y) tight, staunch, strong and otherwise seaworthy with cargo handling and storage systems (including instrumentation) necessary for the safe loading, unloading, handling, carrying and measuring of LNG in good order and condition. The location of the unloading manifold shall allow a safe margin for movement of the arms within the operating envelope.

- (iv) Classification Society. Each LNG Vessel shall at all times be maintained in class with any of the following: American Bureau of Shipping, Lloyds Register for Shipping, Bureau Veritas, Germanischer Lloyd, NKK, Det Norske Veritas or any other classification society that is mutually agreeable to the Parties.
- (v) Construction. Each LNG Vessel shall have been constructed to all applicable International LNG Vessel Standards (including the International Code For the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk).
- (vi) Operation and Maintenance. Each LNG Vessel shall comply with, and shall be fully equipped, supplied and maintained to comply with, all applicable International LNG Vessel Standards. Unless approved by SABINE in writing, which approval shall not be unreasonably withheld or delayed, an LNG Vessel shall be prohibited from engaging in any maintenance, repair or in-water surveys while berthed at the Sabine Pass Facility. Each LNG Vessel shall comply fully with the guidelines of any Governmental Authority of the United States, including the National Oceanographic and Atmospheric Administration (NOAA), in relation to actions to avoid strikes in U.S. waters with protected sea turtles and cetaceans (e.g., whales and other marine mammals) and with regard to the reporting of any strike by the LNG Vessel which causes injury to such protected species.
- (vii) Crew. The officers and crew of each LNG Vessel shall have the ability, experience, licenses and training commensurate with the performance of their duties in accordance with internationally accepted standards as adopted on first-class LNG vessels and as required by Governmental Authorities and any labor organization having jurisdiction over the LNG Vessel or her crew. Without in any way limiting the foregoing, the Master, chief engineer, all cargo engineers, and all deck officers shall be fluent in written and oral English and shall maintain all records and provide all reports with respect to the LNG Vessel in English.
- (viii) Communications. Each LNG Vessel shall have communication equipment complying with applicable regulations of Governmental Authorities and permitting such LNG Vessel to be in constant communication with the Sabine Pass Facility and with other vessels in the area (including fireboats, escort vessels and other vessels employed in port operations).

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- (ix) Pumping Time. Provided that the Sabine Pass Facility supplies a suitable vapor return line meeting the requirements of Section 7.1(b)(v), then:
- an LNG Vessel with an LNG cargo containment capacity less than or equal to one hundred forty thousand (140,000) Cubic Meters shall be capable of unloading LNG in a maximum of fifteen (15) hours; and
 - an LNG Vessel with an LNG cargo containment capacity greater than one hundred forty thousand (140,000) Cubic Meters shall be capable of unloading LNG in the number of hours derived after applying the following formula:

$$15 + x = \text{maximum LNG unloading time (in hours)}$$

where:

$$x = y/12,000 \text{ Cubic Meters; and}$$

$$y = \text{the LNG cargo containment capacity of the LNG Vessel in excess of 140,000 Cubic Meters.}$$

Time for connecting, cooling, stripping and disconnecting, and cooling of liquid arms, shall not be included in the computation of pumping time.

8.2 Sabine Pass Marine Operations Manual

SABINE and Customer shall discuss in good faith with the objective of developing a marine operations manual that governs activities at the Sabine Pass Facility and applies to all LNG Vessels (but excluding the matters governed by the Sabine Pass Services Manual). In developing such a manual, SABINE shall provide Customer at least eighteen (18) months in advance of the Commercial Start Date with a preliminary draft of the same (the "**Preliminary Marine Operations Manual**") which shall be consistent, to the maximum extent possible, with International LNG Vessel Standards. If Customer desires to consult with SABINE regarding the contents of the Preliminary Marine Operations Manual, Customer shall, no later than sixty (60) days from delivery of said manual by SABINE, request to meet with SABINE by providing notice thereof to SABINE, and SABINE shall, no later than thirty (30) days after receipt of such notice, meet with Customer to discuss said manual. SABINE shall not unreasonably propose provisions for the Preliminary Marine Operations Manual, and Customer shall not unreasonably withhold or delay its consent to the Preliminary Marine Operations Manual. If (a) Customer does not submit the foregoing notice to SABINE on a timely basis or (b) Customer and SABINE meet pursuant to such a notice and are able during such meeting to agree upon revisions to the draft, then such draft, as so revised (and as amended from time to time), shall constitute the "**Sabine Pass Marine Operations Manual**". If Customer and SABINE meet pursuant to the foregoing notice and are unable during such meeting to agree upon revisions to the Preliminary Marine Operations Manual, then the subject matter with respect to which the Parties have been unable to agree shall be subject to arbitration in accordance with Article 20. The Parties shall endeavor to have the Sabine Pass Marine Operations Manual in effect at least nine (9) months prior to the Commercial Start Date. In the event SABINE intends to amend the Sabine Pass Marine

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Operations Manual, then SABINE shall follow the procedure set forth above in relation to the Preliminary Marine Operations Manual. SABINE shall deliver to Customer, and all Other Customers, a copy of the Sabine Pass Marine Operations Manual and any amendments thereto promptly after they have been finalized or amended, as the case may be. Customer shall comply with such Sabine Pass Marine Operations Manual in all respects. The Parties will undertake to develop a Sabine Pass Marine Operations Manual that is consistent with this Agreement; however, in the event of a conflict between the terms of this Agreement and the Sabine Pass Marine Operations Manual, the terms of this Agreement shall control.

8.3 LNG Vessel Inspections; Right to Reject LNG Vessel

- Inspections. During the Term, on prior reasonable notice to Customer, SABINE, acting as a Reasonable and Prudent Operator, may at its sole risk send its representatives (including an independent internationally recognized maritime consultant) to inspect during normal working hours any LNG Vessel as SABINE may consider necessary to ascertain whether the LNG Vessel complies with the provisions of this Agreement. SABINE shall bear the costs and expenses in connection with any inspection conducted hereunder. Any such inspection may include, as far as is practicable having regard to the LNG Vessel's operational schedule, examination of the LNG Vessel's hull, cargo and ballast tanks, machinery, boilers, auxiliaries and equipment; examination of the LNG Vessel's deck and engine scrap/rough and fair copy/official log books; review of records of surveys by the LNG Vessel's classification society and relevant Governmental Authorities; and review of the LNG Vessel's operating procedures and performance of surveys, both in port and at sea. Any inspection carried out pursuant to this Section 8.3(a): (i) shall not interfere with, or hinder, any LNG Vessel's safe and efficient construction or operation; and (ii) shall not entitle SABINE or any of its representatives to make any request or recommendation directly to Transporter except through Customer. No inspection (or lack thereof) of an LNG Vessel hereunder shall (i) modify or amend Customer's obligations, representations, warranties and covenants under this Agreement or under any agreement or instrument contemplated by this Agreement; or (ii) constitute an acceptance or waiver by SABINE of Customer's obligations under this Agreement.
- Right to Reject LNG Vessel. SABINE shall have the right to reject any LNG Vessel that Customer intends to use to deliver LNG to the Sabine Pass Facility if such LNG Vessel does not comply materially with the provisions of this Agreement, provided that:
 - neither the exercise nor the non-exercise of such right shall reduce the responsibility of Customer to SABINE in respect of such vessel and her operation, nor increase SABINE's responsibilities to Customer or third parties for the same; and

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- Customer's obligations under this Agreement shall not be excused or suspended by reason of Customer's inability (pursuant to the foregoing) to use a vessel as an LNG Vessel.

8.4 Advance Notices re LNG Vessel and Cargoes

- Change in Expected Receipt Quantity. If, subsequent to issuing the notice required under Section 5.1(b)(iv) herein, Customer anticipates a change, by way of either increase or decrease, of at least five percent (5%) in the Expected Receipt Quantity for a particular Cargo, Customer shall promptly provide notice thereof to SABINE and include in such notice Customer's new estimate of the Expected Receipt Quantity. SABINE shall use reasonable endeavors to accept any increase in the quantity but shall at all times retain the right not to accept such new increased estimate if, in its sole discretion, such new estimate will result in excess inventory at the Sabine Pass Facility.
- LNG Vessel Nomination. As soon as practicable but no later than five (5) days prior to the scheduled loading date for a Cargo (unless the Cargo is a diversion cargo, in which case the deadline shall be as soon as practicable after such diversion), Customer shall notify SABINE of the information specified

below:

- (i) name of LNG Vessel and, in reasonable detail, the dimensions, specifications, operator, and owner of such LNG Vessel;
- (ii) name of Loading Port;
- (iii) expected departure date of LNG Vessel from Loading Port;
- (iv) estimated arrival date at the Sabine Pass Facility; and
- (v) any changes in the Expected Receipt Quantity since Customer's prior notice.

Moreover, if the vessel that Customer proposes to use as an LNG Vessel has not, within the immediately preceding Contract Year, delivered LNG to the Sabine Pass Facility, Customer shall notify SABINE thereof at least sixty (60) days prior to the first day of the applicable Scheduled Unloading Window.

- (c) LNG Vessel Movements. With respect to each Cargo of LNG to be delivered hereunder, Customer shall give, or cause the Master of the LNG Vessel to give, to SABINE the following notices:
 - (i) A first notice ("**First Notice**"), which shall be sent upon the departure of the LNG Vessel from the Loading Port and which shall set forth the time and date that loading was completed, the volume (expressed in Cubic Meters) of LNG loaded on board the LNG Vessel, the estimated time of arrival of the LNG Vessel at the Pilot Boarding Station ("**ETA**"), and any operational deficiencies in the LNG Vessel that may affect its performance at the Sabine Pass Facility or berth;
 - (ii) A second notice ("**Second Notice**"), which shall be sent ninety-six (96) hours prior to the ETA set forth in the First Notice, stating the LNG Vessel's then ETA. If, thereafter, such ETA changes by more than six (6)

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hours, Customer shall give promptly, or cause the Master of the LNG Vessel to give promptly, to SABINE notice of the corrected ETA;

- (iii) A third notice ("**Third Notice**"), which shall be sent twenty-four (24) hours prior to the ETA set forth in the Second Notice (as corrected), confirming or amending such ETA. If, thereafter, such ETA changes by more than three (3) hours, Customer shall give promptly, or cause the Master of the LNG Vessel to give promptly, to SABINE notice of the corrected ETA;
 - (iv) A fourth notice ("**Final Notice**"), which shall be sent twelve (12) hours prior to the ETA set forth in the Third Notice (as corrected), confirming or amending such ETA. If, thereafter, such ETA changes by more than one (1) hour, Customer shall give promptly, or cause the Master of the LNG Vessel to give promptly, to SABINE notice of the corrected ETA; and
 - (v) An NOR, which shall be given at the time prescribed in Section 8.5 below.
- (d) Characteristics of Cargoes. With the First Notice, Customer shall notify SABINE, or cause SABINE to be notified, for SABINE's information only, of the following characteristics of the LNG comprising its Cargo as determined at the time of loading:
 - (i) Gross Heating Value per unit;
 - (ii) molecular percentage of hydrocarbon components and nitrogen;
 - (iii) average temperature; and
 - (iv) density at loading.
 - (e) Right to Reject Certain Quantities. Without prejudice to any other rights and remedies arising hereunder or by law or otherwise, SABINE shall for any reason (including limitations in LNG Storage) have the right to reject unloading of any quantities of LNG on board an LNG Vessel that exceed by more than five percent (5%) the Expected Receipt Quantity for such Cargo as specified in, whichever applicable, (i) the notice delivered pursuant to Section 5.1(b)(iv) and utilized by SABINE for the purposes of determining Customer LNG Receipt Schedule or (ii) any subsequent notice delivered pursuant to Section 8.4(a) and accepted by SABINE.

8.5 Notice of Readiness

- (a) Issuance. Subject to any applicable restrictions, including any nighttime transit restrictions imposed by Governmental Authorities or Pilots or any other reasonable timing restrictions imposed by SABINE under Section 7.1(b)(iii), the Master of an LNG Vessel or its agent shall give to SABINE its notice of readiness ("**NOR**") to unload (berth or no berth) upon arrival of such LNG Vessel at the specific location off the Sabine Pass Facility at which Pilots customarily board the LNG Vessel (such location referred to as the "**Pilot Boarding Station**") and after the Pilot has boarded the LNG Vessel.

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- (b) Effectiveness. An NOR given under Section 8.5(a) shall become effective as follows:
 - (i) For an LNG Vessel arriving at the Pilot Boarding Station at any time before 6:00 a.m. Central Time on the first day of the Scheduled Unloading Window allocated to such LNG Vessel, an NOR shall be deemed effective at the earlier of (x) 6:00 a.m. Central Time on the first day of such Scheduled Unloading Window; or (y) the time unloading commences;
 - (ii) For an LNG Vessel arriving at the Pilot Boarding Station at any time between the period of 6:00 a.m. Central Time on the first day of the Scheduled Unloading Window allocated to such LNG Vessel and 6:00 p.m. Central Time on the second day of such Scheduled Unloading Window (such period referred to as the "**NOR Window**"), an NOR shall become effective at the time of its issuance; or
 - (iii) For an LNG Vessel arriving at the Pilot Boarding Station at any time after the expiration of the NOR Window, an NOR shall become effective upon SABINE's notice to the LNG Vessel that it is ready to receive the LNG Vessel at berth.

8.6 Berthing Assignment

- (a) General Rule. SABINE shall determine the berthing sequence of all LNG Vessels at the Sabine Pass Facility in order to ensure compliance with the Customer LNG Receipt Schedule and the Other Customer LNG Receipt Schedules. If an LNG Vessel arrives not ready to unload for any reason, SABINE may refuse to allow it to berth.
- (b) Timely Arrival. SABINE shall berth an LNG Vessel arriving before or during its NOR Window at the first opportunity that SABINE determines such LNG Vessel will not interfere with unloading by any other scheduled vessel but in no event later than 6:00 p.m. Central Time on the second day of the Scheduled Unloading Window allocated to such LNG Vessel (hereinafter referred to as the “**Berthing Deadline**”); provided, however, that if SABINE does not berth such LNG Vessel by the Berthing Deadline, but berths such vessel within forty-eight (48) hours of the Berthing Deadline, Customer’s sole recourse and remedy for SABINE’s breach thereof is demurrage pursuant to Section 8.7(c). If, as of the forty-eighth (48th) hour following the Berthing Deadline, SABINE has not berthed the LNG Vessel, and such delay is not attributable to a reason that would result in an extension of Allotted Unloading Time under Section 8.7(a), SABINE shall be deemed to have failed to provide the Services Quantity with respect to such Cargo of LNG.
- (c) Late Arrival. SABINE shall berth an LNG Vessel arriving after its NOR Window at the first opportunity that SABINE reasonably determines such LNG Vessel will not interfere with unloading by any scheduled vessel.

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8.7 Unloading Time

- (a) Allotted Unloading Time. The allotted unloading time for each LNG Vessel (“**Allotted Unloading Time**”) shall be thirty-six (36) hours, subject to extensions for:
 - (i) reasons attributable to Customer, a Pilot, a Governmental Authority, the LNG Vessel or its Master, crew, owner or operator;
 - (ii) Force Majeure;
 - (iii) unscheduled curtailment or temporary discontinuation of operations at the Sabine Pass Facility in accordance with Section 16.2;
 - (iv) occupancy of the berth by an LNG vessel that arrived at berth at the Sabine Pass Facility no later than 6:00 p.m. Central Time of the scheduled unloading window allocated to such LNG vessel (such unloading window not to exceed the time allotted to Customer), which shall result in an extension of no more than nine (9) hours;
 - (v) additional time to unload an LNG Vessel with an LNG cargo containment capacity greater than one hundred forty thousand (140,000) Cubic Meters, such increase over thirty-six (36) hours to be calculated in the same manner as increases over twenty-four (24) hours under Section 8.9(b)(i)b;
 - (vi) failure to send the Final Notice; and
 - (vii) nighttime transit restrictions.

For the avoidance of doubt, SABINE shall have the right to delay berthing of the LNG Vessel for any of the reasons set forth in (i) to (vii) above.

- (b) Actual Unloading Time. The actual unloading time for each LNG Vessel (“**Actual Unloading Time**”) shall commence when the NOR is effective and shall end when the unloading and return lines of the LNG Vessel are disconnected from the Sabine Pass Facility’s unloading and return lines.
- (c) Demurrage at the Sabine Pass Facility.
 - (i) In the event Actual Unloading Time exceeds Allotted Unloading Time (including any extension in accordance with Section 8.7(a)) (**Demurrage Event**), SABINE shall pay to Customer as liquidated damages demurrage in United States dollars (which shall be prorated for a portion of a day) determined in accordance with the rate set out in the following table:

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LNG Vessel Cargo Capacity	Demurrage Rate in \$/day	
Less than 120,000 Cubic Meters	\$	45,000
120,000 Cubic Meters or greater up to, but not including, 160,000 Cubic Meters	\$	55,000
160,000 Cubic Meters or greater up to, but not including, 200,000 Cubic Meters	\$	65,000
200,000 Cubic Meters or greater	\$	83,000

- (ii) If a Demurrage Event occurs, Customer shall invoice SABINE for such demurrage pursuant to Section 11.2.
- (d) If, as of the forty-eighth (48th) hour following the expiration of Allotted Unloading Time SABINE has not completed unloading of the LNG Vessel, Customer may discontinue unloading and may vacate the berth, and SABINE shall be deemed to have failed to provide the Services Quantity with respect to any portion of such Cargo of LNG that has not been unloaded.
- (e) Excess Boil-Off. If an LNG Vessel is delayed in berthing at the Sabine Pass Facility and/or commencement of unloading due to an event occurring at the Sabine Pass Facility and for a reason that would not result in an extension of Allotted Unloading Time under Section 8.7(a), and if, as a result thereof, the commencement of unloading is delayed beyond twenty-four (24) hours after the Notice of Readiness is effective, then, for each full hour by which commencement of unloading is delayed beyond such twenty-four (24) hour period, SABINE shall pay Customer as liquidated damages an amount, on account of excess boil-off, equal to the Henry Hub Price multiplied by the quantity in MMBTUs equal to 0.0052% of the Cargo. Customer shall invoice SABINE for such excess boil-off pursuant to Section 11.2.

8.8 Unloading at the Sabine Pass Facility

- (a) Efficiency. SABINE shall cooperate with Transporters (or their agents) and with the Master of each LNG Vessel to facilitate the continuous and efficient delivery of LNG hereunder.

- (b) Vapor Return Line. During unloading of each Cargo of LNG, SABINE shall return to the LNG Vessel Gas in such quantities as are necessary for the safe unloading of the LNG at such rates, pressures and temperatures as may be required by the design of the LNG Vessel, and such returned Gas shall not be deemed to be volume unloaded for Customer's account.

8.9 LNG Vessel Not Ready for Unloading; Excess Berth Time

- (a) Vessel Not Ready for Unloading. If any LNG Vessel, previously believed to be ready for unloading, is determined to be not ready after being berthed, SABINE may direct the LNG Vessel's Master to vacate the berth and proceed to anchorage, whether or not other LNG vessels are awaiting the berth, unless it appears reasonably certain to SABINE that such LNG Vessel can be made ready without disrupting the overall unloading schedule of the Sabine Pass Facility or operations of the Sabine Pass Facility. When an unready LNG Vessel at anchorage becomes ready for unloading, its Master shall notify SABINE. Upon the reberthing of any LNG Vessel vacated pursuant to this Section 8.9(a), Customer shall be responsible for any actual costs incurred by SABINE acting as a Reasonable and Prudent Operator as a result of such LNG Vessel not being ready for unloading.

- (b) Berth Limitations.

- (i) An LNG Vessel shall complete unloading and vacate the berth as soon as possible but not later than the following allowed berth time:

- a. twenty-four (24) hours, in the case of an LNG Vessel with an LNG cargo containment capacity less than or equal to one hundred forty thousand (140,000) Cubic Meters; or
- b. in accordance with the following formula, in the case of an LNG Vessel with an LNG cargo containment capacity greater than one hundred forty thousand (140,000) Cubic Meters:

$$24 + x = \text{allowed berth time (in hours)}$$

where:

$$x = y/12,000 \text{ Cubic Meters; and}$$

$$y = \text{the LNG cargo containment capacity of the LNG Vessel in excess of 140,000 Cubic Meters.}$$

Notwithstanding the foregoing, the aforementioned time restrictions shall be extended for: (a) reasons attributable to SABINE; (b) reasons attributable to a Pilot or to a Governmental Authority; (c) Force Majeure; and (d) nighttime transit restrictions.

- (ii) If an LNG Vessel fails to depart at the end of its allowed berth time, SABINE may direct the LNG Vessel to vacate the berth and proceed to sea at utmost dispatch.
- (iii) If an LNG Vessel fails to vacate the berth after receipt of SABINE's notice to do so under this Section 8.9, Customer shall reimburse SABINE for any and all reasonable and actual damages its incurs as a result thereof, including amounts SABINE becomes contractually obligated to pay as demurrage or excess boil-off to any Other Customer.

- (iv) Subject to this Section 8.9, in the event an LNG Vessel fails to vacate the berth within seventy-two (72) hours of arrival and Customer is not taking actions to cause it to vacate the berth, SABINE may effect such removal at the expense of the Customer.

ARTICLE 9 RECEIPT OF LNG

9.1 Title, Custody and Risk of Loss

- (a) Title to Customer's Inventory, Risk of Loss. Subject to Section 3.4, SABINE shall not assume title or risk of loss with respect to Customer's Inventory even during periods when it is in the possession and control of SABINE. For the avoidance of doubt, title and risk of loss with respect to Retainage shall pass to SABINE at the Receipt Point.
- (b) Possession and Control. Possession and control of Customer's LNG shall pass from Customer to SABINE upon delivery of same at the Receipt Point. Possession and control of Customer's Inventory shall pass from SABINE to Customer upon delivery of same at the Delivery Point.

9.2 No Encumbrance

- (a) Customer's Covenants. Customer agrees to fully defend, indemnify and hold SABINE and its Affiliates harmless against all Encumbrances and Liabilities relating to such Encumbrances (collectively, "**Claims**") regarding Customer's Inventory, including Claims brought by Other Customers, other than any Claims caused by SABINE's acts or omissions. For purposes of this Section 9.2(a), the term "**Encumbrance**" shall include any mortgage, pledge, lien, charge, adverse claim, proprietary right, assignment by way of security, security interest, title retention, preferential right or trust arrangement or any other security agreement or arrangement having the effect of security.
- (b) SABINE's Covenants. SABINE covenants that it has the right to deliver to Customer at the Delivery Point all Gas held for Customer's account free from all Claims relating thereto caused by SABINE's acts or omissions. SABINE agrees to fully defend, indemnify and hold Customer and its Affiliates harmless from and against all Claims regarding Customer's Inventory caused by the acts or omissions of SABINE and Other Customers.

9.3 Receipt of LNG

The receipt of LNG from an LNG Vessel at the Receipt Point shall be carried out by use of pumps and other equipment on the LNG Vessel under such reasonable and customary conditions as are specified in the Sabine Pass Marine Operations Manual.

9.4 Quality and Measurement of Customer's LNG

Customer's LNG shall be measured and tested in accordance with Annex I. Customer shall ensure that all LNG delivered at the Receipt Point for Customer's account shall conform to the following specifications:

- (a) Gross Heating Value.
 - (i) LNG when delivered by Customer to SABINE shall have, in a gaseous state, a Gross Heating Value of not less than 950 BTU per Standard Cubic Foot and not more than 1165 BTU per Standard Cubic Foot.
 - (ii) If the Gross Heating Value of LNG to be delivered hereunder is higher than the limits set forth in Section 9.4(a)(i) by reason of boil-off occurring during a delay (other than a delay which extends Allotted Unloading Time under Section 8.7(a)) caused by SABINE in unloading an LNG Vessel of more than thirty (30) hours after the NOR becomes effective, such LNG shall be deemed to have met the quality specifications of this Agreement regarding Gross Heating Value.
- (b) Components.
 - (i) The LNG when delivered by Customer to SABINE shall, in a gaseous state, contain not less than eighty-four molecular percentage (84.0 MOL%) of methane (C₁) and, for the components and substances listed below, such LNG shall not contain more than the following:
 - a. Nitrogen (N₂), 1.5 MOL%;
 - b. Ethane (C₂), 11 MOL%;
 - c. Propane (C₃), 3.5 MOL%;
 - d. Butanes (C₄) and heavier, 2 MOL%;
 - e. Pentanes (C₅) and heavier, 0.09 MOL%;
 - f. Hydrogen sulfide (H₂S), 0.25 grains per 100 Standard Cubic Feet; and
 - g. Total sulfur content, 1.35 grains per 100 Standard Cubic Feet.
 - (ii) The LNG when delivered by Customer to SABINE shall contain no water, mercury, active bacteria or bacterial agents (including sulfate reducing bacteria or acid producing bacteria) and other contaminants or extraneous material.

9.5 Off-Specification LNG

- (a) Refusal of Off-Spec LNG. Without prejudice to any other rights and remedies of SABINE hereunder, SABINE may refuse to take delivery of all or part of any LNG not conforming to the quality specifications set forth in Section 9.4 ("**Off-Spec LNG**").

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- (b) Notice. Customer shall provide notice to SABINE as soon as reasonably practicable of any existing or anticipated failure of the LNG available for delivery to SABINE hereunder to conform to the quality specifications set forth in Section 9.4, giving details of the nature and expected magnitude of the variance, the cause of the non-compliance and the probable duration thereof, including the Cargoes and Scheduled Unloading Windows to be affected thereby. If so notified, SABINE shall as soon as possible inform Customer whether it intends to reject any of such Off-Spec LNG. If SABINE is notified by Customer prior to the commencement of unloading of a Cargo at the Sabine Pass Facility that the LNG is Off-Spec LNG and the quantity is delivered to the Sabine Pass Facility, SABINE shall use reasonable endeavors to take delivery of any Cargoes which it would otherwise be entitled to reject; provided, however, that SABINE shall be entitled to delay unloading of Off-Spec LNG for the period of time reasonably required for SABINE to determine whether it can take delivery of such Off-Spec LNG pursuant to this Section 9.5(b). Subject to SABINE first using its reasonable endeavors to take delivery of any Cargoes containing Off-Spec LNG, SABINE shall:
 - (i) notify Customer that SABINE will take delivery of some or all of the affected Cargoes, without prejudice to SABINE's rights and remedies with respect to such Off-Spec LNG other than SABINE's right to reject said Cargo; or
 - (ii) reject all or any of the affected Cargoes.
- (c) Customer's Responsibility. If SABINE accepts delivery of such a Cargo of Off-Spec LNG, Customer shall:
 - (i) bear the financial responsibility for all reasonable and actual incremental costs (other than capital costs) and Liabilities incurred by SABINE or any of SABINE's Affiliates, in each case acting as a Reasonable and Prudent Operator, in connection with receiving and (unless otherwise agreed with Customer) treating Off-Spec LNG by such means as are appropriate, including mixing such Off-Spec LNG with lower calorific value Gas or injecting nitrogen if facilities to allow for injection presently exist at the Sabine Pass Facility; and
 - (ii) indemnify and hold harmless SABINE, its Affiliates and their respective directors, officers and employees from any and all Liabilities, including any of same attributable to claims of any Person and any Other Customers, which arise out of, are incident to or result from the acceptance, handling, disposal or use of Off-Spec LNG.

9.6 Effect on Future Cargoes

- (a) No Continuing Waiver. Acceptance of Off-Spec LNG shall not prevent SABINE from refusing future deliveries of Off-Spec LNG. No waiver by SABINE of any default by Customer of any of the specifications set forth in this Article 9 shall ever operate as a continuing waiver of such specification or as a waiver of any subsequent default, whether of a like or different character.

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- (b) Extended Delivery of Off-Spec LNG. If (i) Customer notifies SABINE pursuant to Section 9.5(b) of an anticipated delivery of two (2) or more Cargoes of Off-Spec LNG and (ii) the Parties agree for SABINE to incur incremental capital costs in order to accept delivery of such Cargoes, then Customer shall, in addition to its payment and indemnification obligations under Section 9.5(c), bear the financial responsibility for and directly fund, at SABINE's election, all such incremental capital costs.

ARTICLE 10 REDELIVERY OF GAS

10.1 General

- (a) Delivery Point. Subject to Section 3.3(a), the quantity of Gas nominated by Customer for any day pursuant to Section 5.2 shall be delivered at the Delivery Point.
- (b) Commingled Stream. Customer acknowledges and agrees that Customer's Inventory shall be delivered by SABINE in a commingled stream, including that combined with LNG received by SABINE from Other Customers. Customer further acknowledges and agrees that Customer shall have no right to receive Gas of the same quality as Customer's LNG, provided that the specifications of the commingled Gas stream at the Delivery Point satisfy the requirements set forth in Section 10.3, and provided, further, that SABINE delivers at the Delivery Point a quantity of Gas that is, less Retainage and Customer's Inventory, the thermal equivalent of the quantity of LNG received by SABINE for Customer's account at the Receipt Point.
- (c) Odorization. SABINE will deliver Customer's Inventory at the Delivery Point in its natural state without the addition of any odorizing agent, and SABINE shall not be obligated to add odorizing agents to any Gas unless required to do so by a Governmental Authority. SABINE does not assume any responsibility for Liabilities by reason of the fact that it has not odorized Customer's Inventory prior to its delivery to Customer.

10.2 Customer's Responsibility

- (a) Downstream Arrangements. Customer shall arrange for the transportation of Gas by Downstream Pipelines in order to meet its obligations to take redelivery of Gas in accordance with the provisions of Section 3.3 at the rates nominated pursuant to Article 5. Customer shall be solely responsible for making all necessary arrangements with third parties at or downstream of the Delivery Point to enable SABINE to deliver Gas to Downstream Pipelines on a timely basis pursuant to the terms and conditions of this Agreement. Customer shall also be solely responsible for ensuring that all such arrangements are consistent with the terms and conditions of this Agreement and shall require all relevant third parties to confirm to SABINE all of Customer's nominations and scheduling of deliveries of Gas, such confirmation to be by telephone, electronic transmission, or other means acceptable to SABINE. Such third-party arrangements shall be timely

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communicated to, and coordinated with, SABINE, and SABINE shall have no liability whatsoever for any failure of any such third party to provide downstream arrangements. The rules, guidelines, and policies of a Downstream Pipeline transporting or purchasing any Gas for or from Customer at the Delivery Point (as may be changed from time to time by the Downstream Pipeline) shall set forth, among other things, the manner in which Customer's Inventory is transported from the Delivery Point. Customer and SABINE recognize that the receipt and delivery on the Downstream Pipeline's facilities of Gas shall be subject to the operational procedures of such Downstream Pipeline.

- (b) Imbalance Charges. In the event a Downstream Pipeline imposes scheduling fees, imbalance charges, cash out costs or similar costs, fees or damages for imbalances ("**Imbalance Charges**"), Customer shall be obligated to use its reasonable efforts to avoid imposition of such Imbalance Charges. Customer shall indemnify and hold harmless SABINE, its Affiliates and their respective directors, officers and employees from all Liabilities arising out of, incident to or resulting from any Imbalance Charge directly resulting from Customer's acts or omissions. SABINE shall indemnify and hold harmless Customer, its Affiliates and their respective directors, officers and employees from all Liabilities arising out of, incident to or resulting from any Imbalance Charge directly resulting from SABINE's acts or omissions.
- (c) Limitation. Customer shall ensure that its Gas transportation and sales arrangements are in compliance with all applicable laws and regulations.

10.3 Specifications and Measurement of Gas at the Delivery Point

Gas delivered to Customer at the Delivery Point shall be measured and tested in accordance with Annex II. SABINE shall ensure that all Gas delivered at the Delivery Point for Customer's account shall conform to the following specifications:

- (a) Gross Heating Value. Gas when delivered by SABINE to Customer shall have a Gross Heating Value of not less than 950 BTU per Standard Cubic Foot and not more than 1165 BTU per Standard Cubic Foot.
- (b) Components.
- (i) Gas when delivered by SABINE to Customer shall contain not less than eighty-two molecular percentage (82 MOL%) of methane (Q) and, for the components and substances listed below, such Gas shall not contain more than the following:
- a. Nitrogen (N₂), 3 MOL%;
 - b. Pentanes (C₅) and heavier, 0.1 MOL%;
 - c. Hydrogen sulfide (H₂S), 0.25 grains per 100 Standard Cubic Feet;
 - d. Total sulfur content, 5 grains per 100 Standard Cubic Feet;
 - e. Oxygen (O₂), 10 parts per million;
 - f. Carbon dioxide (CO₂), 2 MOL%; and

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- g. Water (H₂O), 7 pounds per one million Standard Cubic Feet.

- (ii) Gas when delivered by SABINE to Customer shall contain no mercury, active bacteria or bacterial agents (including sulfate reducing bacteria or acid producing bacteria) and other contaminants or extraneous material.
- (c) Gas Delivery Pressure. Customer's Inventory shall be delivered at the Delivery Point at the appropriate pipeline pressure; provided, however, that such pressure shall be at least 1000 psig but shall not be required to exceed a maximum pressure of 1200 psig.

10.4 Nonconforming Gas

- (a) Right to Reject. Customer shall have the right to reject Gas that does not conform to the specifications set forth in Section 10.3 ("**Nonconforming Gas**") if the failure of such Nonconforming Gas to satisfy such specifications would (a) be grounds for an operator of a Downstream Pipeline or a Person under contract with Customer to purchase such Gas ("**Downstream Purchaser**") to reject such Nonconforming Gas or (b) otherwise materially and adversely affect Customer, in Customer's reasonable opinion; provided, however, that if SABINE has accepted such Off-Spec LNG pursuant to Section 9.5 but the Parties have agreed under Section 9.5(c) to not treat such Off-Spec LNG, Customer shall be deemed to have waived its right to reject Gas that does not conform to the specifications set forth in Section 10.3.
- (b) SABINE Indemnity. If Customer accepts delivery of Non-Conforming Gas which it would otherwise be entitled to reject, SABINE shall indemnify and hold harmless Customer, its Affiliates and their respective directors, officers and employees from any and all Liabilities, including any of same attributable to claims of any Person (including Other Customers, a Downstream Pipeline and a Downstream Purchaser), which arise out of, are incident to or result from the acceptance, handling, disposal or use of Non-Conforming Gas. If Customer accepts delivery of Non-Conforming Gas which it would otherwise be entitled to reject, SABINE shall bear the financial responsibility for all reasonable and actual incremental costs (other than capital costs) and Liabilities incurred by Customer or any of Customer's Affiliates, in each case acting as a Reasonable and Prudent Operator, in connection with accepting delivery of Non-Conforming Gas.

ARTICLE 11 PAYMENT

11.1 Monthly Statements

Between the first (1st) day of each month and the tenth (10th) day of each month, commencing with the month prior to the Commercial Start Date, SABINE shall deliver to Customer a statement setting forth the following:

- (a) the Fixed Component for the following month;
- (b) the FOC Component for the following month;

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- (c) the Incremental Costs, if any, for the prior month; and
- (d) any charges under Section 4.3 for the prior month.

11.2 Other Statements

If any other moneys are due from one Party to the other hereunder and if provision for the invoicing of that amount due is not made elsewhere in this Article 11, then the Party to whom such moneys are due shall furnish a statement therefor to the other Party, along with pertinent information showing the basis for the calculation thereof.

11.3 Adjustments, Audit

- (a) General. If, within ninety (90) days of the issuance by SABINE of a statement, SABINE acquires information indicating the necessity of an adjustment to such statement rendered hereunder, then SABINE shall promptly serve on Customer a written notice setting forth that information. Unless otherwise provided herein, after obtaining that information, SABINE shall promptly prepare and serve on Customer an adjusted statement, showing the necessary payment, the calculation of the payment amount, and the Party from whom the payment is owing. In the event Customer issued a statement and subsequently acquires information indicating the necessity of an adjustment to such statement, Customer shall follow the same procedure in issuing an adjusted statement.
- (b) Audit. Upon thirty (30) days written notice issued within six (6) months of the conclusion of any Contract Year, Customer shall have the right to cause an internationally recognized firm of accountants, appointed by Customer at Customer's sole expense, to audit the books, records and accounts of SABINE that are directly relevant to the determination of Incremental Costs, SABINE Taxes and New Regulatory Costs, LNG receipts and Gas deliveries for such prior Contract Year, as provided in statements issued to Customer pursuant to this Article 11. Such audit shall be conducted at the head office of SABINE and shall be completed within the Contract Year in which Customer's notice is sent to SABINE. If Customer obtains information indicating the necessity of an adjustment to any statement rendered hereunder, then within ninety (90) days following completion of the audit pertaining to the affected Contract Year, Customer shall promptly serve on SABINE a statement pursuant to Section 11.2 and written notice setting forth the information and basis for such statement. If Customer waives its right to conduct an audit, statements may be contested by Customer only if, within a period of ninety (90) days after the end of the year, Customer serves on SABINE notice questioning their correctness. If no such notice is served, statements shall be deemed correct and accepted by both Parties. Promptly after resolution of any Dispute as to a statement, the amount of any overpayment or underpayment (plus interest as provided in Section 11.4(c)) shall be paid by SABINE or Customer to the other, as the case may be.
- (c) Records. SABINE shall keep all books and records relevant to such audit for a period of three (3) years following the end of the relevant Contract Year; provided that where SABINE is on notice of a Dispute, SABINE shall keep all such books, records and other information until such Dispute has been finally resolved.

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11.4 Payment Due Dates

- (a) Due Date for Monthly Statement. Each monthly statement submitted pursuant to Section 11.1 shall become due and payable on the later of (i) ten (10) days after delivery by SABINE of such monthly statement or (ii) the twenty-fifth (25th) day of the month in which such monthly statement was received; provided that if such day is not a Business Day, it shall become due and payable on the next Business Day.

- (b) Due Date for Other Statements. Each statement submitted pursuant to Section 11.2 shall become due and payable on the thirtieth (30th) day after the date on which it is received; provided that if such payment due date is not a Business Day, the due date for such payment shall be extended to the next Business Day. For purposes of this Section 11.4(b), a facsimile copy of an invoice shall be deemed received by a Party on the next Business Day following the day on which it was sent.
- (c) Interest. Except as provided in Section 11.4(d), if the full amount of any statement is not paid when due, the unpaid amount thereof shall bear interest at the Base Rate, compounded annually, from and including the day following the due date up to and including the date when payment is made.
- (d) Recurring Late Payments. If three (3) monthly statements submitted pursuant to Section 11.1 in a Contract Year are not paid when due, then, in addition to the remedies provided in Section 11.6, any late payment thereafter shall bear a charge equal to two percent (2%) of the unpaid amount thereof in lieu of interest at the Base Rate as provided in Section 11.4(c).

11.5 Payment

Each Party shall pay, or cause to be paid, in United States dollars in immediately available funds, all amounts that become due and payable by such Party pursuant to any statement issued hereunder, to a bank account or accounts designated by and in accordance with instructions issued by the other Party. Each payment of any amount owing hereunder shall be in the full amount due without reduction or offset for any reason (except as expressly allowed under this Agreement), including Taxes, exchange charges, or bank transfer charges. Notwithstanding the preceding sentence, the paying Party shall not be responsible for a designated bank's disbursement of amounts remitted to such bank, and a deposit in immediately available funds of the full amount of each statement with such bank shall constitute full discharge and satisfaction of the statement.

11.6 Nonpayment

The term "**Cumulative Delinquency Amount**" shall mean, with respect to a Party, the cumulative amount, expressed in United States dollars, that is owed by that Party to the other Party under this Agreement and is past due. Without prejudice to a Party's right of offset, if a Party's failure to pay when due an amount owing hereunder causes its Cumulative Delinquency Amount to exceed three (3) times the Reservation Fee, then the Party to which such amount is owed shall have the right, upon giving thirty (30) days written notice (such notice hereinafter referred to as the "**Delinquency Notice**") to the

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owing Party, to suspend performance of its obligations under this Agreement until such amount, with interest in accordance with Section 11.4(c), has been paid in full; provided, however, that (a) no such suspension of a Party's obligations under this Section 11.6 shall excuse the owing Party from the performance of its obligations hereunder, and (b) in the event that SABINE suspends performance under this Section 11.6, (i) Customer shall continue to be liable for the Fee pursuant to Article 4, and (ii) SABINE may offer Customer's unutilized Services Quantity to the Other Customers. If any such Cumulative Delinquency Amount has not been paid within sixty (60) days after the issuance of the Delinquency Notice, then the Party to whom such amount is owed shall have the right, upon not less than thirty (30) days notice to the other Party, to terminate this Agreement without the necessity of any further action, unless within that thirty (30) day period, the Party to which such amount is owed receives payments from or on behalf of the owing Party equal to the Cumulative Delinquency Amount. Any such termination shall be without prejudice to any other rights and remedies of the terminating Party arising hereunder or by law or otherwise, including the right of such Party to receive payment in respect of all obligations and claims that arose or accrued prior to such termination or by reason of such default by the owing Party.

11.7 Disputed Statements

In the event of disagreement concerning any statement, Customer or SABINE (as the case may be) shall make provisional payment of the total amount thereof and shall immediately notify the other Party of the reasons for such disagreement, except that in the case of an obvious error in computation, Customer or SABINE (as the case may be) shall pay the correct amount disregarding such error.

11.8 Final Settlement

Within sixty (60) days after expiration of the Term, SABINE and Customer shall determine the amount of any final reconciliation payment. After the amount of the final settlement has been determined, SABINE shall send a statement to Customer, or Customer shall send a statement to SABINE, as the case may be, in United States dollars for amounts due under this Section 11.8, and SABINE or Customer, as the case may be, shall pay such final statement no later than twenty (20) days after the date of receipt thereof.

ARTICLE 12 TAXES

Notwithstanding Section 4.3, Customer shall be responsible for and pay, or cause to be paid, all Taxes that may be imposed or levied on Customer's Inventory (including receipt or redelivery thereof) and the LNG Vessels. Customer shall reimburse and hold harmless SABINE for any such Taxes that may be required by law to be remitted by SABINE and shall pay such additional amount (including Taxes and corresponding interest at the Base Rate) as is necessary to ensure receipt by SABINE of the full amounts otherwise due to it under this Agreement. Notwithstanding the foregoing, neither Party shall be responsible for Taxes on the capital revenue or income derived by the other Party.

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ARTICLE 13 INSURANCE

13.1 SABINE's Insurance

SABINE shall be responsible for obtaining and maintaining (a) insurance for the Sabine Pass Facility to the extent required by applicable law; and (b) additional insurance, as is reasonably necessary and available on reasonable commercial terms, against such other risks and at such levels as a Reasonable and Prudent Operator of a shared use LNG receiving and regasification terminal would obtain. SABINE shall obtain such insurance from a reputable insurer (or insurers) reasonably believed to have adequate financial reserves. SABINE shall exercise its best efforts to collect any amount due to SABINE under such insurance policies. Any insurance policy required pursuant to this Section 13.1 shall contain a standard waiver of subrogation endorsement. Upon request of Customer, SABINE shall provide to Customer satisfactory evidence that the insurance required pursuant to this Section 13.1 is in effect. In any event SABINE shall be required to obtain the following insurance coverages:

- (a) Commercial General Liability Insurance / Marine Terminal Operator's Liability Insurance;
- (b) Workers' Compensation / Employer's Liability;

- (c) All-Risk Property Insurance;
- (d) Wharfingers Liability Insurance;
- (e) Pollution Liability Insurance; and
- (f) Business Interruption Insurance pursuant to Section 4.1(b) in an amount sufficient to replace the Fee in the event of an interruption of service due to any of the causes customarily addressed by business interruption insurance. Prior to the placement of any business interruption insurance, SABINE shall present its proposed business interruption insurance policy to Customer for review and approval.

In addition, during construction of the Sabine Pass Facility, SABINE shall cause the contractor under the engineering, procurement and construction contract to carry an appropriate level of insurance, including Construction All-Risk Insurance.

13.2 Customer's Insurance

- (a) Loss of Product Insurance. Customer acknowledges that SABINE shall not at any time be responsible for securing and maintaining loss of product insurance covering the risk of loss of Customer's Inventory and that Customer shall be responsible for insuring against such risk. If Customer elects to obtain loss of product insurance that insures the physical damage or loss of Customer's Inventory, SABINE shall, upon request of Customer, provide Customer all documents and information reasonably necessary to enable Customer to obtain such loss of product insurance.

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- (b) LNG Vessel Insurance. Customer shall ensure that insurances are procured and maintained for each LNG Vessel in accordance with the following provisions. In all cases, such insurance shall establish insurance coverages consistent with insurances to the standards which a ship owner operating reputable LNG vessels, as a Reasonable and Prudent Operator, should observe in insuring LNG vessels of similar type, size, age and trade as such LNG Vessel. In this regard:
 - (i) Hull and Machinery Insurance shall be placed and maintained with reputable marine underwriters; and
 - (ii) Protection & Indemnity Insurance ("P&I Insurance") shall be placed and maintained as an unlimited entry, if such entry is available, with and subject to and on the basis of the rules of any of the reputable P&I insurance associations experienced in providing P&I Insurance for LNG vessels.
- (c) Evidence of Insurance. Prior to the commencement of deliveries to the Sabine Pass Facility and thereafter at least once each Contract Year, Customer shall furnish the following evidence of insurance to SABINE in relation to each LNG Vessel: cover notes, certificates of entry, the latest rules of the particular provider, and detailed written information concerning all required insurance policies. These policies shall provide SABINE with thirty (30) days prior written notice of any cancellation, material change or alteration in coverage. These policies shall also contain waiver of subrogation clause and name SABINE as additional insured. The receipt of such information shall not impose any obligation on SABINE.

13.3 Port Liability Agreement

Notwithstanding any other provision of this Agreement and any rights that a Transporter may have under applicable law in relation to Liabilities for incidents involving an LNG Vessel occurring at the Sabine Pass Facility, Customer shall either:

- (a) cause Transporter to execute the Port Liability Agreement in the form set forth in Exhibit C prior to Transporter's LNG Vessel's arrival at the Sabine Pass Facility in which case SABINE waives any and all claims against Customer arising out of incidents involving such Transporter and Transporter's LNG Vessel; or
- (b) in the event a Transporter fails to execute such Port Liability Agreement, indemnify and hold SABINE harmless from any Liabilities incurred by SABINE arising from such failure.

ARTICLE 14 LIABILITIES

14.1 Limitation of Liability of SABINE

The liability of SABINE to Customer arising out of, relating to, or connected with an Event under this Agreement shall not exceed three (3) times the Reservation Fee. For

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purposes of this Section 14.1, an "Event" means any occurrence or series of occurrences having the same origin.

14.2 Cover Gas

In the event that SABINE fails to receive a Cargo of LNG that it is otherwise required to receive under this Agreement, or fails to deliver Regasified LNG that it is required to deliver under this Agreement, and such failure is not attributable to the act or omission of Customer, is not attributable to Force Majeure, and is not otherwise excused by this Agreement ("Sabine Breach"), SABINE's liability in respect of such Sabine Breach shall be limited as provided in Section 14.1, and shall be further limited to the excess, if any, of:

- (a) Customer's cost of acquiring cover gas at or downstream of the Sabine Pass Facility necessitated by the Sabine Breach over
- (b) the net proceeds of any alternate sale of LNG made by Customer as a result of the Sabine Breach.

Customer shall use reasonable efforts to minimize its cost of acquiring cover gas and maximize the net proceeds of any alternate sale of LNG. Notwithstanding Section 4.4(c)(ii), if Customer recovers from SABINE pursuant to this Section 14.2, Customer shall not be entitled to schedule any Make-Up Quantity pursuant to Section 4.4(c) with respect to quantities for which Customer recovers from SABINE pursuant to this Section 14.2.

14.3 Consequential Loss or Damage

Except as provided in Section 14.2, no Party shall be liable to the other Party for or in respect of:

- (a) any consequential loss or damage;
- (b) loss of profits or business interruption to the extent such amounts do not constitute consequential loss or damage; or
- (c) any special, incidental or punitive damages,

suffered or incurred by the other Party or any Person resulting from breach of or failure to perform this Agreement or the breach of any representation or warranty hereunder, whether express or implied, and whether such damages are claimed under breach of warranty, breach of contract, tort, or other theory or cause of action at law or in equity, except to the extent such damages have been awarded to a third party and are subject to allocation between or among the parties to the Dispute.

14.4 Exceptions

The limitations of liability contained in Sections 14.1 and 14.2 shall not apply to liabilities caused by the Gross Negligence/Willful Misconduct of SABINE. **Gross Negligence/Willful Misconduct** means any act or failure to act (whether sole, joint or concurrent) by SABINE which was intended to cause, or which was in reckless disregard of or wanton indifference to, harmful consequences SABINE knew, or should have

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known, such act or failure would have on the safety or property of another Person, provided however that any act or failure to act on the part of any employee of Customer that has been seconded to SABINE shall not be attributed to SABINE for purposes of this Section 14.4.

14.5 Parties' Liability

Customer's sole recourse and remedy under this Agreement for a breach hereof or a default hereunder shall be against SABINE and its assets. Except as otherwise provided herein and pursuant to the terms of the Guarantee, SABINE's sole recourse and remedy under this Agreement shall be against Customer and its assets for a breach hereof or a default hereunder. In the event of a breach of this Agreement, the non-breaching Party shall exercise commercially reasonable efforts to mitigate its damages resulting therefrom.

ARTICLE 15 FORCE MAJEURE

15.1 Events of Force Majeure

Neither Party shall be liable to the other for any delay or failure in performance hereunder if and to the extent such delay or failure is a result of Force Majeure. Subject to the provisions of this Article 15, the term "**Force Majeure**" shall mean any act, event, or circumstance, including Adverse Weather Conditions, that is not reasonably within the control of and that prevents or delays a performance by a Party. Nothing in this Article 15 shall be construed to require a Party to observe a higher standard of conduct than that required of a Reasonable and Prudent Operator as a condition to claiming the existence of Force Majeure.

15.2 Limitation on Scope of Force Majeure for Customer

Notwithstanding Section 15.1 of this Agreement, no Force Majeure shall relieve, suspend, or otherwise excuse Customer from performing any obligation to indemnify, reimburse, hold harmless or otherwise pay SABINE under this Agreement, including the obligations set forth in Sections 3.1, 3.4, 8.9, 9.2, 9.5, 10.2, 13.3, and 17.2 and Article 4, Article 11, Article 12 and Article 20.

15.3 Notice

A Force Majeure event shall take effect at the moment such an event or circumstance occurs. Upon the occurrence of a Force Majeure that prevents, interferes with or delays the performance by SABINE or Customer, in whole or in part, of any of its obligations hereunder, the Party affected shall give notice thereof to the other Party describing such event and stating the obligations the performance of which are affected (either in the original or in supplemental notices) and stating, as applicable:

- (a) the estimated period during which performance may be prevented, interfered with or delayed, including, to the extent known or ascertainable, the estimated extent of such reduction in performance;

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- (b) the particulars of the program to be implemented to resume normal performance hereunder;
- (c) the anticipated portion of the Services Quantity for a Contract Year that will not be made available or received, as the case may be, by reason of Force Majeure; and
- (d) where Section 15.7 applies, the quantity of Services that SABINE reasonably expects to allocate to Customer.

Such notices shall thereafter be updated at least monthly during the period of such claimed Force Majeure specifying the actions being taken to remedy the circumstances causing such Force Majeure.

15.4 Measures

In order to resume normal performance of this Agreement within the shortest time practicable, the Party affected by the Force Majeure shall take all measures to this end which are reasonable under the circumstances, taking into account the consequences resulting from such event of Force Majeure. Prior to resumption of normal performance, the Parties shall continue to perform its obligations under this Agreement to the extent not excused by such event of Force Majeure.

15.5 No Extension of Term

The Term shall not be extended as a result of or by the duration of an event of Force Majeure.

15.6 Settlement of Industrial Disturbances

Settlement of strikes, lockouts, or other industrial disturbances shall be entirely within the discretion of the Party experiencing such situations, and nothing herein shall

require such Party to settle industrial disputes by yielding to demands made on it when it considers such action inadvisable.

15.7 Allocation of Services

If, as a result of an event of Force Majeure, SABINE is unable to meet its contractual obligations to Customer and any Other Customers under LNG terminal use agreements, SABINE shall allocate the available capability of the Sabine Pass Facility to perform activities similar to the Services in the following order of priority (such allocation herein referred to as the “**Major Customer Allocation Priority**”):

- (a) first among Major Customers only, based on the ratio that the Maximum LNG Reception Quantity (in the case of an allocation for Customer) or the similar maximum contractual entitlement of the relevant Major Customer (in the case of an allocation for another Major Customer) bears to the Major Customer Aggregate Contracted Capacity for the remainder of such Contract Year; and
- (b) then among Non-Major Customers only, based on the ratio that the maximum LNG reception quantity (or similar maximum contractual entitlement to receive

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LNG berthing, unloading and receipt services) of each Non-Major Customer bears to the Non-Major Customer Aggregate Contracted Capacity for the remainder of such Contract Year.

ARTICLE 16 CURTAILMENT OF SERVICES OR TEMPORARY DISCONTINUATION OF SERVICES

16.1 Scheduled Curtailment or Temporary Discontinuation of Services

To the extent that SABINE has notified Customer under Section 5.1(a) in connection with the preparation of the Customer LNG Receipt Schedule of maintenance to or modification of the Sabine Pass Facility, SABINE shall have the right during any Contract Year to curtail or temporarily discontinue the Services, in whole or in part due to such maintenance or modification for a period lasting no more than three (3) consecutive days. During the period of such curtailment or temporary discontinuation of Services, SABINE shall, from time to time, use reasonable endeavors to update Customer on the expected progress towards completing the maintenance or modification, whichever applicable. Notwithstanding the foregoing, neither a curtailment nor a temporary discontinuation of Services pursuant to this Section 16.1 shall reduce SABINE’s obligations to allow berthing, unloading and receipt of Customer’s LNG in a quantity up to the Maximum LNG Reception Quantity.

16.2 Unscheduled Curtailment or Temporary Discontinuation of Services

SABINE shall have the right to curtail or temporarily discontinue the Services provided by the Sabine Pass Facility, in whole or in part, at any time in order to protect persons and property, including the Sabine Pass Facility, from harm or damage due to operational or safety conditions. SABINE shall use reasonable endeavors to provide Customer such notice of curtailment or temporary discontinuation as is reasonable under the circumstances, and such notice may be issued for a specific period of time or until further notice is given. If, as a result of any unscheduled curtailment or temporary discontinuation of Services pursuant to this Section 16.2, SABINE is unable to meet its contractual obligations to Customer and any Other Customers under LNG terminal use agreements, SABINE shall allocate the available capability of the Sabine Pass Facility to perform activities similar to the Services in accordance with the Major Customer Allocation Priority. If a curtailment or temporary discontinuation of Services occurs under this Section 16.2, SABINE may direct Customer to adjust receipts of LNG and deliveries of Customer’s Inventory as the case may be. Notwithstanding the foregoing, SABINE shall have no responsibility to inform Transporters, LNG Vessels, Downstream Pipelines, LNG Suppliers or any other Persons involved in the transaction as to such curtailment or temporary discontinuation of Services.

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ARTICLE 17 ASSIGNMENT

17.1 Restrictions on Assignment

- (a) Consent of Other Party Required. Except as otherwise provided in this Article 17, neither this Agreement nor any rights or obligations hereunder may be assigned by any Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld.
- (b) Obligation of Assignee. If consent is granted pursuant to Section 17.1(a) or in the case of an assignment permitted under Section 17.2 (other than Section 17.2(c)), the assignee to such assignment must, as a condition to such assignment, deliver to the non-assigning Party its written undertaking to be bound by and perform all obligations of the assignor under this Agreement.

17.2 Permitted Assignments

- (a) Affiliates of SABINE. Notwithstanding the provisions of Section 17.1, SABINE may freely assign all of its rights under this Agreement to an Affiliate, upon notice to, but without requiring the consent of, Customer.
- (b) Affiliates of Customer. Notwithstanding the provisions of Section 17.1, provided Guarantor agrees in writing that the Guarantee extends to all of the obligations assigned pursuant to this Section 17.2(b), Customer may freely assign all of its rights under this Agreement to an Affiliate upon notice to, but without requiring the consent of, SABINE. An assignment to an Affiliate of Customer under this Section 17.2(b) of all, but not less than all, of Customer’s rights and obligations under this Agreement shall serve as a novation of this Agreement.
- (c) Financing. Notwithstanding the provisions of Section 17.1, SABINE shall be entitled to assign, mortgage, or pledge all or any of its rights, interests, and benefits hereunder to secure payment of any indebtedness incurred or to be incurred in connection with the construction and term financing of the Sabine Pass Facility. In addition to its obligations under Section 24.1, Customer shall provide to the Lenders to whom such indebtedness is owed a consent to assignment or similar document in form and substance customary for similar financing transactions and agreed by such Lenders and Customer. Moreover, Customer agrees to enter into customary direct agreements with such Lenders in form and substance customary for similar financing transactions and agreed by such Lenders and Customer covering matters that are customary in project financings of this type, including Lender assignments or security rights with respect to this Agreement, direct notices to Lenders and Lenders’ step-in/step-out rights; provided, however, in no event shall Customer be required to agree to any amendment to this Agreement or to provide (or cause to be provided) any guaranty or similar commitment other than the Guarantee in favor of the Lenders, SABINE or any other Person. No assignment under this Section 17.2(c) shall serve as a novation of this Agreement.

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- (d) **Partial Assignments.** Customer may assign a portion of the Services Quantity (or Services in respect of any Make-Up Quantity) for any period of time up to and including the remainder of the Term of the Agreement, or all of its entitlements for a period of time that is less than the remaining Term (collectively, a “**Partial Assignment**”), without the prior consent of SABINE, to one or more assignees, provided that:
- (i) the assignees deliver to SABINE the written undertaking required by Section 17.1(b);
 - (ii) in relation to all such partial assignments:
 - a. Customer and all assignees shall designate one of them, or a third party, to act on behalf of Customer and all assignees as Scheduling Representative for the purposes of (a) exercising all rights of Customer under Section 5.1 in relation to the Customer LNG Receipt Schedule, provided that the Scheduling Representative shall identify each Unloading Window within the Customer LNG Receipt Schedule and to each of the assignees, and (b) exercising all rights of Customer under Section 5.2 in relation to Gas nominations, provided that the Scheduling Representative shall identify the portion of each daily nomination to be delivered for the account of Customer and for the account of each of the assignees, and
 - b. Customer and all assignees shall exercise all rights of Customer under this Agreement (including all rights under Sections 2.3, 3.6, 4.5, 6.1, 8.2, 10.2, 11.3, 18.1, 20.1, 20.2, and 24.1) jointly, without delay or hindrance to each Party’s performance of this Agreement; and
 - (iii) Customer’s Guarantor agrees that the Guarantee extends to the obligations assigned pursuant to this Section 17.2(d).

No Partial Assignment shall (a) serve as a novation of this Agreement; or (b) reduce the responsibility of Customer to SABINE in respect of the Services Quantity or increase SABINE’s responsibilities to Customer and the assignees under this Agreement. Customer shall indemnify and hold SABINE harmless from any Liabilities incurred by SABINE arising from a failure by Customer and assignees to designate a Scheduling Representative or to exercise all rights of Customer jointly under (ii) above.

17.3 Assignment as Novation

- (a) Except as provided in Section 17.2(b), an assignment under this Article 17 of all, but not less than all, of Customer’s rights and obligations under this Agreement shall not serve as a novation of this Agreement unless and until, but shall serve as a novation if:

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- (i) the assignee delivers to the non-assigning Party its written undertaking to be bound by and perform all obligations of the assignor under this Agreement, as if it were the assignor; and
 - (ii) in the case of Customer, assignee having demonstrated to SABINE that its creditworthiness (including credit support from an irrevocable letter of credit, a parent guarantee or other security) at the time of the assignment is the same or better than the creditworthiness of Guarantor or such creditworthiness and/or assignee are otherwise reasonably acceptable to SABINE. For the purposes of the preceding sentence, the creditworthiness at the time of the assignment of the proposed assignee shall be deemed acceptable to SABINE if (i) the credit rating of such assignee is at such time equivalent to or better than no less than two of the following three ratings: “A3” by Moody’s Investor Service, “A-” by Standard and Poor’s and “A-” by Fitch Ratings; and (ii) the minimum market capitalization of such assignee is three billion five hundred million dollars (\$3,500,000,000); or
 - (iii) in the case of SABINE, assignee having demonstrated to Customer that:
 - a. its creditworthiness at the time of the assignment is the same or better than the creditworthiness of SABINE, and
 - b. it has succeeded to substantially all of the assets comprising the Sabine Pass Facility and is willing and able to make available the Services Quantity to Customer.
- (b) In the event of a novation, the assignee shall be deemed to be a Party to this Agreement for all purposes with respect to rights and obligations pertaining to operations hereunder from and after the effective date of the assignment and the assignor shall be relieved of all rights and obligations hereunder from and after the effective date of the assignment.

ARTICLE 18 TERMINATION

18.1 Early Termination Events

- (a) **Termination by Customer.** Customer may terminate this Agreement pursuant to the other provisions of this Article 18, if:
- (i) SABINE has declared Force Majeure with respect to a period that is either projected by SABINE to extend for eighteen (18) months or has in fact extended eighteen (18) months;
 - (ii) for reasons not excused by Force Majeure or Customer’s actions:
 - a. SABINE failed to deliver to the Delivery Point an amount aggregating to 191,625,000 MMBTUs or more of Customer’s total Gas nominations in a twelve (12) month period;

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- b. SABINE has failed entirely to receive for Customer’s account at least fifteen (15) Cargoes, nominated by Customer, over a period of ninety (90) consecutive days;
- c. SABINE failed to unload at the Receipt Point, or has notified Customer that it would be unable to unload, the aggregate of fifty (50) Cargoes or more scheduled in the Customer LNG Receipt Schedule for a twelve (12) month period; or
- d. (x) if SABINE has obtained a credit rating status by Moody Investor Service, Standard and Poor’s or Fitch Ratings, the credit rating of SABINE falls below two of the following three ratings: “B2” by Moody Investor Service, “B” by Standard and Poor’s or “B” by Fitch

Ratings for a period exceeding fifteen (15) days and the debt to equity ratio of SABINE on such fifteenth (15th) day exceeds 80/20; or (y) if SABINE has not obtained a credit rating status by Moody Investor Service, Standard and Poor's or Fitch Ratings, for a period exceeding fifteen (15) days the debt to equity ratio of SABINE exceeds 80/20.

- (b) Termination by SABINE. SABINE may terminate this Agreement pursuant to the other provisions of this Article 18 if:
- (i) the Guarantee ceases to be in full force and effect other than as provided in Section 10(a) of the Guarantee;
 - (ii) for a period exceeding fifteen (15) days, the credit rating of Guarantor falls below two of the following three ratings: "Baa3" by Moody Investor Service, "BBB-" by Standard and Poor's or "BBB-" by Fitch Ratings; or
 - (iii) the Guarantor passes a resolution, commences proceedings or has proceedings commenced against it (which are not stayed within sixty (60) days of service thereof on Guarantor) in the nature of bankruptcy or reorganization resulting from insolvency or for its liquidation or for the appointment of a receiver, trustee in bankruptcy or liquidator of its undertaking or assets.
- (c) Notice. SABINE or Customer, as the case may be, shall give notice of its exercise of any termination right hereunder to the other Party.
- (d) Cure. At any time after the expiration of a period of thirty (30) days after the terminating Party gives notice of termination pursuant to Section 18.1(c), such Party may terminate this Agreement with immediate effect by giving notice of such termination; provided, however, that the terminating Party may not terminate this Agreement if the circumstances giving rise to such termination right have been fully remedied or have ceased to apply.
- (e) Financial Reporting. In regard to item (y) in Section 18.1(a)(ii)d above, until the time SABINE has obtained a credit rating status by Moody Investor Service, Standard and Poor's or Fitch Ratings, SABINE shall provide (i) quarterly unaudited and yearly audited financial statements to Customer (certified by an officer of SABINE to be fairly presented in all material respects) to demonstrate

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that SABINE's debt to equity ratio does not exceed 80/20 and (ii) subsequent to the Commercial Start Date, a statement to Customer executed by an officer of SABINE certifying SABINE's debt to equity ratio, which statement shall be provided within five (5) Business Days of SABINE incurring any additional indebtedness.

18.2 Other Termination Provisions

This Agreement is also subject to the termination provisions provided in Section 11.6.

18.3 Consequences of Termination

Termination of this Agreement under this Article 18 or any other provision of this Agreement shall be without prejudice to any other rights and remedies of either Party arising hereunder or by law or otherwise which arose or accrued prior to or as a result of such termination or by reason of default of either Party; provided, however, that in no event shall Customer be entitled to recover damages or pursue any other remedy against SABINE in relation to Services which would have been performed by SABINE after the date of termination by Customer.

ARTICLE 19 APPLICABLE LAW

The substantive laws of the State of New York, United States of America, exclusive of any conflicts of laws principles that could require the application of any other law, shall govern this Agreement for all purposes, including the resolution of all Disputes between or among the Parties.

ARTICLE 20 DISPUTE RESOLUTION

20.1 Dispute Resolution

- (a) Arbitration. Any Dispute (other than a Dispute regarding measurement under Annex I or Annex II) shall be exclusively and definitively resolved through final and binding arbitration, it being the intention of the Parties that this is a broad form arbitration agreement designed to encompass all possible disputes.
- (b) Rules. The arbitration shall be conducted in accordance with the International Arbitration Rules (the "Rules") of the American Arbitration Association ("AAA") (as then in effect).
- (c) Number of Arbitrators. The arbitral tribunal ("Tribunal") shall consist of three (3) arbitrators, who shall endeavor to complete the final hearing in the arbitration within six (6) months after the appointment of the last arbitrator.
- (d) Method of Appointment of the Arbitrators. If there are only two (2) parties to the Dispute, then each party to the Dispute shall appoint one (1) arbitrator within thirty (30) days of the filing of the arbitration, and the two arbitrators so appointed shall select the presiding arbitrator within thirty (30) days after the latter of the

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two arbitrators has been appointed by the parties to the Dispute. If a party to the Dispute fails to appoint its Party-appointed arbitrator or if the two Party-appointed arbitrators cannot reach an agreement on the presiding arbitrator within the applicable time period, then the AAA shall serve as the appointing authority and shall appoint the remainder of the three arbitrators not yet appointed. If the arbitration is to be conducted by three arbitrators and there are more than two parties to the Dispute, then within thirty (30) days of the filing of the arbitration, all claimants shall jointly appoint one arbitrator and all respondents shall jointly appoint one arbitrator, and the two arbitrators so appointed shall select the presiding arbitrator within thirty (30) days after the latter of the two arbitrators has been appointed by the parties to the Dispute. For the purposes of appointing arbitrators under this Article 20, (a) Customer, Guarantor and all persons whose interest in this Agreement derives from them shall be considered as one Party; and (b) SABINE and all persons whose interest in this Agreement derives from SABINE shall be considered as one Party. If either all claimants or all respondents fail to make a joint appointment of an arbitrator, or if the Party-appointed arbitrators cannot reach an agreement on the presiding arbitrator within the applicable time period, then the AAA as the appointing authority shall make the prescribed appointment.

- (e) Consolidation. If the Parties initiate multiple arbitration proceedings under this Agreement and/or under the Guarantee, the subject matters of which are

related by common questions of law or fact and which could result in conflicting awards or obligations, then either Party may request prior to the appointment of the arbitrators for such multiple or subsequent disputes that all such proceedings be consolidated into a single arbitral proceeding. Such request shall be directed to the AAA, which shall consolidate appropriate proceedings into a single proceeding unless consolidation would result in undue delay for the arbitration of the Disputes.

- (f) Place of Arbitration. Unless otherwise agreed by all parties to the Dispute, the place of arbitration shall be Houston, Texas.
- (g) Language. The arbitration proceedings shall be conducted in the English language, and the arbitrators shall be fluent in the English language.
- (h) Entry of Judgment. The award of the arbitral tribunal shall be final and binding. Judgment on the award of the arbitral tribunal may be entered and enforced by any court of competent jurisdiction. The Parties agree that service of process for any action to enforce an award may be accomplished according to the procedures of Article 23, as well as any other procedure authorized by law.
- (i) Notice. All notices required for any arbitration proceeding shall be deemed properly given if given in accordance with Article 23.
- (j) Qualifications and Conduct of the Arbitrators. All arbitrators shall be and remain at all times wholly impartial, and, once appointed, no arbitrator shall have any *ex parte* communications with any of the parties to the Dispute concerning the arbitration or the underlying Dispute other than communications directly concerning the selection of the presiding arbitrator, where applicable.

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- (k) Interim Measures. Any party to the Dispute may apply to a court in Harris County, Texas for interim measures (i) prior to the constitution of the arbitral tribunal (and thereafter as necessary to enforce the arbitral tribunal's rulings); or (ii) in the absence of the jurisdiction of the arbitral tribunal to rule on interim measures in a given jurisdiction. The Parties agree that seeking and obtaining such interim measures shall not waive the right to arbitration. The arbitrators (or in an emergency the presiding arbitrator acting alone in the event one or more of the other arbitrators is unable to be involved in a timely fashion) may grant interim measures including injunctions, attachments and conservation orders in appropriate circumstances, which measures may be immediately enforced by court order. Hearings on requests for interim measures may be held in person, by telephone, by video conference or by other means that permit the parties to the Dispute to present evidence and arguments.
- (l) Costs and Attorneys' Fees. The arbitral tribunal is authorized to award costs of the arbitration in its award, including (a) the fees and expenses of the arbitrators; (b) the costs of assistance required by the tribunal, including its experts; (c) the fees and expenses of the administrator; (d) the reasonable costs for legal representation of a successful Party; and (e) any such costs incurred in connection with an application for interim or emergency relief and to allocate those costs between the parties to the Dispute. The costs of the arbitration proceedings, including attorneys' fees, shall be borne in the manner determined by the arbitral tribunal.
- (m) Interest. The award shall include pre-award and post-award interest, as determined by the arbitral award, from the date of any default or other breach of this Agreement until the arbitral award is paid in full. Interest shall accrue at the Base Rate.
- (n) Currency of Award. The arbitral award shall be made and payable in United States dollars, free of any tax or other deduction.
- (o) Waiver of Challenge to Decision or Award. To the extent permitted by law, the Parties hereby waive any right to appeal from or challenge any arbitral decision or award, or to oppose enforcement of any such decision or award before a court or any governmental authority, except with respect to the limited grounds for modification or non-enforcement provided by any applicable arbitration statute or treaty.
- (p) Confidentiality. Any arbitration or expert determination relating to a Dispute (including a settlement resulting from an arbitral award, documents exchanged or produced during an arbitration proceeding, and memorials, briefs or other documents prepared for the arbitration) shall be confidential and may not be disclosed by the Parties, their employees, officers, directors, counsel, consultants, and expert witnesses, except (in accordance with Article 21) to the extent necessary to enforce this Section 20.1 or any arbitration award, to enforce other rights of a party to the Dispute, or as required by law; provided, however, that breach of this confidentiality provision shall not void any settlement, expert determination or award.

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20.2 Expert Determination

- (a) General. In the event of any disagreement between the Parties regarding a measurement under Annex I or Annex II (a "**Measurement Dispute**"), the Parties hereby agree that such Measurement Dispute shall be resolved by an expert selected as provided in this Section 20.2. The expert is not an arbitrator of the Measurement Dispute and shall not be deemed to be acting in an arbitral capacity. The Party desiring an expert determination shall give the other Party to the Measurement Dispute notice of the request for such determination. If the Parties to the Measurement Dispute are unable to agree upon an expert within ten (10) days after receipt of the notice of request for an expert determination, then, upon the request of any of the Parties to the Measurement Dispute, the International Centre for Expertise of the International Chamber of Commerce shall appoint such expert and shall administer such expert determination through the ICC's Rules for Expertise. The expert shall be and remain at all times wholly impartial, and, once appointed, the expert shall have no *ex parte* communications with any of the Parties to the Measurement Dispute concerning the expert determination or the underlying Measurement Dispute. The Parties to the Measurement Dispute shall cooperate fully in the expeditious conduct of such expert determination and provide the expert with access to all facilities, books, records, documents, information and personnel necessary to make a fully informed decision in an expeditious manner. Before issuing a final decision, the expert shall issue a draft report and allow the Parties to the Measurement Dispute to comment on it. The expert shall endeavor to resolve the Measurement Dispute within thirty (30) days (but no later than sixty (60) days) after his appointment, taking into account the circumstances requiring an expeditious resolution of the matter in dispute.
- (b) Final and Binding. The expert's decision shall be final and binding on the Parties to the Measurement Dispute unless challenged in an arbitration pursuant to Section 20.1 within thirty (30) days of the date the expert's decision. If challenged, (i) the decision shall remain binding and be implemented unless and until finally replaced by an award of the arbitrators; (ii) the decision shall be entitled to a rebuttable presumption of correctness; and (iii) the expert shall not be appointed in the arbitration as an arbitrator or as advisor to either Party without the written consent of both Parties.
- (c) Arbitration of Expert Determination. In the event that a Party requests Expert Determination for a Measurement Dispute which raises issues that require determination of other matters in addition to correct measurement under Annex I or Annex II, then either Party may elect to refer the entire Measurement Dispute for arbitration under Section 20.1. In such case, the arbitrators shall be competent to make any measurement determination that is part of a Dispute. An Expert Determination not referred to arbitration shall proceed and shall not be stayed during the pendency of an arbitration.

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**ARTICLE 21
CONFIDENTIALITY**

21.1 Confidentiality Obligation

Neither this Agreement nor information or documents that come into the possession of a Party by means of the other Party in connection with the performance of this Agreement may be used or communicated to Persons (other than the Parties) without the mutual written agreement of the Parties, except that either Party shall have the right to disclose such information or documents without obtaining the other Party's prior consent in any of the situations described below:

- (a) accountants, other professional consultants or underwriters, provided such disclosure is solely to assist the purpose for which the aforesaid were so engaged and further provided that such Persons agree to hold such information or documents under terms of confidentiality equivalent to this Section 21.1, and for the benefit of the Parties;
- (b) Lenders and other providers or prospective providers of finance to SABINE in relation to the Sabine Pass Facility, provided that such Persons agree to hold such information or documents confidential, and for the benefit of the Parties, for a period of at least three (3) years (excepting information in connection with the Fee, which shall be held confidential during the Term);
- (c) bona fide prospective purchasers of all or a part of a Party's or its Affiliate's business and bona fide prospective assignees of all or part of a Party's interest in this Agreement, provided that such Persons agree to hold such information or documents under terms of confidentiality equivalent to this Section 21.1, and for the benefit of the Parties;
- (d) to legal counsel, provided such disclosure is solely to assist the purpose for which the aforesaid were so engaged;
- (e) if required by any court of law or any law, rule, or regulation, or if requested by a Governmental Authority (including the United States Securities and Exchange Commission) having or asserting jurisdiction over a Party and having or asserting authority to require such disclosure in accordance with that authority, or pursuant to the rules of any recognized stock exchange or agency established in connection therewith; in this regard, Customer acknowledges that a copy of this Agreement will be filed by Cheniere Energy Inc. with the United States Securities and Exchange Commission in accordance with applicable securities laws and regulations thereunder;
- (f) to prospective assignees permitted under Article 17, to prospective and actual LNG Suppliers and to any prospective and actual purchasers under the Customer's Gas sales contracts from Customer's Inventory, in each case only to the extent required for the execution and/or administration of such contracts, and provided that such Persons agree to hold such information or documents under terms of confidentiality equivalent to this Section 21.1, and for the benefit of the Parties;

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- (g) to its Affiliates, its shareholders and partners, or its shareholders' and partners' Affiliates, provided that such recipient entity has a bona fide business need for such information and agrees to hold such information or documents under terms of confidentiality equivalent to this Section 21.1;
- (h) to any Government Authorities to the extent such disclosure assists SABINE and Customer in obtaining Approvals;
- (i) to an expert in connection with the resolution of a Dispute pursuant to Section 20.2 or to an arbitration tribunal in connection with the resolution of a Dispute under Section 20.1;
- (j) to the extent any such information or document has entered the public domain other than through the fault or negligence of the Party making the disclosure; and
- (k) to Other Customers by SABINE only in order to allow SABINE to perform its obligations under Section 3.5 herein.

Notwithstanding the foregoing, Customer acknowledges and agrees that certain providers of finance to SABINE as well as SABINE's shareholders and partners may disclose this Agreement and information or documents disclosed pursuant to this Section 21.1 if required by any court of law or any law, rule, or regulation, or if requested by a Governmental Authority having or asserting jurisdiction over such Persons and having or asserting authority to require such disclosure in accordance with that authority, or pursuant to the rules of any recognized stock exchange or agency established in connection therewith.

21.2 Public Announcements

- (a) General. Neither Party may issue or make any public announcement, press release or statement regarding this Agreement unless, prior to the release of the public announcement, press release or statement, such Party furnishes the other Party with a copy of such announcement, press release or statement, and obtains the approval of the other Party; provided that, notwithstanding any failure to obtain such approval, no Party shall be prohibited from issuing or making any such public announcement, press release or statement if in the sole discretion of the disclosing party it is deemed appropriate to do so in order to comply with the applicable laws, rules or regulations of any Governmental Authority, legal proceedings or stock exchange having jurisdiction over such Party.
- (b) SABINE Promotional Materials. Notwithstanding any provision in Section 21.2(a) to the contrary, SABINE may, with the consent of Customer not to be unreasonably withheld, use the following in external announcements and publications: (i) information concerning the signing of this Agreement; (ii) the general nature of the Services; and (iii) the general nature of Customer's involvement in the Sabine Pass Facility project.

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**ARTICLE 22
REPRESENTATIONS AND WARRANTIES**

22.1 Representations and Warranties of Customer

As of the date hereof and until the expiration of this Agreement, Customer represents, undertakes and warrants that:

- (a) Customer is and shall remain duly formed and in good standing under the laws of the State of Delaware and duly qualified to do business in the State of Louisiana;

- (b) upon receipt of board approval, Customer has the requisite power, authority and legal right to execute and deliver, and to perform its obligations under, this Agreement;
- (c) Customer has not incurred any liability to any financial advisor, broker or finder for any financial advisory, brokerage, finder's or similar fee or commission in connection with the transactions contemplated by this Agreement for which Customer or any of its Affiliates could be liable; and
- (d) neither the execution, delivery nor performance of this Agreement, violates or will violate, results or will result in a breach of, or constitutes or will constitute a default under, any provision of Customer's organizational documents, any law, judgment, order, decree, rule or regulation of any court, administrative agency or other instrumentality of any Governmental Authority or of any other material agreement or instrument to which Customer is a party.

22.2 Representations and Warranties of SABINE

As of the date hereof and until the expiration of this Agreement, SABINE represents, undertakes and warrants that:

- (a) SABINE is and shall remain duly formed and in good standing under the laws of the State of Delaware and duly qualified to do business in the State of Louisiana;
- (b) SABINE has the requisite power, authority and legal right to execute and deliver, and to perform its obligations under this Agreement;
- (c) SABINE has not incurred any liability to any financial advisor, broker or finder for any financial advisory, brokerage, finder's or similar fee or commission in connection with the transactions contemplated by this Agreement for which Customer or any of its Affiliates could be liable; and
- (d) neither the execution, delivery nor performance of this Agreement, violates or will violate, results or will result in a breach of, or constitutes or will constitute a default under, any provision of SABINE's organizational documents, any law, judgment, order, decree, rule or regulation of any court, administrative agency or other instrumentality of any Governmental Authority or of any other material agreement or instrument to which SABINE is a party.

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ARTICLE 23 NOTICES

Except as otherwise specifically provided, all notices authorized or required between the Parties by any of the provisions of this Agreement shall be in writing (in English) and delivered in person or by courier service or by any electronic means of transmitting written communications which provides written confirmation of complete transmission, and addressed to such Party. Oral communication does not constitute notice for purposes of this Agreement, and e-mail addresses and telephone numbers for the Parties are listed below as a matter of convenience only. The foregoing notwithstanding, notices given from LNG Vessels at sea may be given by radio, and notices required under Article 5 may be given by e-mail. A notice given under any provision of this Agreement shall be deemed delivered only when received by the Party to whom such notice is directed, and the time for such Party to deliver any notice in response to such originating notice shall run from the date the originating notice is received. **"Received"** for purposes of this Article 23 shall mean actual delivery of the notice, or delivery of the notice to the address of the Party specified hereunder or, in the event notice was given by radio from an LNG Vessel at sea, actual receipt of the communication by radio, or to be thereafter notified in accordance with this Article 23. Each Party shall have the right to change its address at any time and/or designate that copies of all such notices be directed to another Person at another address, by giving written notice thereof to the other Party.

SABINE PASS LNG, L.P.
717 Texas Avenue, Suite 3100
Houston, Texas 77002

Attention: President
Fax: (713) 659-5459
Telephone: (713) 659-1361

TOTAL LNG USA, INC.
One Memorial City Plaza
800 Gessner, Suite 700
Houston, Texas 77024

Attention: Vice President, Legal
Fax: (713) 647-4030
Telephone: (713) 647-4000

ARTICLE 24 MISCELLANEOUS

24.1 Customer Cooperation Regarding SABINE Financing

Customer acknowledges that SABINE intends to obtain project financing for the cost of construction of the Sabine Pass Facility (the **"Financing"**). In addition to Customer's obligations under Section 17.2(c), Customer shall cooperate with SABINE in SABINE's efforts to obtain the Financing by supplying the Lenders information concerning Customer (that is in Customer's possession and is not of a proprietary nature) reasonably requested by the Lenders.

24.2 Amendments

This Agreement may not be amended, modified, varied or supplemented except by an instrument in writing signed by SABINE and Customer.

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24.3 Approvals

Each Party shall use reasonable endeavors to maintain in force all Approvals necessary for its performance under this Agreement. Customer and SABINE shall cooperate fully with each other wherever necessary for this purpose.

24.4 Successors and Assigns

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

24.5 Waiver

No failure to exercise or delay in exercising any right or remedy arising from this Agreement shall operate or be construed as a waiver of such right or remedy. Performance of any condition or obligation to be performed hereunder shall not be deemed to have been waived or postponed except by an instrument in writing.

signed by the Party who is claimed to have granted such waiver or postponement. No waiver by either Party shall operate or be construed as a waiver in respect of any failure or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver.

24.6 No Third Party Beneficiaries

The interpretation of this Agreement shall exclude any rights under legislative provisions conferring rights under a contract to Persons not a party to that contract. Nothing in this Agreement shall otherwise be construed to create any duty to, or standard of care with reference to, or any liability to, any Person other than a Party.

24.7 Rules of Construction

- (a) Drafting. Each provision of this Agreement shall be construed as though all Parties participated equally in the drafting of the same. 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 Agreement.
- (b) Priority.
 - (i) In the event of a conflict between the terms of this Agreement excluding Annexes I and II and Exhibits A, B and C (the “**Base Agreement**”) and the terms of Annexes I and II and Exhibits A, B and C, then all terms of the Base Agreement shall take precedence over Annexes I and II and Exhibits A, B and C.
 - (ii) In the event that any conflict arises between this Agreement and the Sabine Pass Marine Operations Manual, this Agreement shall prevail. In the event that any conflict arises between this Agreement and the Sabine Pass Services Manual, this Agreement shall prevail.

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24.8 Survival of Rights

Any termination or expiration of this Agreement shall be without prejudice to any rights, remedies, obligations and liabilities which may have accrued to a Party pursuant to this Agreement or otherwise under applicable law. All rights or remedies which may have accrued to the benefit of either Party (and any of this Agreement’s provisions necessary for the exercise of such accrued rights or remedies) prior to the termination or expiration of this Agreement shall survive such termination or expiration. Furthermore, the provisions of Article 11, Article 12, Article 14, Article 19, Article 20, Article 21, Article 23, and Article 24 shall survive the termination or expiration of this Agreement.

24.9 Rights and Remedies

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

24.10 Interpretation

- (a) Headings. The topical headings used in this Agreement are for convenience only and shall not be construed as having any substantive significance or as indicating that all of the provisions of this Agreement relating to any topic are to be found in any particular Article or that an Article relates only to the topical heading.
- (b) Singular and Plural. Reference to the singular includes a reference to the plural and vice versa.
- (c) Gender. Reference to any gender includes a reference to all other genders.
- (d) Article. Unless otherwise provided, reference to any Article, Section, Annex or Exhibit means an Article, Section, Annex or Exhibit of this Agreement.
- (e) Include. The words “**include**” and “**including**” shall mean include or including without limiting the generality of the description preceding such term and are used in an illustrative sense and not a limiting sense.
- (f) Time Periods. References to “**day**,” “**month**,” “**quarter**” and “**year**” shall, unless otherwise stated or defined, mean a day, month, quarter and year of the Gregorian calendar, respectively. For the avoidance of doubt, a “**day**” shall commence at 24:00 midnight.
- (g) Statutory References. Unless the context otherwise requires, any reference to a statutory provision is a reference to such provision as amended or re-enacted or as modified by other statutory provisions from time to time and includes subsequent legislation and regulations made under the relevant statute.
- (h) Currency. References to United States dollars shall be a reference to the lawful currency from time to time of the United States of America.

24.11 Disclaimer of Agency

The rights, duties, obligations and liabilities of the Parties under this Agreement shall be individual, not joint or collective. It is not the intention of the Parties to create, nor shall

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this Agreement be deemed or construed to create, nor shall the Parties report for any purpose any transaction occurring pursuant to this Agreement as, (a) a partnership, joint venture or other association or a trust, nor (b) a lease or sales transaction with respect to any portion of the Sabine Pass Facility. This Agreement shall not be deemed or construed to authorize any Party to act as an agent, servant or employee for the other Party for any purpose whatsoever except as explicitly set forth in this Agreement. In their relations with each other under this Agreement, the Parties shall not be considered fiduciaries.

24.12 No Sovereign Immunity

Any Party that now or hereafter has a right to claim sovereign immunity for itself or any of its assets hereby waives any such immunity to the fullest extent permitted by the laws of any applicable jurisdiction. This waiver includes immunity from (i) any expert determination or arbitration proceeding commenced pursuant to this Agreement; (ii) any judicial, administrative or other proceedings to aid the expert determination or arbitration commenced pursuant to this Agreement; and (iii) any effort to confirm, enforce, or execute any decision, settlement, award, judgment, service of process, execution order or attachment (including pre-judgment attachment) that results from an expert determination, mediation, arbitration or any judicial or administrative proceedings commenced pursuant to this Agreement. Each Party acknowledges that its rights and obligations hereunder are of a commercial and not a governmental nature.

24.13 Severance of Invalid Provisions

If and for so long as any provision of this Agreement shall be deemed to be judged invalid for any reason whatsoever, such invalidity shall not affect the validity or operation of any other provision of this Agreement except only so far as shall be necessary to give effect to the construction of such invalidity, and any such invalid provision shall be deemed severed from this Agreement without affecting the validity of the balance of this Agreement.

24.14 Compliance with Laws

In performance of their respective obligations under this Agreement, each Party agrees to comply with all applicable laws, statutes, rules, regulations, judgments, decrees, injunctions, writs and orders, and all interpretations thereof, of all Governmental Authorities having jurisdiction over such Party.

24.15 Conflicts of Interest

SABINE shall avoid any conflict between its own interests and the interests of Customer in relation to obtaining LNG terminalling services from the Sabine Pass Facility. In this regard, SABINE shall not become one of the Other Customers during the Term hereof unless Customer has first consented in writing (such consent not to be unreasonably withheld or delayed) to such expanded business role by SABINE. For the avoidance of doubt, in no event shall (a) any of SABINE's joint venture partners or affiliated entities of any kind be restricted from becoming one of the Other Customers during the Term hereof; or (b) any partner, shareholder, member, or other equity owner of SABINE be

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restricted from becoming one of the Other Customers during the Term hereof. Except as provided above, the Parties and their Affiliates are free to engage or invest (directly or indirectly) in an unlimited number of activities or businesses, any one or more of which may be related to or in competition with the business activities contemplated under this Agreement, without having or incurring any obligation to offer any interest in such business activities to the other Party.

24.16 Expenses

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

24.17 Scope

This Agreement constitutes the entire agreement between the Parties relating to the subject matter hereof and supersedes and replaces any provisions on the same subject contained in any other agreement between the Parties except as provided in the Omnibus Agreement of even date, whether written or oral, prior to the date of the original execution hereof.

24.18 Counterpart Execution

This Agreement may be executed in any number of counterparts and each such counterpart shall be deemed an original Agreement for all purposes, provided that no Party shall be bound to this Agreement unless and until both Parties have executed a counterpart. For purposes of assembling all counterparts into one document, Customer is authorized to detach the signature page from one or more counterparts and, after signature thereof by the respective Party, attach each signed signature page to a counterpart.

IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be duly executed and signed by its duly authorized officer as of the Effective Date.

SABINE PASS LNG, L.P.

By: Sabine Pass LNG-GP, Inc., its General Partner

By: /s/ Charif Souki

Name: Charif Souki

Title: Chairman

TOTAL LNG USA, INC.

By: /s/ Sveinung J. Stohle

Name: Sveinung J. Stohle

Title: President and General Manager

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ANNEX I

MEASUREMENTS AND TESTS FOR LNG AT RECEIPT POINT

1. Parties to Supply Devices

- a) General. Unless otherwise agreed, Customer and SABINE shall supply equipment and conform to procedures that are in accordance with the latest appropriate International Organization for Standards ("ISO") documents.
- b) Customer Devices. Customer or Customer's agent shall supply, operate and maintain, or cause to be supplied, operated and maintained, suitable gauging devices for the liquid level in LNG tanks of the LNG Vessels, pressure and temperature measuring devices, and any other measurement or testing devices which are incorporated in the structure of LNG vessels or customarily maintained on board ship.
- c) SABINE Devices. SABINE shall supply, operate and maintain, or cause to be supplied, operated and maintained, devices required for collecting samples and for determining quality and composition of the LNG and any other measurement or testing devices which are necessary to perform the measurement and testing required hereunder at the Sabine Pass Facility.

d) Dispute. Any Dispute arising under this Annex I shall be submitted to an Expert under Section 20.2.

2. Selection of Devices

All devices provided for in this Annex I shall be approved by SABINE, acting as a Reasonable and Prudent Operator. The required degree of accuracy (which shall in any case be within the permissible tolerances defined herein and in the applicable standards referenced herein) of such devices selected shall be mutually agreed upon by Customer and SABINE. In advance of the use of any device, the Party providing such device shall cause tests to be carried out to verify that such device has the required degree of accuracy.

3. Verification of Accuracy and Correction for Error

a) Accuracy. Accuracy of devices used shall be tested and verified at the request of either Party, including the request by a Party to verify accuracy of its own devices. Each Party shall have the right to inspect at any time the measurement devices installed by the other Party, provided that the other Party is notified in advance. Testing shall be performed only when both Parties are represented, or have received adequate advance notice thereof, using methods recommended by the manufacturer or any other method agreed to by SABINE and Customer. At the request of any Party hereto, any test shall be witnessed and verified by an independent surveyor mutually agreed upon by Customer and SABINE. Permissible tolerances shall be as defined herein or as defined in the applicable standards referenced herein.

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b) Inaccuracy. Inaccuracy of a device exceeding the permissible tolerances shall require correction of previous recordings, and computations made on the basis of those recordings, to zero error with respect to any period which is definitely known or agreed upon by the Parties as well as adjustment of the device. All invoices issued during such period shall be amended accordingly to reflect such correction, and an adjustment in payment shall be made between Customer and SABINE. If the period of error is neither known nor agreed upon, and there is no evidence as to the duration of such period of error, corrections shall be made and invoices amended for each receipt of LNG made during the last half of the period since the date of the most recent calibration of the inaccurate device. However, the provisions of this Paragraph 3 shall not be applied to require the modification of any invoice that has become final pursuant to Section 11.7.

c) Costs and Expenses of Test Verification. All costs and expenses for testing and verifying SABINE's measurement devices shall be borne by SABINE, and all costs and expenses for testing and verifying Customer's measurement devices shall be borne by Customer. The fees and charges of independent surveyors for measurements and calculations shall be borne directly by Customer.

4. Tank Gauge Tables of LNG Vessels

a) Initial Calibration. Customer shall arrange or caused to be arranged, for each tank of each LNG Vessel, a calibration of volume against tank level. Customer shall provide SABINE or its designee, or cause SABINE or its designee to be provided, with a certified copy of tank gauge tables for each tank of each LNG Vessel verified by a competent impartial authority or authorities mutually agreed upon by the Parties. Such tables shall include correction tables for list, trim, tank contraction and any other items requiring such tables for accuracy of gauging.

Tank gauge tables prepared pursuant to the above shall indicate volumes in cubic metres expressed to the nearest thousandth (1/1000), with LNG tank depths expressed in metres to the nearest hundredth (1/100).

b) Presence of Representatives. SABINE and Customer shall each have the right to have representatives present at the time each LNG tank on each LNG Vessel is volumetrically calibrated.

c) Recalibration. If the LNG tanks of any LNG Vessel suffer distortion of such nature as to create a reasonable doubt regarding the validity of the tank gauge tables described herein (or any subsequent calibration provided for herein), Customer or Customer's agent shall recalibrate the damaged tanks, and the vessel shall not be employed as an LNG Vessel hereunder until appropriate corrections are made. If mutually agreed between Customer and SABINE representatives, recalibration of damaged tanks can be deferred until the next time when such damaged tanks are warmed for any reason, and any corrections to the prior tank gauge tables will be made from the time the distortion occurred. If the time of the distortion cannot be ascertained, the Parties shall mutually agree on the time period for retrospective adjustments.

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5. Units of Measurement and Calibration

The Parties shall co-operate in the design, selection and acquisition of devices to be used for measurements and tests in order that all measurements and tests may be conducted in the SI system of units, except for the quantity delivered which is expressed in MMBtu, the Gross Heating Value (Volume Based) which is expressed in Btu/SCF and the pressure which is expressed in millibar and temperature in Celsius. In the event that it becomes necessary to make measurements and tests using a new system of units of measurements, the Parties shall establish agreed upon conversion tables.

6. Accuracy of Measurement

All measuring equipment must be maintained, calibrated and tested in accordance with the manufacturer's recommendations. In the absence of a manufacturer's recommendation, the minimum frequency of calibration shall be one hundred eighty (180) days, unless otherwise mutually agreed between the Parties. Documentation of all tests and calibrations will be made available by the Party performing the same to the other Party. Acceptable accuracy and performance tolerances shall be:

a) Liquid Level Gauging Devices.

Each LNG tank of the LNG Vessel shall be equipped with primary and secondary liquid level gauging devices as per Paragraph 7(b) of this Annex I.

The measurement accuracy of the primary gauging devices shall be plus or minus seven point five (± 7.5) millimetres and the secondary liquid level gauging devices shall be plus or minus ten (± 10) millimetres.

The liquid level in each LNG tank shall be logged or printed.

b) Temperature Gauging Devices.

The temperature of the LNG and of the vapour space in each LNG tank shall be measured by means of a number of properly located temperature measuring

devices sufficient to permit the determination of average temperature.

The measurement accuracy of the temperature gauging devices shall be as follows:

- (i) in the temperature range of minus one hundred sixty five to minus one hundred forty degree Celsius (-165°C to -140°C), the accuracy shall be plus or minus zero point two degree Celsius ($\pm 0.2^\circ\text{C}$);
- (ii) in the temperature range of minus one hundred forty to plus forty degree Celsius (-140°C to +40°C), the accuracy shall be plus or minus one point five degree Celsius ($\pm 1.5^\circ\text{C}$).

The temperature in each LNG tank shall be logged or printed.

c) Pressure Gauging Devices.

Each LNG tank of the LNG Vessel shall have one (1) absolute pressure gauging device.

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The measurement accuracy of the pressure gauging device shall be plus or minus one percent ($\pm 1\%$) of the measuring range.

The pressure in each LNG tank shall be logged or printed.

d) List and Trim Gauging Devices.

A list gauging device and a trim gauging device shall be installed. These shall be interfaced with the custody transfer system.

The measurement accuracy of the list and the trim gauging devices shall be better than plus or minus zero point zero five (± 0.05) degrees for list and plus or minus zero point zero one (± 0.01) degrees for trim.

7. Gauging and Measuring LNG Volumes Delivered

- a) Gauge Tables. Upon SABINE's representative and the independent surveyor, if present, arriving on board the LNG Vessel prior to the commencement of or during unloading, Customer or Customer's representative shall make available to them a certified copy of tank gauge tables for each tank of the LNG Vessel.
- b) Gauges. Volumes of LNG delivered pursuant to this Agreement shall be determined by gauging the LNG in the tanks of the LNG Vessels before and after unloading. Each LNG Vessel's tank shall be equipped with a minimum of two (2) sets of level gauges, each set utilizing a different measurement principle. Comparison of the two (2) systems, designated as Primary and Secondary Measurement Systems, shall be performed from time to time to ensure compliance with the acceptable performance tolerances stated herein.
- c) Gauging Process. Gauging the liquid in the tanks of the LNG Vessels and measuring of liquid temperature, vapor temperature and vapor pressure in each LNG tank, trim and list of the LNG Vessels, and atmospheric pressure shall be performed, or caused to be performed, by Customer before and after unloading. SABINE's representative shall have the right to be present while all measurements are performed and shall verify the accuracy and acceptability of all such measurements. The first gauging and measurements shall be made immediately before the commencement of unloading. The second gauging and measurements shall take place immediately after the completion of unloading. The liquid level in the LNG Vessel before and after the unloading shall be determined by at least two (2) separate tank gaugings to be conducted at least fifteen (15) minutes apart.
- d) Records. Copies of gauging and measurement records shall be furnished to SABINE immediately upon completion of unloading.
- e) Gauging Liquid Level of LNG. The level of the LNG in each LNG tank of the LNG Vessel shall be gauged by means of the primary gauging device installed in the LNG Vessel for that purpose. The level of the LNG in each tank shall be logged or printed.

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Measurement of the liquid level in each LNG tank of the LNG Ship shall be made to the nearest millimeter by using the primary liquid level gauging devices. Should the primary devices fail, the secondary device shall be used.

Five (5) readings shall be made following manufacturer's recommendations on reading interval. The arithmetic average of the readings rounded to the nearest millimetre using one (1) decimal place shall be deemed the liquid level.

- f) Determination of Temperature. The temperature of the LNG and of the vapor space in each LNG tank shall be measured by means of a sufficient number of properly located temperature measuring devices to permit the determination of average temperature. Temperatures shall be measured at the same time as the liquid level measurements and shall be logged or printed.

In order to determine the temperature of liquid and vapor respectively in the LNG Vessel one (1) reading shall be taken at each temperature gauging device in each LNG tank. An arithmetic average of such readings rounded to the nearest zero point one degree Celsius (0.1°C) using two (2) decimal places with respect to vapor and liquid in all LNG tanks shall be deemed the final temperature of the vapor and liquid respectively.

Customer shall cause each cargo tank in the LNG Vessel to be provided with a minimum of five (5) temperature measuring devices. One such measuring device shall be located in the vapor space at the top of each cargo tank, one near the bottom of each cargo tank and the remainder distributed at appropriate intervals from the top to the bottom of the cargo tank. These devices shall be used to determine the average temperatures of the liquid cargo and the vapor in the cargo tank.

The average temperature of the vapor in an LNG Vessel shall be determined immediately before unloading by means of the temperature measuring devices specified above at the same time as when the liquid level is measured. The temperature measuring devices shall be fully surrounded by the vapor. This determination shall be made by taking the temperature readings of the temperature measuring devices in question to the nearest zero point zero one degrees Celsius (0.01°C), and if more than one of the devices are fully surrounded by the vapor, by averaging those readings, and rounding to 1 decimal place.

- g) Determination of Pressure. The pressure of the vapor in each LNG tank shall be determined by means of pressure measuring devices installed in each LNG tank of the LNG Vessels. The atmospheric pressure shall be determined by readings from the standard barometer installed in the LNG Vessels. Pressures shall be measured at the same time as the liquid level measurements, and shall be logged or printed.

Customer shall cause the LNG Vessel to be provided with pressure measuring equipment capable of determining the absolute pressure of the vapor in each cargo tank with an accuracy equal to or better than plus or minus one percent ($\pm 1\%$) of the measuring range.

The pressure of the vapor in an LNG Vessel shall be determined immediately before unloading at the same time as when the liquid level is measured.

Such determination shall be made by taking the pressure readings of the pressure measuring devices to the nearest millibar, then averaging these readings and rounding to a whole millibar.

- h) Determination of Density. The LNG density shall be calculated using the method described within ISO 6976-2000, Calculation of calorific values, density, relative density and Wobbe Index from composition. This method shall be updated to conform to any official published revision of that document. Should any improved data, method of calculation or direct measurement device become available which is acceptable to both Customer and SABINE, such improved data, method or device shall then be used. If density is determined by measurements, the results shall be measured at the same time as the liquid level measurements and shall be logged or printed.

8. Samples for Quality Analysis

- a) General. Flow proportional representative liquid samples shall be collected from an appropriate point located as close as practical to the unloading line starting two (2) hours after the beginning of transfer and ending two (2) hours before the end of transfer. Samples taken when biphasic or overheated LNG is suspected to be in the main transfer line will be disregarded. These incremental samples will be passed through a vaporizer, and samples of the vaporized liquid will be analyzed. The resulting analyses, which are proportional to time, will be mathematically flow rate weighted to yield an analysis that is representative of the unloaded Cargo. This flow rate weighted analysis shall be used for all appropriate calculations associated with the delivered Cargo. Should the automatic sampling system fail during the unloading, manual samples shall be collected and analyzed for accounting purposes.
- b) Manual Samples. Prior to the end of the unloading cycle, two (2) spot samples shall be collected from the vaporizer. Spot samples shall be collected in accordance with Gas Processors Association ("GPA") Standard 2166 - Methods for Obtaining Gas Samples for Analysis by Gas Chromatography - or by other mutually agreeable methods. The samples shall be properly labeled and then distributed to Customer and SABINE. SABINE shall retain one (1) sample for a period of thirty (30) days, unless the analysis is in dispute. If the analysis is in dispute, the sample will be retained until the dispute is resolved.

Sampling and analysis methods and procedures that differ from the above may be employed with the mutual agreement of the Parties.

9. Quality Analysis

- a) Certification and Deviation. Chromatograph calibration gasses shall be provided and their composition certified by an independent third party. From time to time, deviation checks shall be performed to verify the accuracy of the gas composition

mole percentages and resulting calculated physical properties. Analyses of a sample of test gas of known composition resulting when procedures that are in accordance with the above mentioned standards have been applied will be considered as acceptable if the resulting calculated gross real heating value is within plus or minus zero point three percent (± 0.3) of the known gross real heating value of the test gas sample. If the deviation exceeds the tolerance stated, the gross real heating value, relative density and compressibility previously calculated will be corrected immediately. Previous analyses will be corrected to the point where the error occurred, if this can be positively identified to the satisfaction of both Parties. Otherwise it shall be assumed that the drift has been linear since the last recalibration and correction shall be based on this assumption.

- b) GPA Standard 2261. All samples shall be analyzed by SABINE to determine the molar fraction of the hydrocarbon and other components in the sample by gas chromatography using a mutually agreed method in accordance with GPA Standard 2261 - Method of Analysis for Gas and Similar Gaseous Mixtures by Gas Chromatography, current as of January 1, 1990 and as periodically updated or as otherwise mutually agreed by the Parties. If better standards for analysis are subsequently adopted by GPA or other recognized competent impartial authority, upon mutual agreement of Customer and SABINE, they shall be substituted for the standard then in use, but such substitution shall not take place retroactively. A calibration of the chromatograph or other analytical instrument used shall be performed by SABINE immediately prior to the analysis of the sample of LNG delivered. SABINE shall give advance notice to Customer of the time SABINE intends to conduct a calibration thereof, and Customer shall have the right to have a representative present at each such calibration; provided, however, SABINE will not be obligated to defer or reschedule any calibration in order to permit the representative of Customer to be present.
- c) GPA Standard 2377 and 2265. SABINE shall determine the presence of Hydrogen Sulfide (H_2S) by use of GPA Standard 2377 - Test of Hydrogen Sulfide and Carbon Dioxide in Gas Using Length of Stain Tubes. If necessary, the concentration of H_2S and total sulfur will be determined using one or more of the following methods as is appropriate: gas chromatography, Gas Processors Standard 2265 - Standard for Determination of Hydrogen Sulfide and Mercaptan Sulfur in Gas (Cadmium Sulfate - Iodometric Titration Method) or any other method that is mutually acceptable.

10. Operating Procedures

- a) Notice. Prior to conducting operations for measurement, gauging, sampling and analysis provided in this Annex I, the Party responsible for such operations shall notify the appropriate representatives of the other Party, allowing such representatives reasonable opportunity to be present for all operations and computations; provided that the absence of the other Party's representative after notification and opportunity to attend shall not prevent any operations and computations from being performed.

- b) Independent Surveyor. At the request of either Party any measurement, gauging, sampling and analysis shall be witnessed and verified by an independent surveyor mutually agreed upon by Customer and SABINE. The results of such surveyor's verifications shall be made available promptly to each Party.
- c) Preservation of Records. All records of measurement and the computed results shall be preserved by the Party responsible for taking the same, or causing the same to be taken, and made available to the other Party for a period of not less than three (3) years after such measurement and computation.

11. Quantities Delivered

- a) Calculation of MMBTU Quantities. The quantity of MMBTUs delivered shall be calculated by SABINE and verified by Customer. Either Party may, at its own expense, require the measurements and calculations and/or their verification by an independent surveyor, mutually agreed upon by the Parties. Consent to an independent surveyor proposed by a Party shall not be unreasonably withheld by the other Party.
- b) Determination of Gross Real Heating Value. All component values shall be in accordance with the latest revision of ISO 6579 and the latest revision of the reference standards therein.
- c) Determination of Volume of LNG Unloaded.
- (i) The LNG volume in the tanks of the LNG Vessel before and after unloading (valves have to be closed) shall be determined by gauging on the basis of the tank gauge tables provided for in Paragraph 6. The volume of LNG remaining in the tanks after unloading of the LNG Vessel shall be subtracted from the volume before unloading and the resulting volume shall be taken as the volume of the LNG delivered from the LNG Vessel.
- The volume of LNG stated in cubic metres to the nearest zero point zero zero one (0.001) cubic metre, shall be determined by using the tank gauge tables and by applying the volume corrections set forth therein.
- (ii) Gas returned to the LNG Vessel during unloading shall not be deemed to be volume unloaded for Customer's account.
- (iii) If failure of the primary gauging and measuring devices of an LNG Vessel should make it impossible to determine the LNG volume, the volume of LNG unloaded shall be determined by gauging the liquid level using the secondary gauging and measurement devices. If an LNG Vessel is not so equipped, the volume of LNG delivered shall be determined by gauging the liquid level in SABINE's onshore LNG storage tanks immediately before and after unloading the LNG Vessel, and such volume shall have added to it an estimated LNG volume, agreed upon by the Parties, for boil-off from such tanks during the unloading of such LNG Vessel and have

added to it the volume of any LNG that has been pumped from the LNG Vessel's tanks during unloading. SABINE shall provide Customer, or cause Customer to be provided with, a certified copy of tank gauge tables for each onshore LNG tank which is to be used for this purpose, such tables to be verified by a competent impartial authority.

12. Calculations

The calculation procedures contained in this Section are generally in accordance with the Institute of Petroleum Measurement Manual, Part XII, the Static Measurement of Refrigerated Hydrocarbon Liquids, Section 1, IP 251/76.

- d = density of LNG unloaded at the prevailing composition and temperature Tl in kg/m³, rounded to two (2) decimal places, calculated according to the method specified in Paragraph 12.1 of this Annex I.
- Hi = gross heating value (mass based) of component "i" in MJ/kg, in accordance with Paragraph 12.6.1 of this Annex I.
- Hm = gross heating value (mass based) of the LNG unloaded in MJ/kg, calculated in accordance with the method specified in Paragraph 12.3 of this Annex I, rounded to four (4) decimal places.
- Hv = gross heating value (volume based) of the LNG unloaded in Btu/SCF, calculated in accordance with the method specified in Paragraph 12.5 of this Annex I.
- K1 = volume correction in m³/kmol, at temperature Tl, obtained by linear interpolation from Paragraph 12.6.3 of this Annex I, rounded to six (6) decimal places.
- K2 = volume correction in m³/kmol, at temperature Tl obtained by linear interpolation from Paragraph 12.6.4 of this Annex I, rounded to six (6) decimal places.
- Mi = molecular mass of component "i" in kg/kmol, in accordance with Paragraph 12.6.1 of this Annex I.
- P = average absolute pressure of vapor in an LNG Vessel immediately before unloading, in millibars, rounded to a whole millibar.
- Q = number of MMBtu contained in the LNG delivered, rounded to the nearest ten (10) MMBtu.
- Tl = average temperature of the liquid cargo in the LNG Vessel immediately after unloading, in degrees Celsius, rounded to one (1) decimal place.
- Tv = average temperature of the vapor in an LNG Vessel immediately before unloading, in degrees Celsius, rounded to one (1) decimal place.
- V = the volume of the liquid cargo unloaded, in cubic metres, rounded to three (3) decimal places.

- Vh = the volume of the liquid cargo in an LNG Vessel immediately after unloading, in cubic metres, rounded to three (3) decimal places.
- Vb = the volume of the liquid cargo in an LNG Vessel immediately before unloading, in cubic metres, rounded to three (3) decimal places.
- Vi = molar volume of component "i" at temperature Tl, in m³/kmol, obtained by linear interpolation from Paragraph 12.6.2 of this Annex I, rounded to six (6) decimal places.
- Xi = molar fraction of component "i" of the LNG samples taken from the receiving line, rounded to four (4) decimal places, determined by gas chromatographic analysis.
- Xm = the value of Xi for methane.

Xn = the value of Xi for nitrogen.

12.1 Density Calculation Formula

The density of the LNG unloaded which is used in the MMBtu calculation in 12.4 of this Annex I shall be calculated from the following formula derived from the revised Klosek-McKinley method:

$$d = \frac{\sum (Xi \times Mi)}{\sum (Xi \times Vi) - \left[K1 + \frac{(K2 - K1) \times Xn}{0.0425} \right] \times Xm}$$

In the application of the above formula, no intermediate rounding shall be made if the accuracy of “d” is thereby affected.

12.2 Calculation of Volume Delivered

The volume, in cubic metres, of each LNG cargo unloaded shall be calculated by using the following formula:

$$V = Vb - Vh$$

12.3 Calculation of Gross Heating Value (Mass Based)

The gross heating value (mass based), in MJ/kg, of each LNG cargo unloaded shall be calculated by using the following formula:

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$$Hm = \frac{\sum (Xi \times Mi \times Hi)}{\sum (Xi \times Mi)}$$

12.4 MMBtu Calculation of the Quantity of LNG Unloaded

The number of MMBtu contained in the LNG unloaded shall be calculated using the following formula:

$$Q = \frac{1}{1055.12} \times \{ (V \times d \times Hm) - (V \times \frac{288.15}{273.15 + Tv} \times \frac{P}{1013.25} \times 37.7) \}$$

The derivation of the conversion factor 1/1055.12 in the formula in this Paragraph for the conversion of MJ into MMBtu is obtained from GPA-2145:1994 and IP-251:1976 as follows:

- (a) $q(T,P)$ means the gross heating value (measured at temperature T and pressure P), contained in a given quantity of gas;
- (b) $q(60^\circ\text{F}, 14.696 \text{ psia})$ in MJ = $1/1.00006 \times q(15^\circ\text{C}, 1013.25 \text{ millibar})$ in MJ;
- (c) 1 MMBtu corresponds to 1055.06 MJ;
- (d) $q(60^\circ\text{F}, 14.696 \text{ psia})$ in MMBtu = $1/1055.06 \times q(60^\circ\text{F}, 14.696 \text{ psia})$ in MJ; and
- (e) Combining (b) and (d) above yields:
 $q(60^\circ\text{F}, 14.696 \text{ psia})$ in MMBtu = $1/1055.12 \times q(15^\circ\text{C}, 1013.25 \text{ millibar})$ in MJ.

Hence the number of MJ derived shall be divided by 1055.12 to obtain the number of MMBtu for invoicing purposes.

12.5 Calculation of Gross Heating Value (Volume Based)

The calculation of the Gross Heating Value (Volume Based) in Btu/SCF shall be derived from the same compositional analysis as is used for the purposes of calculating the Gross Heating Value (Mass Based) Hm and the following formula shall apply:

$$Hv = 1.13285 \times \sum (Xi \times Mi \times Hi)$$

The derivation of the conversion factor 1.13285 for the conversion of MJ/kmol into Btu/SCF is obtained as follows:

- (a) molar gross heating value = $\sum (Xi \times Mi \times Hi)$ MJ/kmol;
- (b) 1 kmol = 2.20462 lbmol;

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- (c) 1 lbmol = 379.482 SCF;
- (d) hence 1 kmol = 836.614 SCF; and
- (e) $Hv = 1,000,000 / (1055.12 \times 836.614) \times \sum (Xi \times Mi \times Hi)$ Btu/SCF; or

$$H_v = 1.13285 \times \sum (X_i \times M_i \times H_i) \text{ Btu/SCF},$$

12.6 Data

12.6.1 Values of H_i and M_i

Component	H_i (in MJ/kg)	M_i (in kg/kmol)
Methane	55.575	16.043
Ethane	51.950	30.070
Propane	50.368	44.097
Iso-Butane	49.388	58.123
N-Butane	49.546	58.123
Iso-Pentane	48.949	72.150
N-Pentane	49.045	72.150
N-Hexane	48.716	86.177
Nitrogen	0	28.013
Carbon Dioxide	0	44.010
Oxygen	0	31.999

Source: GPA Publication 2145 SI-96: "Physical Constants of Paraffin Hydrocarbons and other components of natural gas".

12.6.2 Values of V_i (cubic metre/kmol)

Temperature	-150°C	-154°C	-158°C	-160°C	-162°C	-166°C	-170°C
Methane	0.039579	0.038983	0.038419	0.038148	0.037884	0.037375	0.036890
Ethane	0.048805	0.048455	0.048111	0.047942	0.047774	0.047442	0.047116
Propane	0.063417	0.063045	0.062678	0.062497	0.062316	0.061957	0.061602
Iso-Butane	0.079374	0.078962	0.078554	0.078352	0.078151	0.077751	0.077356
N-Butane	0.077847	0.077456	0.077068	0.076876	0.076684	0.076303	0.075926
Iso-Pentane	0.092817	0.092377	0.091939	0.091721	0.091504	0.091071	0.090641
N-Pentane	0.092643	0.092217	0.091794	0.091583	0.091373	0.090953	0.090535
N-Hexane	0.106020	0.105570	0.105122	0.104899	0.104677	0.104236	0.103800
Nitrogen	0.055877	0.051921	0.048488	0.046995	0.045702	0.043543	0.041779
Carbon Diox	0.027950	0.027650	0.027300	0.027200	0.027000	0.026700	0.026400
Oxygen	0.03367	0.03275	0.03191	0.03151	0.03115	0.03045	0.02980

Source: National Bureau of Standards Interagency Report 77-867, Institute of Petroleum IP251/76 for Oxygen.

Note: For intermediate values of temperature and molecular mass a linear interpolation shall be applied.

12.6.3 Values of Volume Correction Factor, K_1 (cubic metre/kmol)

Molecular Mass of Mixture	-150°C	-154°C	-158°C	-160°C	-162°C	-166°C	-170°C
16.0	-0.000012	-0.000010	-0.000009	-0.000009	-0.000008	-0.000007	-0.000007
16.5	0.000135	0.000118	0.000106	0.000100	0.000094	0.000086	0.000078
17.0	0.000282	0.000245	0.000221	0.000209	0.000197	0.000179	0.000163
17.2	0.000337	0.000293	0.000261	0.000248	0.000235	0.000214	0.000195
17.4	0.000392	0.000342	0.000301	0.000287	0.000274	0.000250	0.000228
17.6	0.000447	0.000390	0.000342	0.000327	0.000312	0.000286	0.000260
17.8	0.000502	0.000438	0.000382	0.000366	0.000351	0.000321	0.000293
18.0	0.000557	0.000486	0.000422	0.000405	0.000389	0.000357	0.000325
18.2	0.000597	0.000526	0.000460	0.000441	0.000423	0.000385	0.000349
18.4	0.000637	0.000566	0.000499	0.000477	0.000456	0.000412	0.000373
18.6	0.000677	0.000605	0.000537	0.000513	0.000489	0.000440	0.000397
18.8	0.000717	0.000645	0.000575	0.000548	0.000523	0.000467	0.000421
19.0	0.000757	0.000685	0.000613	0.000584	0.000556	0.000494	0.000445
19.2	0.000800	0.000724	0.000649	0.000619	0.000589	0.000526	0.000474
19.4	0.000844	0.000763	0.000685	0.000653	0.000622	0.000558	0.000503
19.6	0.000888	0.000803	0.000721	0.000688	0.000655	0.000590	0.000532
19.8	0.000932	0.000842	0.000757	0.000722	0.000688	0.000622	0.000561
20.0	0.000976	0.000881	0.000793	0.000757	0.000721	0.000654	0.000590
25.0	0.001782	0.001619	0.001475	0.001407	0.001339	0.001220	0.001116
30.0	0.002238	0.002043	0.001867	0.001790	0.001714	0.001567	0.001435

Source: National Bureau of Standards Interagency Report 77-867.

Note 1: Molecular mass of mixture equals $\sum (X_i \times M_i)$.

Note 2: For intermediate values of temperature and molecular mass a linear interpolation shall be applied.

12.6.4 Values of Volume Correction Factor, K_2 (cubic metre/kmol)

Molecular Mass of Mixture	-150°C	-154°C	-158°C	-160°C	-162°C	-166°C	-170°C
16.0	-0.000039	-0.000031	-0.000024	-0.000021	-0.000017	-0.000012	-0.000009
16.5	0.000315	0.000269	0.000196	0.000178	0.000162	0.000131	0.000101
17.0	0.000669	0.000568	0.000416	0.000377	0.000341	0.000274	0.000210

17.2	0.000745	0.000630	0.000478	0.000436	0.000397	0.000318	0.000246
17.4	0.000821	0.000692	0.000540	0.000495	0.000452	0.000362	0.000282
17.6	0.000897	0.000754	0.000602	0.000554	0.000508	0.000406	0.000318
17.8	0.000973	0.000816	0.000664	0.000613	0.000564	0.000449	0.000354
18.0	0.001049	0.000878	0.000726	0.000672	0.000620	0.000493	0.000390
18.2	0.001116	0.000939	0.000772	0.000714	0.000658	0.000530	0.000425
18.4	0.001184	0.001000	0.000819	0.000756	0.000696	0.000567	0.000460
18.6	0.001252	0.001061	0.000865	0.000799	0.000735	0.000605	0.000496
18.8	0.001320	0.001121	0.000912	0.000841	0.000773	0.000642	0.000531
19.0	0.001388	0.001182	0.000958	0.000883	0.000811	0.000679	0.000566
19.2	0.001434	0.001222	0.000998	0.000920	0.000844	0.000708	0.000594
19.4	0.001480	0.001262	0.001038	0.000956	0.000876	0.000737	0.000623
19.6	0.001526	0.001302	0.001078	0.000992	0.000908	0.000765	0.000652
19.8	0.001573	0.001342	0.001118	0.001029	0.000941	0.000794	0.000681
20.0	0.001619	0.001382	0.001158	0.001065	0.000973	0.000823	0.000709
25.0	0.002734	0.002374	0.002014	0.001893	0.001777	0.001562	0.001383
30.0	0.003723	0.003230	0.002806	0.002631	0.002459	0.002172	0.001934

Source: National Bureau of Standards Interagency Report 77-867.

Note 1: Molecular mass of mixture equals $\sum (X_i \times M_i)$.

Note 2: For intermediate values of temperature and molecular mass a linear interpolation shall be applied.

ANNEX II

MEASUREMENTS AND TESTS FOR GAS AT DELIVERY POINT

1. Applicability. The measurement procedures in this Annex II shall apply to the measurement of quantities (volume, energy) Gas delivered by SABINE for Customer's Account at the Delivery Point.
2. Unit of Measurement. All Gas delivered at the Delivery Point shall be measured in MMBTUs.
3. Metering.
 - (a) Metering Equipment. SABINE shall supply, operate and maintain (or cause to be supplied, operated and maintained at or near the Delivery Point) the following:
 - i) meters with redundancy and other equipment as is necessary to accurately measure the volume of Gas delivered at the Delivery Point hereunder;
 - ii) devices for collecting samples and for determining the quality and composition of Gas delivered at the Delivery Point hereunder; and
 - iii) and any other measurement or testing devices which are necessary to perform the measurement and testing required hereunder at the Delivery Point.

(collectively, the "**Downstream Metering Equipment**"). The Downstream Metering Equipment shall be designed and installed in accordance with the current recommendations of the American Gas Association, Report No. 3 and 9 for Ultrasonic Metering.
 - (b) Check Measurement Equipment and Access. Customer may, at Customer's expense, install and operate, at or near the Downstream Metering Equipment, independent check measuring equipment similar to the Downstream Metering Equipment to monitor the accuracy of the measurements made by the Downstream Metering Equipment. Such check metering equipment will be installed and operated by Customer so that it does not unreasonably interfere with the operation of the Downstream Metering Equipment.
 - (c) General. A pressure transmitter shall be installed on each meter tube to measure the static pressure at the plane of the upstream differential pressure tapping. The temperature of the flowing Gas shall be measured on each meter tube by a platinum resistance thermometer installed in a thermowell so that the probe tip is in the center one-third of the pipe. Each meter run shall be provided with a dedicated microprocessor-based flow computer system powered by an appropriate back-up power supply.
 - (d) Measuring and Density Standards. Gas shall be measured by ultrasonic meters. Ultrasonic meters shall be constructed and operated, Gas shall be measured, and properties shall be determined in accordance with American Gas Association, Report No. 9 and any subsequent modification and amendment thereof. The compressibility and density shall be calculated in accordance with the latest

revision of the American Gas Association, Report No. 9. Metering equipment shall include the use of flow conditioners, straightening vanes, and pulsation dampening devices where necessary. Meter tubes shall be of a design incorporating suitable access for periodic internal inspection, including access for internal inspection of the upstream side of the flow conditioner. Electronic gas measurement with a continuous readout of pressure, temperature, and Gas flow rate shall be used. All computations shall be made as prescribed in the above cited standard.

- (e) Ultrasonic Metering Standard. All ultrasonic metering shall comply with the American Gas Association, Report No. 9 and any subsequent modification and amendment thereof.
4. Determination of Gross Heating Value.
 - (a) GPA 2261 and 2145. The heating value of the Gas delivered by SABINE at the Delivery Point shall be determined by gas chromatograph. The composition

of the Gas shall be continuously measured by on-line chromatographs. The Gross Heating Value of the Gas shall be calculated using results from the on-line chromatograph. The chromatographs will analyze all hydrocarbon components, up to and including at least the Nonanes+ group, and inerts having a concentration of greater than 0.002 mol percent. The determination of Gas composition shall be in accordance with the GPA Standard 2261 – Analysis for Natural Gas and Similar Gaseous Mixtures by Gas Chromatography. All physical properties used in quality and quantity calculations shall be based on these compositional analyses and the component values published in GPA 2145, or the latest revision thereof. Water vapor content shall be included in the component analyses. The sample analysis cycle time shall be less than six (6) minutes. The maximum response time from sample probe to analyzer shall be four (4) minutes. In the event of failure of the on-line Gas chromatograph, chromatograph analysis of samples collected proportional to the flow through the meters shall be used. Auto-calibration of the Gas chromatograph shall be conducted on a weekly basis or as otherwise mutually agreed by the Parties.

- (b) GPA 2145. Back-up composite samples of the flowing Gas shall be obtained weekly to be used for relative density (specific gravity), Gross Heating Value, and compressibility factors in case of electronic failure. Composite sampling of the flowing stream shall be by use of a mutually agreeable continuous sampler, designed and installed to sample proportionally to the flow rate. The end point of each composite sample chromatographic analysis shall be the Nonane+ fraction, and values for this fraction shall be based on the C9 value in the latest revision of GPA Standard 2145 – Table of Physical Constants of Paraffin Hydrocarbons and Other Components of Natural Gas. All component values shall be in accordance with such standard.
- (c) Quarterly Deviation Checks. Monthly gas chromatograph deviation checks shall be made on Gas composition mole percentages and resulting Gross Heating Value. Analyses of a sample of test Gas of known composition resulting when procedures that are in accordance with the above mentioned standards have been

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applied will be considered as acceptable if the resulting calculated Gross Heating Value is within plus or minus five (5) BTU per Standard Cubic Foot of the known Gross Heating Value. If the deviation exceeds the tolerance stated, Gross Heating Value, relative density, and compressibility previously calculated will be corrected immediately. Previous analyses will be corrected to the point where the error occurred. If the point that the error occurred cannot be determined, previous analyses will be corrected for one-half the period since the last verification test, not to exceed a correction period of six months.

- (d) Corrections for Water Content. The heating value on a dry basis for Gas containing water shall be corrected in accordance with standards followed by the American Gas Association. Moisture content of flowing Gas shall be determined as often as found necessary in real practice by use of a mutually acceptable calculation or test instrument, which could include a Meco Moisture Analyzer.

5. Operating Procedures

- (a) Notice. Prior to conducting operations for measurement, calibration, sampling and analysis provided in Annex II, the Party responsible for such operations shall notify the appropriate representatives of the other Party, allowing such representatives reasonable opportunity to be present for all operations and computations; provided that the absence of the other Party's representative after notification and opportunity to attend shall not prevent any operations and computations from being performed.
- (b) Independent Surveyor. At the request of either Party any measurement, calibration, sampling and analysis shall be witnessed and verified by an independent surveyor mutually agreed upon by Customer and SABINE. The results of such surveyor's verifications shall be made available promptly to each Party.
- (c) Preservation of Records. All records of measurement and the computed results shall be preserved by the Party responsible for taking the same, or causing the same to be taken, and made available to the other Party for a period of not less than three (3) years after such measurement and computation.

6. Verification. At least once each month, and in addition, from time to time upon at least two (2) weeks prior written notice by either Party to the other, SABINE shall verify or cause to be verified the accuracy of the Downstream Metering Equipment. When as a result of such test any of the Downstream Metering Equipment is found to be out of calibration within the accuracy provided by the manufacturer in the specification for such equipment, no adjustment shall be made to the Fee. If the testing of the Downstream Metering Equipment demonstrates that any meter is out of calibration by more than the accuracy provided by the manufacturer in the specifications for such equipment, the applicable Downstream Metering Equipment reading for the actual period during which out of calibration measurements were made shall be estimated as follows, in descending order of priority:

- (a) by using the registration of any check meter or meters if installed and accurately registering;

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- (b) by correcting the error if the percentage of error is ascertainable by calibration, test, or mathematical calculation; or
- (c) by estimating the quantity of delivery by measuring deliveries during prior periods under similar conditions when any meter was registering accurately.

If the actual period that such equipment has been out of calibration cannot be determined to the mutual satisfaction of SABINE and Customer, the adjustment shall be for a period equal to one-half of the time elapsed since the most recent test. The previous payments made by Customer to SABINE for this period shall be subtracted from the amount of payments that are calculated to have been owed under this Agreement. The difference (which may be a positive or negative amount) shall be added to the next monthly statement pursuant to Section 12.2.

7. Costs. The cost of the monthly testing and calibration of the Downstream Metering Equipment shall be borne by SABINE. The cost of any testing and calibration of the Downstream Metering Equipment beyond the monthly test permitted above shall also be paid by SABINE, unless the request to test any of the Downstream Metering Equipment is made by Customer and the results of such test requested by Customer demonstrate that the Downstream Metering Equipment is less than one percent (1%) out of calibration or outside of the accuracy given by the manufacturer, in which case the cost of such testing and calibration shall be for Customer's account. Each Party shall comply with any reasonable request of the other Party concerning the sealing of the Downstream Metering Equipment, the presence of a representative of Customer when the seals are broken and tests are conducted, and other matters affecting the accuracy, testing and calibration of the Downstream Metering Equipment.

8. Disputes. Any Dispute arising under this Annex II shall be submitted to an Expert under Section 20.2.

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EXHIBIT A

FORM OF PARENT GUARANTEE

Guarantee, dated as of _____, 2004, by TOTAL S.A., a corporation organized under the laws of France (the "Guarantor"), in favor of SABINE PASS LNG, L.P., a limited partnership organized under the laws of the state of Delaware, U.S.A. ("Guaranteed Party").

1. **Guarantee.** To induce the Guaranteed Party to enter into the LNG Terminal Use Agreement dated as of September 2, 2004 (the "Agreement") with TOTAL LNG USA, INC. (the "Company"), the Guarantor absolutely, unconditionally and irrevocably guarantees to the Guaranteed Party and its successors and permitted assigns the prompt payment of all amounts that become due and payable (subject to any applicable grace period) by the Company to the Guaranteed Party under the Agreement from and after the "Commercial Start Date" as such term is defined in the Agreement, including payment obligations in respect of any breach of the Agreement by the Company after the Commercial Start Date (collectively, the "Obligations"); provided, however, the Guarantor's total liability in respect of the Obligations shall be a cumulative maximum amount of Two Billion Five Hundred Million U.S dollars (\$2,500,000,000) (the "Maximum Guaranteed Amount"). All amounts paid by or on behalf of the Company pursuant to the Agreement in respect of the Obligations shall be included in determining whether the Maximum Guaranteed Amount has been reached and shall count towards the satisfaction thereof for all purposes of this Guarantee. Notwithstanding anything to the contrary, the following are excluded from the definition of Obligations and the Guarantor shall have no liability in respect thereof: obligations to pay the Guaranteed Party or third parties for claims or by way of indemnity or contribution for claims arising in tort or strict liability, or claims for damages to property of the Guaranteed Party or any third party or personal injury to the Guaranteed Party's or any third party's employees, agents or contractors under the laws of any jurisdiction. For the avoidance of doubt, in no event shall Guarantor have any obligation under the Guarantee unless and until the Commercial Start Date occurs.

2. **Nature of Guarantee.** This Guarantee is a primary and original obligation of Guarantor and is an absolute, unconditional, irrevocable guaranty and, to the extent permitted by applicable law, shall remain in full force and effect without regard to any invalidity with respect to the execution and delivery of the Agreement by the Company or the execution and delivery by the Company of any other agreement between the Company and the Guaranteed Party. The Guarantor's obligations hereunder shall not be affected by the existence, validity, enforceability, perfection or extent of any collateral therefor or by any other circumstance relating to the Obligations that might otherwise constitute a legal or equitable discharge of or defense to the Guarantor not available to the Company. The Guarantor agrees that the Guaranteed Party may resort to the Guarantor for payment of any of the Obligations whether or not the Guaranteed Party shall have resorted to any collateral therefor or shall have proceeded against the Company or any other obligor principally or secondarily obligated with respect to any of the Obligations. The Guaranteed Party shall not be obligated to file any claim relating to the Obligations in the event that the Company becomes subject to a bankruptcy, reorganization or similar proceeding, and the failure of the Guaranteed Party to so file shall not affect the Guarantor's obligations hereunder. In the event that any payment to the Guaranteed Party in respect of any Obligations

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is rescinded or must otherwise be returned for any reason whatsoever, the Guarantor shall remain liable hereunder with respect to such Obligations as if such payment had not been made. The Guarantor reserves the right to (a) set-off against any payment that has become due and payable hereunder any amount that has become due and payable by the Guaranteed Party to the Company under the Agreement and (b) assert defenses which the Company may have under or with respect to the Agreement to payment of any Obligations other than defenses arising from the bankruptcy or insolvency of the Company or the Company's failure to have the authority to (x) execute or deliver the Agreement or (y) perform its obligations under the Agreement. Any arbitral decision (whether in a contested arbitration, by default or otherwise) under the Agreement shall conclusively determine the liability of the parties hereto with respect to the subject matter of such arbitral decision.

3. **Changes in Obligations, Collateral therefor and Agreements Relating thereto; Waiver of Certain Notices** The Guarantor agrees that the Guaranteed Party may at any time and from time to time, either before or after the maturity thereof, without notice to or further consent of the Guarantor, extend the time of payment of, or exchange or surrender any collateral for, any of the Obligations, and may also make any agreement with the Company or with any other party to or person liable on any of the Obligations or interested therein, for the extension, payment, compromise, discharge or release thereof, in whole or in part, or for any modification or any amendment of the terms of the Agreement (other than any Restricted Amendment) or of any agreement between the Guaranteed Party and the Company or any such other party or person without in any way impairing or affecting this Guarantee. "Restricted Amendment" means any modification or amendment of the Agreement which (i) extends the term of the Agreement or (ii) increases the amount to be paid by the Company under the Agreement. Notwithstanding the foregoing, Guarantor agrees that (x) if a Restricted Amendment is executed without its written consent that extends the term of the Agreement, this Guarantee shall remain in full force and effect for the term specified in the Agreement prior to such Restricted Amendment and (y) if a Restricted Amendment is executed without its written consent that increases the amount to be paid by the Company under the Agreement, the Guarantor shall remain liable for such of the Obligations as would have been owed had such Restricted Amendment not been executed. The Guarantor waives:

- (a) notice of the acceptance of this Guarantee;
- (b) notice of the creation, existence or acquisition of all or any part of the Obligations;
- (c) notice or consent respecting any modification of the Obligations or the Agreement (other than any Restricted Amendment);
- (d) notice of adverse change in the Company's financial condition or of any other fact which might increase the Guaranteed Party's risk;
- (e) notice of presentment, demand for payment, notice of dishonor and protest with respect to any instrument; and
- (f) notice of Company's default.

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4. **Expenses.** The Guarantor agrees to pay on demand all fees and out of pocket expenses (including the reasonable fees and expenses of the Guaranteed Party's counsel) in any way relating to the enforcement or protection of the rights of the Guaranteed Party hereunder; provided, that the Guarantor shall not be liable for any expenses of the Guaranteed Party if no payment under this Guarantee is otherwise due.

5. **Subrogation.** Upon payment of the Obligations, the Guarantor shall be subrogated to the rights of the Guaranteed Party against the Company with respect to such Obligations, provided that such right of subrogation shall not be exercised until the earlier of (a) the satisfaction in full of all indebtedness of the Guaranteed Party secured by the "Sabine Pass Facility" (as defined in the Agreement) or (b) the satisfaction in full of all Obligations.

6. **No Waiver; Cumulative Rights.** No failure on the part of the Guaranteed Party to exercise, and no delay in exercising, any right, remedy or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise by the Guaranteed Party of any right, remedy or power hereunder preclude any other or future exercise of any right, remedy or power. Each and every right, remedy and power hereby granted to the Guaranteed Party or allowed it by law or other agreement shall be cumulative and not exclusive of any other, and may be exercised by the Guaranteed Party at any time or from time to time.

7. **Representations and Warranties.** The Guarantor hereby represents and warrants that:

- (a) the Guarantor is duly organized, validly existing and in good standing under the laws of France and has full corporate power to execute, deliver and perform this Guarantee;

(b) the execution, delivery and performance of this Guarantee have been duly authorized by all necessary corporate action and do not contravene any provision of the Guarantor's certificate of incorporation or by-laws or any law, regulation, rule, decree, order, judgment or contractual restriction binding on the Guarantor or its assets;

(c) all consents, licenses, clearances, authorizations and approvals of, and registrations and declarations with, any governmental authority or regulatory body necessary for the due execution, delivery and performance of this Guarantee have been obtained and all conditions thereof have been duly complied with, and no other action by, and no notice to or filing with, any governmental authority or regulatory body is required in connection with the execution, delivery or performance of this Guarantee; and

(d) this Guarantee constitutes a legal, valid and binding obligation of the Guarantor enforceable against the Guarantor in accordance with its terms, subject to bankruptcy, insolvency, reorganization, moratorium and other laws of general applicability relating to or affecting creditors' rights and to general equity principles.

8. **Assignment.** Except as otherwise expressly provided in this Guarantee, neither the Guarantor nor the Guaranteed Party may assign its rights, interests or obligations hereunder to any other person or entity without the prior written consent of the Guarantor or the Guaranteed Party, as the case may be. The Guaranteed Party shall be entitled to assign, mortgage or pledge

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all or any of its rights, interests, and benefits hereunder to secure payment of any indebtedness incurred or to be incurred in connection with the financing of the development of the "Sabine Pass Facility" (as such term is defined in the Agreement). Guarantor shall execute and deliver to the lenders to whom such indebtedness is owed a consent to such assignment in reasonable form and substance acceptable to the Guarantor and such lenders.

9. **Notices.** All notices or demands on the Guarantor shall be deemed effective when received, shall be in writing and shall be delivered by hand or by registered mail, or by facsimile transmission promptly confirmed by registered mail, addressed to the Guarantor at:

TOTAL S.A.
2 place de la Coupole
92078 Paris La Défense Cedex
France
Attention: Legal Director, Gas & Power
Facsimile: 331.4744.3807

or to such other address or facsimile number as the Guarantor shall have notified the Guaranteed Party in a written notice delivered to the Guaranteed Party.

10. **Termination.**

(a) This Guarantee shall remain in full force and effect and shall be binding on the Guarantor, its successors and assigns until the first to occur of any of the following events (a "**Termination Event**"): (i) all obligations of the Guarantor hereunder having been satisfied (including, without limitation, as a result of the Guaranteed Party (and/or its designee) having received an amount, in the aggregate, equal to the Maximum Guaranteed Amount pursuant to the Agreement and/or this Guarantee), (ii) such time that the Company or its assignee or successor in interest under the Agreement would have satisfied the Credit Test if the Company or such assignee or successor in interest had been a replacement guarantor as referred to in Section 10(b) below, (iii) termination as provided in Section 10(b) below, (iv) termination as provided in Section 10(c) below, or (v) the 20th anniversary of the Commercial Start Date. For the avoidance of doubt and without limiting the terms of this Section 10(a), this Guarantee shall terminate in its entirety upon the termination of the Agreement and the satisfaction of all Obligations.

(b) Guarantor shall have the right to cause to be provided a replacement guaranty that is in full substitution for and in lieu of this Guarantee where the proposed replacement guarantor satisfies the Credit Test and the proposed form of replacement guaranty is, in all material respects, no less favorable to the Guaranteed Company than this Guarantee. Upon the execution and delivery of such a replacement guarantee by a replacement guarantor who satisfies the Credit Test, this Guarantee automatically shall terminate and be null and void for all purposes. "**Credit Test**" means that after giving effect to the execution and delivery of such a replacement guaranty by the proposed replacement guarantor, it shall be established to the Guaranteed Party's reasonable satisfaction that the proposed replacement guarantor has a credit rating with respect to its senior long-term unsecured debt of "A3" (or higher) by Moody's Investor Service

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("Moody's") or "A-" (or higher) by Standard and Poor's ("S&P") (provided that in the event either such rating agency ceases to publish such ratings, an equivalent rating by a comparable rating agency shall be used).

(c) Guarantor shall have the right to cause to be provided to the Guaranteed Party an Acceptable Letter of Credit in an aggregate amount equal to the then current LC Amount that is in full substitution for and in lieu of this Guarantee. Upon the execution and delivery of such Acceptable Letter of Credit by an Acceptable LC Issuer and the execution and delivery of the Escrow Agreement by the Guarantor and the Guaranteed Party, this Guarantee automatically shall terminate and be null and void for all purposes. "**Acceptable Letter of Credit**" shall mean an irrevocable standby letter of credit in form and substance reasonably satisfactory to the Guaranteed Party issued to and for the benefit of the Guaranteed Party on which the Guaranteed Party may: (i) draw upon demand for any amounts that have become due and payable by the Company under the Agreement or (ii) draw the entire remaining amount under the Acceptable Letter of Credit if the Acceptable Letter of Credit is not renewed or replaced to the full value of the LC Amount not later than thirty (30) days prior to the scheduled date of its expiry. In order to be an "Acceptable Letter of Credit", a letter of credit must be issued by an Acceptable LC Issuer and must by its terms have an initial expiration date at least twelve months beyond its date of issuance and require the issuer to provide a written notice of non-renewal at least thirty days prior to its current expiration date. Any amount drawn by the Guaranteed Party because the Acceptable Letter of Credit is not renewed or replaced (the "**Escrow Amount**") that has not yet been applied to amounts then due and payable by the Company under the Agreement shall be held in a special account (established pursuant to an escrow agreement mutually acceptable to the Guarantor and the Guaranteed Party (the "**Escrow Agreement**")), which Escrow Agreement shall provide that (x) all interest earned on the Escrow Amount shall be released monthly to the Guarantor or its designee and (y) for every dollar of Obligations paid by the Company pursuant to the Agreement, one dollar of the Escrow Amount shall be released to the Guarantor or its designee) for the Guaranteed Party's benefit to secure the performance of the Company of the Obligations (which account will be pledged to the Guaranteed Party's lenders). The remaining balance of the Escrow Amount shall be returned promptly to the Company should the Acceptable Letter of Credit be replaced or renewed or the Agreement be terminated (subject to withholding for any claim that the Guaranteed Party may have against the Company), with any interest accrued on the Escrow Amount to be added to, and treated similarly to, the principal amount. "**Acceptable LC Issuer**" shall mean a United States bank or trust company (or other bank or trust company that is reputable) that has both a short-term and long-term Dollar deposit rating of at least Prime-1 and A2 by Moody's or of at least A-1 and A by S&P, provided in either case, in the event Moody's or S&P ceases to publish deposit ratings, an equivalent deposit rating by a comparable rating agency shall be used. The Acceptable Letter of Credit shall be governed by the laws of the State of New York. "**LC Amount**" shall mean the Maximum Guaranteed Amount reduced in accordance with Section 1 to reflect all amounts paid by or on behalf of the Company pursuant to the Agreement in respect of the Obligations.

- (d) This Guarantee shall be returned by Guaranteed Party to Guarantor immediately after the occurrence of a Termination Event.

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11. **Governing Law.** This Guarantee shall be governed by and construed in accordance with the laws of the State of New York, without regard to principles of conflicts of laws.

12. **Dispute Resolution.**

(a) **Arbitration.** Any Dispute shall be exclusively and definitively resolved through final and binding arbitration, it being the intention of the Parties that this is a broad form arbitration agreement designed to encompass all possible disputes. “Dispute” means any dispute, controversy or claim (of any and every kind or type, whether based on contract, tort, statute, regulation, or otherwise) arising out of, relating to, or connected with this Guarantee or the Agreement, including any dispute as to the construction, validity, interpretation, termination, enforceability or breach of this Guarantee or the Agreement, as well as any dispute over arbitrability or jurisdiction.

(b) **Rules.** The arbitration shall be conducted in accordance with the International Arbitration Rules (the “Rules”) of the American Arbitration Association (“AAA”) (as then in effect).

(c) **Number of Arbitrators.** The arbitral tribunal (“Tribunal”) shall consist of three (3) arbitrators, who shall endeavor to complete the final hearing in the arbitration within six months after the appointment of the last arbitrator.

(d) **Method of Appointment of the Arbitrators.** Guaranteed Party and Guarantor (the “Parties”) shall each appoint one (1) arbitrator within thirty (30) days of the commencement of the arbitration, and the two arbitrators so appointed shall select the presiding arbitrator within thirty (30) days after the latter of the two arbitrators has been appointed by the Parties. If a Party fails to appoint its Party-appointed arbitrator or if the two Party-appointed arbitrators cannot reach an agreement on the presiding arbitrator within the applicable time period, then the AAA shall serve as the appointing authority and shall appoint the remainder of the three arbitrators not yet appointed. If the party-appointed arbitrators cannot reach an agreement on the presiding arbitrator within the applicable time period, then the AAA as the appointing authority shall make the prescribed appointment.

(e) **Consolidation.** If the Parties (and/or the Company) initiate multiple arbitration proceedings under this Guarantee and/or under the Agreement, the subject matters of which are related by common questions of law or fact and which could result in conflicting awards or obligations, then either Party may request prior to the appointment of the arbitrators for such multiple or subsequent disputes that all such proceedings be consolidated into a single arbitral proceeding. Such request shall be directed to the AAA, which shall consolidate appropriate proceedings into a single proceeding unless consolidation would result in undue delay for the arbitration of the Disputes.

(f) **Place of Arbitration.** Unless otherwise agreed by all Parties to the Dispute, the place of arbitration shall be Houston, Texas.

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(g) **Language.** The arbitration proceedings shall be conducted in the English language, and the arbitrators shall be fluent in the English language.

(h) **Entry of Judgment.** The award of the arbitral tribunal shall be final and binding. Judgment on the award of the arbitral tribunal may be entered and enforced by any court of competent jurisdiction.

(i) **Qualifications and Conduct of the Arbitrators.** All arbitrators shall be and remain at all times wholly impartial, and, once appointed, no arbitrator shall have any ex parte communications with any of the Parties concerning the arbitration or the underlying Dispute other than communications directly concerning the selection of the presiding arbitrator, where applicable.

(j) **Costs and Attorneys’ Fees.** The arbitral tribunal is authorized to award costs of the arbitration in its award, including (i) the fees and expenses of the arbitrators; (ii) the costs of assistance required by the tribunal, including its experts; (iii) the fees and expenses of the administrator; (iv) the reasonable costs for legal representation of a successful party; and (v) any such costs incurred in connection with an application for interim or emergency relief and to allocate those costs between the parties to the Dispute. The costs of the arbitration proceedings, including attorneys’ fees, shall be borne in the manner determined by the arbitral tribunal.

(k) **Waiver of Challenge to Decision or Award.** To the extent permitted by law, the Parties hereby waive any right to appeal from or challenge any arbitral decision or award, or to oppose enforcement of any such decision or award before a court or any governmental authority, except with respect to the limited grounds for modification or non-enforcement provided by any applicable arbitration statute or treaty.

IN WITNESS WHEREOF, this Guarantee has been duly executed and delivered by the Guarantor to the Guaranteed Party as of the date first above written.

GUARANTOR:

TOTAL S.A.

By: _____

Name: _____

Title: _____

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EXHIBIT B

SABINE PASS SERVICES MANUAL

The Sabine Pass Services Manual referred to in Section 3.6 shall address the following matters and other matters of a similar nature:

1. Details associated with the implementation of Section 5.1 among SABINE, Customer and Other Customers
2. Details associated with the Gas delivery procedures in Section 5.2 among SABINE, Customer and Other Customers

3. Details associated with the content and format of the Sabine Pass Website
4. Details associated with the invoicing process under Article 11, including:
 - a. Format of invoices (electronic and original)
 - b. Numbering systems/codes for all invoice-related documents

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EXHIBIT C

PORT LIABILITY AGREEMENT – PORT OF SABINE PASS, LOUISIANA

THIS PORT LIABILITY AGREEMENT (this “Agreement”) is effective as of _____, 20____, and is made by and between SABINE PASS LNG L.P., a Delaware limited partnership, represented herein by SABINE PASS LNG-GP, Inc., its General Partner (“SABINE”), and [INSERT NAME(S) OF VESSEL OWNER(S), a [TYPE OF ENTITY AND JURISDICTION OF ORGANIZATION] (collectively) “Vessel Owner”).

RECITALS

WHEREAS, Vessel Owner, using the LNG vessel set forth below under its name and signature (“Vessel”), proposes to deliver certain quantities of liquefied natural gas to SABINE at its marine terminal and receiving, storage and regasification facilities located in the Sabine Pass, Louisiana area (as more fully defined below, the “Marine Terminal”); and

WHEREAS, Vessel Owner and SABINE (collectively, the “Parties” and individually a “Party”) have agreed to allocate the risk of and responsibility for loss and damage resulting from an Incident (as defined below) at the Marine Terminal in the following manner;

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. The following terms shall have the following meanings when used herein:

“Affiliate” means, with respect to any Person, any other Person which, directly or indirectly, controls, is controlled by, or is under common control with, such Person. For purposes of this definition, “control” (including, with correlative meanings, the terms “controlled by” and “under common control with”) means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities or otherwise.

“Incident” means any occurrence or series of occurrences having the same origin arising out of or relating to the Vessel’s use of the Marine Terminal in which there is any one or more of the following: (i) loss of or damage to the Marine Terminal or the Vessel; (ii) injury to the employees and agents comprising Terminal Interests or Vessel Interests; (iii) loss or damage, other than to the Marine Terminal or the Vessel, caused or contributed to by the Vessel, including but not limited to, injury to third parties or damage to the property of third parties; or (iv) an obstruction or danger affecting or interfering with the normal operation of the Marine Terminal or the Port.

“Terminal Interests” means (i) SABINE, (ii) all Affiliates of SABINE, (iii) all Persons (other than the Vessel Interests and Persons providing fire boats, tugs and escort vessels to Vessel at the Port) employed or providing services at the Marine Terminal in connection with the unloading, storage, or regasification of LNG at the Marine Terminal, and (iv) the employees and agents of all Persons referred to in this paragraph.

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“Marine Terminal” means SABINE’s marine terminal and LNG receiving, storage and regasification facilities located at the Port, including all berths, buoys, gear, craft, equipment, plant, facilities and property of any kind (whether afloat or ashore) located thereat or adjacent thereto and in the ownership, possession or control of the Terminal Interests.

“Person” means any individual, firm, corporation, trust, partnership, association, joint venture (incorporated or unincorporated), or other business entity.

“Port” means the port at or near Sabine Pass, Louisiana, including its anchorage, turning basin and approaches into the Marine Terminal associated therewith.

“Vessel Interests” means (i) Vessel Owner, (ii) all Affiliates of Vessel Owner, (iii) all Persons (other than the Terminal Interests) participating, employed, or providing services in connection with the ownership or operation (including all operations related to navigation and berthing/unberthing) of the Vessel, and (iv) the employees and agents of all Persons referred to in this paragraph.

2. In all circumstances, the Master of the Vessel shall remain solely responsible on behalf of the Vessel Interests for the proper navigation and safety of the Vessel and her cargo.
3. Any liability arising from an Incident shall, as between the Vessel Interests and the Terminal Interests, be borne (i) by the Vessel Interests alone, if the Vessel Interests are wholly or partially at fault and the Terminal Interests are not at fault, (ii) by the Terminal Interests alone, if the Terminal Interests are wholly or partially at fault and the Vessel Interests are not at fault, (iii) by the Vessel Interests and the Terminal Interests, in proportion to the degree of their respective fault, if both are at fault and the degree of such fault can be established or (iv) by the Vessel Interests and the Terminal Interests equally if neither of them appears to be at fault or it is not possible to establish the degree of their respective fault. In this regard, any acts or omissions of Persons providing fire boats, tugs and escort vessels to Vessel at the Port shall be deemed to be the responsibility of the Vessel Interests.
4.
 - (i) SABINE shall be solely responsible for claims brought by any employee and/or member of the family or dependent of any employee of SABINE arising out of or consequent upon the personal injury, loss or damage to property of, or death of such employee, family member or dependent, and SABINE shall indemnify and hold any Vessel Owner harmless in the event any such employee, or any family member or dependent thereof, or the executor, administrator, or personal representative of any of the foregoing, shall bring such a claim against any Vessel Owner.
 - (ii) The Vessel Owners shall be solely responsible for claims brought by any employee and/or member of the family or dependent of any employee of any Vessel Owner arising out of or consequent upon the personal injury, loss or damage to property of, or death of such employee, family member or dependent,

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and each Vessel Owner shall indemnify and hold SABINE harmless in the event any such employee, or any family member or dependent thereof, or the executor, administrator or personal representative of any of the foregoing, shall bring such claim against SABINE.

- (iii) SABINE and the Vessel Owners shall consult together to the extent practicable before either makes any payment which would fall due to be indemnified by the other under the terms of Sections 4(i) or 4(ii). The indemnities contained in Sections 4(i) and 4(ii) are separate and distinct from, and independent of, the obligations undertaken and the responsibilities and exceptions from and the limitations of liability provided in Sections 2, 3, 5 and 6 of this Agreement.
- (iv) The cross indemnities provided in this Section 4 are intended to be binding regardless of fault or negligence on the part of the party in whose favor they are being given.

5.

- (i) Subject to Section 5(ii) below, the total aggregate liability of the Vessel Interests to the Terminal Interests, however arising, in respect of any one Incident, shall not exceed one hundred fifty million dollars (US\$150,000,000). Payment of an aggregate sum of one hundred fifty million dollars (US\$150,000,000) to any one or more of the Terminal Interests in respect of any one Incident shall be a complete defense to any claim, suit or demand relating to such Incident made by the Terminal Interests against the Vessel Interests. The liability of the Vessel Interests hereunder shall be joint and several.
- (ii) Vessel Interests shall provide to the Terminal Interests at all times sufficient written evidence that the Vessel's Protection and Indemnity Association has agreed to (a) cover the Vessel Interests as a member of the Association against the liabilities and responsibilities provided for in this Agreement in accordance with its Rules; (b) give the Terminal Interests prior notice of cancellation of the Vessel's entry in such Protection and Indemnity Association; and (c) waive in favor of the Terminal Interests all rights of subrogation of claims by the Protection and Indemnity Association against the Terminal Interests to the extent such claims have been waived in this Agreement by the Vessel Interests.

6. As to matters subject to this Agreement and regardless of fault or negligence on the part of any Party, with respect to an Incident:

- (i) except to the extent expressly preserved in this Agreement, Terminal Interests hereby expressly, voluntarily and intentionally waive any right or claims they might otherwise have against the Vessel Interests under applicable laws or under any port liability agreement or similar port conditions of use previously signed by the Master for the Port; and
- (ii) except to the extent expressly preserved in this Agreement, Vessel Interests hereby expressly, voluntarily and intentionally waive any rights to limit their

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liability under the United States Limitation of Vessel Owners Liability Act or any other similar law or convention, as applicable. Such waiver shall include any right to petition a court, arbitral tribunal or other entity for limitation of liability, any right to claim limitation of liability as a defense in an action, and any other similar right under relevant law. The foregoing waivers shall apply to all Persons claiming through the Terminal Interests or through the Vessel Interests.

7. The substantive law of New York, without regard to any conflicts of law principles that could require the application of any other law, shall govern the interpretation of this Agreement and any dispute, controversy, or claim arising out of, relating to, or in any way connected with this Agreement, including, without limitation, the existence, validity, performance, or breach hereof.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives effective as of the date first set forth above.

SABINE PASS LNG L.P.

[INSERT SIGNATURES OF EACH OF VESSEL INTERESTS]

By: SABINE PASS LNG-GP,
as General Partner

By: _____

By: _____

By: _____

Title:

Title:

As owner of the Name of Vessel
Registration No.
State of Registry

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OMNIBUS AGREEMENT

This OMNIBUS AGREEMENT (this “**Agreement**”), dated as of this 2nd day of September, 2004 (the “**Effective Date**”), is made by and between **TOTAL LNG USA, INC.**, a company incorporated under the laws of the state of Delaware, with a place of business at One Memorial City Plaza, 800 Gessner, Suite 700, Houston, Texas U.S.A. 77024 (“**Customer**”) and **SABINE PASS LNG, L.P.**, a Delaware limited partnership with a place of business at 717 Texas Avenue, Suite 3100, Houston, Texas, U.S.A. 77002 (“**SABINE**”). Customer and SABINE are each sometimes referred to herein as a “**Party**” and are together sometimes referred to herein as the “**Parties**”.

RECITALS

WHEREAS, SABINE intends to construct, own and operate an LNG terminal facility in Cameron Parish, Louisiana capable of performing certain LNG terminalling services, including: the ability to berth LNG Vessels; the receiving and storing of LNG which has been unloaded from LNG Vessels; the regasification of LNG; and the delivery of natural gas to a pipeline interconnection point at the terminal facility;

WHEREAS, the Parties are executing simultaneously herewith an LNG Terminal Use Agreement (“**TUA**”) under which SABINE will, subject to Customer exercising its option hereunder, provide LNG terminalling services to Customer at the Sabine Pass Facility, and the Parties agree to condition the effectiveness of the TUA on the fulfillment of certain conditions precedent;

WHEREAS, the Parties desire to address the possibility of certain changes to their contractual relationship under certain circumstances; and

WHEREAS, the Parties wish to memorialize other understandings supplementing the TUA, including Customer’s obligation to pay certain capacity reservation fees and additional Customer rights with respect to the expansion of the Sabine Pass Facility.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, SABINE and Customer agree as follows:

ARTICLE 1 DEFINITIONS

Capitalized terms used in this Agreement and not otherwise defined herein have the meanings given to them in the TUA; *provided that* the terms defined below shall have the following meanings:

- 1.1 “**Condition Fulfillment Date**” means June 30, 2005.
 - 1.2 “**FERC Application**” means that certain application (as amended immaterially from time to time) filed by SABINE with the FERC on December 22, 2003, in Docket No. CP04-47-000 in relation to the Sabine Pass Facility pursuant to Section 3(a) of the Natural Gas Act (“**NGA**”) and the corresponding regulations of the FERC.
-
- 1.3 “**FERC Approval**” means the order of the FERC granting to SABINE the approvals requested in the FERC Application (for the avoidance of doubt, FERC Approval does not mean an order of the FERC granting the approvals requested in the applications filed by Cheniere Sabine Pass Pipeline Company in FERC Docket Nos. CP04-38-000, CP04-39-000 and CP04-40-000 pursuant to Section 7(c) of the NGA in relation to the pipeline to interconnect with the Sabine Pass Facility).

ARTICLE 2 CAPACITY RESERVATION FEES

- 2.1 **Capacity Reservation Fee First Installment.** Within thirty (30) days of the Effective Date, Customer shall confirm in writing to SABINE whether or not Customer has obtained the approval of the Customer’s Board of Directors for this Agreement and the TUA. Thereafter (and notwithstanding receipt of such approval), at Customer’s option, to be exercised by Customer in its sole and absolute discretion no later than Monday, the 15th day of November 2004, Customer shall: (i) pay to SABINE the amount of U.S.\$10,000,000 (the “**Capacity Reservation Fee First Installment**”) by wire transfer in immediately available funds to an account specified in writing by SABINE (which account SABINE shall so specify the earlier of November 8, 2004 or upon request by Customer) and (ii) cause TOTAL S.A. to execute and deliver to SABINE the Guarantee. Except as provided in Clause 2.3, SABINE shall have no obligation to refund to Customer the Capacity Reservation Fee First Installment for any reason. In the event that: (i) confirmation of Customer’s Board of Directors approval has not been given to SABINE (for any or no reason whatsoever) within the above thirty (30) day period; or (ii) Customer elects (for any or no reason whatsoever) to not make the payment; or (iii) Customer elects (for any or no reason whatsoever) to not cause TOTAL S.A. to execute and deliver the Guarantee under this Clause 2.1 by November 15, 2004, then, for all purposes, (a) Customer shall be deemed to have not exercised the foregoing option and (b) this Agreement and the TUA shall terminate automatically (and, without in any way limiting the generality of the foregoing, SABINE and Customer shall each be discharged from all obligations and liabilities under this Agreement and the TUA).
- 2.2 **Capacity Reservation Fee Second Installment.** No later than three (3) Business Days following satisfaction of the Conditions Precedent and the exercise of the option by Customer pursuant to Clause 2.1, Customer shall pay to SABINE an additional amount of U.S.\$10,000,000 (the “**Capacity Reservation Fee Second Installment**”) by wire transfer in immediately available funds to an account specified in writing by SABINE. Except as provided in Clause 2.3, SABINE shall have no obligation to refund to Customer the Capacity Reservation Fee Second Installment for any reason.
- 2.3 **Fee Adjustment for the Capacity Reservation Fee.** The Capacity Reservation Fee First Installment and the Capacity Reservation Fee Second Installment shall be recouped by Customer through a monthly reduction in the Fee equal to \$166,667 for each month during the first one hundred and twenty (120) months following the Commercial Start Date of the Sabine Pass Facility. For the relevant one hundred and twenty (120) month period, the reduction will be reflected in the monthly statement SABINE provides Customer pursuant to Section 11.1 of the TUA.

ARTICLE 3 CONDITIONS PRECEDENT TO EFFECTIVENESS OF THE TUA

3.1 **Conditions Precedent**

The Parties acknowledge and agree that the provisions of this Agreement are effective and binding as of the Effective Date. Any provision of the TUA notwithstanding, the Parties acknowledge and agree that only the provisions of Article 1, Article 17, Article 18, Article 19, Article 20, Article 21, Article 23, and Article 24 of the TUA are effective and binding as of the Effective Date; provided, however, that Customer’s obligations under Section 17.2(c) of the TUA shall not be effective or binding on Customer unless and until the date on which Customer exercises its option under Clause 2.1. Any provision of the TUA notwithstanding, the Parties also acknowledge and agree that all other provisions contained in the TUA shall not become effective and binding unless and until both of the following

conditions (“**Conditions Precedent**”) have been satisfied by no later than the Condition Fulfillment Date:

- (a) **FERC Approval.** SABINE shall have obtained and provided to Customer evidence of the FERC Approval (the “**Approval Condition Precedent**”); and
- (b) **Financing Approval.** SABINE shall have provided to Customer evidence that it can finance the expected cost of development and construction of the Sabine Pass Facility (the “**Financing Condition Precedent**”). The Financing Condition Precedent shall be deemed to have been satisfied if, but only if, the following conditions are satisfied or waived in writing by Customer:
 - (i) SABINE has entered into (and provided Customer with a copy of) a definitive loan agreement with creditworthy lenders experienced in making energy project loans under the terms of which the lenders agree to lend to SABINE an amount which when aggregated with the equity contributed to SABINE is sufficient to fund the engineering, procurement and construction of the Sabine Pass Facility, such loan agreement being subject to no conditions precedent other than customary and routine conditions (including FERC Approval) that are reasonably expected to be satisfied; and
 - (ii) SABINE has entered into (and provided Customer with a copy of) an EPC contract, acceptable to the lenders, with a contractor that is an internationally recognized, reputable, creditworthy and experienced engineering, procurement and construction company, such EPC contract remains in full force and effect, there is no default thereunder, SABINE has issued a written notice to proceed to the EPC contractor under such EPC Contract, and the EPC contractor has accepted in writing SABINE’s notice to proceed.

3.2 **Satisfaction of Conditions Precedent; Notification; Waiver and Termination**

- (a) **General.** SABINE shall endeavor to procure the satisfaction of the Conditions Precedent by the Condition Fulfillment Date, and shall keep Customer reasonably

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informed as to the progress being made towards satisfaction of the Conditions Precedent.

- (b) **Notification.** SABINE shall promptly notify Customer in writing of satisfaction of any of the Conditions Precedent. Moreover, SABINE shall promptly notify Customer in writing upon SABINE’s determination that a Condition Precedent cannot be met or is not likely to be met by the Condition Fulfillment Date and the basis for such non-satisfaction.
- (c) **Termination for Non-Satisfaction of Approval Condition Precedent.** If the Approval Condition Precedent has not been satisfied by the Condition Fulfillment Date, then Customer may terminate this Agreement and the TUA with immediate effect by giving written notice of such termination to SABINE within thirty (30) days after the Condition Fulfillment Date. In the event of a termination of this Agreement under this Clause 3.2(c), SABINE and Customer shall each be discharged from any further obligations or liabilities under this Agreement and the TUA.
- (d) **Termination for Unacceptable FERC Approval.** If the FERC Approval contains a condition that limits or would have the effect of limiting the cargo capacity of LNG vessels that may use the Sabine Pass Facility to less than 250,000 cubic meters, then Customer may terminate this Agreement and the TUA with immediate effect by giving written notice of such termination to SABINE within thirty (30) days after the sixty (60) day cure period provided below. SABINE shall have a period of sixty (60) days following receipt of FERC Approval in which to cause FERC to eliminate the above cargo capacity condition imposed by the FERC. In the event of a termination of this Agreement under this Clause 3.2(d), SABINE and Customer shall each be discharged from any further obligations or liabilities under this Agreement and the TUA.
- (e) **Failure to Satisfy Financing Condition Precedent.** If the Financing Condition Precedent has not been satisfied by the Condition Fulfillment Date, then Customer may terminate this Agreement and the TUA with immediate effect by giving written notice of such termination to SABINE within thirty (30) days after the Condition Fulfillment Date. In the event of a termination of this Agreement under this Clause 3.2(e), SABINE and Customer shall each be discharged from any further obligations or liabilities under this Agreement and the TUA.
- (f) **Failure to Satisfy Conditions Precedent.** If either or both of the Conditions Precedent have not been satisfied by the Condition Fulfillment Date and Customer has not exercised its termination rights as provided for in this Clause 3.2, then SABINE shall use its commercially reasonable efforts to obtain the approvals necessary for the fulfillment of the Conditions Precedent. Subsequent to the Condition Fulfillment Date, Customer may, in its sole discretion, propose financing adequate to satisfy the Financing Condition Precedent, which SABINE may accept or reject in its sole discretion. In the event that by January 1, 2006 the Conditions Precedent are not met then either Party hereto may terminate this Agreement and the TUA. In the event of a termination of this Agreement under this Clause 3.2(f), SABINE and Customer

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shall each be discharged from any further obligations or liabilities under this Agreement and the TUA other than liabilities accruing prior to termination..

ARTICLE 4 EXPANSION AND EXPANSION RECEPTION QUANTITY

If at any time within the period ending two (2) years after the Effective Date, SABINE determines that it desires to expand the regasification capacity of the Sabine Pass Facility, it shall provide written notice to Customer. No later than a period of two (2) years after the Effective Date, Customer may provide written notice to SABINE of its desire for the LNG storage and regasification capacity at the Sabine Pass Facility to be expanded. In this respect, the Parties shall exclusively negotiate the proposed terms and conditions of such expansion in good faith for a period of ninety (90) days from the date such written notice is received by the other Party; *provided that* SABINE shall be obliged to enter into such negotiations only if Customer desires to increase its Maximum LNG Reception Quantity (as determined by Customer in its sole discretion) by an amount equal to between 195,457,500 MMBTUs per Contract Year and 390,915,000 MMBTUs per Contract Year upon the date commercial operations commence with respect to the expansion. The reservation fee for the expansion quantity shall equal \$0.24 per MMBTU multiplied by the expansion quantity, assuming the storage to regasification ratio to be 3 to 1.

Additionally, notwithstanding the foregoing obligation of the Parties to negotiate the proposed terms and conditions of the expansion in good faith, Customer acknowledges and agrees that the timing of the development and construction of the expansion shall be at SABINE’s sole and absolute discretion.

ARTICLE 5 OPERATING MATTERS

5.1 **Tug and Line Handling Boats**

The Parties acknowledge that three (3) 5,000-horsepower, 70 ton bollard pull tug boats with fire-fighting capability and two (2) line handling boats to assist with the

safe berthing of LNG Vessels will be dedicated to the Sabine Pass Facility. Such tug and line handling boats will be available to Customer and all Other Customers of the Sabine Pass Facility on a non-discriminatory basis. The Parties agree to cooperate in seeking competitive bids to fulfill the requirements for these tugs. Customer shall have the right to nominate potential vendors to bid on these services. The Parties, along with Other Customers, shall exercise commercially reasonable efforts in the selection of a third-party supplier which has the most competitive bid taking into account multiple factors including price, contractual terms and conditions, specifications of the bid, the reputation, financial condition and technical capability of the bidders and responsiveness of service.

5.2 Secondments

From and after the date on which the Capacity Reservation Fee Second Installment is paid, or earlier if the Parties so agree, and throughout the effectiveness of the TUA, Customer shall have the right, in its sole discretion, to second employees to SABINE, not exceeding four (4) in number at any one time, to occupy technical positions within SABINE with

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responsibilities relating to such matters as engineering, design, construction supervision, and operations, but not commercial matters. The employees so seconded shall report to SABINE, shall comply with all personnel policies of SABINE, shall be competent to safely perform the duties of the position which they fill, shall be paid in accordance with the SABINE pay scale, and shall be terminable at the discretion of SABINE. For the purpose of this Clause 5.2, SABINE shall mean SABINE, an operating company created by Cheniere Energy, Inc. or its Affiliate to operate the Sabine Pass Facility or a third party contractor selected to operate the Sabine Pass Facility.

ARTICLE 6 LNG AND GAS QUALITY SPECIFICATIONS

- 6.1 Notwithstanding compliance by Customer and SABINE with their respective obligations under Sections 9.4 and 10.3 of the TUA, the Parties acknowledge that the Gas redelivered or to be redelivered by SABINE to Customer pursuant to the TUA may not conform to the quality specifications of one or more of Customer's Downstream Pipelines. The Parties also acknowledge that Gas redelivered or to be redelivered by SABINE to Other Customers also may not conform to the quality specifications of one or more of their Downstream Pipelines. Either or both of these potential occurrences are defined as **"Downstream Pipelines Nonconformance."**
- 6.2 The Parties further acknowledge that the U.S. natural gas industry is addressing and attempting to resolve, on an industry-wide basis, existing and potential quality nonconformance problems such as Downstream Pipelines Nonconformance.
- 6.3 **"Customer Nonconformance"** means any Downstream Pipelines Nonconformance with respect to any of Customer's Downstream Pipelines that exists or is reasonably likely to exist because the Gas to be redelivered to Customer under the TUA (**"Redelivered Gas"**) will not meet the specifications of any of Customer's applicable Downstream Pipelines solely as a result of the Customer's LNG to be delivered under the TUA (**"Delivered LNG"**) not meeting such Downstream Pipelines' specifications.
- 6.4 **"SABINE Nonconformance"** means any Downstream Pipelines Nonconformance with respect to any of Customer's Downstream Pipelines that exists or is reasonably likely to exist on any of Customer's Downstream Pipelines for any reason other than a Customer Nonconformance.
- 6.5 On or before June 30, 2006, either Party may provide written notice to the other Party that any Downstream Pipelines Nonconformance may reasonably be expected to exist on or after the Commercial Start Date (the **"Nonconformance Notice"**).
- 6.6 Upon delivery and receipt of the Nonconformance Notice, the Parties shall expeditiously negotiate in good faith a commercially reasonable and mutually satisfactory resolution of such Downstream Pipelines Nonconformance such that Customer's Redelivered Gas satisfies the specifications of Customer's Downstream Pipelines. Such agreement shall be referred to as the **"Compliance Agreement"**.

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- 6.7 If (i) any Downstream Pipelines Nonconformance identified in the Nonconformance Notice is a SABINE Nonconformance or (ii) on or prior to June 30, 2006, Customer notifies SABINE in writing of the specifications with respect to any of Customer's Downstream Pipelines and or thereafter there is a SABINE Nonconformance involving any such Downstream Pipelines due to such specifications and the Parties have been unable within ninety (90) days of the Nonconformance Notice to agree upon a Compliance Agreement, SABINE shall either cure the SABINE Nonconformance or reimburse, through a reduction in the Fee payable under the TUA, Customer's reasonably incurred cost of treating to the extent necessary to eliminate the SABINE Nonconformance.
- 6.8 If the Nonconformance Notice identifies any Customer Nonconformance, and the Parties have been unable to reach a Compliance Agreement, then Customer shall bear the costs of its own treating.
- 6.9 If at any time after June 30, 2005, SABINE notifies Customer that it has received a bona fide offer to purchase terminalling services at the Sabine Pass Facility having an annual reception quantity of at least one hundred eighty three billion Standard Cubic Feet (183 bcf) and a term of at least fifteen (15) years from an Other Customer whose LNG is reasonably expected to cause a Sabine Nonconformance, Customer shall have thirty (30) days within which to elect either (a) to reduce the LNG specification under the TUA to the greater of 1065 BTU per Standard Cubic Foot or the level that would be necessary, in the absence of any other LNG, to prevent a Downstream Pipelines Nonconformance or (b) terminate Customer's right to reimbursement under Clause 6.7 above.

ARTICLE 7 APPLICABLE LAW

The substantive laws of the State of New York, United States of America, exclusive of any conflicts of laws principles that could require the application of any other law, shall govern this Agreement for all purposes.

ARTICLE 8 DISPUTE RESOLUTION

Any Dispute arising under this Agreement shall be exclusively and definitively resolved through final and binding arbitration pursuant to the provisions of Section 20.1 of the TUA. For the purposes of this Agreement, **"Dispute"** means any dispute, controversy, or claim (of any and every kind or type, whether based on contract, tort, statute, regulation, or otherwise) arising out of, relating to, or connected with this Agreement, including any dispute as to the construction, validity, interpretation, termination, enforceability, or breach of this Agreement, as well as any dispute over arbitrability or jurisdiction.

ARTICLE 9 CONFIDENTIALITY

into such Party's possession and the issuance of public announcements in connection with this Agreement. Each Party reserves its rights under Section 21.2 of the TUA to issue and make public announcements, press releases and statements regarding this Agreement.

ARTICLE 10 NOTICES

All notices authorized or required between the Parties shall be provided in the manner set forth in Article 23 of the TUA.

ARTICLE 11 REPRESENTATIONS AND WARRANTIES

11.1 SABINE hereby represents and warrants to Customer as follows:

- (a) SABINE is and shall remain duly formed and in good standing under the laws of the State of Delaware and duly qualified to do business in the State of Louisiana. SABINE is duly qualified to do business and is in good standing as a foreign limited partnership in all jurisdictions in which the nature of its activities and of its properties (both owned and leased) makes such qualification necessary, except for those jurisdictions in which failure to do so would not have a material adverse effect on SABINE or its business.
- (b) SABINE has the requisite power, authority and legal right to execute and deliver, and to perform its obligations, under this Agreement. All partnership action on the part of SABINE and its officers, directors and partners necessary for the authorization of this Agreement and the performance of all obligations of SABINE hereunder and thereunder has been taken.
- (c) Neither the execution, delivery nor performance of this Agreement, violates or will violate, results or will result in a breach of, or constitutes or will constitute a default under, any provision of SABINE's organizational documents, any law, judgment, order, decree, rule or regulation of any court, administrative agency or other instrumentality of any governmental authority or of any other material agreement or instrument (including permits and licenses) to which SABINE is a party.
- (d) SABINE is not in violation of any applicable statute, rule, regulation, order, permits, licenses or restriction of any domestic or foreign government or any instrumentality or agency thereof in respect of the conduct of its business or the ownership of its properties, which violation would materially and adversely affect the business, financial condition, or operations of SABINE or the Sabine Pass Facility.

11.2 Customer hereby represents and warrants to SABINE as follows:

- (a) Customer is and shall remain duly formed and in good standing under the laws of the State of Delaware and duly qualified to do business in the State of Louisiana. Customer is duly qualified to do business and is in good standing as a foreign corporation in all jurisdictions in which the nature of its activities and of its

properties (both owned and leased) makes such qualification necessary, except for those jurisdictions in which failure to do so would not have a material adverse effect on Customer or its business.

- (b) Subject to the next sentence, Customer has the requisite power, authority and legal right to execute and deliver, and to perform its obligations, under this Agreement. In the event Customer's Board of Directors hereafter approves this Agreement, then all corporate action on the part of Customer and its officers, directors and shareholders necessary for the authorization of this Agreement and the performance of all obligations of Customer hereunder and thereunder shall have been taken.
- (c) Neither the execution, delivery nor performance of this Agreement, violates or will violate, results or will result in a breach of, or constitutes or will constitute a default under, any provision of Customer's organizational documents, any law, judgment, order, decree, rule or regulation of any court, administrative agency or other instrumentality of any governmental authority or of any other material agreement or instrument (including permits and licenses to which Customer is a party).
- (d) Customer is not in violation of any applicable statute, rule, regulation, order, permit or license or restriction of any domestic or foreign government or any instrumentality or agency thereof in respect of the conduct of its business or the ownership of its properties, which violation would materially and adversely affect the business, financial condition, or operations of Customer or the Sabine Pass Facility.

ARTICLE 12 MISCELLANEOUS

12.1 Amendments. This Agreement may not be amended, modified, varied or supplemented except by an instrument in writing signed by SABINE and Customer.

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

12.3 Waiver. No failure to exercise or delay in exercising any right or remedy arising from this Agreement shall operate or be construed as a waiver of such right or remedy. Performance of any condition or obligation to be performed hereunder shall not be deemed to have been waived or postponed except by an instrument in writing signed by the Party who is claimed to have granted such waiver or postponement. No waiver by either Party shall operate or be construed as a waiver in respect of any failure or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver.

12.4 No Third Party Beneficiaries. The interpretation of this Agreement shall exclude any rights under legislative provisions conferring rights under a contract to persons not a party to that contract. Nothing in this Agreement shall otherwise be construed to create any duty to, or standard of care with reference to, or any liability to, any person other than a Party.

12.5 Interpretation.

- (a) Headings. The headings used in this Agreement are for convenience only.
- (b) Singular and Plural. Reference to the singular includes a reference to the plural and vice versa.
- (c) References. Unless otherwise provided, reference to any Clause means a Clause of this Agreement and reference to a Section means a Section of the TUA.
- (d) Include. The words “include” and “including” shall mean include or including without limiting the generality of the description preceding such term and are used in an illustrative sense and not a limiting sense.
- (e) Time Periods. References to “day,” “month,” “quarter” and “year” shall mean a day, month, quarter and year of the Gregorian calendar, respectively.
- (f) Statutory References. Unless the context otherwise requires, any reference to a statutory provision is a reference to such provision as amended or re-enacted or as modified by other statutory provisions from time to time and includes subsequent legislation and regulations made under the relevant statute.
- (g) Currency. References to United States dollars shall be a reference to the lawful currency from time to time of the United States of America.

12.6 Severance of Invalid Provisions. If and for so long as any provision of this Agreement shall be deemed to be judged invalid for any reason whatsoever, such invalidity shall not affect the validity or operation of any other provision of this Agreement.

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

12.8 Entire Agreement; Conflicts. This Agreement together with the TUA constitutes the entire agreement between the Parties relating to the subject matter hereof and supersedes and replaces any provisions on the same subject contained in any other agreement between the Parties, whether written or oral, prior to the date of the original execution hereof. In the event any conflict arises between this Agreement and the TUA, this Agreement shall prevail.

12.9 Counterpart Execution. This Agreement may be executed in any number of counterparts and each such counterpart shall be deemed an original Agreement for all purposes.

**ARTICLE 13
PRICING TERMS**

13.1 If, on or before the Commercial Start Date, SABINE enters into any terminal use agreement (“**New TUA**”) with any Other Customer for at term of five (5) years or longer, covering a reception quantity of 19,500,000 MMBtu or more per annum, SABINE shall as soon as practicable provide written notice to Customer, which notice shall include the pricing terms of the New TUA. For a period of thirty (30) days following receipt of such notice by Customer, Customer shall have the option to elect, by providing written notice to SABINE within such thirty (30) day period, to adopt the pricing terms of the New TUA in lieu of the

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existing pricing terms of the TUA, for the remaining term of the TUA. Pricing terms shall mean the pricing terms including fuel or Retainage.

13.2 The right of Customer to Adopt new pricing terms under Clause 13.1 shall not apply to any New TUA with either J & S Cheniere S.A or an Affiliate of SABINE, unless a third party receives an assignment of Services under the New TUA for a term exceeding five (5) years. Subsequent assignments prior to the Commercial Start Date by J & S Cheniere S.A. or an Affiliate of SABINE will be deemed a New TUA and subject to the provisions of Clause 13.1.

IN WITNESS WHEREOF, each Party has caused this Agreement to be duly executed and signed by its duly authorized officer as of the Effective Date.

SABINE PASS LNG, L.P.

TOTAL LNG USA, INC.

By: Sabine Pass LNG-GP, Inc.,
its General Partner

By: /s/ Charif Souki

By: /s/ Sveinung J. Stohle

Name: Charif Souki
Title: Chairman

Name: Sveinung J. Stohle
Title: President and General Manager

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Additional Signatories of the Omnibus Agreement for Limited Purposes

Cheniere Energy, Inc. (“Cheniere”), which directly or indirectly owns all of the voting rights of SABINE, hereby joins in the execution of this Agreement solely to evidence the following:

- (1) Cheniere expressly agrees that this (a) Agreement and the TUA supersede and cause the expiration of the term of that certain Confidentiality Agreement dated January 5, 2004, between Cheniere and TOTAL GAS & POWER NORTH AMERICA, INC. and (b) it will comply with the last sentence of Article 9 of this Agreement.
- (2) Cheniere shall use all reasonable efforts to cause SABINE to satisfy the Conditions Precedent by the Condition fulfillment Date and, if the Conditions Precedent are not satisfied by such date, then Cheniere shall continue to use all reasonable efforts to cause SABINE to satisfy the Conditions Precedent as soon as thereafter as is reasonably possible.

Cheniere Energy, Inc.

By: /s/ Charif Souki

Name: Charif Souki

Title: Chairman

TOTAL GAS & POWER NORTH AMERICA, INC., an Affiliate of Customer, hereby joins in the execution of this Agreement solely to expressly agree that this Agreement and the TUA supersede and cause the expiration of the term of that certain Confidentiality Agreement dated January 5, 2004, between Cheniere and TOTAL GAS & POWER NORTH AMERICA, INC.

TOTAL GAS & POWER NORTH AMERICA, INC.

By: /s/ J. Mark Ingram

Name: J. Mark Ingram

Title: President and General Manager

PARENT GUARANTEE

Guarantee, dated as of 5 November, 2004, by TOTAL S.A., a corporation organized under the laws of France (the "Guarantor"), in favor of SABINE PASS LNG, L.P., a limited partnership organized under the laws of the state of Delaware, U.S.A. ("Guaranteed Party").

1. **Guarantee.** To induce the Guaranteed Party to enter into the LNG Terminal Use Agreement dated as of September 2, 2004 (the "Agreement") with TOTAL LNG USA, INC. (the "Company"), the Guarantor absolutely, unconditionally and irrevocably guarantees to the Guaranteed Party and its successors and permitted assigns the prompt payment of all amounts that become due and payable (subject to any applicable grace period) by the Company to the Guaranteed Party under the Agreement from and after the "Commercial Start Date" as such term is defined in the Agreement, including payment obligations in respect of any breach of the Agreement by the Company after the Commercial Start Date (collectively, the "Obligations"); provided, however, the Guarantor's total liability in respect of the Obligations shall be a cumulative maximum amount of Two Billion Five Hundred Million U.S dollars (\$2,500,000,000) (the "Maximum Guaranteed Amount"). All amounts paid by or on behalf of the Company pursuant to the Agreement in respect of the Obligations shall be included in determining whether the Maximum Guaranteed Amount has been reached and shall count towards the satisfaction thereof for all purposes of this Guarantee. Notwithstanding anything to the contrary, the following are excluded from the definition of Obligations and the Guarantor shall have no liability in respect thereof: obligations to pay the Guaranteed Party or third parties for claims or by way of indemnity or contribution for claims arising in tort or strict liability, or claims for damages to property of the Guaranteed Party or any third party or personal injury to the Guaranteed Party's or any third party's employees, agents or contractors under the laws of any jurisdiction. For the avoidance of doubt, in no event shall Guarantor have any obligation under the Guarantee unless and until the Commercial Start Date occurs.

2. **Nature of Guarantee.** This Guarantee is a primary and original obligation of Guarantor and is an absolute, unconditional, irrevocable guaranty and, to the extent permitted by applicable law, shall remain in full force and effect without regard to any invalidity with respect to the execution and delivery of the Agreement by the Company or the execution and delivery by the Company of any other agreement between the Company and the Guaranteed Party. The Guarantor's obligations hereunder shall not be affected by the existence, validity, enforceability, perfection or extent of any collateral therefor or by any other circumstance relating to the Obligations that might otherwise constitute a legal or equitable discharge of or defense to the Guarantor not available to the Company. The Guarantor agrees that the Guaranteed Party may resort to the Guarantor for payment of any of the Obligations whether or not the Guaranteed Party shall have resorted to any collateral therefor or shall have proceeded against the Company or any other obligor principally or secondarily obligated with respect to any of the Obligations. The Guaranteed Party shall not be obligated to file any claim relating to the Obligations in the event that the Company becomes subject to a bankruptcy, reorganization or similar proceeding, and the failure of the Guaranteed Party to so file shall not affect the Guarantor's obligations hereunder. In the event that any payment to the Guaranteed Party in respect of any Obligations is rescinded or must otherwise be returned for any reason whatsoever, the Guarantor shall remain liable hereunder with respect to such Obligations as if such payment had not been made. The Guarantor reserves the right to (a) set-off against any payment that has become due and payable

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hereunder any amount that has become due and payable by the Guaranteed Party to the Company under the Agreement and (b) assert defenses which the Company may have under or with respect to the Agreement to payment of any Obligations other than defenses arising from the bankruptcy or insolvency of the Company or the Company's failure to have the authority to (x) execute or deliver the Agreement or (y) perform its obligations under the Agreement. Any arbitral decision (whether in a contested arbitration, by default or otherwise) under the Agreement shall conclusively determine the liability of the parties hereto with respect to the subject matter of such arbitral decision.

3. **Changes in Obligations, Collateral therefor and Agreements Relating thereto; Waiver of Certain Notices** The Guarantor agrees that the Guaranteed Party may at any time and from time to time, either before or after the maturity thereof, without notice to or further consent of the Guarantor, extend the time of payment of, or exchange or surrender any collateral for, any of the Obligations, and may also make any agreement with the Company or with any other party to or person liable on any of the Obligations or interested therein, for the extension, payment, compromise, discharge or release thereof, in whole or in part, or for any modification or any amendment of the terms of the Agreement (other than any Restricted Amendment) or of any agreement between the Guaranteed Party and the Company or any such other party or person without in any way impairing or affecting this Guarantee. "Restricted Amendment" means any modification or amendment of the Agreement which (i) extends the term of the Agreement or (ii) increases the amount to be paid by the Company under the Agreement. Notwithstanding the foregoing, Guarantor agrees that (x) if a Restricted Amendment is executed without its written consent that extends the term of the Agreement, this Guarantee shall remain in full force and effect for the term specified in the Agreement prior to such Restricted Amendment and (y) if a Restricted Amendment is executed without its written consent that increases the amount to be paid by the Company under the Agreement, the Guarantor shall remain liable for such of the Obligations as would have been owed had such Restricted Amendment not been executed. The Guarantor waives:

- (a) notice of the acceptance of this Guarantee;
- (b) notice of the creation, existence or acquisition of all or any part of the Obligations;
- (c) notice or consent respecting any modification of the Obligations or the Agreement (other than any Restricted Amendment);
- (d) notice of adverse change in the Company's financial condition or of any other fact which might increase the Guaranteed Party's risk;
- (e) notice of presentment, demand for payment, notice of dishonor and protest with respect to any instrument; and
- (f) notice of Company's default.

4. **Expenses.** The Guarantor agrees to pay on demand all fees and out of pocket expenses (including the reasonable fees and expenses of the Guaranteed Party's counsel) in any way relating to the enforcement or protection of the rights of the Guaranteed Party hereunder;

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provided, that the Guarantor shall not be liable for any expenses of the Guaranteed Party if no payment under this Guarantee is otherwise due.

5. **Subrogation.** Upon payment of the Obligations, the Guarantor shall be subrogated to the rights of the Guaranteed Party against the Company with respect to such Obligations, provided that such right of subrogation shall not be exercised until the earlier of (a) the satisfaction in full of all indebtedness of the Guaranteed Party secured by the "Sabine Pass Facility" (as defined in the Agreement) or (b) the satisfaction in full of all Obligations.

6. **No Waiver; Cumulative Rights.** No failure on the part of the Guaranteed Party to exercise, and no delay in exercising, any right, remedy or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise by the Guaranteed Party of any right, remedy or power hereunder preclude any other or future exercise of any right, remedy or power. Each and every right, remedy and power hereby granted to the Guaranteed Party or allowed it by law or other agreement shall be cumulative and not exclusive of any other, and may be exercised by the Guaranteed Party at any time or from time to time.

7. **Representations and Warranties.** The Guarantor hereby represents and warrants that:

- (a) the Guarantor is duly organized, validly existing and in good standing under the laws of France and has full corporate power to execute, deliver and perform this Guarantee;
- (b) the execution, delivery and performance of this Guarantee have been duly authorized by all necessary corporate action and do not contravene any provision of the Guarantor's certificate of incorporation or by-laws or any law, regulation, rule, decree, order, judgment or contractual restriction binding on the Guarantor or its assets;
- (c) all consents, licenses, clearances, authorizations and approvals of, and registrations and declarations with, any governmental authority or regulatory body necessary for the due execution, delivery and performance of this Guarantee have been obtained and all conditions thereof have been duly complied with, and no other action by, and no notice to or filing with, any governmental authority or regulatory body is required in connection with the execution, delivery or performance of this Guarantee; and
- (d) this Guarantee constitutes a legal, valid and binding obligation of the Guarantor enforceable against the Guarantor in accordance with its terms, subject to bankruptcy, insolvency, reorganization, moratorium and other laws of general applicability relating to or affecting creditors' rights and to general equity principles.

8. **Assignment.** Except as otherwise expressly provided in this Guarantee, neither the Guarantor nor the Guaranteed Party may assign its rights, interests or obligations hereunder to any other person or entity without the prior written consent of the Guarantor or the Guaranteed Party, as the case may be. The Guaranteed Party shall be entitled to assign, mortgage or pledge all or any of its rights, interests, and benefits hereunder to secure payment of any indebtedness incurred or to be incurred in connection with the financing of the development of the "Sabine Pass Facility" (as such term is defined in the Agreement). Guarantor shall execute and deliver to

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the lenders to whom such indebtedness is owed a consent to such assignment in reasonable form and substance acceptable to the Guarantor and such lenders.

9. **Notices.** All notices or demands on the Guarantor shall be deemed effective when received, shall be in writing and shall be delivered by hand or by registered mail, or by facsimile transmission promptly confirmed by registered mail, addressed to the Guarantor at:

TOTAL S.A.
2 place de la Coupole
92078 Paris La Défense Cedex
France
Attention: Legal Director, Gas & Power
Facsimile: 331.4744.3807

or to such other address or facsimile number as the Guarantor shall have notified the Guaranteed Party in a written notice delivered to the Guaranteed Party.

10. **Termination.**

(a) This Guarantee shall remain in full force and effect and shall be binding on the Guarantor, its successors and assigns until the first to occur of any of the following events (a "**Termination Event**"): (i) all obligations of the Guarantor hereunder having been satisfied (including, without limitation, as a result of the Guaranteed Party (and/or its designee) having received an amount, in the aggregate, equal to the Maximum Guaranteed Amount pursuant to the Agreement and/or this Guarantee), (ii) such time that the Company or its assignee or successor in interest under the Agreement would have satisfied the Credit Test if the Company or such assignee or successor in interest had been a replacement guarantor as referred to in Section 10(b) below, (iii) termination as provided in Section 10(b) below, (iv) termination as provided in Section 10(c) below, or (v) the 20th anniversary of the Commercial Start Date. For the avoidance of doubt and without limiting the terms of this Section 10(a), this Guarantee shall terminate in its entirety upon the termination of the Agreement and the satisfaction of all Obligations.

(b) Guarantor shall have the right to cause to be provided a replacement guaranty that is in full substitution for and in lieu of this Guarantee where the proposed replacement guarantor satisfies the Credit Test and the proposed form of replacement guaranty is, in all material respects, no less favorable to the Guaranteed Company than this Guarantee. Upon the execution and delivery of such a replacement guarantee by a replacement guarantor who satisfies the Credit Test, this Guarantee automatically shall terminate and be null and void for all purposes. "**Credit Test**" means that after giving effect to the execution and delivery of such a replacement guaranty by the proposed replacement guarantor, it shall be established to the Guaranteed Party's reasonable satisfaction that the proposed replacement guarantor has a credit rating with respect to its senior long-term unsecured debt of "A3" (or higher) by Moody's Investor Service ("Moody's") or "A-" (or higher) by Standard and Poor's ("S&P") (provided that in the event either such rating agency ceases to publish such ratings, an equivalent rating by a comparable rating agency shall be used).

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(c) Guarantor shall have the right to cause to be provided to the Guaranteed Party an Acceptable Letter of Credit in an aggregate amount equal to the then current LC Amount that is in full substitution for and in lieu of this Guarantee. Upon the execution and delivery of such Acceptable Letter of Credit by an Acceptable LC Issuer and the execution and delivery of the Escrow Agreement by the Guarantor and the Guaranteed Party, this Guarantee automatically shall terminate and be null and void for all purposes. "**Acceptable Letter of Credit**" shall mean an irrevocable standby letter of credit in form and substance reasonably satisfactory to the Guaranteed Party issued to and for the benefit of the Guaranteed Party on which the Guaranteed Party may: (i) draw upon demand for any amounts that have become due and payable by the Company under the Agreement or (ii) draw the entire remaining amount under the Acceptable Letter of Credit if the Acceptable Letter of Credit is not renewed or replaced to the full value of the LC Amount not later than thirty (30) days prior to the scheduled date of its expiry. In order to be an "Acceptable Letter of Credit", a letter of credit must be issued by an Acceptable LC Issuer and must by its terms have an initial expiration date at least twelve months beyond its date of issuance and require the issuer to provide a written notice of non-renewal at least thirty days prior to its current expiration date. Any amount drawn by the Guaranteed Party because the Acceptable Letter of Credit is not renewed or replaced (the "**Escrow Amount**") that has not yet been applied to amounts then due and payable by the Company under the Agreement shall be held in a special account (established pursuant to an escrow agreement mutually acceptable to the Guarantor and the Guaranteed Party (the "**Escrow Agreement**")), which Escrow Agreement shall provide that (x) all interest earned on the Escrow Amount shall be released monthly to the Guarantor or its designee and (y) for every dollar of Obligations paid by the Company pursuant to the Agreement, one dollar of the Escrow Amount shall be released to the Guarantor or its designee for the Guaranteed Party's benefit to secure the performance of the Company of the Obligations (which account will be pledged to the Guaranteed Party's lenders). The remaining balance of the Escrow Amount shall be returned promptly to the Company should the Acceptable Letter of Credit be replaced or renewed or the Agreement be terminated (subject to withholding for any claim that the Guaranteed Party may have against the Company), with any interest accrued on the Escrow Amount to be added to, and treated similarly to, the principal amount. "**Acceptable LC Issuer**" shall mean a United States bank or trust company (or other bank or trust company that is reputable) that has both a short-term and long-term Dollar deposit rating of at least Prime-1 and A2 by Moody's or of at least A-1 and A by S&P, provided in either case, in the event Moody's or S&P ceases to publish deposit ratings, an equivalent deposit rating by a comparable rating agency shall be used. The Acceptable Letter of Credit shall be governed by the laws of the State of New York.

"LC Amount" shall mean the Maximum Guaranteed Amount reduced in accordance with Section 1 to reflect all amounts paid by or on behalf of the Company pursuant to the Agreement in respect of the Obligations.

(d) This Guarantee shall be returned by Guaranteed Party to Guarantor immediately after the occurrence of a Termination Event.

11. **Governing Law.** This Guarantee shall be governed by and construed in accordance with the laws of the State of New York, without regard to principles of conflicts of laws.

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12. **Dispute Resolution.**

(a) **Arbitration.** Any Dispute shall be exclusively and definitively resolved through final and binding arbitration, it being the intention of the Parties that this is a broad form arbitration agreement designed to encompass all possible disputes. "Dispute" means any dispute, controversy or claim (of any and every kind or type, whether based on contract, tort, statute, regulation, or otherwise) arising out of, relating to, or connected with this Guarantee or the Agreement, including any dispute as to the construction, validity, interpretation, termination, enforceability or breach of this Guarantee or the Agreement, as well as any dispute over arbitrability or jurisdiction.

(b) **Rules.** The arbitration shall be conducted in accordance with the International Arbitration Rules (the "Rules") of the American Arbitration Association ("AAA") (as then in effect).

(c) **Number of Arbitrators.** The arbitral tribunal ("Tribunal") shall consist of three (3) arbitrators, who shall endeavor to complete the final hearing in the arbitration within six months after the appointment of the last arbitrator.

(d) **Method of Appointment of the Arbitrators.** Guaranteed Party and Guarantor (the "Parties") shall each appoint one (1) arbitrator within thirty (30) days of the commencement of the arbitration, and the two arbitrators so appointed shall select the presiding arbitrator within thirty (30) days after the latter of the two arbitrators has been appointed by the Parties. If a Party fails to appoint its Party-appointed arbitrator or if the two Party-appointed arbitrators cannot reach an agreement on the presiding arbitrator within the applicable time period, then the AAA shall serve as the appointing authority and shall appoint the remainder of the three arbitrators not yet appointed. If the party-appointed arbitrators cannot reach an agreement on the presiding arbitrator within the applicable time period, then the AAA as the appointing authority shall make the prescribed appointment.

(e) **Consolidation.** If the Parties (and/or the Company) initiate multiple arbitration proceedings under this Guarantee and/or under the Agreement, the subject matters of which are related by common questions of law or fact and which could result in conflicting awards or obligations, then either Party may request prior to the appointment of the arbitrators for such multiple or subsequent disputes that all such proceedings be consolidated into a single arbitral proceeding. Such request shall be directed to the AAA, which shall consolidate appropriate proceedings into a single proceeding unless consolidation would result in undue delay for the arbitration of the Disputes.

(f) **Place of Arbitration.** Unless otherwise agreed by all Parties to the Dispute, the place of arbitration shall be Houston, Texas.

(g) **Language.** The arbitration proceedings shall be conducted in the English language, and the arbitrators shall be fluent in the English language.

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(h) **Entry of Judgment.** The award of the arbitral tribunal shall be final and binding. Judgment on the award of the arbitral tribunal may be entered and enforced by any court of competent jurisdiction.

(i) **Qualifications and Conduct of the Arbitrators.** All arbitrators shall be and remain at all times wholly impartial, and, once appointed, no arbitrator shall have any ex parte communications with any of the Parties concerning the arbitration or the underlying Dispute other than communications directly concerning the selection of the presiding arbitrator, where applicable.

(j) **Costs and Attorneys' Fees.** The arbitral tribunal is authorized to award costs of the arbitration in its award, including (i) the fees and expenses of the arbitrators; (ii) the costs of assistance required by the tribunal, including its experts; (iii) the fees and expenses of the administrator; (iv) the reasonable costs for legal representation of a successful party; and (v) any such costs incurred in connection with an application for interim or emergency relief and to allocate those costs between the parties to the Dispute. The costs of the arbitration proceedings, including attorneys' fees, shall be borne in the manner determined by the arbitral tribunal.

(k) **Waiver of Challenge to Decision or Award.** To the extent permitted by law, the Parties hereby waive any right to appeal from or challenge any arbitral decision or award, or to oppose enforcement of any such decision or award before a court or any governmental authority, except with respect to the limited grounds for modification or non-enforcement provided by any applicable arbitration statute or treaty.

IN WITNESS WHEREOF, this Guarantee has been duly executed and delivered by the Guarantor to the Guaranteed Party as of the date first above written.

GUARANTOR:

TOTAL S.A.

By: /s/ Robert Castaigne
Name: Robert Castaigne
Title: Chief Financial Officer

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LNG TERMINAL USE AGREEMENT**between****CHEVRON U.S.A. INC.****and****SABINE PASS LNG, L.P.****dated November 8, 2004**

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LNG TERMINAL USE AGREEMENT

This LNG TERMINAL USE AGREEMENT (“**Agreement**”), dated as of this 8th day of November, 2004 (“**Effective Date**”) is made by and between **Chevron U.S.A. Inc.**, a company incorporated under the laws of the state of Pennsylvania with an office at 1111 Bagby Street, Houston, Texas 77002 (“**Customer**”); and **Sabine Pass LNG, L.P.**, a Delaware limited partnership with a place of business at 717 Texas Avenue, Suite 3100, Houston, Texas, 77002 (“**SABINE**”). Capitalized terms defined in Article 1 of Part Two of this Agreement shall have the meaning assigned therein for all purposes of this Agreement.

RECITALS

WHEREAS, SABINE intends to construct, own and operate an LNG terminal facility in Cameron Parish, Louisiana capable of performing certain LNG terminalling services, including: the berthing of LNG vessels; the unloading, receiving and storing of LNG; the regasification of LNG; and delivery of natural gas to the Delivery Point;

WHEREAS, Customer desires to purchase such LNG terminalling services from SABINE;

WHEREAS, SABINE desires to make such LNG terminalling services available to Customer and to Other Customers in accordance with the terms hereof; and

WHEREAS, as an essential inducement for SABINE entering into this Agreement, ChevronTexaco Corporation (“**Guarantor**”), will execute in favor of SABINE the Guarantee.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties hereto and for the mutual covenants contained herein, SABINE and Customer hereby agree as follows:

PART ONE
PRINCIPAL COMMERCIAL TERMS AND CONDITIONS

The Parties hereby incorporate the General Terms and Conditions included as Part Two of this Agreement.

A. Term

1. General. Subject to the provisions of this Agreement, the term of this Agreement ("**Term**") shall consist of the Initial Term and, if applicable, any Extension Term.
2. Initial Term. The initial term of this Agreement ("**Initial Term**") shall commence on the Effective Date and shall continue in full force and effect until the expiration of twenty (20) years from the Commercial Start Date.
3. Extension Term. Customer shall have the option of up to two (2) additional ten (10) year extension terms (each an "**Extension Term**"). Customer must (a) notify SABINE in writing of its good faith desire to elect the applicable Extension Term at least five (5) years prior to the expiration of the then current Term and (b) no

later than four (4) years prior to the expiration of the then current Term send SABINE a binding confirmation ("**Binding Confirmation**") that the Term is extended by an Extension Term. Upon Customer's delivery of a Binding Confirmation to SABINE, this Agreement will then be automatically extended for the applicable Extension Term. The Fee for an Extension Term shall be determined in the same manner as the Fee for the Initial Term, except that the Reservation Fee shall be adjusted for inflation based on the increase in the United States Consumer Price Index (all Urban Consumers) from a basis set on January 1 following the Commercial Start Date to the beginning of such Extension Term.

B. Services Quantity

1. The "**Maximum LNG Reception Quantity**" shall be the quantity of LNG that Customer shall have the right to deliver to SABINE in any Contract Year which shall be 282,761,850 MMBTUs per Contract Year.
2. The "**Gas Redelivery Rate**" shall be the quantity of Gas that Customer shall have the right to nominate for redelivery each day for its account at the Delivery Point and is equal to 759,500 MMBTUs per day.

C. Fees

Each month during the Initial Term, the fees to be paid under this Agreement shall consist of the following:

1. The "**Reservation Fee**" calculated as:
 - a. The quotient of the Maximum LNG Reception Quantity divided by twelve (12), multiplied by the Unit Price;
 - b. The "**Unit Price**" of U.S. twenty eight cents (\$0.28) per MMBTU for the Initial Term and adjusted pursuant to Clause A for Extension Terms.
2. An "**Operating Fee**" equal to the product of four cents (\$0.04) multiplied by the amount calculated in Clause C.1.a above. The Operating Fee shall be adjusted for inflation on January 1 of each Contract Year based on the increase in the United States Consumer Price Index (All Urban Consumers) from a basis set on January 1 of the year in which the Commercial Start Date occurs.
3. "**Retainage**" equal to two percent (2%) of the LNG delivered at the Receipt Point for Customer's account. Included in such Retainage is fuel, including fuel for self-generated power or Gas unavoidably lost.

D. Credit Support

As an essential inducement for SABINE entering into this Agreement, ChevronTexaco Corporation, a Delaware corporation ("**Guarantor**"), shall execute in favor of SABINE, the Guarantee attached as Exhibit C ("**Guarantee**").

E. Notices

Pursuant to Article 23, the Parties have designated the following addresses for purposes of notices:

Sabine Pass LNG, L.P.
717 Texas Avenue, Suite 3100
Houston, Texas 77002
Attention: President
Fax: (713) 659-5459
Telephone: (713) 659-1361

**ChevronTexaco Global Gas a division of
Chevron U.S.A. Inc.**
1111 Bagby Street
Houston, Texas 77002
Attention: President
Fax: 713-752-3184
Telephone: 713-752-6384

IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be duly executed and signed by its duly authorized officer as of the Effective Date.

Sabine Pass LNG, L.P.

By: Sabine Pass LNG-GP, Inc., its General Partner

By: /s/ Charif Souki
Name: Charif Souki
Title: Chairman

Chevron U.S.A. Inc.

By: /s/ John D. Gass

**PART TWO
GENERAL TERMS AND CONDITIONS**

**ARTICLE 1
DEFINITIONS**

In addition to any terms or expressions defined elsewhere in this Agreement, the terms or expressions set forth below shall have the following meanings in this Agreement:

- 1.1** “**Adverse Weather Conditions**” means weather and sea conditions actually experienced at or near the Sabine Pass Facility that are sufficiently severe either: (a) to prevent an LNG Vessel from proceeding to berth, or unloading or departing from berth, in accordance with one or more of the following: (i) regulations published by a Governmental Authority; (ii) an Approval; or (iii) an order of a Pilot; or (b) to cause an actual determination by the master of an LNG Vessel that it is unsafe for such vessel to berth, unload or depart from berth.
- 1.2** “**Affiliate**” means a Person (other than a Party) that directly or indirectly controls, is controlled by, or is under common control with, a Party to this Agreement, and for such purposes the terms “control”, “controlled by” and other derivatives shall mean the direct or indirect ownership of fifty percent (50%) or more of the voting rights in a Person.
- 1.3** “**Aggregate Contracted Capacity**” means the sum of: (a) the Maximum LNG Reception Quantity of Customer; and (b) the maximum LNG reception quantity (or similar maximum contractual entitlement to receive LNG berthing, unloading and receipt services) of all Other Customers for the relevant Contract Year.
- 1.4** “**Agreement**” means this agreement (including Part One and Part Two hereof), together with the Annexes and Exhibits attached hereto, which are hereby incorporated into and made a part hereof, as the same may be hereafter amended.
- 1.5** “**Annual Delivery Program**” shall have the meaning set forth in Section 5.1(f).
- 1.6** “**Approvals**” means all consents, authorizations, licenses, waivers, permits, approvals and other similar documents from or by a Governmental Authority.
- 1.7** “**Available Unloading Date**” means at any time an Unloading Date at one of the two (2) berths that is not a Scheduled Arrival Date for Customer or one of the Other Customers at that berth.
- 1.8** “**Base Rate**” means: (a) the interest rate per annum equal to the rate for three (3) month deposits in Dollars in the London Interbank Offered Rate Market, as reported in the Wall Street Journal on the applicable date; plus (b) one percent (1%). The Base Rate shall change as and when the underlying components thereof change, without notice to any Person.
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- 1.9** “**British Thermal Unit**” or “**BTU**” means the amount of heat required to raise the temperature of one (1) avoirdupois pound of pure water from 59.0 degrees Fahrenheit to 60.0 degrees Fahrenheit at an absolute pressure of 14.696 pounds per square inch.
- 1.10** “**Business Day**” means any day that is not a Saturday, Sunday or legal holiday in the State of Texas, or a day on which banking institutions chartered by the State of Texas, or the United States of America, are legally required or authorized to close.
- 1.11** “**Cargo**” means a quantity of LNG expressed in MMBTU carried by an LNG Vessel in relation to which SABINE will render Services to Customer hereunder.
- 1.12** “**Central Time**” means U.S. Central Time, as adjusted for Daylight Saving Time and Standard Time.
- 1.13** “**Claims**” shall have the meaning set forth in Section 9.2(a) of this Agreement.
- 1.14** “**Commercial Start Date**” shall have the meaning set forth in Section 6.1.
- 1.15** “**Contract Year**” means each annual period starting on January 1 and ending on December 31 during the Term of this Agreement; provided, however, that: (a) the first Contract Year shall commence on the Commercial Start Date and end on the following December 31; and (b) the last Contract Year shall commence on January 1 immediately preceding the last day of the Term and end on the last day of the Term as set forth in Clause A.
- 1.16** “**Cubic Meter**” means a volume equal to the volume of a cube each edge of which is one (1) meter.
- 1.17** “**Customer**” means Chevron U.S.A., Inc., unless and until substituted in whole by an assignee by novation in accordance with Section 17.3, whereupon such assignee shall become Customer to the extent of such assignment.
- 1.18** “**Customer’s Inventory**” means, at any given time, the quantity in MMBTUs that represents LNG and Gas held by SABINE for Customer’s account. Customer’s Inventory shall be determined after deduction of Retainage in accordance with Clause C.3.
- 1.19** “**Customer’s LNG**” means, for the purposes of the Services, LNG received at the Receipt Point for Customer’s account.
- 1.20** “**Delivery Point**” means the point of interconnect between the tailgate of the Sabine Pass Facility and a Downstream Pipeline.
- 1.21** “**Dispute**” means any dispute, controversy or claim (of any and every kind or type, whether based on contract, tort, statute, regulation, or otherwise) arising out of, relating to, or connected with this Agreement, including any dispute as to the construction, validity, interpretation, termination, enforceability or breach of this Agreement, as well as any dispute over arbitrability or jurisdiction.
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- 1.22** “**Downstream Pipeline**” means all Gas pipelines with a connection at the Delivery Point which transport Gas from the Sabine Pass Facility.

- 1.23 “**Effective Date**” means the date set forth in the preamble of this Agreement.
- 1.24 “**Expected Receipt Quantity**” means, with respect to a given Cargo, Customer’s reasonable estimate of the quantity of LNG (in MMBTUs) expected to be unloaded at the Receipt Point, as set forth in the notice delivered pursuant to Sections 5.1(b)(ii) and 5.2(a), as such notice may be subsequently amended pursuant to Section 8.4(a).
- 1.25 “**Extension Term**” shall have the meaning set forth in Clause A.3.
- 1.26 “**Fee**” shall have the meaning set forth in Section 4.1.
- 1.27 “**Force Majeure**” shall have the meaning set forth in Section 15.1.
- 1.28 “**for Customer**”, “**for Customer’s account**”, “**on behalf of Customer**” or other phrases containing similar wording shall include LNG delivered to the Sabine Pass Facility at Customer’s direction as well as Customer’s Inventory derived therefrom.
- 1.29 “**Gas**” means any hydrocarbon or mixture of hydrocarbons consisting predominantly of methane which is in a gaseous state.
- 1.30 “**Gas Redelivery Rate**” shall have the meaning set forth in Clause B.2.
- 1.31 “**Governmental Authority**” means, in respect of any country, any national, regional, state, or local government, any subdivision, agency, commission or authority thereof (including any maritime authorities, port authority or any quasi-governmental agency) having jurisdiction over a Party, the Sabine Pass Facility, Customer’s Inventory, an LNG Vessel, a Transporter, or a Downstream Pipeline, as the case may be, and acting within its legal authority.
- 1.32 “**GPA**” shall have the meaning set forth in Annex I.
- 1.33 “**Gross Heating Value**” means the quantity of heat expressed in BTUs produced by the complete combustion in air of one (1) cubic foot of anhydrous gas, at a temperature of 60.0 degrees Fahrenheit and at an absolute pressure of 14.696 pounds per square inch, with the air at the same temperature and pressure as the gas, after cooling the products of the combustion to the initial temperature of the gas and air, and after condensation of the water formed by combustion.
- 1.34 “**Guarantee**” means the Guaranty Agreement to be executed by Guarantor in favor of SABINE in the form attached as Exhibit C.
- 1.35 “**Guarantor**” shall have the meaning set forth in Clause D.
- 1.36 “**Henry Hub Price**” shall mean, with respect to any month, the final settlement price in dollars per MMBTU as published by the New York Mercantile Exchange for the Henry

Hub Natural Gas futures contract for Gas to be delivered during such month, such final price to be based upon the last trading day for the contract for such month; provided, however, that if the Henry Hub Natural Gas futures contract ceases to be traded, the Parties shall select a comparable index to be used in its place that maintains the intent and economic effect of the original index.

- 1.37 “**Initial Term**” shall have the meaning set forth in Clause A.2.
- 1.38 “**International LNG Terminal Standards**” means, to the extent not inconsistent with the express requirements of this Agreement, the international standards and practices applicable to the design, construction, equipment, operation or maintenance of LNG receiving and regasification terminals, established by the following (such standards to apply in the following order of priority): (i) a Governmental Authority having jurisdiction over SABINE; (ii) the Society of International Gas Tanker and Terminal Operators (“**SIGTTO**”); and (iii) any other internationally recognized non-governmental agency or organization with whose standards and practices it is customary for Reasonable and Prudent Operators of LNG receiving and regasification terminals to comply. In the event of a conflict between any of the priorities noted above, the priority with the lowest roman numeral noted above shall prevail.
- 1.39 “**International LNG Vessel Standards**” means, to the extent not inconsistent with the expressed requirements of this Agreement, the international standards and practices applicable to the ownership, design, equipment, operation or maintenance of LNG vessels established by the following (such standards to apply in the following order of priority): (i) a Governmental Authority; (ii) the International Maritime Organization; (iii) SIGTTO; and (iv) any other internationally recognized non-governmental agency or organization with whose standards and practices it is customary for Reasonable and Prudent Operators of LNG vessels to comply. In the event of a conflict between any of the priorities noted above, the priority with the lowest roman numeral noted above shall prevail.
- 1.40 “**Lender**” means any entity providing temporary or permanent debt financing to SABINE in connection with construction or refinancing of the Sabine Pass Facility.
- 1.41 “**Liabilities**” means all liabilities, costs, claims, disputes, demands, suits, arbitrations, legal or administrative proceedings, judgments, damages, losses and expenses (including reasonable attorneys’ fees and other reasonable costs of arbitration, litigation or defense), and any and all fines, penalties and assessments of, or responsibilities to, Governmental Authorities.
- 1.42 “**Liquids**” means liquid hydrocarbons capable of being extracted from LNG at the Sabine Pass Facility, consisting predominately of ethane, propane, butane and longer-chain hydrocarbons.
- 1.43 “**LNG**” means Gas in a liquid state at or below its boiling point at a pressure of approximately one (1) atmosphere.
- 1.44 “**LNG Suppliers**” means, in relation to performance of the obligations of SABINE and Customer under this Agreement, those Persons who agree in writing pursuant to an LNG

purchase and sale agreement to supply or sell LNG to Customer for delivery to the Sabine Pass Facility.

- 1.45 “**LNG Vessel**” means an ocean-going vessel suitable for transporting LNG that Customer or an LNG Supplier uses for transportation of LNG to the Sabine Pass Facility.
- 1.46 “**Loading Port**” means the port at which a Cargo is loaded on board an LNG Vessel.

- 1.47 “**Maximum LNG Reception Quantity**” has the meaning set forth in Clause B.1.
- 1.48 “**MMBTU**” means 1,000,000 BTUs.
- 1.49 “**Notice of Readiness**” or “**NOR**” shall have the meaning set forth in Section 8.5.
- 1.50 “**Operating Fee**” shall have the meaning set forth in Clause C.2.
- 1.51 “**Other Customers**” means, from time to time, Persons (other than Customer) purchasing LNG terminalling services from SABINE similar to the Services, regardless of the short-term or long-term duration of such terminal use agreement.
- 1.52 “**Party**” and “**Parties**” means SABINE and Customer, and their respective successors and assigns.
- 1.53 “**Person**” means any individual, sole proprietorship, corporation, trust, company, voluntary association, partnership, joint venture, limited liability company, unincorporated organization, institution, Governmental Authority or any other legal entity.
- 1.54 “**Pilot**” means any Person engaged by Transporter to come on board an LNG Vessel to assist the master in pilotage, mooring and unmooring of such LNG Vessel.
- 1.55 “**Pilot Boarding Station**” shall have the meaning set forth in Section 8.5(a).
- 1.56 “**Port Charges**” means all charges of whatsoever nature (including rates, tolls, and dues of every description) in respect of an LNG Vessel entering or leaving the Sabine Pass Facility, including charges imposed by fire boats, tugs and escort vessels, the U.S. Coast Guard, a Pilot, and any other authorized Person assisting an LNG Vessel to enter or leave the Sabine Pass Facility. Port Charges shall include port use fees, throughput fees and similar fees payable by users of the Sabine Pass Facility (or by SABINE on behalf of such users) to the West Cameron, Louisiana Port Commission and Jefferson County, Texas Waterway and Navigation District.
- 1.57 “**Proposed Arrival Date**” means, for any applicable Contract Year, an arrival date proposed by Customer pursuant to Section 5.1.
- 1.58 “**psig**” means pounds per square inch gauge.
- 1.59 “**Reasonable and Prudent Operator**” means a Person seeking in good faith to perform

its contractual obligations, and in so doing, and in the general conduct of its undertaking, exercising that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced operator engaged in the same type of undertaking under the same or similar circumstances and conditions.

- 1.60 “**Receipt Point**” means the point at the Sabine Pass Facility at which the flange coupling of the Sabine Pass Facility’s receiving line joins the flange coupling of the LNG unloading manifold on board an LNG Vessel.
- 1.61 “**Regasified LNG**” means Gas derived from the conversion of LNG (received by SABINE at the Receipt Point) from its liquid state to a gaseous state.
- 1.62 “**Reservation Fee**” shall have the meaning set forth in Clause C.1.
- 1.63 “**Retainage**” shall have the meaning set forth in Clause C.3.
- 1.64 “**SABINE**” means Sabine Pass LNG, L.P. and its successors and assigns.
- 1.65 “**Sabine Pass Facility**” means the LNG receiving terminal facility as further described in Section 7.1(b) (including the port, berthing and unloading facilities, LNG storage facilities, and regasification facilities, together with equipment and facilities related thereto) necessary to provide Services hereunder, as such facilities will be constructed and modified from time to time in accordance with this Agreement.
- 1.66 “**Sabine Pass Marine Operations Manual**” shall have the meaning set forth in Section 8.2.
- 1.67 “**Sabine Pass Services Manual**” shall have the meaning set forth in Section 3.5.
- 1.68 “**Sabine Pass Website**” means the internet based computer system used by SABINE to communicate with Customer and Other Customers regarding LNG terminalling services at the Sabine Pass Facility.
- 1.69 “**Scheduled Arrival Date**” means, for any applicable Contract Year, an Unloading Date that is allocated either to Customer or any Other Customer pursuant to Section 5.1 or 5.2.
- 1.70 “**Scheduling Representative**” means the individual appointed by Customer in accordance with Section 5.5.
- 1.71 “**Services**” shall have the meaning set forth in Sections 2.1 and 3.1(b).
- 1.72 “**Services Unavailability**” shall have the meaning set forth in Section 4.3.
- 1.73 “**Standard Cubic Foot**” means the quantity of Gas, free of water vapor, occupying a volume equal to the volume of a cube whose edge is one (1) foot at a temperature of 60.0 degrees Fahrenheit and at an absolute pressure of 14.696 pounds per square inch.

- 1.74 “**Storage**” means the retention by SABINE of Customer’s Inventory at the Sabine Pass Facility.
- 1.75 “**Taxes**” means all customs, taxes, royalties, excises, fees, duties, levies, sales and use taxes and value added taxes, charges and all other assessments, which may now or hereafter be enacted, levied or imposed, directly or indirectly, by a Governmental Authority, except Port Charges and taxes based on income, revenues, gross receipts or net worth and all state franchise, license and similar taxes required for the maintenance of corporate existence that are assessed against a Party.
- 1.76 “**Term**” shall have the meaning set forth in Clause A.1.

1.77 “**Transporter**” means any Person who owns or operates an LNG Vessel.

1.78 “**Unloading Date**” means a twenty-four (24) hour window starting at 6:00 a.m., Central Time on a specified day and ending twenty-four (24) consecutive hours thereafter during which SABINE would commence to make available berthing and LNG unloading services at the Sabine Pass Facility to either Customer or one of the Other Customers.

ARTICLE 2 SERVICES AND SCOPE

2.1 Services to be Provided by SABINE

During the Term and subject to the provisions of this Agreement, SABINE shall make available the following services to Customer (and any permitted assignee of Customer) (such available services being herein referred to as the “**Services**”) in the manner set forth herein:

- (a) access to a berth for LNG Vessels at the Sabine Pass Facility;
- (b) the unloading and receipt of LNG from LNG Vessels at the Receipt Point;
- (c) Storage of Customer’s Inventory;
- (d) the regasifying of LNG held in Storage;
- (e) the transportation and delivery of such Regasified LNG to the Delivery Point (it being acknowledged that SABINE may, at its option, cause Gas to be redelivered to Customer at the Delivery Point from sources other than Regasified LNG); and
- (f) other activities directly related to performance by SABINE of the foregoing, including metering, custody transfer and reporting.

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2.2 Additional Services

From time to time during the Term, the representatives of SABINE and Customer may supplement this Agreement in accordance with Section 25.1 to provide that SABINE will also make available services to Customer in addition to the Services set forth in Section 2.1.

2.3 Activities Outside Scope of this Agreement

The Parties confirm that the following activities, *inter alia*, are not Services provided by SABINE to Customer and, therefore, such activities are outside of the scope of this Agreement:

- (a) harbor, mooring and escort services, including those relating to tugs, service boats, fire boats, and other escort vessels;
- (b) the construction, operation, ownership, maintenance, repair and removal of facilities downstream of the Delivery Point;
- (c) the transportation of Gas beyond the Delivery Point;
- (d) the marketing of Gas and all activities related thereto (except as expressly provided in Section 3.4); and
- (e) the removal, marketing and transportation of Liquids and all activities related thereto. On its own initiative or upon request by Customer, SABINE may investigate the construction of: (x) facilities to extract Liquids which are an integral part of the Sabine Pass Facility; or (y) facilities to extract Liquids which are a separate facility and project from the Sabine Pass Facility. If SABINE elects to construct facilities to extract Liquids, the Parties shall negotiate a commercially reasonable arrangement to compensate SABINE for such facilities. The arrangement shall provide Customer with the ability to receive its proportional share of Liquids in-kind with SABINE being paid a processing fee for the contract duration. If the Parties do not negotiate such a commercially reasonable arrangement, SABINE shall nevertheless have the right to separate and/or extract Liquids from LNG upstream of the Delivery Point, provided that such separation does not result in Gas failing to meet the quality specifications at the Delivery Point required under Section 10.3 and provided, further, that SABINE delivers at the Delivery Point a quantity of Gas that is, less Retainage and Customer’s Inventory, the thermal equivalent of the quantity of LNG received by SABINE for Customer’s account at the Receipt Point.

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ARTICLE 3 SALE AND PURCHASE OF SERVICES

3.1 Services

- (a) Purchase and Sale of Services. During each Contract Year, SABINE shall make available to Customer, and Customer shall purchase and pay for in an amount equal to the Fee, the Services as described in Section 3.1(b).
- (b) Services. The Services SABINE shall make available to Customer during each Contract Year, and Customer shall purchase and pay for pursuant to Section 4.1, shall consist of the following:
 - (i) Unloading of LNG. SABINE shall make the Sabine Pass Facility available during a sufficient number of Unloading Dates during each Contract Year to permit the berthing, unloading and receipt as ratably as practical throughout such Contract Year of a quantity of Customer’s LNG equal to the Maximum LNG Reception Quantity; provided, however, that for purposes of the first and last Contract Years and any Contract Year that is a leap year, the Maximum LNG Reception Quantity shall be prorated based upon the ratio that the number of days during such Contract Year bears to three hundred sixty-five (365);
 - (ii) Redelivery of Gas. Each day during the Contract Year SABINE shall make Gas from Customer’s Inventory available to Customer at the Delivery Point in the quantities nominated by Customer pursuant to Section 5.3 up to the lesser of the Gas Redelivery Rate or Customer’s remaining Inventory.

- (c) **Excess Services.** Separate and apart from the provisions of Section 3.1(b), SABINE may, in its sole discretion, allow berthing, unloading and receipt of quantities of LNG in excess of the Maximum LNG Reception Quantity or redelivery of Gas in excess of the Gas Redelivery Rate in response to a request from Customer for such excess Services; provided, however that if such Excess Services are provided, such Excess Services shall be based on the order of receipt of a written request from Customer or Other Customers. The fees applicable to such excess Services shall be as negotiated by the Parties in connection with such Services.

3.2 Customer's Use of Services Quantity

- (a) **Use Generally.** Customer shall be entitled to use the Services in whole or in part by itself, or Customer may assign its rights and obligations as provided in Article 17.
- (b) **Expiration of Services.** Subject to the provisions of Section 4.3(b), notwithstanding any other term or condition of this Agreement, Customer's failure or inability: (i) in any Contract Year to deliver Customer's Maximum LNG Reception Quantity to SABINE; or (ii) on any day to nominate Gas for redelivery at the Delivery Point in an amount not to exceed the Gas Redelivery Rate, including any portion of the Services not used in connection with a Partial Assignment, shall not serve to increase or decrease the Services to which Customer is entitled under Section 3.1(b) in any subsequent time period.

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3.3 No Pre-Delivery Right

On any given day during a Contract Year, Customer shall not be entitled to receive quantities of Gas in excess of Customer's Inventory.

3.4 Failure to Take Delivery of Gas at Delivery Point

If on any day Customer fails to take redelivery at the Delivery Point of at least ninety percent (90%) of the Gas nominated by Customer pursuant to Section 5.3 for redelivery to or for its account on such day and such failure is for reasons other than an event of Force Majeure or the inability of a Downstream Pipeline to take delivery of Customer's Gas, such inability being not reasonably within the control of Customer, then SABINE may, at its sole discretion, take title to the quantity of Gas nominated for redelivery on such day but not taken free and clear of any Claims, and sell or otherwise dispose of such Gas using good faith efforts to obtain commercially reasonable prices and to minimize costs. Customer shall indemnify, defend and hold harmless SABINE, its Affiliates, and their respective directors, officers, members and employees, for the actual and reasonable costs incurred by SABINE as a result of such sale or other disposition of same by SABINE. SABINE shall, within fourteen (14) Business Days subsequent to the receipt by SABINE of such sale proceeds, remit to Customer the net proceeds from the sale or other disposition of Customer's Inventory to which it takes title hereunder, minus actual transportation costs, third party charges, and an administrative fee of U.S. five cents (\$0.05) per MMBTU, provided, however, that if the amount of the credit exceeds the amount due to SABINE under the next monthly statement, then SABINE agrees to pay any such excess amount to Customer within five (5) Business Days after delivery of such monthly statement.

In the event SABINE is required to dispose of Customer's Gas more than three (3) times in any Contract Year, the administrative fee shall be increased to U.S. ten cents (\$0.10) for each occasion thereafter in such Contract Year.

3.5 Sabine Pass Services Manual

Acting as a Reasonable and Prudent Operator, SABINE shall develop, maintain and revise from time to time a single services manual (the **Sabine Pass Services Manual**) applicable to Customer and all Other Customers which contains detailed implementation procedures consistent with the terms and provisions of this Agreement necessary for performance of this Agreement with regard to the matters set forth in Exhibit A attached hereto (but excluding the matters governed by the Sabine Pass Marine Operations Manual). In developing such manual, SABINE shall provide Customer with a preliminary draft of the same (the **"Preliminary Services Manual"**). If Customer desires to provide comments to SABINE regarding the contents of the Preliminary Services Manual Customer shall, no later than fifteen (15) days from receipt of such manual from SABINE, notify SABINE in writing of its desire to provide comments on the Preliminary Services Manual. In such event, within thirty (30) days of receipt of Customer's notice, SABINE shall convene a meeting with Customer to discuss Customer's comments. If (a) Customer does not submit the foregoing notice to SABINE

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on a timely basis or (b) Customer and SABINE meet and are able to agree upon revisions to the Preliminary Services Manual, then such manual, as so revised, shall constitute the Sabine Pass Services Manual. If Customer and SABINE are unable to reach agreement upon revisions to the Preliminary Service Manual or any revisions thereto, SABINE shall determine the content of the Sabine Pass Services Manual, using commercially reasonable efforts to accommodate Customer's comments. In the event SABINE intends to amend the Sabine Pass Services Manual, SABINE shall follow the same procedure as set forth above in relation to the Preliminary Services Manual. SABINE shall deliver to Customer and all Other Customers a copy of the Sabine Pass Services Manual and any amendments thereto promptly after they have been finalized or amended, as the case may be. SABINE and Customer shall comply with such Sabine Pass Services Manual in all respects. The Sabine Pass Services Manual shall be developed on a basis that is consistent with this Agreement; however, in the event of a conflict between the terms of this Agreement and the Sabine Pass Services Manual, the terms of this Agreement shall control.

ARTICLE 4 COMPENSATION FOR SERVICES

4.1 Fee

Commencing with the Commercial Start Date, in the event the Sabine Pass Facility has reached commercial operation by that date and, if not, on the date it reaches such commercial operation, each month Customer shall, as full compensation for the performance by SABINE of its obligations under this Agreement, bear the Retainage and in addition pay to SABINE the sum of the following three (3) components (such sum collectively referred to as the **"Fee"**):

- (a) the Reservation Fee paid monthly in advance;
- (b) the Operating Fee paid monthly in advance; and
- (c) any additional costs incurred under Section 4.2 herein.

4.2 SABINE Taxes and New Regulatory Costs

If, subsequent to the Effective Date, any Governmental Authority:

- (a) imposes any Taxes on SABINE (excluding any Taxes on the capital revenue or income derived by SABINE) with respect to the Services, or the Sabine Pass Facility (“**SABINE Taxes**”); or
- (b) enacts any safety or security related regulation which materially increases the costs of SABINE in relation to the Services or the Sabine Pass Facility (“**New Regulatory Costs**”);

then Customer shall bear such SABINE Taxes and New Regulatory Costs proportionately with Other Customers with Customer’s share being determined for the given Contract Year based on the following ratio:

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- (x) Maximum LNG Reception Quantity; divided by
- (y) the sum of the Maximum LNG Reception Quantity plus the aggregate quantity of LNG contracted at the Sabine Pass Facility for the account of each Other Customer in such Contract Year.

Provided, however, in no event shall Customer’s share of SABINE Taxes and New Regulatory Costs under this Section 4.2 be in excess of twenty eight percent (28%) of such SABINE Taxes and New Regulatory Costs. For the purposes hereof, SABINE Taxes shall include the inability to obtain (after using commercially reasonable efforts), or the loss or expiration (other than as a consequence of the fault or omission of SABINE) of any abatement of Taxes on the Services or the Sabine Pass Facility. SABINE shall use commercially reasonable efforts to minimize or eliminate the imposition or, if imposed, the impact of such SABINE Taxes or New Regulatory Costs for which Customer would be responsible hereunder. SABINE shall exercise reasonable endeavors to consult with Customer toward the mitigation of any such SABINE Taxes and/or New Regulatory Costs.

4.3 Services Unavailability

- (a) If some or all of the Services are unavailable to Customer on more than three (3) consecutive or ten (10) cumulative days during a Contract Year as a result of an event that constitutes Force Majeure, as a result of SABINE’s breach of this Agreement or as a result of scheduled maintenance (which such scheduled maintenance shall not exceed ten (10) days per Contract Year), unscheduled maintenance or curtailment or discontinuation of Services per Article 16 (a “**Services Unavailability**”), SABINE shall, to the extent operationally feasible and not disproportionately detrimental to Other Customers, use its reasonable efforts to restore Customer’s Services in accordance with Section 4.3(b) and allow Customer the ability to make-up any Services that have been lost as a result of the interruption of Services to the Sabine Pass Facility.
- (b) If as a result of Services Unavailability, the quantity of Customer’s Gas that is delivered by SABINE hereunder at the Delivery Point (or the quantity of Customer’s LNG that is received at the Receipt Point, as the case may be) is less than the quantity that Customer scheduled or would have scheduled but for such unavailability of Services, then the portion of the Services not made available shall constitute a “**Make-Up Quantity**”. At any time there is an outstanding balance of Make-Up Quantity, Customer shall have the right, within twenty four (24) months of such Services Unavailability, to schedule any of the Services necessary to make up the Make-Up Quantity to the extent of uncommitted available capacity of the Sabine Pass Facility. Such Make-Up Quantity may be scheduled from time to time, except during an event that constitutes Force Majeure. Capacity shall be deemed to be available and uncommitted for purposes of this Section 4.3(b) if such capacity is available after SABINE has fulfilled any contractual obligations to Other Customers under firm agreements in existence at the time of the circumstances giving rise to the Make-Up Quantity. All Services related to the Make-Up Quantity shall be provided without additional

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compensation to SABINE, including the unloading of LNG, the storage of Customer’s LNG, and the redelivery of Customer’s Gas.

- (c) For the avoidance of doubt, in no event shall the Fee be adjusted as a result of any Services Unavailability.

4.4 Services Provided to Other Customers

Customer acknowledges that: (i) the compensation paid by Customer from time to time for Services may be less than, or more than, the price paid by Other Customers for the same or similar LNG terminalling services; and (ii) SABINE makes no representations or warranties to Customer in this regard.

ARTICLE 5 SCHEDULING

5.1 Annual Delivery Program

Procedures for the receipt of LNG at the Receipt Point and redelivery of Gas at the Delivery Point will be detailed in the Sabine Pass Services Manual, as modified from time to time, in accordance with Section 3.5 but substantially in accordance with the following:

- (a) SABINE Deliverables. Not later than one hundred and twenty (120) days prior to the beginning of each Contract Year, SABINE shall provide to the Scheduling Representative a non-binding written assessment of the dates of any planned maintenance to or modifications of the Sabine Pass Facility for such Contract Year and the expected impact of such activities on the availability of Services. In no event shall the number of days for any planned maintenance to or modifications of the Sabine Pass Facility exceed three (3) consecutive or ten (10) cumulative days in any Contract Year.
- (b) Notice from Scheduling Representative. Not later than one hundred and five (105) days prior to the beginning of each Contract Year, the Scheduling Representative shall provide SABINE with the following:
 - (i) a programming schedule for the unloading of up to the Maximum LNG Reception Quantity over the course of the next Contract Year, which schedule shall specify, for each Cargo to be delivered to the Receipt Point, the proposed arrival date (the “**Proposed Arrival Date**”) of the applicable LNG Vessel and which schedule must result in a delivery pattern whereby: (a) deliveries in any given month do not materially exceed one twelfth (1/12) of the Maximum LNG Reception Quantity; (b) deliveries in any given month are generally ratable over the month; (c) deliveries take into consideration the planned maintenance and modification dates furnished to Customer by SABINE as set forth in Section 5.1(a); and (d) deliveries shall not be scheduled so as to utilize both unloading berths simultaneously; and

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- (ii) for each Proposed Arrival Date proposed pursuant to Section 5.1(b)(i), the name of the LNG Vessel expected to deliver LNG to the Sabine Pass Facility (if the identity of the LNG Vessel is known to Customer at such time), the Expected Receipt Quantity, and the anticipated Gross Heating Value of the LNG to be delivered.
- (c) Notices from Other Customers. Customer acknowledges that Other Customers will submit similar notices to SABINE regarding the matters provided for in Section 5.1(b).
- (d) Customer Preliminary Receipt Schedule. SABINE shall incorporate to the maximum extent practicable the notices that it receives from the Scheduling Representative and the Other Customers and, not later than ninety (90) days prior to the beginning of each Contract Year, SABINE shall issue to Customer via the Sabine Pass Website (or via an alternative electronic means of transmitting written communications if the Sabine Pass Website is unavailable) a preliminary receipt schedule for Customer for such Contract Year (the “**Customer Preliminary Receipt Schedule**”) showing a “**Scheduled Arrival Date**” for the LNG Vessel carrying each of Customer’s scheduled Cargos, which schedule must result in a delivery pattern whereby: (i) deliveries in any given month do not materially exceed one twelfth (1/12) of the Maximum LNG Reception Quantity; (ii) deliveries in any given month are generally ratable over the month; (iii) deliveries take into consideration the planned maintenance and modification dates furnished to Customer by SABINE; and (iv) deliveries are not scheduled so as to utilize both unloading berths simultaneously. Customer may propose to SABINE to change any such Scheduled Arrival Date, and SABINE agrees to give due consideration to, and use reasonable efforts to accommodate, such change.
- (e) Other Customers’ Preliminary Receipt Schedules and Mutual Cooperation. Customer acknowledges that SABINE will issue to each Other Customer via the Sabine Pass Website (or alternative electronic means) a preliminary receipt schedule similar to the Customer Preliminary Receipt Schedule described in Section 5.1(d), but customized for each such Other Customer (“**Other Customers’ Preliminary Receipt Schedules**”). Customer also acknowledges that conflicts will occur in the preparation of the Customer Preliminary Receipt Schedule and Other Customers’ Preliminary Receipt Schedules because of the joint use of the Sabine Pass Facility among Customer and Other Customers. Accordingly, Customer agrees to cooperate with SABINE to assist SABINE in resolving any such conflict to the extent such cooperation does not result in material additional costs to Customer or unduly adversely impact the Services provided to Customer hereunder.
- (f) Consultation; Annual Delivery Program. If the Scheduling Representative desires to consult with SABINE regarding the contents of the Customer Preliminary Receipt Schedule, the Scheduling Representative shall, no later than fifteen (15) days from the issuance of the Customer Preliminary Receipt Schedule, request to meet with SABINE by providing notice thereof (the “**Consultation Notice**”) to

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SABINE, and SABINE shall, no later than fifteen (15) days after receipt of the Consultation Notice, meet with the Scheduling Representative to discuss the Customer Preliminary Receipt Schedule. If: (i) the Scheduling Representative does not submit a Consultation Notice to SABINE on a timely basis; or (ii) the Scheduling Representative and SABINE meet pursuant to a Consultation Notice and are able during such meeting to agree upon revisions to the Customer Preliminary Receipt Schedule, then such Customer Preliminary Receipt Schedule, as so revised (and as updated from time to time for such Contract Year in accordance with the provisions of this Agreement by SABINE via the Sabine Pass Website), together with the planned maintenance and modification dates selected by SABINE, shall constitute the “**Annual Delivery Program**”. If the Scheduling Representative and SABINE meet pursuant to a Consultation Notice and are unable during such meeting to agree upon revisions to the Customer Preliminary Receipt Schedule, then SABINE shall determine, while using its reasonable efforts to accommodate Customer’s views, the Annual Delivery Program. Such Annual Delivery Program shall, to the extent practicable, result in a delivery pattern in which: (i) deliveries in any given month do not materially exceed one twelfth (1/12) of the Maximum LNG Reception Quantity; (ii) deliveries in any given month are generally ratable over the month; (iii) deliveries take into consideration planned maintenance and modification dates furnished to Customer by SABINE; and (iv) deliveries are not scheduled so as to utilize both unloading berths simultaneously. SABINE shall issue via the Sabine Pass Website (or via an alternative electronic means of transmitting written communications if the Sabine Pass Website is unavailable) the Annual Delivery Program no later than sixty (60) days prior to the first day of the Contract Year.

- (g) Other Customers’ Annual Delivery Program. Customer acknowledges that SABINE shall issue to each Other Customer a final receipt schedule similar to the Annual Delivery Program described in Section 5.1(f) customized for each such Other Customer (such schedules referred to as “**Other Customers’ Annual Delivery Program**”).
- (h) Adjustment to Schedules. Upon written request by Customer, SABINE shall use reasonable efforts to modify the time periods expressly set forth in Sections 5.1(b) and 5.1(d) to allow Customer to interface these periods with corresponding time periods for scheduling agreed upon by Customer and its LNG Suppliers. For purposes of this Section 5.1, SABINE shall be deemed to have used reasonable efforts if SABINE rejects Customer’s request because it determines, acting as a Reasonable and Prudent Operator that any such modification would infringe on the contractual rights of Other Customers.
- (i) Available Unloading Dates. Throughout the Contract Year, SABINE shall maintain on the Sabine Pass Website (or via an alternative electronic means of transmitting written communications if the Sabine Pass Website is unavailable) a current list of Available Unloading Dates.

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5.2 Three Month Schedules

- (a) Proposed Schedules. Not later than the first (1st) day of each month in a Contract Year, Customer shall deliver the following to SABINE: a proposed three-month forward plan of delivery of LNG (“**Proposed Three Month Unloading Schedule**”), which follows the Annual Delivery Program as nearly as practicable and sets forth by voyages and the projected dates thereof the pattern of shipments forecast for each of the next three (3) months and the Expected Receipt Quantity of each such shipment.
- (b) Three Month Unloading Schedules. Thereafter, and not later than the twentieth (20th) day of each month in which a Proposed Three Month Unloading Schedule is delivered, SABINE shall deliver the following to Customer: a final three-month forward plan of delivery of LNG (“**Three Month Unloading Schedule**”), which shall supersede Customer’s Proposed Three Month Unloading Schedule and prior Three Month Unloading Schedules as well as the portion of the Annual Delivery Program covering the same time periods and which shall reflect to the extent operationally practicable Customer’s Proposed Three Month Unloading Schedule.
- (c) Customer Changes to the Three Month Unloading Schedule. The Parties agree as follows:

At any time following the issuance of the Annual Delivery Program and any applicable Three Month Unloading Schedule, Customer’s Scheduling Representative may submit to SABINE a written request to change a Scheduled Arrival Date to any Available Unloading Date (such request to change, a “**Customer Arrival Date Change Request**”). Customer understands that: (a) Other Customers shall also have the right to submit to SABINE similar scheduling requests (each an “**Other Customer Arrival Date Change Request**”); (b) SABINE shall have no obligation to consult with the Scheduling Representative, Customer, or Other Customers regarding any Customer Arrival Date Change Request or Other Customer Arrival Date Change Request (collectively, “**Arrival Date Change Requests**”); and (c) SABINE shall accept any Arrival Date Change Request on a first-come, first-served basis as soon

as practical but not later than 5:00 p.m. Central Time of the day following the date of receipt by SABINE of the applicable Arrival Date Change Request. Upon accepting a Customer Arrival Date Change Request, SABINE shall notify Customer via the Sabine Pass Website (or via an alternative electronic means of transmitting written communications if the Sabine Pass Website is unavailable). Notwithstanding anything herein to the contrary, Customer shall use its reasonable efforts to keep to a minimum the number of Customer Arrival Date Change Requests it submits to SABINE.

- (d) **Other Modifications to the Final Schedules.** If Customer is unable to berth during its Scheduled Arrival Date due to a Force Majeure event (an “**Unloading Services Unavailability**”), each affected Scheduled Arrival Date allocated to Customer during such period shall be cancelled, to the extent affected; provided,

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however, that in the event of an Unloading Services Unavailability causing the cancellation of one or more Scheduled Arrival Dates allocated to Customer and/or Other Customers, SABINE shall make reasonable efforts to change the Three Month Unloading Schedule and Other Customers LNG Annual Delivery Program in order to maximize the safe, reliable and efficient usage of the Sabine Pass Facility and to assist Customer and Other Customers to unload quantities of LNG which would otherwise have been unloaded at the Sabine Pass Facility during such cancelled Scheduled Arrival Dates.

5.3 Gas Delivery

- (a) **Preliminary Nomination Schedule.** Not later than the fifteenth (15th) day of each month, commencing the month immediately prior to the Commercial Start Date, Scheduling Representative shall provide to SABINE a nonbinding nomination schedule (“**Preliminary Nomination Schedule**”) that sets forth, for each day of the succeeding month, the quantities of Gas Customer expects to nominate for redelivery for its account at the Delivery Point.
- (b) **Daily Nomination Schedule.** Each day by no later than 9:00 a.m. Central Time Customer shall have the right to notify SABINE of its actual nomination of the quantities of Gas to be redelivered for its account at the Delivery Point on the following day up to the lesser of the Gas Redelivery Rate or the remaining quantity of Customer’s Inventory and SABINE shall be obligated to redeliver such quantities to Customer in accordance with its nomination. Any nomination submitted by Customer’s Scheduling Representative in accordance with the foregoing provision shall remain in effect until changed by it in accordance with such provision. SABINE shall cooperate with Customer in respect to the scheduling of Gas on an intraday basis unless such nominations would adversely affect the operations of the Sabine Pass Facility or the rights of any Other Customer to send out Gas pursuant to previous nominations.
- (c) **Spare Vaporization.** SABINE shall make available to Customer and Other Customers spare vaporization (equivalent to approximately 180,000 MMBTUs per day) on a pro rata basis based on the Maximum LNG Reception Quantity per day prorated of Customer and the maximum LNG reception quantity per day prorated of each Other Customer. Terminal use agreements (in excess of three (3) months) for sales of Services by SABINE shall in no event burden one (1) LNG vaporizer (excluding one (1) spare vaporizer held in reserve) under such contracts. By way of example (but without in any way limiting SABINE’s right to expand or modify the Sabine Pass Facility), if the Sabine Pass Facilities’ total LNG regasification facilities have a daily capacity (excluding the one (1) spare vaporizer held in reserve) of 2,700,000 MMBTUs, then the total long term sales of Gas vaporization Services to Customer and Other Customers shall not exceed 2,520,000 MMBTUs. There shall not be an additional charge to Customer for the use of the uncontracted vaporizer, however, such use shall not increase the Maximum LNG Reception Quantity that Customer is entitled to in any given period.

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- (d) **Excess or Unutilized Vaporization Capacity.**
- (i) To the extent SABINE has uncontracted or unutilized vaporization capacity up to its operational capacity of 2,520,000 MMBTUs per day (**Excess Vaporization Capacity**”), SABINE may, at its sole option, post on the Sabine Pass Website the quantity and degree of certainty of such Excess Vaporization Capacity. Customer may elect to make use of such Excess Vaporization Capacity and shall have the right to purchase all or any portion of such Excess Vaporization Capacity on a daily basis provided, that, to the extent the demand for such Excess Vaporization Capacity exceeds the quantity available, Customer and Other Customers shall be entitled to a pro rata share of Excess Vaporization Capacity based on the maximum Gas Redelivery Rate of Customer and the maximum gas redelivery rate of each Other Customer electing to utilize any such Excess Vaporization Capacity. The fee for such Excess Vaporization Capacity shall be a market price to be negotiated between SABINE and Customer in good faith but in no event shall such fee exceed the Fees calculated in accordance with Clause C on a per MMBTU of vaporization capacity or exceed the price that is currently being paid by any Other Customer for such Excess Vaporization Capacity.
- (ii) Notwithstanding anything to the contrary in this Section 5.3(d), nothing herein shall prevent, preclude, or hinder SABINE in good faith from contracting with Other Customers on a spot or long-term basis for services available at the Sabine Pass Facility even though the contracting of such capacity may reduce or eliminate the availability of Excess Vaporization Capacity to Customer; provided, however, that if Excess Vaporization Capacity has been scheduled and confirmed by SABINE to Customer, then such capacity shall be made available to Customer on a firm basis subordinate only to capacity previously contracted to Other Customers.
- (iii) For the avoidance of doubt, the contracting of Excess Vaporization Capacity is intended to be on a short-term basis and is not intended and may not be used as a means for Customer to obtain additional long-term capacity at the Sabine Pass Facility.

5.4 Standard

SABINE shall act as a Reasonable and Prudent Operator in performing the scheduling activities required by this Article 5.

5.5 Scheduling Representative

By no later than six (6) months prior to the Commercial Start Date, Customer shall appoint an individual to act as Scheduling Representative for the purposes of this Article 5; provided, however, that Customer shall have the right to change its appointed Scheduling Representative at any time by notice to SABINE. Unless otherwise stated herein, Customer hereby authorizes the Scheduling Representative to do and perform any

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and all acts for and on behalf of Customer with regard to scheduling matters provided for in this Article 5. SABINE acknowledges that Customer and any Other Customer may agree to coordinate their activities so as to make the most efficient use of the Sabine Pass Facility, and may for purposes of this Agreement and the terminal use agreements of the Other Customers jointly appoint a Scheduling Representative.

5.6 Scheduling Coordination Among Customer and Other Customers

Customer shall have the right to request SABINE to arrange a joint meeting with Other Customers with respect to any matter in relation to the performance of this Article 5. SABINE shall use reasonable efforts to organize such a meeting, provided that SABINE may elect to include additional Other Customers if SABINE determines that such matter affects such additional Other Customers. If the Other Customers invited by SABINE agree to participate in such a joint meeting among Customer, Other Customers and SABINE, the joint meeting shall be held as soon as practical. SABINE shall have the right to settle any scheduling disputes that may arise among Customer and Other Customers on a basis that does not unfairly discriminate against Customer. Unless otherwise agreed, any such joint meeting shall be held in Houston, Texas or by telephone, as appropriate.

ARTICLE 6 COMMERCIAL START DATE

6.1 Commencement of Deliveries

In accordance with the procedure set forth in this Section 6.1, Customer shall notify SABINE of the date on which Services for Customer will commence at the Sabine Pass Facility (the final date so notified being the “**Commercial Start Date**”). The Commercial Start Date shall be a date within the period that (a) commences on February 1, 2009 and (b) ends on July 1, 2009 (such period being the “**First Window Period**”). The First Window Period shall be narrowed pursuant to the following provisions:

- (i) No later than ninety (90) days in advance of the first day of the First Window Period, Customer shall notify SABINE of a sixty (60) day window (“**Second Window Period**”) falling within the First Window Period for the Commercial Start Date; provided that if Customer fails to give timely notice of same, the Second Window Period shall be the latest possible sixty (60) day window period within the First Window Period;
- (ii) No later than thirty (30) days in advance of the first day of the Second Window Period, Customer shall notify SABINE of a thirty (30) day window (“**Third Window Period**”) falling within the Second Window Period for the Commercial Start Date; provided that if Customer fails to give timely notice of same, the Third Window Period shall be latest possible thirty (30) day window period within the Second Window Period;
- (iii) No later than seven (7) days in advance of the first day of the Third Window Period, Customer shall notify SABINE of a fifteen (15) day

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window (“**Final Window Period**”) falling within the Third Window Period for the Commercial Start Date; provided that if Customer fails to give timely notice of same, the Final Window Period shall be the latest possible fifteen (15) day period within the Third Window Period; and

- (iv) No later than three (3) days in advance of the first day of the Final Window Period, Customer shall notify SABINE of the Commercial Start Date falling within the Final Window Period; provided that if Customer fails to give timely notice of same, the Commercial Start Date shall be the latest possible day in the Final Window Period.

The Commercial Start Date shall be the date so notified, regardless of whether any unloading of Customer’s LNG at the Sabine Pass Facility actually occurs on such date unless Customer is unable to unload Cargoes as a result of the Sabine Pass Facility not having become commercially operable by that date in which case, the Commercial Start Date shall be the first date on which the Sabine Pass Facility is commercially operable.

6.2 Delay Caused by Force Majeure

The Commercial Start Date shall be postponed to the extent that an event of Force Majeure has the effect of delaying that date to a later date; provided, however that in no event shall delays in achieving financing or initiating construction constitute an event of Force Majeure.

ARTICLE 7 SABINE PASS FACILITY

7.1 Sabine Pass Facility

- (a) Standard of Operation. By the Commercial Start Date, SABINE shall cause the Sabine Pass Facility to be constructed and commissioned so as to be able to provide the Services to Customer on the basis set forth in this Agreement and otherwise to achieve commercial operations completion. On and after the Commercial Start Date, SABINE shall at all times provide, maintain and operate (or cause to be provided, maintained and operated) the Sabine Pass Facility in accordance with the following: (i) International LNG Terminal Standards; and (ii) to the extent not inconsistent with International LNG Terminal Standards, such good and prudent practices as are generally followed in the LNG industry by Reasonable and Prudent Operators of LNG receiving and regasification terminals.
- (b) Facilities to be Provided. Subject to Section 7.1(a), the Sabine Pass Facility shall include the following:
 - (i) appropriate systems for communications with LNG Vessels;
 - (ii) two unloading berths, each capable of berthing an LNG Vessel having a displacement of no more than 166,600 tons, an overall length of no more than 1,140 feet, a beam of no more than 175 feet, and a draft of no more than 40 feet, which LNG Vessels can safely reach, fully laden, and safely

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depart, and at which LNG Vessels can lie safely berthed and unload safely afloat;

- (iii) lighting sufficient to permit unloading operations by day or by night, to the extent permitted by Governmental Authorities and Pilots (it being acknowledged, however, that SABINE shall in no event be obligated to allow nighttime berthing operations at the Sabine Pass Facility if SABINE determines, acting as a Reasonable and Prudent Operator, that such operations during nighttime hours could pose safety or operational risks to the Sabine Pass Facility, an LNG Vessel, or a third party);
- (iv) unloading facilities capable of receiving LNG at a rate of up to an average of 12,000 Cubic Meters per hour when the pressure at the Receipt Point is at least 5.6 bars (gauge), with three (3) unloading arms each having a reasonable operating envelope to allow for ship movement and manifold strainers of sixty (60) mesh;
- (v) a vapor return line system of sufficient capacity to transfer to an LNG Vessel quantities of Gas necessary for the safe unloading of LNG at the required rates, pressures and temperatures;

- (vi) facilities allowing ingress and egress between the Sabine Pass Facility and the LNG Vessel by (x) representatives of Governmental Authorities for purposes of unloading operations; and (y) an independent surveyor for purposes of conducting tests and measurements of LNG on board the LNG Vessel in accordance with Annex I;
 - (vii) LNG storage facilities with a total gross capacity of approximately four hundred eighty thousand (480,000) Cubic Meters of LNG;
 - (viii) LNG regasification facilities with a total daily capacity of up to two point six (2.6) billion Standard Cubic Feet; and
 - (ix) piping and flange at the Delivery Point necessary for the purpose of connecting to the Downstream Pipeline.
- (c) Facilities Not Provided. Services and facilities not provided at the Sabine Pass Facility include the following: (i) facilities and loading lines for liquid or gaseous nitrogen to service an LNG Vessel; (ii) facilities for providing bunkers; and (iii) facilities for the handling and delivery to the LNG Vessel of ship's stores, provisions and spare parts.

7.2 Compatibility of Sabine Pass Facility with LNG Vessels

- (a) Sabine Pass Facility General Specifications. SABINE has provided to Customer the general specifications for the LNG berthing and unloading facilities of the Sabine Pass Facility as of the date hereof.

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- (b) LNG Vessel Compatibility. Customer shall ensure, at no cost to SABINE, that each of the LNG Vessels is fully compatible with the Sabine Pass Facility as set forth in such general specifications. Should an LNG Vessel fail materially either to be compatible with the Sabine Pass Facility, or to be in compliance with the provisions of Article 8, Customer shall not employ such LNG Vessel until it has been modified to be so compatible or to so comply.
- (c) Modifications. The Parties agree that, after the date hereof, SABINE shall be entitled to modify the Sabine Pass Facility in any manner whatsoever, provided that: (x) such modifications do not render the Sabine Pass Facility incompatible with an LNG Vessel that is compatible with the Sabine Pass Facility under Section 7.2(b) above; (y) such modifications, once finalized, do not reduce the ability of SABINE to provide the Services to Customer on the basis set forth in this Agreement; and (z) such modifications do not otherwise conflict with SABINE's obligations under this Agreement. Notwithstanding the foregoing, SABINE may modify the Sabine Pass Facility in a manner that would render it incompatible with an LNG Vessel provided that:
- (i) such modification is made pursuant to a change in International LNG Terminal Standards; or
 - (ii) the LNG Vessel is capable of being modified, and such modification is minor in nature, to maintain compatibility with both the Sabine Pass Facility and other terminals in its normal/intended trade and SABINE reimburses Customer for the reasonable actual costs incurred by Customer in causing Transporter to modify the LNG Vessel to maintain compatibility with the Sabine Pass Facility as so modified; provided, further, that Customer shall use its best efforts to minimize costs to be borne by SABINE hereunder, shall notify SABINE reasonably in advance of the nature and expected cost of all such LNG Vessel modifications by Transporter, and shall certify to SABINE the actual amount and detail of all costs incurred for which such reimbursement from SABINE is requested.

7.3 Customer Inspection Rights

Upon obtaining SABINE's prior written consent, which consent shall not be unreasonably withheld or delayed, a reasonable number of Customer's designated representatives (including LNG Suppliers) may from time to time (including during the period of initial construction) inspect the operation of the Sabine Pass Facility so long as such inspection occurs from 8:00 a.m. Central Time to 5:00 p.m. Central Time on a Business Day. Any such inspection shall be at Customer's sole risk and expense. Customer (and its designees) shall carry out any such inspection without any interference with or hindrance to the safe and efficient operation of the Sabine Pass Facility. Customer's right to inspect and examine the Sabine Pass Facility shall be limited to verifying SABINE's compliance with SABINE's obligations under this Agreement and shall not entitle Customer to make direct requests to SABINE regarding any aspect of the Sabine Pass Facility. No inspection (or lack thereof) of the Sabine Pass Facility by

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Customer hereunder, or any requests or observations made to SABINE or its representatives by or on behalf of Customer in connection with any such inspection, shall (a) modify or amend SABINE's obligations, representations, warranties and covenants under this Agreement or under any agreement or instrument contemplated by this Agreement; or (b) constitute an acceptance or waiver by Customer of SABINE's obligations under this Agreement.

ARTICLE 8 TRANSPORTATION AND UNLOADING

8.1 LNG Vessels

- (a) Customer to Cause LNG Vessels to Comply. Customer shall be responsible for the transportation of LNG from the Loading Port to the Receipt Point. In this regard, Customer shall cause each LNG Vessel to comply with the requirements of this Article 8 in all respects.
- (b) Approvals and Documentation. Each LNG Vessel shall comply with the regulations of, and obtain all Approvals required by, Governmental Authorities to enable such LNG Vessel to enter, leave and carry out all required operations at the Sabine Pass Facility. Each LNG Vessel shall at all times have on board valid documentation evidencing all such Approvals. Each LNG Vessel shall comply fully with the International Safety Management Code for the Safe Operation of Ships and Pollution Prevention effective July 1, 1998, and at all times be in possession of a valid safety management certificate.
- (c) Tugs, Fireboats, Escort Vessels and Port Charges. Customer shall arrange for, or cause the appropriate Person to arrange for, such number and types of tugs, fireboats and escort vessels as are required by Governmental Authorities to attend the LNG Vessel so as to permit safe and efficient movement of the LNG Vessel within the maritime safety areas located in the approaches to and from the Sabine Pass Facility. Customer shall pay all Port Charges directly to the appropriate Person.
- (d) LNG Vessel Requirements. Each LNG Vessel must satisfy the following requirements:
- (i) Specifications. Except as otherwise mutually agreed in writing by the Parties, each LNG Vessel shall be compatible with the specifications of the Sabine Pass Facility identified in Section 7.1(b). Notwithstanding the foregoing, in the event an LNG Vessel is compatible with the specifications set forth in Section 7.1(b) or otherwise acceptable to SABINE, but a Governmental Authority or Pilot prohibits or otherwise hinders the utilization of such

- (ii) LNG Vessel Capacity. Except as otherwise agreed in writing by SABINE, each LNG Vessel shall have an LNG cargo containment capacity of no less than one hundred twenty thousand (120,000) Cubic Meters, determined at the time of loading of LNG.
- (iii) Condition of the LNG Vessel. Each LNG Vessel shall be, in accordance with International LNG Vessel Standards, (x) fitted in every way for the safe loading, unloading, handling and carrying of LNG in bulk at atmospheric pressure; and (y) tight, staunch, strong and otherwise seaworthy with cargo handling and storage systems (including instrumentation) necessary for the safe loading, unloading, handling, carrying and measuring of LNG in good order and condition. The location of the unloading manifold shall allow a safe margin for movement of the arms within the operating envelope.
- (iv) Classification Society. Each LNG Vessel shall at all times be maintained in class with any of the following: American Bureau of Shipping, Lloyd's Register for Shipping, Bureau Veritas, Det Norske Veritas or any other classification society that is mutually agreeable to the Parties.
- (v) Construction. Each LNG Vessel shall have been constructed to all applicable International LNG Vessel Standards (including the International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk).
- (vi) Operation and Maintenance. Each LNG Vessel shall comply with, and shall be fully equipped, supplied and maintained to comply with, all applicable International LNG Vessel Standards. Unless approved by SABINE in writing, which approval shall not be unreasonably withheld or delayed, an LNG Vessel shall be prohibited from engaging in any maintenance, repair or in-water surveys while berthed at the Sabine Pass Facility. Each LNG Vessel shall comply fully with the guidelines of any Governmental Authority of the United States, including the National Oceanographic and Atmospheric Administration (NOAA), in relation to actions to avoid strikes in U.S. waters with protected sea turtles and cetaceans (e.g., whales and other marine mammals) and with regard to the reporting of any strike by the LNG Vessel which causes injury to such protected species.
- (vii) Crew. The officers and crew of each LNG Vessel shall have the ability, experience, licenses and training commensurate with the performance of their duties in accordance with internationally accepted standards as adopted on first-class LNG vessels and as required by Governmental Authorities and any labor organization having jurisdiction over the LNG Vessel or her crew. Without in any way limiting the foregoing, the master, chief engineer, all cargo engineers and all deck officers shall be fluent in written and oral English and shall maintain all records and provide all reports with respect to the LNG Vessel in English.

- (viii) Communications. Each LNG Vessel shall have communication equipment complying with applicable regulations of Governmental Authorities and permitting such LNG Vessel to be in constant communication with the Sabine Pass Facility and with other vessels in the area (including fireboats, escort vessels and other vessels employed in port operations).
- (ix) Pumping Time. Provided that the Sabine Pass Facility supplies a suitable vapor return line meeting the requirements of Section 7.1(b)(v), then:
 - a. an LNG Vessel with an LNG cargo containment capacity less than or equal to one hundred forty thousand (140,000) Cubic Meters shall be capable of unloading LNG in a maximum of fifteen (15) hours; and
 - b. an LNG Vessel with an LNG cargo containment capacity greater than one hundred forty thousand (140,000) Cubic Meters shall be capable of unloading LNG in the number of hours derived after applying the following formula:
$$15 + x = \text{maximum LNG unloading time (in hours)}$$
where:
$$x = y/12,000 \text{ Cubic Meters; and}$$
$$y = \text{the LNG cargo containment capacity of the LNG Vessel in excess of 140,000 Cubic Meters.}$$

Time for connecting, cooling, stripping and disconnecting, and cooling of liquid arms shall not be included in the computation of pumping time.

8.2 Sabine Pass Marine Operations Manual

Acting as a Reasonable and Prudent Operator, SABINE shall develop and maintain and revise from time to time a single marine operations manual (the **Sabine Pass Marine Operations Manual**) that governs activities at the Sabine Pass Facility, applies to all LNG Vessels and vessels used by Other Customers and which shall be consistent with International LNG Vessel Standards (but excluding the matters governed by the Sabine Pass Services Manual). In developing such a manual, SABINE shall provide Customer with a preliminary draft of the same ("**Preliminary Marine Operations Manual**"). If Customer desires to provide comments to SABINE regarding the contents of the Preliminary Marine Operations Manual Customer shall, no later than fifteen (15) days from receipt of such manual from SABINE, notify SABINE in writing of its desire to provide comments on the Preliminary Marine Operations Manual. In such event, within thirty (30) days of receipt of Customer's notice, SABINE shall convene a meeting with Customer to discuss Customer's comments. If (a) Customer does not submit the foregoing notice to SABINE on a timely basis or (b) Customer and SABINE meet and

are able to agree upon revisions to the Preliminary Marine Operations Manual, then such manual, as so revised, shall constitute the Sabine Pass Marine Operations Manual. If Customer and SABINE are unable to reach agreement upon revisions to the Preliminary Marine Operations Manual or any revisions thereto, SABINE shall determine the content of the Sabine Pass Marine Operations Manual, using commercially reasonable efforts to accommodate Customer's comments. In the event SABINE intends to amend the Sabine Pass Marine Operations Manual, SABINE shall follow the same procedure as set forth above in relation to the Preliminary Marine Operations Manual. SABINE shall deliver to Customer and all Other Customers a copy of the Sabine Pass Marine Operations Manual and any amendments thereto promptly after they have been finalized or amended, as the case may be. SABINE and Customer shall comply with such Sabine Pass Marine Operations Manual in all respects. SABINE will undertake to develop a Sabine Pass Marine Operations Manual that is consistent with this Agreement; however, in the event of a conflict between the terms of this Agreement and the Sabine Pass Marine Operations Manual, the terms of this Agreement shall control.

8.3 LNG Vessel Inspections; Right to Reject LNG Vessel

- (a) Inspections. During the Term, on prior reasonable notice to Customer, SABINE acting as a Reasonable and Prudent Operator may, at its sole risk, send its representatives (including an independent internationally recognized maritime consultant) to inspect during normal working hours any LNG Vessel as SABINE may consider necessary to ascertain whether the LNG Vessel complies with the provisions of this Agreement. SABINE shall bear the costs and expenses in connection with any inspection conducted hereunder. Any such inspection may include, as far as is practicable having regard to the LNG Vessel's operational schedule, examination of the LNG Vessel's hull, cargo and ballast tanks, machinery, boilers, auxiliaries and equipment; examination of the LNG Vessel's deck and engine scrap/rough and fair copy/official log books; review of records of surveys by the LNG Vessel's classification society and relevant Governmental Authorities; and review of the LNG Vessel's operating procedures and performance of surveys, both in port and at sea. Any inspection carried out pursuant to this Section 8.3(a): (i) shall not interfere with, or hinder, any LNG Vessel's safe and efficient construction or operation; and (ii) shall not entitle SABINE or any of its representatives to make any request or recommendation directly to Transporter except through Customer. No inspection (or lack thereof) of an LNG Vessel hereunder shall: (i) modify or amend Customer's obligations, representations, warranties and covenants under this Agreement or under any agreement or instrument contemplated by this Agreement; or (ii) constitute an acceptance or waiver by SABINE of Customer's obligations under this Agreement.
- (b) Right to Reject LNG Vessel. SABINE shall have the right to reject any LNG Vessel that Customer intends to use to deliver LNG to the Sabine Pass Facility if such LNG Vessel does not comply materially with the provisions of this Agreement, provided that:

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- (i) neither the exercise nor the non-exercise of such right shall reduce the responsibility of Customer to SABINE in respect of such LNG Vessel and her operation, nor increase SABINE's responsibilities to Customer or third parties for the same; and
- (ii) Customer's obligations under this Agreement shall not be excused or suspended by reason of Customer's inability (pursuant to the foregoing) to use a vessel as an LNG Vessel.

8.4 Advance Notices Regarding LNG Vessel and Cargoes

- (a) Change in Expected Receipt Quantity. If, subsequent to issuing the notice required under Section 5.1(b)(ii) and Section 5.2(a), Customer anticipates a material change in the Expected Receipt Quantity for a particular Cargo, Customer shall promptly provide notice thereof to SABINE and include in such notice Customer's new estimate of the Expected Receipt Quantity. SABINE shall use reasonable endeavors to accept such changed quantity but shall at all times retain the right not to accept any increased quantity if, in its reasonable discretion, such increased quantity would conflict with any Other Customer's unloading schedule or entitlement to Services or exceed Customer's Service entitlements at the Sabine Pass Facility.

- (b) LNG Vessel Nomination. As soon as practicable but no later than five (5) days prior to the scheduled loading date for a Cargo, Customer shall notify SABINE of the information specified below:

- (i) name of LNG Vessel and, in reasonable detail, the dimensions, specifications, operator, and owner of such LNG Vessel;
- (ii) name of Loading Port;
- (iii) expected departure date of LNG Vessel from Loading Port;
- (iv) estimated arrival date at the Sabine Pass Facility; and
- (v) any changes in the Expected Receipt Quantity since Customer's prior notice.

Moreover, if the vessel that Customer proposes to use as an LNG Vessel has not, within the immediately preceding Contract Year, delivered LNG to the Sabine Pass Facility, Customer shall notify SABINE thereof at least sixty (60) days prior to the applicable Scheduled Arrival Date.

- (c) LNG Vessel Movements. With respect to each Cargo of LNG to be delivered hereunder, Customer shall give, or cause the master of the LNG Vessel to give, to SABINE the following notices:

- (i) A first notice ("**First Notice**"), which shall be sent upon the departure of the LNG Vessel from the Loading Port and which shall set forth the time and

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date that loading was completed, the volume (expressed in Cubic Meters) of LNG loaded on board the LNG Vessel, the estimated time of arrival of the LNG Vessel at the Pilot Boarding Station ("**ETA**"), and any operational deficiencies in the LNG Vessel that may affect its performance at the Sabine Pass Facility or berth;

- (ii) A second notice ("**Second Notice**"), which shall be sent ninety-six (96) hours prior to the ETA set forth in the First Notice, stating the LNG Vessel's then ETA. If, thereafter, such ETA changes by more than six (6) hours, Customer shall give promptly, or cause the master of the LNG Vessel to give promptly, to SABINE notice of the corrected ETA;
- (iii) A third notice ("**Third Notice**"), which shall be sent twenty-four (24) hours prior to the ETA set forth in the Second Notice (as corrected), confirming or amending such ETA. If, thereafter, such ETA changes by more than three (3) hours, Customer shall give promptly, or cause the master of the LNG Vessel to give promptly, to SABINE notice of the corrected ETA;
- (iv) A fourth notice ("**Final Notice**"), which shall be sent twelve (12) hours prior to the ETA set forth in the Third Notice (as corrected), confirming or amending such ETA. If, thereafter, such ETA changes by more than one (1) hour, Customer shall give promptly, or cause the master of the LNG Vessel to give promptly, to SABINE notice of the corrected ETA; and
- (v) An NOR, which shall be given at the time prescribed in Section 8.5(a) below.
- (d) Characteristics of Cargoes. With the First Notice, Customer shall notify SABINE, or cause SABINE to be notified, for SABINE's information only, of the following characteristics of the LNG comprising its Cargo as determined at the time of loading:
- (i) Gross Heating Value per unit;

- (ii) molecular percentage of hydrocarbon components and nitrogen;
 - (iii) average temperature; and
 - (iv) density at loading.
- (c) **Right to Reject Certain Quantities.** Without prejudice to any other rights and remedies arising hereunder or by law or otherwise, SABINE shall for any reason (including limitations in LNG Storage) have the right to reject, and shall not be required to unload, those quantities of LNG on board an LNG Vessel that exceed one hundred and five percent (105%) the Expected Receipt Quantity for such Cargo as specified in, whichever is applicable: (i) the notice delivered pursuant to Section 5.1(b)(ii) or Section 5.2(a) and utilized by SABINE for the purposes of determining Annual Delivery Program or any Three Month Unloading Schedule,

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respectively; or (ii) any subsequent notice delivered pursuant to Section 8.4(a) and accepted by SABINE.

8.5 Notice of Readiness

- (a) **Issuance.** Subject to any applicable restrictions, including any nighttime transit restrictions imposed by Governmental Authorities or Pilots or any other reasonable timing restrictions imposed by SABINE (in light of SABINE's obligation to have the capability to provide Services twenty-four (24) hours a day, seven (7) days a week), the master of an LNG Vessel or its agent shall give to SABINE its notice of readiness ("NOR"), to unload (berth or no berth) upon arrival of such LNG Vessel at the specific location off the Sabine Pass Facility at which Pilots customarily board the LNG Vessel (such location referred to as the "Pilot Boarding Station") and after the Pilot has boarded the LNG Vessel.
- (b) **Effectiveness.** An NOR given under Section 8.5(a) shall become effective as follows:
- (i) For an LNG Vessel arriving at the Pilot Boarding Station at any time before 6:00 a.m. Central Time on the Scheduled Arrival Date allocated to such LNG Vessel, an NOR shall be deemed effective at 6:00 a.m. Central Time on such Scheduled Arrival Date;
 - (ii) For an LNG Vessel arriving at the Pilot Boarding Station at any time between the period of 6:00 a.m. Central Time on the Scheduled Arrival Date allocated to such LNG Vessel and 6:00 a.m. Central Time on the day immediately following such Scheduled Arrival Date, an NOR shall become effective at the time of its issuance; or
 - (iii) For an LNG Vessel arriving at the Pilot Boarding Station at any time after the expiration of the Scheduled Arrival Date, an NOR shall become effective upon SABINE's notice to the LNG Vessel that it is ready to receive the LNG Vessel at berth.

8.6 Berthing Assignment

- (a) **General Rule.** SABINE shall determine the berthing sequence of all LNG Vessels at the Sabine Pass Facility in order to ensure compliance with the Annual Delivery Program and Three Month Unloading Schedules. If an LNG Vessel arrives not ready to unload for any reason, SABINE may refuse to allow it to berth.
- (b) **Timely Arrival.** SABINE shall berth an LNG Vessel arriving before or during its Scheduled Arrival Date at the first opportunity that SABINE determines such LNG Vessel will not interfere with berthing and unloading of any other scheduled LNG vessel with a higher berthing priority. Berthing priority for LNG vessels arriving before or during their respective Scheduled Arrival Dates shall be determined as follows:

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- (i) The first berthing priority on any day shall be for LNG vessels with a Scheduled Arrival Date on such day. Priority within this group shall be given to the LNG vessel which has first given SABINE its NOR;
 - (ii) The second berthing priority on any day shall be for LNG vessels arriving before their respective Scheduled Arrival Date. Priority within this group shall be given to the LNG vessel which has first given SABINE its NOR.
- (c) **Late Arrival.** SABINE shall berth an LNG Vessel arriving after its Scheduled Arrival Date at the first opportunity that SABINE reasonably determines such LNG Vessel will not interfere with berthing and unloading by any scheduled vessel arriving on its Scheduled Arrival Date.

8.7 Unloading Time

- (a) **Allotted Unloading Time.** The allotted unloading time for each LNG Vessel ("Allotted Unloading Time") shall be thirty-six (36) hours, subject to extensions for:
- (i) reasons attributable to Customer, a Pilot, a Governmental Authority, the LNG Vessel or its master, crew, owner or operator;
 - (ii) Force Majeure;
 - (iii) unscheduled curtailment or temporary discontinuation of operations at the Sabine Pass Facility in accordance with Section 16.2; provided that in the circumstances described in Section 16.2 (a), the repairs giving rise to such curtailment or discontinuance are reasonably necessary for the delivery of Services to Customer and Other Customers or for reasons of safety;
 - (iv) occupancy of the berth by an LNG vessel that arrived at berth at the Sabine Pass Facility no later than 6:00 p.m. Central Time of the scheduled unloading window allocated to such LNG vessel (such unloading window not to exceed the time allotted to Customer), which shall result in an extension of no more than nine (9) hours;
 - (v) additional time to unload an LNG Vessel with an LNG cargo containment capacity greater than one hundred forty thousand (140,000) Cubic Meters, such increase over thirty-six (36) hours to be calculated in the same manner as increases over twenty-four (24) hours under Section 8.9(b)(i)b;
 - (vi) failure to send the Final Notice; and

- (vii) nighttime transit restrictions.

For the avoidance of doubt, SABINE shall have the right to delay berthing of the LNG Vessel for any of the reasons set forth in (i) to (vii) above.

- (b) Actual Unloading Time. The actual unloading time for each LNG Vessel (“**Actual Unloading Time**”) shall commence when the NOR is effective and shall end when the unloading and return lines of the LNG Vessel are disconnected from the Sabine Pass Facility’s unloading and return lines.

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- (c) Demurrage at the Sabine Pass Facility.

- (i) In the event Actual Unloading Time exceeds Allotted Unloading Time (including any extension in accordance with Section 8.7(a)) (**Demurrage Event**), SABINE shall pay to Customer as liquidated damages demurrage in United States dollars (which shall be prorated for a portion of a day) determined in accordance with the rate set out in the following table:

LNG Vessel Cargo Capacity	Demurrage Rate in \$/day	
Less than 120,000 Cubic Meters	\$	45,000
120,000 Cubic Meters or greater up to, but not including, 160,000 Cubic Meters	\$	55,000
160,000 Cubic Meters or greater up to, but not including, 200,000 Cubic Meters	\$	65,000
200,000 Cubic Meters or greater	\$	83,000

- (ii) If a Demurrage Event occurs, Customer shall invoice SABINE for such demurrage within thirty (30) days and pursuant to Section 11.2.

- (d) Excess Boil-Off. If an LNG Vessel is delayed in berthing at the Sabine Pass Facility and/or commencement of unloading due to an event occurring at the Sabine Pass Facility and for a reason that would not result in an extension of Allotted Unloading Time under Section 8.7(a), and if, as a result thereof, the commencement of unloading is delayed beyond twenty-four (24) hours after the Notice of Readiness is effective, then, for each full hour by which commencement of unloading is delayed beyond such twenty-four (24) hour period, SABINE shall pay Customer as liquidated damages an amount, on account of excess boil-off, equal to the Henry Hub Price multiplied by the quantity in MMBTUs equal to 0.0052% of the Cargo. Customer shall invoice SABINE for such excess boil-off pursuant to Section 11.2.

8.8 Unloading at the Sabine Pass Facility

- (a) Efficiency. SABINE shall, acting as a Reasonable and Prudent Operator, cooperate with Transporters (or their agents) and with the master of each LNG Vessel to facilitate the continuous and efficient delivery of LNG hereunder.
- (b) Vapor Return Line. During unloading of each Cargo of LNG, SABINE shall return to the LNG Vessel Gas in such quantities as are necessary for the safe unloading of the LNG at such rates, pressures and temperatures as may be required by the design of the LNG Vessel, and such returned Gas shall not be deemed to be volume unloaded for Customer’s account.

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8.9 LNG Vessel Not Ready for Unloading; Excess Berth Time

- (a) Vessel Not Ready for Unloading. If any LNG Vessel, previously believed to be ready for unloading, is determined to be not ready after being berthed, SABINE may direct the LNG Vessel’s master to vacate the berth and proceed to anchorage, whether or not other LNG vessels are awaiting the berth, unless it appears reasonably certain to SABINE that such LNG Vessel can be made ready without disrupting the overall unloading schedule of the Sabine Pass Facility or operations of the Sabine Pass Facility. When an unready LNG Vessel at anchorage becomes ready for unloading, its master shall notify SABINE. Upon the reberthing of any LNG Vessel vacated pursuant to this Section 8.9(a), Customer shall be responsible for any actual costs incurred by SABINE acting as a Reasonable and Prudent Operator as a result of such LNG Vessel not being ready for unloading.

- (b) Berth Limitations.

- (i) An LNG Vessel shall complete unloading and vacate the berth as soon as possible but not later than the following allowed berth time:

- a. twenty-four (24) hours, in the case of an LNG Vessel with an LNG cargo containment capacity less than or equal to one hundred forty thousand (140,000) Cubic Meters; or
- b. in accordance with the following formula, in the case of an LNG Vessel with an LNG cargo containment capacity greater than one hundred forty thousand (140,000) Cubic Meters:

$$24 + x = \text{allowed berth time (in hours)}$$

where:

$$x = y/12,000 \text{ Cubic Meters; and}$$

$$y = \text{the LNG cargo containment capacity of the LNG Vessel in excess of 140,000 Cubic Meters.}$$

- (ii) Notwithstanding the foregoing, the aforementioned time restrictions shall be extended for: (a) reasons attributable to SABINE; (b) reasons attributable to a Pilot or to a Governmental Authority; (c) Force Majeure; and (d) nighttime transit restrictions.
- (iii) If an LNG Vessel fails to depart at the end of its allowed berth time, SABINE may direct the LNG Vessel to vacate the berth and proceed to sea at utmost dispatch.
- (iv) If an LNG Vessel fails to vacate the berth pursuant to the provisions of this Section 8.9 and after receipt of SABINE’s notice in respect thereof, Customer shall reimburse SABINE for any and all reasonable and actual

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damages its incurs as a result thereof, including amounts SABINE becomes contractually obligated to pay as demurrage or excess boil-off to any Other Customer.

- (v) In the event an LNG Vessel fails to vacate the berth pursuant to this Section 8.9 and Customer is not taking actions to cause it to vacate the berth, SABINE may effect such removal at the expense of the Customer.

ARTICLE 9 RECEIPT OF LNG

9.1 Title, Custody and Risk of Loss

- (a) Title to Customer's Inventory, Risk of Loss. Subject to Section 3.4, SABINE shall not assume title or risk of loss with respect to Customer's Inventory even during periods when it is in the possession and control of SABINE. For the avoidance of doubt, title and risk of loss with respect to Retainage shall pass to SABINE at the Receipt Point.
- (b) Possession and Control. Possession and control of Customer's LNG shall pass from Customer to SABINE upon delivery of same at the Receipt Point. Possession and control of Customer's Inventory shall pass from SABINE to Customer upon delivery of same at the Delivery Point.

9.2 No Encumbrance

- (a) Customer's Covenants. Customer agrees to fully defend, indemnify and hold SABINE and its Affiliates harmless against all Encumbrances and Liabilities relating to such Encumbrances (collectively, "**Claims**") regarding Customer's Inventory, including Claims brought by Other Customers, other than any Claims caused by SABINE's acts or omissions. For purposes of this Section 9.2(a), the term "**Encumbrance**" shall include any mortgage, pledge, lien, charge, adverse claim, proprietary right, assignment by way of security, security interest, title retention, preferential right or trust arrangement or any other security agreement or arrangement having the effect of security.
- (b) SABINE's Covenants. SABINE covenants that it has the right to deliver, and shall deliver, to Customer at the Delivery Point all Gas held for Customer's account free from all Claims relating thereto caused by SABINE's acts or omissions. SABINE agrees to fully defend, indemnify and hold Customer and its Affiliates harmless from and against all Claims regarding Customer's Inventory caused by the acts or omissions of SABINE and Other Customers.

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9.3 Receipt of LNG

The receipt of LNG from an LNG Vessel at the Receipt Point shall be carried out by use of pumps and other equipment on the LNG Vessel under such reasonable and customary conditions as are specified in the Sabine Pass Marine Operations Manual.

9.4 Quality and Measurement of Customer's LNG

Customer's LNG shall be measured and tested in accordance with Annex I. Customer shall ensure that all LNG delivered at the Receipt Point for Customer's account shall conform to the following specifications:

- (a) Gross Heating Value.
LNG when delivered by Customer to SABINE shall have, in a gaseous state, a Gross Heating Value of not less than 950 BTUs per Standard Cubic Foot and not more than 1165 BTUs per Standard Cubic Foot.
- (b) Components.
 - (i) The LNG when delivered by Customer to SABINE shall, in a gaseous state, contain not less than eighty-four molecular percentage (84.0 MOL%) of methane (C1) and, for the components and substances listed below, such LNG shall not contain more than the following:
 - a. Nitrogen (N2), 1.5 MOL%;
 - b. Ethane (C2), 11 MOL%;
 - c. Propane (C3), 3.5 MOL%;
 - d. Butanes (C4) and heavier, 2 MOL%;
 - e. Pentanes (C5) and heavier, 0.09 MOL%;
 - f. Hydrogen sulfide (H2S), 0.25 grains per 100 Standard Cubic Feet; and
 - g. Total sulfur content, 1.35 grains per 100 Standard Cubic Feet.
 - (ii) The LNG when delivered by Customer to SABINE shall contain no water, mercury, active bacteria or bacterial agents (including sulfate reducing bacteria or acid producing bacteria) or other contaminants or extraneous material.

9.5 Off-Specification LNG

- (a) Refusal of Off-Spec LNG. Without prejudice to any other rights and remedies of SABINE hereunder, SABINE may refuse to take delivery of all or part of any

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LNG not conforming to the quality specifications set forth in Section 9.4 ("**Off-Spec LNG**").

- (b) Notice. Customer shall provide notice to SABINE as soon as reasonably practicable of any existing or anticipated failure of the LNG available for delivery to

SABINE hereunder to conform to the quality specifications set forth in Section 9.4, giving details of the nature and expected magnitude of the variance, the cause of the non-compliance and the probable duration thereof, including the Cargoes and Scheduled Arrival Dates to be affected thereby. If so notified, SABINE shall as soon as possible inform Customer whether it intends to reject any of such Off-Spec LNG. If SABINE is notified by Customer prior to the commencement of unloading of a Cargo at the Sabine Pass Facility that the LNG is Off-Spec LNG and the quantity is delivered to the Sabine Pass Facility, SABINE shall use reasonable endeavors to take delivery of any Cargoes which it would otherwise be entitled to reject; provided, however that SABINE shall be entitled to delay unloading of Off-Spec LNG for the period of time reasonably required for SABINE to determine whether it can take delivery of such Off-Spec LNG pursuant to this Section 9.5(b). Subject to SABINE first using its reasonable endeavors to take delivery of any Cargoes containing Off-Spec LNG, SABINE shall:

- (i) notify Customer that SABINE will take delivery of some or all of the affected Cargoes, without prejudice to SABINE's rights and remedies with respect to such Off-Spec LNG other than SABINE's right to reject said Cargo; or
 - (ii) reject all or any of the affected Cargoes.
- (c) Customer's Responsibility. If SABINE accepts delivery of a Cargo of Off-Spec LNG which it would otherwise be entitled to reject, Customer shall:
- (i) bear the financial responsibility for all reasonable and actual incremental costs (other than capital costs) and Liabilities incurred by SABINE or any of SABINE's Affiliates, in each case acting as a Reasonable and Prudent Operator, in connection with receiving and treating Off-Spec LNG by such means as are appropriate, including mixing such Off-Spec LNG with lower calorific value Gas or injecting nitrogen if facilities to allow for such mixing or injection presently exist at the Sabine Pass Facility; and
 - (ii) indemnify and hold harmless SABINE, its Affiliates and their respective directors, officers and employees from any and all Liabilities, including any of same attributable to claims of any Person and any Other Customers, which arise out of, are incident to or result from the acceptance, handling, disposal or use of Off-Spec LNG.
- (d) No Continuing Waiver. Acceptance of Off-Spec LNG shall not prevent SABINE from refusing future deliveries of Off-Spec LNG. No waiver by SABINE of any

default by Customer of any of the specifications set forth in this Article 9 shall ever operate as a continuing waiver of such specification or as a waiver of any subsequent default, whether of a like or different character.

- (e) Extended Delivery of Off-Spec LNG. If (i) Customer notifies SABINE pursuant to Section 9.5(b) of an anticipated delivery of two (2) or more Cargoes of Off-Spec LNG and (ii) the Parties agree for SABINE to incur incremental capital costs in order to accept delivery of such Cargoes, then Customer shall, in addition to its payment and indemnification obligations under Section 9.5(c), bear the financial responsibility for and directly fund, at SABINE's election, all such incremental capital costs.

ARTICLE 10 REDELIVERY OF GAS

10.1 General

- (a) Delivery Point. Subject to Section 3.3, the quantity of Gas nominated by Customer for any day pursuant to Section 5.3 shall be delivered at the Delivery Point.
- (b) Commingled Stream. Customer acknowledges and agrees that Customer's Inventory shall be delivered by SABINE in a commingled stream, including that combined with LNG received by SABINE from Other Customers. Customer further acknowledges and agrees that Customer shall have no right to receive Gas of the same quality as Customer's LNG. Customer shall however, receive the same quantity of BTUs as the quantity tendered, less Retainage pursuant to Clause C.3, and which Gas shall satisfy the requirements set forth in Section 10.3.
- (c) Odorization. SABINE will deliver Customer's Inventory at the Delivery Point in its natural state without the addition of any odorizing agent, and SABINE shall not be obligated to add odorizing agents to any Gas unless required to do so by a Governmental Authority. SABINE does not assume any responsibility for Liabilities by reason of the fact that it has not odorized Customer's Inventory prior to its delivery to Customer, except to the extent such liabilities arise from a failure to comply with the requirements of a Governmental Authority.

10.2 Customer's Responsibility

- (a) Downstream Arrangements. Customer shall arrange for the transportation of Gas by Downstream Pipelines in order to meet its obligations to take redelivery of Gas in accordance with the provisions of Section 3.4 at the rates nominated by it pursuant to Section 5.3. In this regard, Customer shall be solely responsible for making all necessary arrangements with third parties at or downstream of the Delivery Point to enable SABINE to deliver Gas to Downstream Pipelines on a timely basis pursuant to the terms and conditions of this Agreement. Customer shall also be solely responsible for ensuring that all such arrangements are

consistent with the terms and conditions of this Agreement and shall require all relevant third parties to confirm to SABINE all of Customer's nominations and scheduling of deliveries of Gas, such confirmation to be by telephone, electronic transmission, or other means acceptable to SABINE and the Downstream Pipelines. Such third-party arrangements shall be timely communicated to, and coordinated with, SABINE, and SABINE shall have no liability whatsoever for any failure of any such third party to provide downstream arrangements. The rules, guidelines, and policies of a Downstream Pipeline transporting or purchasing any Gas for or from Customer at the Delivery Point (as may be changed from time to time by the Downstream Pipeline) shall set forth, among other things, the manner in which Customer's Inventory is transported from the Delivery Point. Customer and SABINE recognize that the receipt and delivery on the Downstream Pipeline's facilities of Gas shall be subject to the operational procedures of such Downstream Pipeline.

- (b) Limitation. Customer shall ensure that its Gas transportation and sales arrangements are in compliance with all applicable laws and regulations.

10.3 Specifications and Measurement of Gas at the Delivery Point

Gas delivered to Customer at the Delivery Point shall be measured and tested in accordance with Annex II. SABINE shall ensure that all Gas delivered at the Delivery Point for Customer's account shall conform to the following specifications:

- (a) Gross Heating Value. Gas when delivered by SABINE to Customer shall have a Gross Heating Value of not less than 950 BTUs per Standard Cubic Foot and not more than 1165 BTUs per Standard Cubic Foot.
- (b) Components
- (i) Gas when delivered by SABINE to Customer shall contain not less than eighty-two molecular percentage (82 MOL%) of methane (G) and, for the components and substances listed below, such Gas shall not contain more than the following:
- a. Nitrogen (N₂), 3 MOL%;
 - b. Pentanes (C₅) and heavier, 0.1 MOL%;
 - c. Hydrogen sulfide (H₂S), 0.25 grains per 100 Standard Cubic Feet;
 - d. Total sulfur content, 5 grains per 100 Standard Cubic Feet;
 - e. Oxygen (O₂), 10 parts per million;
 - f. Carbon dioxide (CO₂), 2 MOL%; and
 - g. Water (H₂O), 7 pounds per one million Standard Cubic Feet.

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- (ii) Gas when delivered by SABINE to Customer shall contain no mercury, active bacteria or bacterial agents (including sulfate reducing bacteria or acid producing bacteria) or other contaminants or extraneous material.
- (c) Gas Delivery Pressure. Customer's Inventory shall be delivered to the Delivery Point at the appropriate pipeline pressure provided, however, that such pressure shall be at least 1000 psig but shall not be required to exceed a maximum pressure of 1200 psig.

10.4 Nonconforming Gas

- (a) Right to Reject. Unless SABINE has accepted such Off-Spec LNG pursuant to Section 9.5, Customer shall have the right to reject Gas that does not conform to the specifications set forth in Section 10.3 ("**Nonconforming Gas**") if the failure of such Nonconforming Gas to satisfy such specifications would: (a) be grounds for an operator of a Downstream Pipeline or a Person under contract with Customer to purchase such Gas ("**Downstream Purchaser**") to reject such Nonconforming Gas; or (b) otherwise materially and adversely affect Customer, in Customer's reasonable opinion.
- (b) SABINE Indemnity. If Customer accepts delivery of Non-Conforming Gas which it would otherwise be entitled to reject, SABINE shall indemnify and hold harmless Customer, its Affiliates and their respective directors, officers and employees from any and all Liabilities, including any of same attributable to claims of any Person (including Other Customers, a Downstream Pipeline, and a Downstream Purchaser), which arise out of, are incident to, or result from the acceptance, handling, disposal or use of Non-Conforming Gas. If Customer accepts delivery of Non-Conforming Gas which it would otherwise be entitled to reject, SABINE shall bear the financial responsibility for all reasonable and actual incremental costs (other than capital costs) and Liabilities incurred by Customer or any of Customer's Affiliates, in each case acting as a Reasonable and Prudent Operator, in connection with accepting delivery of Non-Conforming Gas.

ARTICLE 11 PAYMENT

11.1 Monthly Statements

Between the first (1st) day of each month and the tenth (10th) day of each month, commencing with the month prior to the Commercial Start Date, SABINE shall deliver to Customer a statement setting forth the following:

- (a) the Reservation Fee for the following month;
- (b) the Operating Fee for the following month; and
- (c) any charges under Section 4.2 and/or Section 8.9 for the prior month.

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11.2 Other Statements

If any other moneys are due from one Party to the other hereunder and if provision for the invoicing of that amount due is not made elsewhere in this Article 11, then the Party to whom such moneys are due shall furnish a statement therefore to the other Party, along with pertinent information showing the basis for the calculation thereof.

11.3 Adjustments, Audit

- (a) General. If, within ninety (90) days of the issuance by SABINE of a statement, SABINE acquires information indicating the necessity of an adjustment to such statement rendered hereunder, then SABINE shall promptly serve on Customer a written notice setting forth that information. Unless otherwise provided herein, after obtaining that information, SABINE shall promptly prepare and serve on Customer an adjusted statement, showing the necessary payment, the calculation of the payment amount, and the Party from whom the payment is owing. In the event Customer issued a statement and subsequently acquires information indicating the necessity of an adjustment to such statement, Customer shall follow the same procedure in issuing an adjusted statement.
- (b) Audit. Upon thirty (30) days written notice issued within six (6) months of the conclusion of any Contract Year, Customer shall have the right to cause an internationally recognized firm of accountants, appointed by Customer at Customer's sole expense, to audit the books, records and accounts of SABINE that are directly relevant to the determination of SABINE Taxes and New Regulatory Costs, LNG receipts and Gas deliveries for such prior Contract Year, as provided in statements issued to Customer pursuant to this Article 11. Such audit shall be conducted at the head office of SABINE and shall be completed within the Contract Year in which Customer's notice is sent to SABINE. If Customer obtains information indicating the necessity of an adjustment to any

statement rendered hereunder, then within ninety (90) days following completion of the audit pertaining to the affected Contract Year, Customer shall promptly serve on SABINE a statement pursuant to Section 11.2 and written notice setting forth the information and basis for such statement. If Customer waives its right to conduct an audit, statements may be contested by Customer only if, within a period of ninety (90) days after the end of the Contract Year, Customer serves on SABINE notice questioning their correctness. If no such notice is served, statements shall be deemed correct and accepted by both Parties. Promptly after resolution of any Dispute as to a statement, the amount of any overpayment or underpayment (plus interest as provided in Section 11.4(c)) shall be paid by SABINE or Customer to the other, as the case may be.

- (c) **Records.** SABINE shall keep all books and records relevant to such audit for a period of three (3) years following the end of the relevant Contract Year; provided that where SABINE is on notice of a Dispute, SABINE shall keep all such books, records, and other information until such Dispute has been finally resolved.

11.4 Payment Due Dates

- (a) **Due Date for Payment of Monthly Statement.** Each monthly statement submitted pursuant to Section 11.1 shall become due and payable on the later of (i) ten (10) days after delivery by SABINE of such monthly statement or (ii) the twenty-fifth (25th) day of the month in which such monthly statement was received; provided that if such day is not a Business Day, it shall become due and payable on the next Business Day.
- (b) **Due Date for Payment of Other Statements.** Each statement submitted pursuant to Section 11.2 shall become due and payable on the thirtieth (30th) day after the date on which it is received; provided that if such payment due date is not a Business Day, the due date for such payment shall be extended to the next Business Day. For purposes of this Section 11.4(b), a facsimile copy of an invoice shall be deemed received by a Party on the next Business Day following the day on which it was sent.
- (c) **Interest.** If the full amount of any statement is not paid when due, the unpaid amount thereof shall bear interest at the Base Rate, compounded annually, from and including the day following the due date up to and including the date when payment is made.

11.5 Payment

Each Party shall pay, or cause to be paid, in United States dollars in immediately available funds, all amounts that become due and payable by such Party pursuant to any statement issued hereunder, to a bank account or accounts designated by and in accordance with instructions issued by the other Party. Each payment of any amount owing hereunder shall be in the full amount due without reduction or offset for any reason (except as expressly allowed under this Agreement), including Taxes, exchange charges, or bank transfer charges. Notwithstanding the preceding sentence, the paying Party shall not be responsible for a designated bank's disbursement of amounts remitted to such bank, and a deposit in immediately available funds of the full amount of each statement with such bank shall constitute full discharge and satisfaction of the statement.

11.6 Nonpayment

The term "**Cumulative Delinquency Amount**" shall mean, with respect to a Party, the cumulative amount, expressed in United States dollars, that is owed by that Party to the other Party under this Agreement and is past due. Without prejudice to a Party's right of offset, if a Party's failure to pay when due an amount owing hereunder causes its Cumulative Delinquency Amount to exceed three (3) times the Reservation Fee, then the Party to which such amount is owed shall have the right, upon giving thirty (30) days written notice (such notice hereinafter referred to as the "**Delinquency Notice**") to the owing Party, to suspend performance of its obligations under this Agreement until such amount, with interest in accordance with Section 11.4(c), has been paid in full; provided, however: that (a) no such suspension of a Party's obligations under this Section 11.6 shall

excuse the owing Party from the performance of its obligations hereunder; and (b) in the event that SABINE suspends performance under this Section 11.6: (i) Customer shall continue to be liable for the Fee pursuant to Section 4.1; and (ii) SABINE may offer Customer's unutilized Services to the Other Customers. If any such Cumulative Delinquency Amount has not been paid within sixty (60) days after the issuance of the Delinquency Notice, then the Party to whom such amount is owed shall have the right, upon not less than thirty (30) days notice to the other Party, to terminate this Agreement without the necessity of any further action, unless within that thirty (30) day period, the Party to which such amount is owed receives payments from or on behalf of the owing Party equal to the Cumulative Delinquency Amount. Any such termination shall be without prejudice to any other rights and remedies of the terminating Party arising hereunder or by law or otherwise, including the right of such Party to receive payment in respect of all obligations and claims that arose or accrued prior to such termination or by reason of such default by the owing Party.

11.7 Disputed Statements

In the event of disagreement concerning any statement, Customer or SABINE (as the case may be) shall make provisional payment of the total amount thereof and shall immediately notify the other Party of the reasons for such disagreement, except that in the case of an obvious error in computation, Customer or SABINE (as the case may be) shall pay the correct amount disregarding such error. Subject to Section 11.3(b), statements may be contested by Customer or SABINE (as the case may be) only if, within a period of ninety (90) days after a Party's receipt thereof, Customer or SABINE (as the case may be) serves on the other Party notice questioning their correctness. If no such notice is served, statements shall be deemed correct and accepted by both Parties. Promptly after resolution of any Dispute as to a statement, the amount of any overpayment or underpayment (plus interest as provided in Section 11.4(c)) shall be paid by SABINE or Customer to the other, as the case may be.

11.8 Final Settlement

Within sixty (60) days after expiration of the Term, SABINE and Customer shall determine the amount of any final reconciliation payment. After the amount of the final settlement has been determined, SABINE shall send a statement to Customer, or Customer shall send a statement to SABINE, as the case may be, in United States dollars for amounts due under this Section 11.8, and SABINE or Customer, as the case may be, shall pay such final statement no later than twenty (20) days after the date of receipt thereof.

ARTICLE 12 DUTIES, TAXES AND OTHER GOVERNMENTAL CHARGES

Notwithstanding Section 4.2, Customer shall be responsible for and pay, or cause to be paid, all Taxes that may be imposed or levied on Customer's Inventory (including receipt or redelivery thereof) and the LNG Vessels and sales and use taxes that may be imposed on the Services or on SABINE for providing the Services to Customer. Customer shall reimburse and hold harmless

SABINE for any such Taxes that may be required by law to be remitted by SABINE and shall pay such additional amount (including Taxes and corresponding interest at the Base Rate) as is necessary to ensure receipt by SABINE of the full amounts otherwise due to it under this Agreement. Notwithstanding the foregoing, neither Party shall be responsible for Taxes on the capital, revenue or income derived by the other Party. If any Governmental Authority requires Customer or SABINE to remit Taxes for which the other Party is responsible, the Party responsible for such Taxes shall promptly reimburse the other Party for such Taxes. Any Party entitled to an exemption from any such Taxes or charges shall furnish the other Party any necessary documentation thereof.

ARTICLE 13 INSURANCE

13.1 SABINE's Insurance

SABINE shall be responsible for obtaining and maintaining insurance for the Sabine Pass Facility to the extent required by applicable law; and additional insurance, as is reasonably necessary and available on reasonable commercial terms, against such other risks and at such levels as a Reasonable and Prudent Operator of a shared use LNG receiving and regasification terminal would obtain. SABINE shall obtain such insurance from a reputable insurer (or insurers) reasonably believed to have adequate financial reserves. SABINE shall exercise its best efforts to collect any amount due to SABINE under such insurance policies. Any insurance policy required pursuant to this Section 13.1 shall contain a standard waiver of subrogation endorsement and shall name Customer as an additional insured (except for Workman's Compensation insurance) to the extent of the liabilities assumed by SABINE under this Agreement. In the event of a casualty that destroys or materially impairs the Sabine Pass Facility, SABINE, upon consent of Lenders, shall be required to utilize such insurance proceeds to cause the facility to be rebuilt or repaired as quickly as commercially practicable. Upon request of Customer, SABINE shall provide to Customer satisfactory evidence that the insurance required pursuant to this Section 13.1 is in effect. In any event SABINE shall be required to obtain the following insurance coverages:

- (a) Commercial General Liability Insurance / Marine Terminal Operator's Liability Insurance;
- (b) Workers' Compensation / Employer's Liability;
- (c) All-Risk Property Insurance; and
- (d) Wharfingers Liability Insurance.

In addition, during construction of the Sabine Pass Facility, SABINE shall cause the contractor under the engineering, procurement and construction contract to carry an appropriate level of insurance, including Construction All-Risk Insurance.

13.2 Customer's Insurance

- (a) Loss of Product Insurance. Customer acknowledges that SABINE shall not at any time be responsible for securing or maintaining loss of product insurance covering the risk of loss of Customer's Inventory and that Customer shall be responsible for insuring against such risk. If Customer elects to obtain loss of product insurance that insures the physical damage or loss of Customer's Inventory, SABINE shall, upon request of Customer, provide Customer all documents and information reasonably necessary to enable Customer to obtain such loss of product insurance.
- (b) LNG Vessel Insurance. Customer shall ensure that insurances are procured and maintained for each LNG Vessel in accordance with the following provisions. In all cases, such insurance shall establish insurance coverages consistent with insurances to the standards which a ship owner operating reputable LNG vessels, as a Reasonable and Prudent Operator, should observe in insuring LNG vessels of similar type, size, age and trade as such LNG Vessel. In this regard:
 - (i) Hull and Machinery Insurance shall be placed and maintained with reputable marine underwriters; and
 - (ii) Protection & Indemnity Insurance ("**P&I Insurance**") shall be placed and maintained as an unlimited entry, if such entry is available, with and subject to and on the basis of the rules of any of the reputable P&I insurance associations experienced in providing P&I Insurance for LNG vessels.
- (c) Evidence of Insurance. Prior to the commencement of deliveries to the Sabine Pass Facility and thereafter at least once each Contract Year, Customer shall furnish the following evidence of insurance to SABINE in relation to each LNG Vessel: cover notes, certificates of entry, the latest rules of the particular provider, and detailed written information concerning all required insurance policies. These policies shall provide SABINE with thirty (30) days prior written notice of any cancellation, material change or alteration in coverage. These policies shall also contain a waiver of subrogation clause and name SABINE as an additional insured. The receipt of such information shall not impose any obligation on SABINE.

13.3 Port Liability Agreement

Notwithstanding any other provision of this Agreement and any rights that a Transporter may have under applicable law, each of SABINE and Customer agree to the Port Liability Agreement set forth in Exhibit B in relation to Liabilities for incidents involving an LNG Vessel occurring at the Sabine Pass Facility. SABINE shall cause each Other Customer to agree to the Port Liability Agreement or to indemnify SABINE in relation to Liabilities for incidents involving an LNG Vessel occurring at the Sabine Pass Facility. Customer shall cause Transporter to execute the Port Liability Agreement substantially in the form set forth on Exhibit B prior to Transporter's LNG Vessel's arrival at the Sabine

Pass Facility. In the event a Transporter fails to execute such Port Liability Agreement, Customer shall indemnify and hold SABINE harmless from any Liabilities incurred by SABINE arising from such failure.

ARTICLE 14 LIABILITIES

14.1 Limitation of Liability of SABINE

In no case shall the liability of SABINE to Customer arising out of, relating to, or connected with an Event under this Agreement exceed three (3) times the

Reservation Fee; provided, however, that the foregoing limitation shall not apply to Liabilities caused by the Gross Negligence/Willful Misconduct of SABINE.

For purposes of this Section 14.1, an “**Event**” means any occurrence or series of occurrences having the same origin, and “**Gross Negligence/Willful Misconduct**” means any act or failure to act (whether sole, joint or concurrent) by SABINE which was intended to cause, or which was in reckless disregard of or wanton indifference to, harmful consequences SABINE knew, or should have known, such act or failure would have on the safety or property of another Person.

SABINE acknowledges that Customer has informed it that Customer intends to make significant investments in upstream liquefaction facilities and enter into long-term contracts in reliance of SABINE’s performance of this Agreement, and SABINE acknowledges that as a result of the application of the liability limitation set forth in the first paragraph of this Section 14.1, the damages available pursuant to this Agreement to compensate Customer for a material breach of this Agreement may not provide the Customer with an adequate remedy. Accordingly, SABINE agrees that it will not oppose the granting of specific performance or other temporary or permanent injunctive relief in Customer’s favor in the event of a material breach of this Agreement (including anticipatory repudiation) by SABINE for which Customer will not be adequately compensated by the award of damages as a result of the application of the liability limitation set forth in the first paragraph of this Section 14.1.

14.2 Consequential Loss or Damage

Notwithstanding any other provision of this Agreement to the contrary, no Party shall be liable to the other Party for or in respect of:

- (a) any consequential loss or damage, including loss of profits or business interruption; or
- (b) any special, incidental or punitive damages

suffered or incurred by the other Party or any Person resulting from breach of or failure to perform this Agreement or the breach of any representation or warranty hereunder, whether express or implied, and whether such damages are claimed under breach of

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warranty, breach of contract, tort, or other theory or cause of action at law or in equity, except to the extent such damages have been awarded to a third party and are subject to allocation between or among the parties to the Dispute. For purposes of this Agreement, any amounts payable by Customer to its Gas purchasers or Gas suppliers for replacement Gas or other similar Liabilities shall be deemed to be a consequential loss or damage.

14.3 Parties’ Liability

Customer’s sole recourse and remedy under this Agreement for a breach hereof or a default hereunder shall be against SABINE and its assets. Except as otherwise provided herein, and pursuant to the terms of the Guarantee, SABINE’s sole recourse and remedy under this Agreement shall be against Customer and its assets for a breach hereof or a default hereunder. In the event of a breach of this Agreement, the non-breaching Party shall exercise commercially reasonable efforts to mitigate its damages resulting therefrom.

ARTICLE 15 FORCE MAJEURE

15.1 Events of Force Majeure

Neither Party shall be liable to the other for any delay or failure in performance hereunder if and to the extent such delay or failure is a result of Force Majeure. Subject to the provisions of this Article 15, the term “**Force Majeure**” shall mean any cause not within the control of the Party claiming suspension, and which by the exercise of due diligence, such Party has been unable to prevent or overcome, including without limitation (to the extent consistent with the foregoing) acts of God, the government, or a public enemy: strikes, lockout, or other industrial disturbances; wars, blockades or civil disturbances of any kind; epidemics, Adverse Weather Conditions, fires, explosions, arrests and restraints of governments or people; freezing of, breakage or accident to, or the necessity for making repairs or alterations to tanks, machinery or lines of pipe, and unplanned outages of the Sabine Pass Facility. Nothing in this Article 15 shall be construed to require a Party to observe a higher standard of conduct than that required of a Reasonable and Prudent Operator as a condition to claiming the existence of Force Majeure.

15.2 Limitation on Scope of Force Majeure for Customer

Notwithstanding Section 15.1 of this Agreement, no Force Majeure shall relieve, suspend, or otherwise excuse Customer from performing any obligation to indemnify, reimburse, hold harmless or otherwise pay SABINE under this Agreement, including the obligations set forth in Clauses C and D, Sections 3.4, 7.3, 8.9, 9.2, 9.5, 10.2 and Article 4, Article 11, Article 12 and Article 20.

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15.3 Notice

A Force Majeure event shall take effect at the moment such an event or circumstance occurs. Upon the occurrence of a Force Majeure event that prevents, interferes with or delays the performance by SABINE or Customer, in whole or in part, of any of its obligations hereunder, the Party affected shall give notice thereof to the other Party describing such event and stating the obligations the performance of which are affected (either in the original or in supplemental notices) and stating, as applicable:

- (a) the estimated period during which performance may be prevented, interfered with or delayed, including, to the extent known or ascertainable, the estimated extent of such reduction in performance;
- (b) the particulars of the program to be implemented to resume normal performance hereunder;
- (c) the anticipated portion of the Services Quantity for a Contract Year that will not be made available or received, as the case may be, by reason of Force Majeure; and
- (d) where Section 15.7 applies, the quantity of Services that SABINE reasonably expects to allocate to Customer.

Such notices shall thereafter be updated at least monthly during the period of such claimed Force Majeure specifying the actions being taken to remedy the circumstances causing such Force Majeure.

15.4 Measures

In order to resume normal performance of this Agreement within the shortest time practicable, the Party affected by the Force Majeure shall take all measures to this end which are commercially reasonable under the circumstances, taking into account the consequences resulting from such event of Force Majeure. Prior to resumption of normal performance, the Parties shall continue to perform their obligations under this Agreement to the extent not excused by such event of Force Majeure.

15.5 No Extension of Term

The Term shall not be extended as a result of or by the duration of an event of Force Majeure.

15.6 Settlement of Industrial Disturbances

Settlement of strikes, lockouts, or other industrial disturbances shall be entirely within the discretion of the Party experiencing such situations, and nothing herein shall require such Party to settle industrial disputes by yielding to demands made on it when it considers such action inadvisable.

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15.7 Allocation of Services

If, as a result of an event of Force Majeure, SABINE is unable to meet its contractual obligations to Customer and any Other Customers under LNG terminal use agreements, SABINE shall allocate the available capability of the Sabine Pass Facility to perform activities similar to the Services to Customer and Other Customers in a reasonable manner based on the ratio that the Maximum LNG Reception Quantity bears to the Aggregate Contracted Capacity for the remainder of such Contract Year.

15.8 Termination

Customer may terminate this Agreement if SABINE has declared Force Majeure with respect to a period that is either projected by SABINE to extend for eighteen (18) months or has in fact extended eighteen (18) months.

ARTICLE 16 CURTAILMENT OF SERVICES OR TEMPORARY DISCONTINUATION OF SERVICES

16.1 Scheduled Curtailment or Temporary Discontinuation of Services

To the extent that SABINE has notified Customer under Section 5.1(a) in connection with the preparation of the Annual Delivery Program of maintenance to or modification of the Sabine Pass Facility, SABINE shall, in addition to the rights set forth in Section 16.2, have the right during any Contract Year to curtail or temporarily discontinue the Services, in whole or in part due to such maintenance or modification. During the period of such curtailment or temporary discontinuation of Services, SABINE shall, from time to time, use reasonable efforts to update Customer on the expected progress towards completing the maintenance or modification, whichever applicable. For purposes of this Section 16.1, a curtailment of or temporary discontinuation of Services shall mean any curtailment or temporary discontinuation lasting no more than three (3) consecutive days. Notwithstanding the foregoing, SABINE agrees that, for purposes of this Section 16.1, neither a curtailment nor a temporary discontinuation of Services pursuant to this Section 16.1 shall reduce SABINE's obligations to provide Services for Customer's LNG in a quantity up to the Maximum LNG Reception Quantity.

16.2 Unscheduled Curtailment or Temporary Discontinuation of Services

SABINE shall have the right to curtail or temporarily discontinue the Services, in whole or in part, at any time in order to: (a) repair the Sabine Pass Facility; or (b) protect persons and property, including the Sabine Pass Facility, from harm or damage due to operational or safety conditions. SABINE shall use reasonable endeavors to provide Customer such notice of curtailment or temporary discontinuation as is reasonable under the circumstances, and such notice may be issued for a specific period of time or until further notice is given. If, as a result of any unscheduled curtailment or temporary discontinuation of Services pursuant to this Section 16.2, SABINE is unable to meet its contractual obligations to Customer and any Other Customers under LNG terminal use agreements, SABINE shall allocate the available capability of the Sabine Pass Facility to

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perform activities similar to the Services to Customer and Other Customers in a reasonable manner based on the ratio that the Maximum LNG Reception Quantity bears to the Aggregate Contracted Capacity for the remainder of such Contract Year. If a curtailment or temporary discontinuation of Services occurs under this Section 16.2, SABINE may direct Customer to adjust receipts of LNG and deliveries of Customer's Inventory as the case may be; provided that SABINE shall use commercially reasonable efforts to implement such curtailment or discontinuance of Services among Customer and Other Customers as equitably as reasonably practicable under the circumstances. Notwithstanding the foregoing, SABINE shall have no responsibility to inform Transporters, LNG Vessels, Downstream Pipelines, LNG Suppliers, or any other Persons involved in the transaction as to such curtailment or temporary discontinuation of Services.

ARTICLE 17 ASSIGNMENT

17.1 Restrictions on Assignment

- (a) Consent of Other Party Required. Except as otherwise provided in this Article 17, neither this Agreement nor any rights or obligations hereunder may be assigned by any Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld.
- (b) Obligation of Assignee. If consent is granted pursuant to Section 17.1(a) or in the case of an assignment permitted under Section 17.2 (other than Section 17.2(c), the assignee to such assignment must, as a condition to such assignment, deliver to the non-assigning Party its written undertaking to be bound by and perform all obligations of the assignor under this Agreement.

17.2 Permitted Assignments

- (a) Affiliates of SABINE. Notwithstanding the provisions of Section 17.1, SABINE may freely assign all of its rights and obligations under this Agreement to an Affiliate, upon notice to, but without requiring the consent of, Customer.
- (b) Affiliates of Customer. Notwithstanding the provisions of Section 17.1, Customer may freely assign all of its rights and obligations under this Agreement to

an Affiliate upon notice to, but without requiring the consent of, SABINE. Guarantor shall agree in writing that the Guarantee extends to all of the obligations assigned pursuant to this Section 17.2(b).

- (c) **Financing.** Notwithstanding the provisions of Section 17.1, SABINE shall be entitled to assign, mortgage, or pledge all or any of its rights, interests, and benefits hereunder to secure payment of any indebtedness incurred or to be incurred in connection with the construction and term financing of the Sabine Pass Facility. In connection with SABINE's efforts to finance the construction of the Sabine Pass Facility, if required by the Lenders, Customer agrees to execute in

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favor of such Lenders a document in the form of the Lenders Consent and Agreement appended hereto as Exhibit D.

- (d) **Partial Assignments.** Customer may assign a portion of the Services it is entitled to hereunder (a "**Partial Assignment**") for any period of time up to and including the remainder of the Term, or all of its entitlements for a period of time that is less than the remaining Term, upon notice but without the prior consent of SABINE, to one or more assignees, provided that the Guarantee, extending to all obligations assigned pursuant to the Partial Assignment continues to remain in full force and effect such that the guarantee of Customer's obligations under this Agreement in favor of SABINE is not adversely affected by such assignment; and:
- (i) the assignees deliver to SABINE the written undertaking required by Section 17.1(b);
 - (ii) Customer and all assignees designate one of them, or a third party, on behalf of Customer and all assignees to act as Scheduling Representative and for purposes of giving and receiving all notices, statements and other communications from or to Customer and exercising all rights of Customer under this Agreement (including all rights under Clause A, Sections 2.3, 3.5, 8.2, 10.2, 11.3, 18.1, 20.1, and 20.2) jointly, without delay or hindrance to each Party's performance of this Agreement; and
 - (iii) no Partial Assignment shall reduce the responsibility of Customer or SABINE in respect of the Services or increase SABINE's responsibilities to Customer and the assignees under this Agreement. Customer shall remain liable for all payments due under this Agreement and SABINE shall continue to send all statements required under Article 11 to Customer. Customer shall indemnify and hold SABINE harmless from any Liabilities incurred by SABINE arising from a failure by Customer and all assignees to designate a Scheduling Representative under Section 17.2(d)(ii) above.

17.3 Assignment as Novation

- (a) Except as provided in Section 17.2(b), an assignment under this Article 17 of all, but not less than all, of Customer's or SABINE's rights and obligations under this Agreement for the remaining Term of the Agreement shall not serve as a novation of this Agreement unless and until, but shall serve as a novation if:
- (i) the assignee delivers to the non-assigning Party its written undertaking to be bound by and perform all obligations of the assignor (including the assumption of all liabilities of the assignor from the Effective Date through the date of such assignment) under this Agreement, as if it were the assignor; and
 - (ii) in the case of Customer, assignee having demonstrated to SABINE that its creditworthiness (including credit support from an irrevocable letter of credit, a parent guarantee or other security) at the time of the assignment is the same or better than the creditworthiness of Guarantor or such creditworthiness and/or assignee are otherwise reasonably acceptable to

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SABINE. For the purposes of the preceding sentence, the creditworthiness at the time of the assignment of the proposed assignee shall be deemed acceptable to SABINE if: (i) the credit rating of such assignee is at such time equivalent to or better than no less than two of the following three ratings: "A3" by Moody's Investor Service, "A-" by Standard and Poor's and "A-" by Fitch Ratings; and (ii) the minimum market capitalization of such assignee is three billion five hundred million U.S. dollars (\$3,500,000,000); or

- (iii) in the case of SABINE, assignee having demonstrated to Customer that:
 - a. its creditworthiness at the time of the assignment is the same or better than the creditworthiness of SABINE; and
 - b. it has succeeded to substantially all of the assets comprising the Sabine Pass Facility and is willing and able to make available the Services to Customer.
- (b) In the event of a novation, the assignee shall be deemed to be a Party to this Agreement for all purposes with respect to rights and obligations pertaining to operations hereunder from and after the effective date of the assignment and the assignor shall be relieved of all rights and obligations hereunder from and after the effective date of the assignment.

ARTICLE 18 TERMINATION

18.1 Early Termination Events

- (a) **Termination by Customer.** Customer may terminate this Agreement pursuant to the other provisions of this Article 18, if:
- (i) SABINE has declared Force Majeure with respect to a period that is either projected by SABINE to extend for eighteen (18) months or has in fact extended eighteen (18) months;
 - (ii) From and after the Commercial Start Date, for reasons not excused by Force Majeure or Customer's actions:
 - a. SABINE failed to deliver to the Delivery Point an amount aggregating to 141,380,925 MMBTUs or more of Customer's total Gas nominations in a twelve (12) month period;
 - b. SABINE has failed entirely to receive for Customer's account at least twelve (12) Cargoes, nominated by Customer, over a period of ninety (90) consecutive days; or

- c. SABINE failed to unload at the Receipt Point, or has notified Customer that it would be unable to unload, the aggregate of thirty seven (37) Cargoes or more scheduled in the Customer LNG Receipt Schedule for a twelve (12) month period.

- (b) Termination by SABINE. SABINE may terminate this Agreement pursuant to the other provisions of this Article 18 if:
- (i) the Guarantee ceases to be in full force and effect; or
 - (ii) the Guarantor or Customer passes a resolution, commences proceedings or has proceedings commenced against it (which are not stayed within sixty (60) days of service thereof on Guarantor) in the nature of bankruptcy or reorganization resulting from insolvency or for its liquidation of for the appointment of a receiver, trustee in bankruptcy or liquidator of its undertaking or assets.
- (c) Notice. SABINE or Customer, as the case may be, shall give notice of its exercise of any termination right hereunder to the other Party.
- (d) Cure. At any time after the expiration of a period of thirty (30) days after the terminating Party gives notice of termination pursuant to Section 18.1(c), such Party may terminate this Agreement with immediate effect by giving notice of such termination; provided, however, that the terminating Party may not terminate this Agreement if the circumstances giving rise to such termination right have been fully remedied or have ceased to apply.
- (e) Financial Reporting. SABINE shall, from the Commercial Start Date, provide quarterly unaudited and yearly audited financial statements to Customer.

18.2 Other Termination Provisions

This Agreement is also subject to the termination provisions provided in Section 11.6.

18.3 Consequences of Termination

Termination of this Agreement under this Article 18 or any other provision of this Agreement shall be without prejudice to any other rights and remedies of either Party arising hereunder or by law or otherwise which arose or accrued prior to or as a result of such termination or by reason of default of either Party, provided; however, that in no event shall Customer be entitled to recover damages or pursue any other remedy against SABINE in relation to Services which would have been performed by SABINE after the date of termination by Customer.

ARTICLE 19 APPLICABLE LAW

The substantive laws of the State of New York, United States of America, exclusive of any conflicts of laws principles that could require the application of any other law, shall govern this Agreement for all purposes, including the resolution of all Disputes between or among the Parties.

ARTICLE 20 DISPUTE RESOLUTION

20.1 Dispute Resolution

- (a) Arbitration. Any Dispute (other than a Dispute regarding measurement under Annex I or Annex II) shall be exclusively and definitively resolved through final and binding arbitration, it being the intention of the Parties that this is a broad form arbitration agreement designed to encompass all possible disputes.
- (b) Rules. The arbitration shall be conducted in accordance with the International Arbitration Rules (the “**Rules**”) of the American Arbitration Association (“**AAA**”) (as then in effect).
- (c) Number of Arbitrators. The arbitral tribunal (“**Tribunal**”) shall consist of three (3) arbitrators, who shall endeavor to complete the final hearing in the arbitration within six (6) months after the appointment of the last arbitrator.
- (d) Method of Appointment of the Arbitrators. If there are only two (2) parties to the Dispute, then each party to the Dispute shall appoint one (1) arbitrator within thirty (30) days of the filing of the arbitration, and the two arbitrators so appointed shall select the presiding arbitrator within thirty (30) days after the latter of the two arbitrators has been appointed by the parties to the Dispute. If a party to the Dispute fails to appoint its Party-appointed arbitrator or if the two Party-appointed arbitrators cannot reach an agreement on the presiding arbitrator within the applicable time period, then the AAA shall serve as the appointing authority and shall appoint the remainder of the three arbitrators not yet appointed. If the arbitration is to be conducted by three arbitrators and there are more than two parties to the Dispute, then within thirty (30) days of the filing of the arbitration, all claimants shall jointly appoint one arbitrator and all respondents shall jointly appoint one arbitrator, and the two arbitrators so appointed shall select the presiding arbitrator within thirty (30) days after the latter of the two arbitrators has been appointed by the parties to the Dispute. For the purposes of appointing arbitrators under this Article 20, (a) Customer, Guarantor and all persons whose interest in this Agreement derives from them shall be considered as one Party; and (b) SABINE and all persons whose interest in this Agreement derives from SABINE shall be considered as one Party. If either all claimants or all respondents fail to make a joint appointment of an arbitrator, or if the Party-appointed arbitrators cannot reach an agreement on the presiding arbitrator within the applicable time period, then the AAA as the appointing authority shall make the prescribed appointment.
- (e) Consolidation. If the Parties initiate multiple arbitration proceedings under this Agreement and/or under the Guarantee, the subject matters of which are related by common questions of law or fact and which could result in conflicting awards or obligations, then either Party may request prior to the appointment of the arbitrators for such multiple or subsequent disputes that all such proceedings be consolidated into a single arbitral proceeding. Such request shall be directed to the AAA, which shall consolidate appropriate proceedings into a single

proceeding unless consolidation would result in undue delay for the arbitration of the Disputes.

- (f) Place of Arbitration. Unless otherwise agreed by all parties to the Dispute, the place of arbitration shall be Houston, Texas.

- (g) Language. The arbitration proceedings shall be conducted in the English language, and the arbitrators shall be fluent in the English language.
- (h) Entry of Judgment. The award of the arbitral tribunal shall be final and binding. Judgment on the award of the arbitral tribunal may be entered and enforced by any court of competent jurisdiction. The Parties agree that service of process for any action to enforce an award may be accomplished according to the procedures of Article 23, as well as any other procedure authorized by law.
- (i) Notice. All notices required for any arbitration proceeding shall be deemed properly given if given in accordance with Article 23.
- (j) Qualifications and Conduct of the Arbitrators. All arbitrators shall be and remain at all times wholly impartial, and, once appointed, no arbitrator shall have any *ex parte* communications with any of the parties to the Dispute concerning the arbitration or the underlying Dispute other than communications directly concerning the selection of the presiding arbitrator, where applicable.
- (k) Interim Measures. In addition to Customer's rights under Section 14.1, any party to the Dispute may apply to a court in Harris County, Texas for interim measures (i) prior to the constitution of the arbitral tribunal (and thereafter as necessary to enforce the arbitral tribunal's rulings); or (ii) in the absence of the jurisdiction of the arbitral tribunal to rule on interim measures in a given jurisdiction. The Parties agree that seeking and obtaining such interim measures shall not waive the right to arbitration. The arbitrators (or in an emergency the presiding arbitrator acting alone in the event one or more of the other arbitrators is unable to be involved in a timely fashion) may grant interim measures including injunctions, attachments and conservation orders in appropriate circumstances, which measures may be immediately enforced by court order. Hearings on requests for interim measures may be held in person, by telephone, by video conference or by other means that permit the parties to the Dispute to present evidence and arguments.
- (l) Costs and Attorneys' Fees. The arbitral tribunal is authorized to award costs of the arbitration in its award, including: (a) the fees and expenses of the arbitrators; (b) the costs of assistance required by the tribunal, including its experts; (c) the fees and expenses of the administrator; (d) the reasonable costs for legal representation of a successful Party; and (e) any such costs incurred in connection with an application for interim or emergency relief and to allocate those costs between the parties to the Dispute. The costs of the arbitration proceedings, including attorneys' fees, shall be borne in the manner determined by the arbitral tribunal.
- (m) Interest. The award shall include pre-award and post-award interest, as determined by the arbitral award, from the date of any default or other breach of

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this Agreement until the arbitral award is paid in full. Interest shall accrue at the Base Rate.

- (n) Currency of Award. The arbitral award shall be made and payable in United States dollars, free of any tax or other deduction.
- (o) Waiver of Challenge to Decision or Award. To the extent permitted by law, the Parties hereby waive any right to appeal from or challenge any arbitral decision or award, or to oppose enforcement of any such decision or award before a court or any governmental authority, except with respect to the limited grounds for modification or non-enforcement provided by any applicable arbitration statute or treaty.
- (p) Confidentiality. Any arbitration or expert determination relating to a Dispute (including a settlement resulting from an arbitral award, documents exchanged or produced during an arbitration proceeding, and memorials, briefs or other documents prepared for the arbitration) shall be confidential and may not be disclosed by the Parties, their employees, officers, directors, counsel, consultants, and expert witnesses, except (in accordance with Article 21) to the extent necessary to enforce this Section 20.1 or any arbitration award, to enforce other rights of a party to the Dispute, or as required by law; provided, however, that breach of this confidentiality provision shall not void any settlement, expert determination or award.

20.2 Expert Determination

- (a) General. In the event of any disagreement between the Parties regarding a measurement under Annex I or Annex II (a "**Measurement Dispute**"), the Parties hereby agree that such Measurement Dispute shall be resolved by an expert selected as provided in this Section 20.2. The expert is not an arbitrator of the Measurement Dispute and shall not be deemed to be acting in an arbitral capacity. The Party desiring an expert determination shall give the other Party to the Measurement Dispute notice of the request for such determination. If the Parties to the Measurement Dispute are unable to agree upon an expert within ten (10) days after receipt of the notice of request for an expert determination, then, upon the request of any of the Parties to the Measurement Dispute, the International Centre for Expertise of the International Chamber of Commerce shall appoint such expert and shall administer such expert determination through the ICC's Rules for Expertise. The expert shall be and remain at all times wholly impartial, and, once appointed, the expert shall have no *ex parte* communications with any of the Parties to the Measurement Dispute concerning the expert determination or the underlying Measurement Dispute. The Parties to the Measurement Dispute shall cooperate fully in the expeditious conduct of such expert determination and provide the expert with access to all facilities, books, records, documents, information and personnel necessary to make a fully informed decision in an expeditious manner. Before issuing a final decision, the expert shall issue a draft report and allow the Parties to the Measurement Dispute to comment on it. The expert shall endeavor to resolve the Measurement Dispute within thirty (30) days

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(but no later than sixty (60) days) after his appointment, taking into account the circumstances requiring an expeditious resolution of the matter in dispute.

- (b) Final and Binding. The expert's decision shall be final and binding on the Parties to the Measurement Dispute unless challenged in an arbitration pursuant to Section 20.1 within thirty (30) days of the date the expert's decision. If challenged, (i) the decision shall remain binding and be implemented unless and until finally replaced by an award of the arbitrators; (ii) the decision shall be entitled to a rebuttable presumption of correctness; and (iii) the expert shall not be appointed in the arbitration as an arbitrator or as advisor to either Party without the written consent of both Parties.
- (c) Arbitration of Expert Determination. In the event that a Party requests Expert Determination for a Measurement Dispute which raises issues that require determination of other matters in addition to correct measurement under Annex I or Annex II, then either Party may elect to refer the entire Measurement Dispute for arbitration under Section 20.1. In such case, the arbitrators shall be competent to make any measurement determination that is part of a Dispute. An Expert Determination not referred to arbitration shall proceed and shall not be stayed during the pendency of an arbitration.

ARTICLE 21 CONFIDENTIALITY

21.1 Confidentiality Obligation

Neither this Agreement nor information or documents that come into the possession of a Party by means of the other Party in connection with the performance of this Agreement may be used or communicated to Persons (other than the Parties) without the mutual written agreement of the Parties, except that either Party shall have

the right to disclose such information or documents without obtaining the other Party's prior consent in any of the situations described below:

- (a) accountants, other professional consultants or underwriters, provided such disclosure is solely to assist the purpose for which the aforesaid were so engaged and further provided that such Persons agree to hold such information or documents under terms of confidentiality equivalent to this Section 21.1, and for the benefit of the Parties;
- (b) Lenders and other providers or prospective providers of finance to SABINE in relation to the Sabine Pass Facility, provided that such Persons agree to hold such information or documents confidential, and for the benefit of the Parties, for a period of at least three (3) years (excepting information in connection with the Fee, which shall be held confidential during the Term);
- (c) bona fide prospective purchasers of all or a part of a Party's or its Affiliate's business, and bona fide prospective assignees of all or part of a Party's interest in this Agreement, provided that such Persons agree to hold such information or

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documents under terms of confidentiality equivalent to this Section 21.1, and for the benefit of the Parties;

- (d) to legal counsel, provided such disclosure is solely to assist the purpose for which the aforesaid were so engaged;
- (e) if required by any court of law or any law, rule, or regulation, or if requested by a Governmental Authority (including the United States Securities and Exchange Commission) having or asserting jurisdiction over a Party and having or asserting authority to require such disclosure in accordance with that authority, or pursuant to the rules of any recognized stock exchange or agency established in connection therewith;
- (f) to prospective assignees permitted under Article 17, to prospective and actual LNG Suppliers and to any prospective and actual purchasers under the Customer's Gas sales contracts from Customer's Inventory, in each case only to the extent required for the execution and/or administration of such contracts, and provided that such Persons agree to hold such information or documents under terms of confidentiality equivalent to this Section 21.1, and for the benefit of the Parties;
- (g) to its Affiliates, its shareholders and partners, or its shareholders' and partners' Affiliates, provided that such recipient entity has a bona fide business need for such information and agrees to hold such information or documents under terms of confidentiality equivalent to this Section 21.1;
- (h) to any Government Authorities to the extent such disclosure assists SABINE and Customer in obtaining Approvals;
- (i) to an expert in connection with the resolution of a Dispute pursuant to Section 20.2 or to an arbitration tribunal in connection with the resolution of a Dispute under Section 20.1;
- (j) to the extent any such information or document has entered the public domain other than through the fault or negligence of the Party making the disclosure; and
- (k) to Other Customers by SABINE only in order to allow SABINE to perform its obligations to Other Customers.

Notwithstanding the foregoing, Customer acknowledges and agrees that certain providers of finance to SABINE as well as SABINE's shareholders and partners may disclose this Agreement and information or documents disclosed pursuant to this Section 21.1 if required by any court of law or any law, rule, or regulation, or if requested by a Governmental Authority having or asserting jurisdiction over such Persons and having or asserting authority to require such disclosure in accordance with that authority, or pursuant to the rules of any recognized stock exchange or agency established in connection therewith. Customer further agrees and acknowledges that, at the time Cheniere Energy, Inc. files its quarterly report in form 10-Q for the third quarter,

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complete copies of this Agreement, with attachments, and any and all related agreements and material amendments hereto and thereto will be filed by Cheniere Energy, Inc. with the United States Securities and Exchange Commission as material agreements or amendments in accordance with applicable securities laws and regulations.

21.2 Public Announcements

- (a) General. Neither Party may issue or make any public announcement, press release or statement regarding this Agreement unless, prior to the release of the public announcement, press release or statement, such Party furnishes the other Party with a copy of such announcement, press release or statement, and obtains the approval of the other Party, such approval not to be unreasonably withheld; provided that, notwithstanding any failure to obtain such approval, no Party shall be prohibited from issuing or making any such public announcement, press release or statement if it is necessary to do so in order to comply with the applicable laws, rules or regulations of any Governmental Authority, legal proceedings or stock exchange having jurisdiction over such Party.
- (b) SABINE Promotional Materials. Notwithstanding any provision in Section 21.2(a) to the contrary, SABINE may, with the consent of Customer not to be unreasonably withheld, use the following in external announcements and publications: (i) information concerning the signing of this Agreement; (ii) the general nature of the Services; and (iii) the general nature of Customer's involvement in the Sabine Pass Facility project.

ARTICLE 22 REPRESENTATIONS AND WARRANTIES

22.1 Representations and Warranties of Customer

As of the date hereof and until the expiration of this Agreement, Customer represents, undertakes and warrants that:

- (a) Customer is and shall remain duly formed and in good standing under the laws of Pennsylvania and duly qualified to do business in the State of Louisiana;
- (b) Upon satisfaction of the Customer Conditions Precedent set forth in Clause 3.2 of the Omnibus Agreement between Customer and SABINE, Customer has the requisite power, authority and legal right to execute and deliver, and to perform its obligations under, this Agreement;
- (c) Customer has not incurred any liability to any financial advisor, broker or finder for any financial advisory, brokerage, finder's or similar fee or commission in connection with the transactions contemplated by this Agreement for which Customer or any of its Affiliates could be liable; and

- (d) neither the execution, delivery nor performance of this Agreement violates or will violate, results or will result in a breach of or constitutes or will constitute a

default under any provision of Customer's organizational documents, any law, judgment, order, decree, rule or regulation of any court, administrative agency or other instrumentality of any Governmental Authority or of any other material agreement or instrument to which Customer is a party.

22.2 Representations and Warranties of SABINE

As of the date hereof and until the expiration of this Agreement, SABINE represents, undertakes and warrants that:

- (a) SABINE is and shall remain duly formed and in good standing under the laws of the State of Delaware and duly qualified to do business in the State of Louisiana;
- (b) SABINE has the requisite power, authority and legal right to execute and deliver, and to perform its obligations under this Agreement;
- (c) SABINE has not incurred any liability to any financial advisor, broker or finder for any financial advisory, brokerage, finder's or similar fee or commission in connection with the transactions contemplated by this Agreement for which Customer or any of its Affiliates could be liable; and
- (d) neither the execution, delivery nor performance of this Agreement, violates or will violate, results or will result in a breach of, or constitutes or will constitute a default under, any provision of SABINE's organizational documents, any law, judgment, order, decree, rule or regulation of any court, administrative agency or other instrumentality of any Governmental Authority or of any other material agreement or instrument to which SABINE is a party.

ARTICLE 23 NOTICES

Except as otherwise specifically provided, all notices authorized or required between the Parties by any of the provisions of this Agreement shall be in writing (in English) and delivered in person or by courier service or by any electronic means of transmitting written communications which provides written confirmation of complete transmission, and addressed to such Party. Oral communication does not constitute notice for purposes of this Agreement, and e-mail addresses and telephone numbers for the Parties are listed as a matter of convenience only. The foregoing notwithstanding, notices given from LNG Vessels at sea may be given by radio, and notices required under Article 5 may be given by e-mail. A notice given under any provision of this Agreement shall be deemed delivered only when received by the Party to whom such notice is directed, and the time for such Party to deliver any notice in response to such originating notice shall run from the date the originating notice is received. "**Received**" for purposes of this Article 23 shall mean actual delivery of the notice, or delivery of the notice to the address of the Party specified in Clause E or, in the event notice was given by radio from an LNG Vessel at sea, actual receipt of the communication by radio, or to be thereafter notified in accordance with this Article 23. Each Party shall have the right to change its address at any time and/or designate that copies of all such notices be directed to another Person at another address, by giving written notice thereof to the other Party.

ARTICLE 24 COORDINATION

24.1 Terminal Operations Coordination Committee

- (a) Establishment of Terminal Operations Coordination Committee. Not later than ninety (90) days following the execution of this Agreement, the Parties shall form a joint coordination committee ("**Terminal Operations Coordination Committee**") to serve as a forum for the Parties to coordinate and consult regarding the provisions of Sections 24.2 and 24.3.
- (b) Representatives. The Terminal Operations Coordination Committee shall be comprised of such equal number of representatives from each of Customer and SABINE as the Parties may agree from time to time.
- (c) Limitation of Authority. Notwithstanding anything herein to the contrary in this Section 24.1, the Terminal Operations Coordination Committee shall have no authority to bind or make agreements on behalf of Customer or SABINE or to issue instructions to or direct or exercise authority over Customer or SABINE or any of their respective officers, employees, advisors or agents or to waive or modify any provision hereof.
- (d) Expenses. Each Party shall bear all costs and expenses incurred its respective representatives to the Terminal Operations Coordination Committee shall be borne by SABINE.

24.2 Coordination Prior to Commercial Start Date

- (a) Terminal Operations Coordination Committee Meetings. The Terminal Operations Coordination Committee shall meet: (i) within six (6) months following the execution of this Agreement and thereafter on a frequency of no more than a quarterly basis until the Commercial Start Date; and (ii) upon request of either Party upon at least fifteen (15) days prior notice (or such shorter time as the Parties may agree), which notice shall include an agenda for the proposed meeting and any appropriate supporting documentation. Such meetings shall be held at such place as the Parties may agree from time to time. At such meetings, the Terminal Operations Coordination Committee shall coordinate the Parties' activities with respect to the performance of the Parties prior to the Commercial Start Date, including the satisfaction of the Conditions Precedent and the construction and commissioning of the SABINE Pass Facility.
- (b) Construction Progress Reports. At least fifteen (15) days prior to each quarterly Terminal Operations Coordination Committee meeting, each Party shall furnish to the other a schedule update and interim progress report specifying the progress since the last report and the expected progress towards completing the construction, testing and operational start-up of the Sabine Pass Facility and the satisfaction of the Conditions Precedent (such schedules and interim progress reports hereinafter referred to as a "**Progress Report**"). Each Progress Report shall include, as applicable: (i) the status and progress of all construction and an update of the construction schedule; (ii) the status and an update of construction approvals, permits and authorizations not yet received; and (iii) any other

information which a Party may reasonably request to evaluate the status and progress of the above matters. If any material change occurs with respect to any of the above matters subsequent to the most recent Progress Report hereunder, the issuing Party shall promptly give notice to the other Party.

24.3 Coordination After Commercial Start Date

- (a) Terminal Operations Coordination Committee Meetings. After the Commercial Start Date, the Terminal Operations Coordination Committee shall meet on a yearly basis or such other time as the Parties may mutually agree. Such meetings shall be held at such place as the Parties may agree from time to time. At such meetings, the Terminal Operations Coordination Committee shall discuss the matters set forth on Exhibit A attached hereto.
- (b) Correlation Tests. To assist in the proper determination of the amount of LNG delivered under this Agreement, the Parties shall perform periodically correlation tests (each a “**Correlation Test**”) of SABINE’s gas chromatograph at the Sabine Pass Facility and of LNG Supplier’s gas chromatograph at the applicable liquefaction facility. The procedure for such tests shall be agreed upon by the Parties, subject to the following conditions:
 - (i) At least sixty (60) days prior to the Commercial Start Date, the laboratory staffs of the Parties shall jointly develop detailed testing methods based on GPA standards (as appropriate), such standards to be modified to conform to measurement and testing standards set forth in the Sabine Pass Services Manual. The first Correlation Test shall take place no later than ninety (90) days after the Commercial Start Date. Thereafter, a Correlation Test shall be conducted on a yearly basis unless the Parties mutually agree to a two (2) or three (3) year interval between tests in consideration of the consistency of prior test results;
 - (ii) Customer shall obtain a calibrated sample for determining response factors, with such sample being transported from SABINE’s laboratory to the other by LNG Vessels. The results of these tests shall be made available to both Parties; and
 - (iii) Each Correlation Test shall be performed with the same procedure in the respective laboratory chromatograph with a view to achieving similar testing results within GPA tolerance allowances.

ARTICLE 25 MISCELLANEOUS

25.1 Amendments

This Agreement may not be amended, modified, varied or supplemented except by an instrument in writing signed by SABINE and Customer.

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25.2 Approvals

Each Party shall use reasonable endeavors to maintain in force all Approvals necessary for its performance under this Agreement. Customer and SABINE shall cooperate fully with each other wherever necessary for this purpose.

25.3 Successors and Assigns

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

25.4 Waiver

No failure to exercise or delay in exercising any right or remedy arising from this Agreement shall operate or be construed as a waiver of such right or remedy. Performance of any condition or obligation to be performed hereunder shall not be deemed to have been waived or postponed except by an instrument in writing signed by the Party who is claimed to have granted such waiver or postponement. No waiver by either Party shall operate or be construed as a waiver in respect of any failure or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver.

25.5 No Third Party Beneficiaries

The interpretation of this Agreement shall exclude any rights under legislative provisions conferring rights under a contract to Persons not a party to that contract. Nothing in this Agreement shall otherwise be construed to create any duty to, or standard of care with reference to, or any liability to, any Person other than a Party.

25.6 Rules of Construction

- (a) Drafting. Each provision of this Agreement shall be construed as though all Parties participated equally in the drafting of the same. 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 Agreement.

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- (b) Priority.

- (i) In the event of a conflict between the terms of this Agreement excluding Annexes I and II and Exhibits A, B, and C (the “**Base Agreement**”) and the terms of Annexes I and II and Exhibits A, B and C, then all terms of the Base Agreement shall take precedence over Annexes I and II and Exhibits A, B and C.
- (ii) In the event that any conflict arises between this Agreement and the Sabine Pass Marine Operations Manual, this Agreement shall prevail. In the event that any conflict arises between this Agreement and the Sabine Pass Services Manual, this Agreement shall prevail.

25.7 Survival of Rights

Any termination or expiration of this Agreement shall be without prejudice to any rights, remedies, obligations and liabilities which may have accrued to a Party pursuant to this Agreement or otherwise under applicable law. All rights or remedies which may have accrued to the benefit of either Party (and any of this Agreement’s provisions necessary for the exercise of such accrued rights or remedies) prior to the termination or expiration of this Agreement shall survive such termination or expiration. Furthermore, the provisions of Article 11, Article 12, Article 14, Article 19, Article 20, Article 23 and Article 25 shall survive the termination or expiration of this Agreement.

25.8 Rights and Remedies

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

and remedies provided by law.

25.9 Interpretation

- (a) Headings. The topical headings used in this Agreement are for convenience only and shall not be construed as having any substantive significance or as indicating that all of the provisions of this Agreement relating to any topic are to be found in any particular Article or that an Article relates only to the topical heading.
- (b) Singular and Plural. Reference to the singular includes a reference to the plural and vice versa.
- (c) Gender. Reference to any gender includes a reference to all other genders.
- (d) Article. Unless otherwise provided, reference to any Article, Section, Annex or Exhibit means an Article, Section, Annex or Exhibit of this Agreement. In addition, reference to a Clause means a reference to a Clause in Part One and reference to an Article or Section means a reference to an Article or Section of Part Two.

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- (e) Include. The words “**include**” and “**including**” shall mean include or including without limiting the generality of the description preceding such term and are used in an illustrative sense and not a limiting sense.
- (f) Time Periods. References to “**day**,” “**month**,” “**quarter**” and “**year**” shall, unless otherwise stated or defined, mean a day, month, quarter and year of the Gregorian calendar, respectively. For the avoidance of doubt, a “**day**” shall commence at 24:00 midnight.
- (g) Statutory References. Unless the context otherwise requires, any reference to a statutory provision is a reference to such provision as amended or re-enacted or as modified by other statutory provisions from time to time and includes subsequent legislation and regulations made under the relevant statute.
- (h) Currency. References to United States dollars shall be a reference to the lawful currency from time to time of the United States of America.

25.10 Disclaimer of Agency

The rights, duties, obligations and liabilities of the Parties under this Agreement shall be individual, not joint or collective. It is not the intention of the Parties to create, nor shall this Agreement be deemed or construed to create, nor shall the Parties report for any purpose any transaction occurring pursuant to this Agreement as, (a) a partnership, joint venture or other association or a trust, nor (b) a lease or sales transaction with respect to any portion of the Sabine Pass Facility. This Agreement shall not be deemed or construed to authorize any Party to act as an agent, servant or employee for the other Party for any purpose whatsoever except as explicitly set forth in this Agreement. In their relations with each other under this Agreement, the Parties shall not be considered fiduciaries.

25.11 No Sovereign Immunity

Any Party that now or hereafter has a right to claim sovereign immunity for itself or any of its assets hereby waives any such immunity to the fullest extent permitted by the laws of any applicable jurisdiction. This waiver includes immunity from (a) any expert determination or arbitration proceeding commenced or to be commenced pursuant to this Agreement; (b) any judicial, administrative or other proceedings to aid the expert determination or arbitration commenced pursuant to this Agreement; and (c) any effort to confirm, enforce, or execute any decision, settlement, award, judgment, service of process, execution order or attachment (including pre-judgment attachment) that results from an expert determination, mediation, arbitration or any judicial or administrative proceedings commenced pursuant to this Agreement. Each Party acknowledges that its rights and obligations hereunder are of a commercial and not a governmental nature.

25.12 Severance of Invalid Provisions

If and for so long as any provision of this Agreement shall be deemed to be judged invalid for any reason whatsoever, such invalidity shall not affect the validity or

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operation of any other provision of this Agreement except only so far as shall be necessary to give effect to the construction of such invalidity, and any such invalid provision shall be deemed severed from this Agreement without affecting the validity of the balance of this Agreement.

25.13 Compliance with Laws

In performance of their respective obligations under this Agreement, each Party agrees to comply with all applicable laws, statutes, rules, regulations, judgments, decrees, injunctions, writs and orders, and all interpretations thereof, of all Governmental Authorities having jurisdiction over such Party.

25.14 Conflicts of Interest

SABINE shall avoid any conflict between its own interests and the interests of Customer in relation to obtaining LNG terminalling services from the Sabine Pass Facility. In this regard, SABINE shall not become one of the Other Customers during the Term hereof unless Customer has first consented in writing (such consent not to be unreasonably withheld or delayed) to such expanded business role by SABINE. In no event shall (a) any of SABINE's joint venture partners or Affiliates of any kind be restricted from becoming one of the Other Customers during the Term hereof; or (b) any partner, shareholder, member, or other equity owner of SABINE be restricted from becoming one of the Other Customers during the Term hereof. Except as provided above, the Parties and their Affiliates are free to engage or invest (directly or indirectly) in an unlimited number of activities or businesses, any one or more of which may be related to or in competition with the business activities contemplated under this Agreement, without having or incurring any obligation to offer any interest in such business activities to the other Party.

25.15 Expenses

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

25.16 Scope

This Agreement constitutes the entire agreement between the Parties relating to the subject matter hereof and supersedes and replaces any provisions on the same subject contained in any other agreement between the Parties (except as provided in the Omnibus Agreement of even date), whether written or oral, prior to the date of the original execution hereof.

This Agreement may be executed in any number of counterparts and each such counterpart shall be deemed an original Agreement for all purposes; provided that no Party shall be bound to this Agreement unless and until both Parties have executed a counterpart. For purposes of assembling all counterparts into one document, Customer is

authorized to detach the signature page from one or more counterparts and, after signature thereof by the respective Party, attach each signed signature page to a counterpart.

ANNEX I

MEASUREMENTS AND TESTS FOR LNG AT RECEIPT POINT

1. Parties to Supply Devices

- a) General. Unless otherwise agreed, Customer and SABINE shall supply equipment and conform to procedures that are in accordance with the latest appropriate International Organization for Standards ("ISO") documents.
- b) Customer Devices. Customer or Customer's agent shall supply, operate and maintain, or cause to be supplied, operated and maintained, suitable gauging devices for the liquid level in LNG tanks of the LNG Vessels, pressure and temperature measuring devices, and any other measurement or testing devices which are incorporated in the structure of LNG vessels or customarily maintained on board ship.
- c) SABINE Devices. SABINE shall supply, operate and maintain, or cause to be supplied, operated and maintained, devices required for collecting samples and for determining quality and composition of the LNG and any other measurement or testing devices which are necessary to perform the measurement and testing required hereunder at the Sabine Pass Facility.
- d) Dispute. Any Dispute arising under this Annex I shall be submitted to an Expert under Section 20.2.

2. Selection of Devices

All devices provided for in this Annex I shall be approved by SABINE, acting as a Reasonable and Prudent Operator. The required degree of accuracy (which shall in any case be within the permissible tolerances defined herein and in the applicable standards referenced herein) of such devices selected shall be mutually agreed upon by Customer and SABINE. In advance of the use of any device, the Party providing such device shall cause tests to be carried out to verify that such device has the required degree of accuracy.

3. Verification of Accuracy and Correction for Error

- a) Accuracy. Accuracy of devices used shall be tested and verified at the request of either Party, including the request by a Party to verify accuracy of its own devices. Each Party shall have the right to inspect at any time the measurement devices installed by the other Party, provided that the other Party is notified in advance. Testing shall be performed only when both Parties are represented, or have received adequate advance notice thereof, using methods recommended by the manufacturer or any other method agreed to by SABINE and Customer. At the request of any Party hereto, any test shall be witnessed and verified by an independent surveyor mutually agreed upon by Customer and SABINE. Permissible tolerances shall be as defined herein or as defined in the applicable standards referenced herein.

- b) Inaccuracy. Inaccuracy of a device exceeding the permissible tolerances shall require correction of previous recordings, and computations made on the basis of those recordings, to zero error with respect to any period which is definitely known or agreed upon by the Parties as well as adjustment of the device. All invoices issued during such period shall be amended accordingly to reflect such correction, and an adjustment in payment shall be made between Customer and SABINE. If the period of error is neither known nor agreed upon, and there is no evidence as to the duration of such period of error, corrections shall be made and invoices amended for each receipt of LNG made during the last half of the period since the date of the most recent calibration of the inaccurate device. However, the provisions of this Paragraph 3 shall not be applied to require the modification of any invoice that has become final pursuant to Section 11.7.
- c) Costs and Expenses of Test Verification. All costs and expenses for testing and verifying SABINE's measurement devices shall be borne by SABINE, and all costs and expenses for testing and verifying Customer's measurement devices shall be borne by Customer. The fees and charges of independent surveyors for measurements and calculations shall be borne directly by Customer.

4. Tank Gauge Tables of LNG Vessels

- a) Initial Calibration. Customer shall arrange or caused to be arranged, for each tank of each LNG Vessel, a calibration of volume against tank level. Customer shall provide SABINE or its designee, or cause SABINE or its designee to be provided, with a certified copy of tank gauge tables for each tank of each LNG Vessel verified by a competent impartial authority or authorities mutually agreed upon by the Parties. Such tables shall include correction tables for list, trim, tank contraction and any other items requiring such tables for accuracy of gauging.

Tank gauge tables prepared pursuant to the above shall indicate volumes in cubic meters expressed to the nearest thousandth (1/1000), with LNG tank depths expressed in meters to the nearest hundredth (1/100).

- b) Presence of Representatives. SABINE and Customer shall each have the right to have representatives present at the time each LNG tank on each LNG Vessel is volumetrically calibrated.
- c) Recalibration. If the LNG tanks of any LNG Vessel suffer distortion of such nature as to create a reasonable doubt regarding the validity of the tank gauge tables described herein (or any subsequent calibration provided for herein), Customer or Customer's agent shall recalibrate the damaged tanks, and the vessel shall not be employed as an LNG Vessel hereunder until appropriate corrections are made. If mutually agreed between Customer and SABINE

representatives, recalibration of damaged tanks can be deferred until the next time when such damaged tanks are warmed for any reason, and any corrections to the prior tank gauge tables will be made from the time the distortion occurred. If the time of the distortion cannot be ascertained, the Parties shall mutually agree on the time period for retrospective adjustments.

5. Units of Measurement and Calibration

The Parties shall co-operate in the design, selection and acquisition of devices to be used for measurements and tests in order that all measurements and tests may be conducted in the SI system of units, except for the quantity delivered which is expressed in MMBTUs, the Gross Heating Value (Volume Based) which is expressed in Btu/SCF and the pressure which is expressed in millibar and temperature in Celsius. In the event that it becomes necessary to make measurements and tests using a new system of units of measurements, the Parties shall establish agreed upon conversion tables.

6. Accuracy of Measurement

All measuring equipment must be maintained, calibrated and tested in accordance with the manufacturer's recommendations. In the absence of a manufacturer's recommendation, the minimum frequency of calibration shall be one hundred eighty (180) days, unless otherwise mutually agreed between the Parties. Documentation of all tests and calibrations will be made available by the Party performing the same to the other Party. Acceptable accuracy and performance tolerances shall be:

a) Liquid Level Gauging Devices.

Each LNG tank of the LNG Vessel shall be equipped with primary and secondary liquid level gauging devices as per Paragraph 7(b) of this Annex I.

The measurement accuracy of the primary gauging devices shall be plus or minus seven point five (± 7.5) millimeters and the secondary liquid level gauging devices shall be plus or minus ten (± 10) millimeters.

The liquid level in each LNG tank shall be logged or printed.

b) Temperature Gauging Devices.

The temperature of the LNG and of the vapor space in each LNG tank shall be measured by means of a number of properly located temperature measuring devices sufficient to permit the determination of average temperature.

The measurement accuracy of the temperature gauging devices shall be as follows:

- (i) in the temperature range of minus one hundred sixty five to minus one hundred forty degree Celsius (-165°C to -140°C), the accuracy shall be plus or minus zero point two degree Celsius ($\pm 0.2^{\circ}\text{C}$);
- (ii) in the temperature range of minus one hundred forty to plus forty degree Celsius (-140°C to $+40^{\circ}\text{C}$), the accuracy shall be plus or minus one point five degree Celsius ($\pm 1.5^{\circ}\text{C}$).

The temperature in each LNG tank shall be logged or printed.

c) Pressure Gauging Devices.

Each LNG tank of the LNG Vessel shall have one (1) absolute pressure gauging device.

The measurement accuracy of the pressure gauging device shall be plus or minus one percent ($\pm 1\%$) of the measuring range.

The pressure in each LNG tank shall be logged or printed.

d) List and Trim Gauging Devices.

A list gauging device and a trim gauging device shall be installed. These shall be interfaced with the custody transfer system.

The measurement accuracy of the list and the trim gauging devices shall be better than plus or minus zero point zero five (± 0.05) degrees for list and plus or minus zero point zero one (± 0.01) degrees for trim.

7. Gauging and Measuring LNG Volumes Delivered

- a) Gauge Tables. Upon SABINE's representative and the independent surveyor, if present, arriving on board the LNG Vessel prior to the commencement of or during unloading, Customer or Customer's representative shall make available to them a certified copy of tank gauge tables for each tank of the LNG Vessel.

- b) Gauges. Volumes of LNG delivered pursuant to this Agreement shall be determined by gauging the LNG in the tanks of the LNG Vessels before and after unloading. Each LNG Vessel's tank shall be equipped with a minimum of two (2) sets of level gauges, each set utilizing a different measurement principle. Comparison of the two (2) systems, designated as Primary and Secondary Measurement Systems, shall be performed from time to time to ensure compliance with the acceptable performance tolerances stated herein.

- c) Gauging Process. Gauging the liquid in the tanks of the LNG Vessels and measuring of liquid temperature, vapor temperature and vapor pressure in each LNG tank, trim and list of the LNG Vessels, and atmospheric pressure shall be performed, or caused to be performed, by Customer before and after unloading. SABINE's representative shall have the right to be present while all measurements are performed and shall verify the accuracy and acceptability of all such measurements. The first gauging and measurements shall be made immediately before the commencement of unloading. The second gauging and measurements shall take place immediately after the completion of unloading. The liquid level in the LNG Vessel before and after the unloading shall be determined by at least two (2) separate tank gaugings to be conducted at least fifteen (15) minutes apart.

- d) Records. Copies of gauging and measurement records shall be furnished to SABINE immediately upon completion of unloading.

- e) Gauging Liquid Level of LNG. The level of the LNG in each LNG tank of the LNG Vessel shall be gauged by means of the primary gauging device installed in the LNG Vessel for that purpose. The level of the LNG in each tank shall be logged or printed.

Measurement of the liquid level in each LNG tank of the LNG Ship shall be made to the nearest millimeter by using the primary liquid level gauging devices. Should the primary devices fail, the secondary device shall be used.

Five (5) readings shall be made following manufacturer's recommendations on reading interval. The arithmetic average of the readings rounded to the nearest millimeter using one (1) decimal place shall be deemed the liquid level.

- f) Determination of Temperature. The temperature of the LNG and of the vapor space in each LNG tank shall be measured by means of a sufficient number of properly located temperature measuring devices to permit the determination of average temperature. Temperatures shall be measured at the same time as the liquid level measurements and shall be logged or printed.

In order to determine the temperature of liquid and vapor respectively in the LNG Vessel one (1) reading shall be taken at each temperature gauging device in each LNG tank. An arithmetic average of such readings rounded to the nearest zero point one degree Celsius (0.1 °C) using two (2) decimal places with respect to vapor and liquid in all LNG tanks shall be deemed the final temperature of the vapor and liquid respectively.

Customer shall cause each cargo tank in the LNG Vessel to be provided with a minimum of five (5) temperature measuring devices. One such measuring device shall be located in the vapor space at the top of each cargo tank, one near the bottom of each cargo tank and the remainder distributed at appropriate intervals from the top to the bottom of the cargo tank. These devices shall be used to determine the average temperatures of the liquid cargo and the vapor in the cargo tank.

The average temperature of the vapor in an LNG Vessel shall be determined immediately before unloading by means of the temperature measuring devices specified above at the same time as when the liquid level is measured. The temperature measuring devices shall be fully surrounded by the vapor. This determination shall be made by taking the temperature readings of the temperature measuring devices in question to the nearest zero point zero one degrees Celsius (0.01°C), and if more than one of the devices are fully surrounded by the vapor, by averaging those readings, and rounding to one (1) decimal place.

- g) Determination of Pressure. The pressure of the vapor in each LNG tank shall be determined by means of pressure measuring devices installed in each LNG tank of the LNG Vessels. The atmospheric pressure shall be determined by readings from the standard barometer installed in the LNG Vessels. Pressures shall be measured at the same time as the liquid level measurements, and shall be logged or printed.

Customer shall cause the LNG Vessel to be provided with pressure measuring equipment capable of determining the absolute pressure of the vapor in each cargo

tank with an accuracy equal to or better than plus or minus one percent ($\pm 1\%$) of the measuring range.

The pressure of the vapor in an LNG Vessel shall be determined immediately before unloading at the same time as when the liquid level is measured.

Such determination shall be made by taking the pressure readings of the pressure measuring devices to the nearest millibar, then averaging these readings and rounding to a whole millibar.

- h) Determination of Density. The LNG density shall be calculated using the method described within ISO 6976-2000, Calculation of calorific values, density, relative density and Wobbe Index from composition. This method shall be updated to conform to any official published revision of that document. Should any improved data, method of calculation or direct measurement device become available which is acceptable to both Customer and SABINE, such improved data, method or device shall then be used. If density is determined by measurements, the results shall be measured at the same time as the liquid level measurements and shall be logged or printed.

8. Samples for Quality Analysis

- a) General. Flow proportional representative liquid samples shall be collected from an appropriate point located as close as practical to the unloading line starting two (2) hours after the beginning of transfer and ending two (2) hours before the end of transfer. Samples taken when biphasic or overheated LNG is suspected to be in the main transfer line will be disregarded. These incremental samples will be passed through a vaporizer, and samples of the vaporized liquid will be analyzed. The resulting analyses, which are proportional to time, will be mathematically flow rate weighted to yield an analysis that is representative of the unloaded Cargo. This flow rate weighted analysis shall be used for all appropriate calculations associated with the delivered Cargo. Should the automatic sampling system fail during the unloading, manual samples shall be collected and analyzed for accounting purposes.
- b) Manual Samples. Prior to the end of the unloading cycle, two (2) spot samples shall be collected from the vaporizer. Spot samples shall be collected in accordance with Gas Processors Association ("GPA") Standard 2166 - Methods for Obtaining Gas Samples for Analysis by Gas Chromatography - or by other mutually agreeable methods. The samples shall be properly labeled and then distributed to Customer and SABINE. SABINE shall retain one (1) sample for a period of thirty (30) days, unless the analysis is in dispute. If the analysis is in dispute, the sample will be retained until the dispute is resolved.

Sampling and analysis methods and procedures that differ from the above may be employed with the mutual agreement of the Parties.

9. Quality Analysis

- a) Certification and Deviation. Chromatograph calibration gasses shall be provided and their composition certified by an independent third party. From time to time, deviation checks shall be performed to verify the accuracy of the gas composition mole percentages and resulting calculated physical properties. Analyses of a sample of test gas of known composition resulting when procedures that are in accordance with the above mentioned standards have been applied will be considered as acceptable if the resulting calculated gross real heating value is within plus or minus zero point three percent ($\pm 0.3\%$) of the known gross real heating value of the test gas sample. If the deviation exceeds the tolerance stated, the gross real heating value, relative density and compressibility previously calculated will be corrected immediately. Previous analyses will be corrected to the point where the error occurred, if this can be positively identified to the satisfaction of both Parties. Otherwise it shall be assumed that the drift has been linear since the last recalibration and correction

shall be based on this assumption.

- b) GPA Standard 2261. All samples shall be analyzed by SABINE to determine the molar fraction of the hydrocarbon and other components in the sample by gas chromatography using a mutually agreed method in accordance with GPA Standard 2261 - Method of Analysis for Gas and Similar Gaseous Mixtures by Gas Chromatography, current as of January 1, 1990 and as periodically updated or as otherwise mutually agreed by the Parties. If better standards for analysis are subsequently adopted by GPA or other recognized competent impartial authority, upon mutual agreement of Customer and SABINE, they shall be substituted for the standard then in use, but such substitution shall not take place retroactively. A calibration of the chromatograph or other analytical instrument used shall be performed by SABINE immediately prior to the analysis of the sample of LNG delivered. SABINE shall give advance notice to Customer of the time SABINE intends to conduct a calibration thereof, and Customer shall have the right to have a representative present at each such calibration; provided, however, SABINE will not be obligated to defer or reschedule any calibration in order to permit the representative of Customer to be present.
- c) GPA Standard 2377 and 2265. SABINE shall determine the presence of Hydrogen Sulfide (H₂S) by use of GPA Standard 2377 - Test of Hydrogen Sulfide and Carbon Dioxide in Gas Using Length of Stain Tubes. If necessary, the concentration of H₂S and total sulfur will be determined using one or more of the following methods as is appropriate: gas chromatography, Gas Processors Standard 2265 - Standard for Determination of Hydrogen Sulfide and Mercaptan Sulfur in Gas (Cadmium Sulfate - Iodometric Titration Method) or any other method that is mutually acceptable.

10. Operating Procedures

- a) Notice. Prior to conducting operations for measurement, gauging, sampling and analysis provided in this Annex I, the Party responsible for such operations shall notify the appropriate representatives of the other Party, allowing such

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representatives reasonable opportunity to be present for all operations and computations; provided that the absence of the other Party's representative after notification and opportunity to attend shall not prevent any operations and computations from being performed.

- b) Independent Surveyor. At the request of either Party any measurement, gauging, sampling and analysis shall be witnessed and verified by an independent surveyor mutually agreed upon by Customer and SABINE. The results of such surveyor's verifications shall be made available promptly to each Party.
- c) Preservation of Records. All records of measurement and the computed results shall be preserved by the Party responsible for taking the same, or causing the same to be taken, and made available to the other Party for a period of not less than three (3) years after such measurement and computation.

11. Quantities Delivered

- a) Calculation of MMBTU Quantities. The quantity of MMBTUs delivered shall be calculated by SABINE and verified by Customer. Either Party may, at its own expense, require the measurements and calculations and/or their verification by an independent surveyor, mutually agreed upon by the Parties. Consent to an independent surveyor proposed by a Party shall not be unreasonably withheld by the other Party.
- b) Determination of Gross Real Heating Value. All component values shall be in accordance with the latest revision of ISO 6579 and the latest revision of the reference standards therein.
- c) Determination of Volume of LNG Unloaded.
 - i The LNG volume in the tanks of the LNG Vessel before and after unloading (valves have to be closed) shall be determined by gauging on the basis of the tank gauge tables provided for in Paragraph 6. The volume of LNG remaining in the tanks after unloading of the LNG Vessel shall be subtracted from the volume before unloading and the resulting volume shall be taken as the volume of the LNG delivered from the LNG Vessel.

The volume of LNG stated in cubic meters to the nearest zero point zero zero one (0.001) cubic meter, shall be determined by using the tank gauge tables and by applying the volume corrections set forth therein.
 - ii Gas returned to the LNG Vessel during unloading shall not be deemed to be volume unloaded for Customer's account.
 - iii If failure of the primary gauging and measuring devices of an LNG Vessel should make it impossible to determine the LNG volume, the volume of LNG unloaded shall be determined by gauging the liquid level using the

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secondary gauging and measurement devices. If an LNG Vessel is not so equipped, the volume of LNG delivered shall be determined by gauging the liquid level in SABINE's onshore LNG storage tanks immediately before and after unloading the LNG Vessel, and such volume shall have added to it an estimated LNG volume, agreed upon by the Parties, for boil-off from such tanks during the unloading of such LNG Vessel and have added to it the volume of any LNG that has been pumped from the LNG Vessel's tanks during unloading. SABINE shall provide Customer, or cause Customer to be provided with, a certified copy of tank gauge tables for each onshore LNG tank which is to be used for this purpose, such tables to be verified by a competent impartial authority.

12. Calculations

The calculation procedures contained in this Section are generally in accordance with the Institute of Petroleum Measurement Manual, Part XII, the Static Measurement of Refrigerated Hydrocarbon Liquids, Section 1, IP 251/76.

- d = density of LNG unloaded at the prevailing composition and temperature T_l in kg/m³, rounded to two (2) decimal places, calculated according to the method specified in Paragraph 12.1 of this Annex I.
- H_i = gross heating value (mass based) of component "i" in MJ/kg, in accordance with Paragraph 12.6.1 of this Annex I.
- H_m = gross heating value (mass based) of the LNG unloaded in MJ/kg, calculated in accordance with the method specified in Paragraph 12.3 of this Annex I, rounded to four (4) decimal places.
- H_v = gross heating value (volume based) of the LNG unloaded in Btu/SCF, calculated in accordance with the method specified in Paragraph 12.5 of this Annex I.

K1	=	volume correction in m ³ /kmol, at temperature T _l , obtained by linear interpolation from Paragraph 12.6.3 of this Annex I, rounded to six (6) decimal places.
K2	=	volume correction in m ³ /kmol, at temperature T _l obtained by linear interpolation from Paragraph 12.6.4 of this Annex I, rounded to six (6) decimal places.
M _i	=	molecular mass of component “i” in kg/kmol, in accordance with Paragraph 12.6.1 of this Annex I.
P	=	average absolute pressure of vapor in an LNG Vessel immediately before unloading, in millibars, rounded to a whole millibar.
Q	=	number of MMBTUs contained in the LNG delivered, rounded to the nearest ten (10) MMBTU.

T _l	=	average temperature of the liquid cargo in the LNG Vessel immediately after unloading, in degrees Celsius, rounded to one (1) decimal place.
T _v	=	average temperature of the vapor in an LNG Vessel immediately before unloading, in degrees Celsius, rounded to one (1) decimal place.
V	=	the volume of the liquid cargo unloaded, in cubic meters, rounded to three (3) decimal places.
V _h	=	the volume of the liquid cargo in an LNG Vessel immediately after unloading, in cubic meters, rounded to three (3) decimal places.
V _b	=	the volume of the liquid cargo in an LNG Vessel immediately before unloading, in cubic meters, rounded to three (3) decimal places.
V _i	=	molar volume of component “i” at temperature T _l , in m ³ /kmol, obtained by linear interpolation from Paragraph 12.6.2 of this Annex I, rounded to six (6) decimal places.
X _i	=	molar fraction of component “i” of the LNG samples taken from the receiving line, rounded to four (4) decimal places, determined by gas chromatographic analysis.
X _m	=	the value of X _i for methane.
X _n	=	the value of X _i for nitrogen.

12.1 Density Calculation Formula

The density of the LNG unloaded which is used in the MMBTU calculation in 12.4 of this Annex I shall be calculated from the following formula derived from the revised Klosek-McKinley method:

$$d = \frac{\sum (X_i \times M_i)}{\sum (X_i \times V_i) - \left[K1 + \frac{(K2 - K1) \times X_n}{0.0425} \right] \times X_m}$$

In the application of the above formula, no intermediate rounding shall be made if the accuracy of “d” is thereby affected.

12.2 Calculation of Volume Delivered

The volume, in cubic meters, of each LNG cargo unloaded shall be calculated by using the following formula:

$$V = V_b - V_h$$

12.3 Calculation of Gross Heating Value (Mass Based)

The gross heating value (mass based), in MJ/kg, of each LNG cargo unloaded shall be calculated by using the following formula:

$$H_m = \frac{\sum (X_i \times M_i \times H_i)}{\sum (X_i \times M_i)}$$

12.4 MMBTU Calculation of the Quantity of LNG Unloaded

The number of MMBTUs contained in the LNG unloaded shall be calculated using the following formula:

$$Q = \frac{1}{1055.12} \times \{ (V \times d \times H_m) - \left(V \times \frac{288.15}{273.15 + T_v} \times \frac{P}{1013.25} \times 37.7 \right) \}$$

The derivation of the conversion factor 1/1055.12 in the formula in this Paragraph for the conversion of MJ into MMBTUs is obtained from GPA-2145:1994 and IP-251:1976 as follows:

- (a) $q(T,P)$ means the gross heating value (measured at temperature T and pressure P), contained in a given quantity of gas;
- (b) $q(60^\circ\text{F}, 14.696 \text{ psia})$ in MJ = $1/1.00006 \times q(15^\circ\text{C}, 1013.25 \text{ millibar})$ in MJ;
- (c) 1 MMBTU corresponds to 1055.06 MJ;

(d) $q(60^{\circ}\text{F}, 14.696 \text{ psia})$ in MMBTUs = $1/1055.06 \times q(60^{\circ}\text{F}, 14.696 \text{ psia})$ in MJ; and

(e) Combining (b) and (d) above yields:

$$q(60^{\circ}\text{F}, 14.696 \text{ psia}) \text{ in MMBTUs} = 1/1055.12 \times q(15^{\circ}\text{C}, 1013.25 \text{ millibar}) \text{ in MJ.}$$

Hence the number of MJ derived shall be divided by 1055.12 to obtain the number of MMBTUs for invoicing purposes.

12.5 Calculation of Gross Heating Value (Volume Based)

The calculation of the Gross Heating Value (Volume Based) in Btu/SCF shall be derived from the same compositional analysis as is used for the purposes of calculating the Gross Heating Value (Mass Based) H_m and the following formula shall apply:

$$H_v = 1.13285 \times \sum (X_i \times M_i \times H_i)$$

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The derivation of the conversion factor 1.13285 for the conversion of MJ/kmol into Btu/SCF is obtained as follows:

(a) molar gross heating value = $\sum (X_i \times M_i \times H_i)$ MJ/kmol;

(b) 1 kmol = 2.20462 lbmol;

(c) 1 lbmol = 379.482 SCF;

(d) hence 1 kmol = 836.614 SCF; and

(e) $H_v = 1,000,000 / (1055.12 \times 836.614) \times \sum (X_i \times M_i \times H_i)$ Btu/SCF; or

$$H_v = 1.13285 \times \sum (X_i \times M_i \times H_i) \text{ Btu/SCF,}$$

12.6 Data

12.6.1 Values of H_i and M_i

Component	H_i (in MJ/kg)	M_i (in kg/kmol)
Methane	55.575	16.043
Ethane	51.950	30.070
Propane	50.368	44.097
Iso-Butane	49.388	58.123
N-Butane	49.546	58.123
Iso-Pentane	48.949	72.150
N-Pentane	49.045	72.150
N-Hexane	48.716	86.177
Nitrogen	0	28.013
Carbon Dioxide	0	44.010
Oxygen	0	31.999

Source: GPA Publication 2145 SI-96: "Physical Constants of Paraffin Hydrocarbons and other components of natural gas".

12.6.2 Values of V_i (cubic meter/kmol)

Temperature	-150°C	-154°C	-158°C	-160°C	-162°C	-166°C	-170°C
Methane	0.039579	0.038983	0.038419	0.038148	0.037884	0.037375	0.036890
Ethane	0.048805	0.048455	0.048111	0.047942	0.047774	0.047442	0.047116
Propane	0.063417	0.063045	0.062678	0.062497	0.062316	0.061957	0.061602
Iso-Butane	0.079374	0.078962	0.078554	0.078352	0.078151	0.077751	0.077356
N-Butane	0.077847	0.077456	0.077068	0.076876	0.076684	0.076303	0.075926
Iso-Pentane	0.092817	0.092377	0.091939	0.091721	0.091504	0.091071	0.090641
N-Pentane	0.092643	0.092217	0.091794	0.091583	0.091373	0.090953	0.090535
N-Hexane	0.106020	0.105570	0.105122	0.104899	0.104677	0.104236	0.103800
Nitrogen	0.055877	0.051921	0.048488	0.046995	0.045702	0.043543	0.041779
Carbon Diox	0.027950	0.027650	0.027300	0.027200	0.027000	0.026700	0.026400
Oxygen	0.03367	0.03275	0.03191	0.03151	0.03115	0.03045	0.02980

Source: National Bureau of Standards Interagency Report 77-867, Institute of Petroleum IP251/76 for Oxygen.

Note: For intermediate values of temperature and molecular mass a linear interpolation shall be applied.

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12.6.3 Values of Volume Correction Factor, K_I (cubic meter/kmol)

Molecular Mass of Mixture	-150°C	-154°C	-158°C	-160°C	-162°C	-166°C	-170°C
16.0	-0.000012	-0.000010	-0.000009	-0.000009	-0.000008	-0.000007	-0.000007
16.5	0.000135	0.000118	0.000106	0.000100	0.000094	0.000086	0.000078

17.0	0.000282	0.000245	0.000221	0.000209	0.000197	0.000179	0.000163
17.2	0.000337	0.000293	0.000261	0.000248	0.000235	0.000214	0.000195
17.4	0.000392	0.000342	0.000301	0.000287	0.000274	0.000250	0.000228
17.6	0.000447	0.000390	0.000342	0.000327	0.000312	0.000286	0.000260
17.8	0.000502	0.000438	0.000382	0.000366	0.000351	0.000321	0.000293
18.0	0.000557	0.000486	0.000422	0.000405	0.000389	0.000357	0.000325
18.2	0.000597	0.000526	0.000460	0.000441	0.000423	0.000385	0.000349
18.4	0.000637	0.000566	0.000499	0.000477	0.000456	0.000412	0.000373
18.6	0.000677	0.000605	0.000537	0.000513	0.000489	0.000440	0.000397
18.8	0.000717	0.000645	0.000575	0.000548	0.000523	0.000467	0.000421
19.0	0.000757	0.000685	0.000613	0.000584	0.000556	0.000494	0.000445
19.2	0.000800	0.000724	0.000649	0.000619	0.000589	0.000526	0.000474
19.4	0.000844	0.000763	0.000685	0.000653	0.000622	0.000558	0.000503
19.6	0.000888	0.000803	0.000721	0.000688	0.000655	0.000590	0.000532
19.8	0.000932	0.000842	0.000757	0.000722	0.000688	0.000622	0.000561
20.0	0.000976	0.000881	0.000793	0.000757	0.000721	0.000654	0.000590
25.0	0.001782	0.001619	0.001475	0.001407	0.001339	0.001220	0.001116
30.0	0.002238	0.002043	0.001867	0.001790	0.001714	0.001567	0.001435

Source: National Bureau of Standards Interagency Report 77-867.

Note 1: Molecular mass of mixture equals $\sum (X_i \times M_i)$.

Note 2: For intermediate values of temperature and molecular mass a linear interpolation shall be applied.

12.6.4 Values of Volume Correction Factor, K_2 (cubic meter/kmol)

Molecular Mass of Mixture	-150°C	-154°C	-158°C	-160°C	-162°C	-166°C	-170°C
16.0	-0.000039	-0.000031	-0.000024	-0.000021	-0.000017	-0.000012	-0.000009
16.5	0.000315	0.000269	0.000196	0.000178	0.000162	0.000131	0.000101
17.0	0.000669	0.000568	0.000416	0.000377	0.000341	0.000274	0.000210
17.2	0.000745	0.000630	0.000478	0.000436	0.000397	0.000318	0.000246
17.4	0.000821	0.000692	0.000540	0.000495	0.000452	0.000362	0.000282
17.6	0.000897	0.000754	0.000602	0.000554	0.000508	0.000406	0.000318
17.8	0.000973	0.000816	0.000664	0.000613	0.000564	0.000449	0.000354
18.0	0.001049	0.000878	0.000726	0.000672	0.000620	0.000493	0.000390
18.2	0.001116	0.000939	0.000772	0.000714	0.000658	0.000530	0.000425
18.4	0.001184	0.001000	0.000819	0.000756	0.000696	0.000567	0.000460
18.6	0.001252	0.001061	0.000865	0.000799	0.000735	0.000605	0.000496
18.8	0.001320	0.001121	0.000912	0.000841	0.000773	0.000642	0.000531
19.0	0.001388	0.001182	0.000958	0.000883	0.000811	0.000679	0.000566
19.2	0.001434	0.001222	0.000998	0.000920	0.000844	0.000708	0.000594
19.4	0.001480	0.001262	0.001038	0.000956	0.000876	0.000737	0.000623
19.6	0.001526	0.001302	0.001078	0.000992	0.000908	0.000765	0.000652
19.8	0.001573	0.001342	0.001118	0.001029	0.000941	0.000794	0.000681
20.0	0.001619	0.001382	0.001158	0.001065	0.000973	0.000823	0.000709
25.0	0.002734	0.002374	0.002014	0.001893	0.001777	0.001562	0.001383
30.0	0.003723	0.003230	0.002806	0.002631	0.002459	0.002172	0.001934

Source: National Bureau of Standards Interagency Report 77-867.

Note 1: Molecular mass of mixture equals $\sum (X_i \times M_i)$.

Note 2: For intermediate values of temperature and molecular mass a linear interpolation shall be applied.

ANNEX II MEASUREMENTS AND TESTS FOR GAS AT DELIVERY POINT

1. Applicability. The measurement procedures in this Annex II shall apply to the measurement of quantities (volume, energy) Gas delivered by SABINE for Customer's Account at the Delivery Point.
2. Unit of Measurement. All Gas delivered at the Delivery Point shall be measured in MMBTUs.
3. Metering.
 - (a) Metering Equipment. SABINE shall supply, operate and maintain (or cause to be supplied, operated and maintained at or near the Delivery Point) the following:
 - i) meters with redundancy and other equipment as is necessary to accurately measure the volume of Gas delivered at the Delivery Point hereunder;
 - ii) devices for collecting samples and for determining the quality and composition of Gas delivered at the Delivery Point hereunder; and
 - iii) and any other measurement or testing devices which are necessary to perform the measurement and testing required hereunder at the Delivery Point.

(collectively, the "Downstream Metering Equipment"). The Downstream Metering Equipment shall be designed and installed in accordance with the

current recommendations of the American Gas Association, Report No. 3 and 9 for Ultrasonic Metering.

- (b) Check Measurement Equipment and Access. Customer may, at Customer's expense, install and operate, at or near the Downstream Metering Equipment, independent check measuring equipment similar to the Downstream Metering Equipment to monitor the accuracy of the measurements made by the Downstream Metering Equipment. Such check metering equipment will be installed and operated by Customer so that it does not unreasonably interfere with the operation of the Downstream Metering Equipment.
- (c) General. A pressure transmitter shall be installed on each meter tube to measure the static pressure at the plane of the upstream differential pressure tapping. The temperature of the flowing Gas shall be measured on each meter tube by a platinum resistance thermometer installed in a thermowell so that the probe tip is in the center one-third of the pipe. Each meter run shall be provided with a dedicated microprocessor-based flow computer system powered by an appropriate back-up power supply.
- (d) Measuring and Density Standards. Gas shall be measured by ultrasonic meters. Ultrasonic meters shall be constructed and operated, Gas shall be measured, and properties shall be determined in accordance with American Gas Association, Report No. 9 and any subsequent modification and amendment thereof. The

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compressibility and density shall be calculated in accordance with the latest revision of the American Gas Association, Report No. 9. Metering equipment shall include the use of flow conditioners, straightening vanes, and pulsation dampening devices where necessary. Meter tubes shall be of a design incorporating suitable access for periodic internal inspection, including access for internal inspection of the upstream side of the flow conditioner. Electronic gas measurement with a continuous readout of pressure, temperature, and Gas flow rate shall be used. All computations shall be made as prescribed in the above cited standard.

- (e) Ultrasonic Metering Standard. All ultrasonic metering shall comply with the American Gas Association, Report No. 9 and any subsequent modification and amendment thereof.

4. Determination of Gross Heating Value

- (a) GPA 2261 and 2145. The heating value of the Gas delivered by SABINE at the Delivery Point shall be determined by gas chromatograph. The composition of the Gas shall be continuously measured by on-line chromatographs. The Gross Heating Value of the Gas shall be calculated using results from the on-line chromatograph. The chromatographs will analyze all hydrocarbon components, up to and including at least the Nonanes+ group, and inerts having a concentration of greater than 0.002 mol percent. The determination of Gas composition shall be in accordance with the GPA Standard 2261 — Analysis for Natural Gas and Similar Gaseous Mixtures by Gas Chromatography. All physical properties used in quality and quantity calculations shall be based on these compositional analyses and the component values published in GPA 2145, or the latest revision thereof. Water vapor content shall be included in the component analyses. The sample analysis cycle time shall be less than six (6) minutes. The maximum response time from sample probe to analyzer shall be four (4) minutes. In the event of failure of the on-line Gas chromatograph, chromatograph analysis of samples collected proportional to the flow through the meters shall be used. Auto-calibration of the Gas chromatograph shall be conducted on a weekly basis or as otherwise mutually agreed by the Parties.
- (b) GPA 2145. Back-up composite samples of the flowing Gas shall be obtained weekly to be used for relative density (specific gravity), Gross Heating Value, and compressibility factors in case of electronic failure. Composite sampling of the flowing stream shall be by use of a mutually agreeable continuous sampler, designed and installed to sample proportionally to the flow rate. The end point of each composite sample chromatographic analysis shall be the Nonane+ fraction, and values for this fraction shall be based on the C9 value in the latest revision of GPA Standard 2145 — Table of Physical Constants of Paraffin Hydrocarbons and Other Components of Natural Gas. All component values shall be in accordance with such standard.
- (c) Quarterly Deviation Checks. Monthly gas chromatograph deviation checks shall be made on Gas composition mole percentages and resulting Gross Heating Value. Analyses of a sample of test Gas of known composition resulting when

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procedures that are in accordance with the above mentioned standards have been applied will be considered as acceptable if the resulting calculated Gross Heating Value is within plus or minus five (5) BTU per Standard Cubic Foot of the known Gross Heating Value. If the deviation exceeds the tolerance stated, Gross Heating Value, relative density, and compressibility previously calculated will be corrected immediately. Previous analyses will be corrected to the point where the error occurred. If the point that the error occurred cannot be determined, previous analyses will be corrected for one-half the period since the last verification test, not to exceed a correction period of six (6) months.

- (d) Corrections for Water Content. The heating value on a dry basis for Gas containing water shall be corrected in accordance with standards followed by the American Gas Association. Moisture content of flowing Gas shall be determined as often as found necessary in real practice by use of a mutually acceptable calculation or test instrument, which could include a Meco Moisture Analyzer.

5. Operating Procedures

- (a) Notice. Prior to conducting operations for measurement, calibration, sampling and analysis provided in Annex II, the Party responsible for such operations shall notify the appropriate representatives of the other Party, allowing such representatives reasonable opportunity to be present for all operations and computations; provided that the absence of the other Party's representative after notification and opportunity to attend shall not prevent any operations and computations from being performed.
- (b) Independent Surveyor. At the request of either Party any measurement, calibration, sampling and analysis shall be witnessed and verified by an independent surveyor mutually agreed upon by Customer and SABINE. The results of such surveyor's verifications shall be made available promptly to each Party.
- (c) Preservation of Records. All records of measurement and the computed results shall be preserved by the Party responsible for taking the same, or causing the same to be taken, and made available to the other Party for a period of not less than three (3) years after such measurement and computation.

- 6. Verification. At least once each month, and in addition, from time to time upon at least two (2) weeks prior written notice by either Party to the other, SABINE shall verify or cause to be verified the accuracy of the Downstream Metering Equipment. When as a result of such test any of the Downstream Metering Equipment is found to be out of calibration within the accuracy provided by the manufacturer in the specification for such equipment, no adjustment shall be made to the Fee. If the testing of the Downstream Metering Equipment demonstrates that any meter is out of calibration by more than the accuracy provided by the manufacturer in the specifications for such equipment, the applicable Downstream Metering Equipment reading for the actual period during which out of calibration measurements were made shall be estimated as follows, in descending order of priority:

- (a) by using the registration of any check meter or meters if installed and accurately registering;
- (b) by correcting the error if the percentage of error is ascertainable by calibration, test, or mathematical calculation; or
- (c) by estimating the quantity of delivery by measuring deliveries during prior periods under similar conditions when any meter was registering accurately.

If the actual period that such equipment has been out of calibration cannot be determined to the mutual satisfaction of SABINE and Customer, the adjustment shall be for a period equal to one-half of the time elapsed since the most recent test. The previous payments made by Customer to SABINE for this period shall be subtracted from the amount of payments that are calculated to have been owed under this Agreement. The difference (which may be a positive or negative amount) shall be added to the next monthly statement pursuant to Section 12.2.

7. Costs. The cost of the monthly testing and calibration of the Downstream Metering Equipment shall be borne by SABINE. The cost of any testing and calibration of the Downstream Metering Equipment beyond the monthly test permitted above shall also be paid by SABINE, unless the request to test any of the Downstream Metering Equipment is made by Customer and the results of such test requested by Customer demonstrate that the Downstream Metering Equipment is less than one percent (1%) out of calibration or outside of the accuracy given by the manufacturer, in which case the cost of such testing and calibration shall be for Customer's account. Each Party shall comply with any reasonable request of the other Party concerning the sealing of the Downstream Metering Equipment, the presence of a representative of Customer when the seals are broken and tests are conducted, and other matters affecting the accuracy, testing and calibration of the Downstream Metering Equipment.
8. Disputes. Any Dispute arising under this Annex II shall be submitted to an Expert under Section 20.2.

EXHIBIT A

SABINE PASS SERVICES MANUAL

The Sabine Pass Services Manual referred to in Section 3.5 shall address the following matters and other matters of a similar nature:

1. Details associated with the implementation of Section 5.1 among SABINE, Customer and Other Customers
2. Details associated with the Gas delivery procedures in Section 5.3 among SABINE, Customer and Other Customers
3. Details associated with the content and format of the Sabine Pass Website
4. Details associated with the invoicing process under Article 11, including:
 - a. Format of invoices (electronic and original)
 - b. Numbering systems/codes for all invoice-related documents

EXHIBIT B

PORT LIABILITY AGREEMENT – PORT OF SABINE PASS, LOUISIANA

THIS PORT LIABILITY AGREEMENT (this “**Agreement**”) is effective as of _____, 20____, and is made by and between Sabine Pass LNG L.P., a Delaware limited partnership, represented herein by Sabine Pass LNG-GP, Inc., its General Partner (“**SABINE**”), and [INSERT NAME(S) OF VESSEL OWNER(S), a [TYPE OF ENTITY AND JURISDICTION OF ORGANIZATION]] [collectively] “**Vessel Owner**”).

RECITALS

WHEREAS, Vessel Owner, using the LNG vessel set forth below under its name and signature (“**Vessel**”), proposes to deliver certain quantities of liquefied natural gas to SABINE at its marine terminal and receiving, storage and regasification facilities located in Cameron Parish, Louisiana (as more fully defined below, the “**Marine Terminal**”); and

WHEREAS, Vessel Owner and SABINE (collectively, the “**Parties**” and individually a “**Party**”) have agreed to allocate the risk of and responsibility for loss and damage resulting from an Incident (as defined below) at the Marine Terminal in the following manner;

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. The following terms shall have the following meanings when used herein:

“**Affiliate**” means, with respect to any Person, any other Person which, directly or indirectly, controls, is controlled by, or is under common control with, such Person. For purposes of this definition, “control” (including, with correlative meanings, the terms “controlled by” and “under common control with”) means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities or otherwise.

“**Incident**” means any occurrence or series of occurrences having the same origin arising out of or relating to the Vessel's use of the Marine Terminal in which there is any one or more of the following: (i) loss of or damage to the Marine Terminal or the Vessel; (ii) injury to the employees and agents comprising Terminal Interests or Vessel Interests; (iii) loss or damage, other than to the Marine Terminal or the Vessel, caused or contributed to by the Vessel, including but not limited to, injury to third parties or damage to the property of third parties; or (iv) an obstruction or danger affecting or interfering with the normal operation of the Marine Terminal or the Port.

“**Terminal Interests**” means (i) SABINE, (ii) all Affiliates of SABINE, (iii) all Persons (other than the Vessel Interests and Persons providing fire boats, tugs and

escort vessels to Vessel at the Port) employed or providing services at the Marine Terminal in connection with the unloading, storage, or regasification of LNG at the Marine Terminal, and (iv) the employees and agents of all Persons referred to in this paragraph.

“**Marine Terminal**” means SABINE’s marine terminal and LNG receiving, storage and regasification facilities located at the Port, including all berths, buoys, gear, craft, equipment, plant, facilities and property of any kind (whether afloat or ashore) located thereat or adjacent thereto and in the ownership, possession or control of the Terminal Interests.

“**Person**” means any individual, firm, corporation, trust, partnership, association, joint venture (incorporated or unincorporated), or other business entity.

“**Port**” means the port at or near Cameron Parish, Louisiana, including its anchorage, turning basin and approaches into the Marine Terminal associated therewith.

“**Vessel Interests**” means (i) Vessel Owner, (ii) all Affiliates, participating in the ownership and/or operation, of Vessel, (iii) all Persons (other than the Terminal Interests) participating, employed, or providing services in connection with the ownership or operation (including all operations related to navigation and berthing/unberthing) of the Vessel, and (iv) the employees and agents of all Persons referred to in this paragraph.

2. In all circumstances, the Master of the Vessel shall remain solely responsible for the proper navigation and safety of the Vessel and her cargo.
3. Any liability arising from an Incident shall, as between the Vessel Interests and the Terminal Interests, be borne (i) by the Vessel Interests alone, if the Vessel Interests are wholly or partially at fault and the Terminal Interests are not at fault, (ii) by the Terminal Interests alone, if the Terminal Interests are wholly or partially at fault and the Vessel Interests are not at fault, (iii) by the Vessel Interests and the Terminal Interests, in proportion to the degree of their respective fault, if both are at fault and the degree of such fault can be established or (iv) by the Vessel Interests and the Terminal Interests equally if neither of them appears to be at fault or it is not possible to establish the degree of their respective fault. In this regard, any acts or omissions of Persons providing fire boats, tugs and escort vessels to Vessel at the Port shall be deemed to be the responsibility of the Vessel Interests.
4.
 - (i) Subject to Section 5(ii) below, the total aggregate liability of the Vessel Interests to the Terminal Interests, however arising, in respect of any one Incident, shall not exceed one hundred fifty million dollars (US\$150,000,000). Payment of an aggregate sum of one hundred fifty million dollars (US\$150,000,000) to any one or more of the Terminal Interests in respect of any one Incident shall be a complete defense to any claim, suit or demand relating to such Incident made by the Terminal Interests against the Vessel Interests.
 - (ii) Vessel Owner shall cause to be provided to SABINE at all times sufficient written evidence that the Vessel’s Protection and Indemnity Association has agreed to (a) cover the Vessel Interests as a member of the Association against the liabilities and responsibilities provided for in this Agreement in accordance with its Rules; (b) give SABINE prior notice of cancellation of the Vessel’s entry in such

Protection and Indemnity Association; and (c) waive in favor of the Terminal Interests all rights of subrogation of claims by the Protection and Indemnity Association against the Terminal Interests to the extent such claims have been waived in this Agreement by the Vessel Interests.

5. As to matters subject to this Agreement and regardless of fault or negligence on the part of any Party, with respect to an Incident:
 - (i) except to the extent expressly preserved in this Agreement, Terminal Interests hereby expressly, voluntarily and intentionally waive any right or claims they might otherwise have against the Vessel Interests under applicable laws or under any port liability agreement or similar port conditions of use previously signed by the Master for the Port; and
 - (ii) except to the extent expressly preserved in this Agreement, Vessel Interests hereby expressly, voluntarily and intentionally waive any rights to limit their liability under the United States Limitation of Vessel Owners Liability Act or any other similar law or convention, as applicable. Such waiver shall include any right to petition a court, arbitral tribunal or other entity for limitation of liability, any right to claim limitation of liability as a defense in an action, and any other similar right under relevant law.
6. The substantive law of New York, without regard to any conflicts of law principles that could require the application of any other law, shall govern the interpretation of this Agreement and any dispute, controversy, or claim arising out of, relating to, or in any way connected with this Agreement, including, without limitation, the existence, validity, performance, or breach hereof.
7. If and for so long as any provision of this Agreement shall be deemed to be judged invalid for any reason whatsoever, such invalidity shall not affect the validity or operation of any other provision of this Agreement except only so far as shall be necessary to give effect to the construction of such invalidity, and any such invalid provision shall be deemed severed from this Agreement without affecting the validity of the balance of this Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives effective as of the date first set forth above.

SABINE PASS LNG L.P.

[INSERT SIGNATURES OF EACH OF
VESSEL OWNERS]

By: SABINE PASS LNG-GP,
as General Partner

By: _____

By: _____

By: _____

Title: _____

Title: _____

As owner of the Name of Vessel
Registration No.
State of Registry

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Exhibit C

Guarantee

Exhibit D

Consent

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EXHIBIT C

GUARANTY AGREEMENT

From

CHEVRONTEXACO CORPORATION

to

SABINE PASS LNG, L.P.

Dated as of _____,

GUARANTY AGREEMENT

THIS GUARANTY AGREEMENT, is made and entered into as of _____, by **CHEVRONTEXACO CORPORATION** ("ChevronTexaco"), a corporation organized and existing under the laws of the State of Delaware, to **SABINE PASS LNG L.P.**, a limited partnership organized under the laws of Delaware ("Sabine Pass");

WITNESSETH:

WHEREAS, Sabine Pass has entered into that certain Terminal Use Agreement dated as of _____ with Chevron U.S.A. Inc., a corporation incorporated under the laws of the Commonwealth of Pennsylvania; and

WHEREAS, the ChevronTexaco Subsidiary is a wholly-owned subsidiary of ChevronTexaco; and

WHEREAS, it is a condition precedent to the effectiveness of the TUA that certain of the ChevronTexaco Subsidiary's obligations thereunder be guaranteed by ChevronTexaco in accordance with and subject to the provisions of this Guaranty Agreement;

NOW, THEREFORE, in consideration of the premises ChevronTexaco does hereby covenant and agree with Sabine Pass, as follows:

ARTICLE I

DEFINITIONS

Section 1.1. Definitions. Except as otherwise expressly provided or unless the context otherwise requires, the terms defined in this Section 1.1 shall, for all purposes of this Guaranty Agreement, have the meanings herein specified, the following definitions to be equally applicable to both the singular and plural forms of any of the terms herein defined:

Banking Day

The term "Banking Day" shall mean any day other than a Saturday, a Sunday or any other day on which commercial banks in New York or California are authorized or required to be closed.

ChevronTexaco

The term "ChevronTexaco" shall mean ChevronTexaco Corporation, a Delaware corporation, until a successor corporation shall have become such pursuant to the applicable provisions hereof, and thereafter ChevronTexaco shall mean such successor corporation.

ChevronTexaco Subsidiary

The term "ChevronTexaco Subsidiary" shall mean Chevron U.S.A. Inc., a corporation incorporated under the Commonwealth of Pennsylvania, until a successor

Guaranty Agreement

The term "Guaranty Agreement" shall mean this Guaranty Agreement dated as of _____, as originally executed or as it may from time to time be supplemented, modified or amended as provided herein.

Guaranteed Obligations

The term "Guaranteed Obligations" shall have the meaning accorded such term in Section 3.1 of this Guaranty Agreement.

Maximum Guaranteed Amount

The term "Maximum Guaranteed Amount" shall mean, as of any date, an amount equal to "MGA" where:

$$\text{MGA} = [(Q \times R \times T) \times 80\%] - F$$

Where:

Q = ChevronTexaco Subsidiary's Maximum LNG Reception Quantity under the TUA;

R = thirty-two cents (\$0.32);

T = twenty (20); and

F = the cumulative amount of Fees paid by the ChevronTexaco Subsidiary under the TUA

Sabine Pass

The term "Sabine Pass" shall mean Sabine Pass LNG, L.P., a limited partnership organized under the laws of the State of Delaware, or its permitted successor or assign pursuant to the TUA.

TUA

The term "TUA" shall mean the Terminal Use Agreement dated as of _____, between the ChevronTexaco Subsidiary and Sabine Pass, as such TUA was originally executed or as it may from time to time be supplemented, modified or amended as provided therein.

Section 1.2. Other Defined Terms. Capitalized terms not otherwise defined in this Guaranty Agreement shall have the meanings ascribed thereto in the TUA.

ARTICLE II

REPRESENTATIONS OF CHEVRONTEXACO

Section 2.1. Representations of ChevronTexaco. ChevronTexaco makes the following representations to the Guaranteed Parties:

(a) ChevronTexaco has been duly organized and is validly existing under the laws of the State of Delaware, has full legal right, power and authority to enter into this Guaranty Agreement and to carry out and consummate all transactions contemplated by this Guaranty Agreement, and by proper corporate action has duly authorized the execution and delivery of this Guaranty Agreement.

(b) The execution and delivery of this Guaranty Agreement and the consummation of the transactions herein contemplated will not conflict with or constitute on the part of ChevronTexaco a breach of or default under its Restated Certificate of Incorporation, as amended to the date hereof, its By-Laws, as amended to the date hereof, or any indenture, or other material agreement or instrument to which ChevronTexaco is a party or by which it or its properties are bound or any order, rule or regulation of any court or governmental agency or body having jurisdiction over ChevronTexaco or any of its activities or properties.

(c) This Guaranty Agreement has been duly authorized, executed and delivered by ChevronTexaco and constitutes the valid and binding obligation of ChevronTexaco.

(d) ChevronTexaco has made available to Sabine Pass ChevronTexaco's Annual Report on Form 10-K for the year ended December 31, 2003 and its Quarterly Reports on Form 10-Q for the quarters ended March 31 and June 30, 2004 and its Current Reports on Form 8-K dated July 29, 2004, July 30, 2004 and October 29, 2004 filed with the Securities and Exchange Commission (collectively, the "ChevronTexaco Reports"). ChevronTexaco's Quarterly Report on form 10-Q for the quarter ended June 30, 2004 was filed with the Securities and Exchange Commission on August 4, 2004. The ChevronTexaco Reports at and as of their respective dates do not include any untrue statement of a material fact nor omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading in light of the circumstances under which they were made. Since June 30, 2004, there has been no material adverse change in the financial condition of ChevronTexaco and its consolidated subsidiaries taken as a whole.

ARTICLE III

GUARANTY AND AGREEMENTS

Section 3.1. Guaranty. The Guarantor absolutely, unconditionally and irrevocably guarantees to Sabine Pass the full and prompt payment by the ChevronTexaco Subsidiary of all of its payment obligations under the TUA to Sabine Pass and its successors and permitted assigns

from and after the Commercial Start Date, including payment obligations in respect of any breach of the TUA by the ChevronTexaco Subsidiary; provided, however, (a) the Guarantor shall be entitled to all defenses, counterclaims and rights of set off and recoupment that the ChevronTexaco Subsidiary may have under the TUA other than any such defenses based on (i) failure of consideration supporting the TUA, (ii) the Company's lack of authority to execute or deliver the TUA or to perform its obligations thereunder, and (iii) any defense arising out of the bankruptcy, insolvency or similar proceeding concerning the ChevronTexaco Subsidiary; and (b) the Guarantor's aggregate liability in respect of the obligations guaranteed hereunder shall be the Maximum Guaranteed Amount (the obligations guaranteed under this Guaranty, subject to this proviso, are hereinafter referred to as the "Guaranteed Obligations").

Section 3.2. Unconditional Nature of Obligations. The obligations of ChevronTexaco under this Guaranty Agreement shall be absolute, irrevocable and unconditional and shall remain in full force and effect until the entire Guaranteed Obligations shall have been paid, and such obligations shall not be affected, modified or impaired upon the happening from time to time of any event, including without limitation any of the following, whether or not with notice to, or the consent of, ChevronTexaco:

- (a) the waiver, surrender, compromise, settlement, release or termination of any or all of the obligations, covenants or agreements of the ChevronTexaco Subsidiary under the TUA;
- (b) the failure to give notice to ChevronTexaco of the occurrence of a default under the TUA;
- (c) the waiver, compromise or release of the payment, performance or observance by the ChevronTexaco Subsidiary or by ChevronTexaco, respectively, of any or all of the obligations, covenants or agreements of either of them contained in the TUA or this Guaranty Agreement, as the case may be;
- (d) the extension of the time for payment of any Guaranteed Obligation under the TUA or of the time for performance of any other obligations, covenants or agreements under or arising out of the TUA;
- (e) the modification, amendment or alteration (whether material or otherwise) of any obligation, covenant or agreement set forth in the TUA;
- (f) the taking or the omission of any of the actions referred to in the TUA;
- (g) any failure, omission, delay or lack on the part of Sabine Pass to enforce, assert or exercise any right, power or remedy conferred on it in the TUA;
- (h) the voluntary or involuntary liquidation, dissolution, sale or other disposition of all or substantially all the assets, marshalling of assets and liabilities, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition with creditors or readjustment of, or other similar proceedings affecting ChevronTexaco or the ChevronTexaco Subsidiary or any of the respective assets of either of them, or any allegation or contest of the validity of this Guaranty Agreement in any such proceeding;
- (i) any defense based upon any legal disability of the ChevronTexaco Subsidiary or, to the extent permitted by law, any release, discharge, reduction or limitation of or with

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respect to any sums owing by the ChevronTexaco Subsidiary or any other liability of the ChevronTexaco Subsidiary to Sabine Pass;

- (j) to the extent permitted by law, the release or discharge by operation of law of ChevronTexaco from the performance or observance of any obligation, covenant or agreement contained in this Guaranty Agreement;
- (k) the default or failure of ChevronTexaco fully to perform any of its obligations set forth in this Guaranty Agreement; or
- (l) the invalidity of the TUA or any part thereof.

If any payment by the ChevronTexaco Subsidiary to Sabine Pass is rescinded or must be returned by the Lender, the obligations of ChevronTexaco hereunder shall be reinstated with respect to such payment.

Subject to clause (a) of the proviso of the first paragraph of this Section 3.1, no set-off, counterclaim, reduction, or diminution of any obligation, or any defense of any kind or nature which ChevronTexaco has or may have against Sabine Pass shall be available hereunder to ChevronTexaco to reduce the payments to Sabine Pass under Section 3.1 of this Guaranty Agreement. Furthermore, no defense previously raised by the ChevronTexaco Subsidiary arising out of or in connection with a Guaranteed Obligation claimed hereunder and which has been settled in Sabine Pass's favor by the dispute resolution procedures of Article 20 of the TUA may be raised by the Guarantor and no cure period previously used by the Guarantor Subsidiary may be used by the Guarantor.

ChevronTexaco assumes responsibility for being and remaining informed of the financial condition of the ChevronTexaco Subsidiary and of all other circumstances bearing upon the risk of nonpayment of the Guaranteed Obligations which diligent inquiry would reveal and agrees that Sabine Pass shall not have a duty to advise ChevronTexaco of information known to it regarding such condition or any such circumstances.

Section 3.3. Proceedings Against ChevronTexaco. In the event of a default in the payment of the amounts guaranteed pursuant to the terms hereof when and as the same shall become due, Sabine Pass shall have the right to proceed first and directly against ChevronTexaco under this Guaranty Agreement without proceeding against the ChevronTexaco Subsidiary or exhausting any other remedies which it may have.

Section 3.4. Costs. ChevronTexaco agrees to pay all costs, expenses and fees, including without limitation all reasonable attorneys' fees, which may be incurred by Sabine Pass in enforcing or attempting to enforce this Guaranty Agreement following any default on the part of ChevronTexaco hereunder, whether the same shall be enforced by suit or otherwise.

Section 3.5. Corporate Existence of ChevronTexaco; Consolidation, Merger, Sale or Transfer. ChevronTexaco covenants that so long as it has any outstanding obligations under this Guaranty Agreement, it will maintain its corporate existence, will not dissolve, sell or otherwise dispose of all or substantially all of its assets and will not consolidate with or merge into another corporation or permit one or more other corporations to consolidate with or merge into it; provided that ChevronTexaco may, without violating the covenants in this Section 3.5 contained, consolidate with or merge into another corporation or permit one or more other corporations to consolidate with or merge into it, or sell or otherwise transfer to another corporation all or substantially all of its assets as an entirety and thereafter dissolve, if the surviving, resulting or transferee corporation, as the

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case may be, (i) shall be incorporated and existing under the laws of one of the States of the United States of America, (ii) assumes, if such corporation is not ChevronTexaco, all of the obligations of ChevronTexaco hereunder and (iii) is not, after such transaction, otherwise in default under any provisions hereof.

ARTICLE IV

MISCELLANEOUS

Section 4.1. Governing Law. This Guaranty Agreement shall be governed by the laws of the State of California (excluding the choice of law principles thereof). Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Guaranty Agreement or the transactions contemplated hereby.

Section 4.2. Notices. All notices and other communications to ChevronTexaco or Sabine Pass may be electronically communicated or hand delivered or sent by overnight courier, to any party hereto at the addresses as provided in this Section 4.2:

All communications intended for ChevronTexaco shall be sent to:

ChevronTexaco Corporation
6001 Bollinger Canyon Road
Building E
San Ramon, CA 94583
Attention: Treasurer
Fax Number: (925) 842-8090

All communications intended for Sabine Pass shall be sent to:

Sabine Pass LNG, L.P.
717 Texas Avenue, Suite 3100
Houston, Texas 77002
Attention: President
Fax Number: (713) 659-5459

or at any other address of which either of the foregoing shall have notified the other in any manner prescribed in this Section 4.2.

For all purposes of this Guaranty Agreement, a notice or communication will be deemed effective:

(a) if delivered by hand or sent by overnight courier, on the day it is delivered unless (i) that day is not a day upon which commercial banks are open for the transaction of business in the city specified (a "Local Banking Day") in the address for notice provided by the recipient or (ii) if delivered after the close of business on a Local Banking Day, then on the next succeeding Local Banking Day and

(b) if sent by facsimile transmission, on the date transmitted, provided that oral or written confirmation of receipt is obtained by the sender unless the date of

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transmission and confirmation is not a Local Banking Day, in which case on the next succeeding Local Banking Day.

Section 4.3. Banking Days. Except as otherwise provided in this Guaranty Agreement, if any date on which a payment is to be made, notice is to be given or other action taken hereunder is not a Banking Day, then such payment, notice or other action shall be made, given or taken on the next succeeding Banking Day in such place, and in the case of any payment, no interest shall accrue for the delay.

Section 4.4. Successors and Assigns. This Guaranty Agreement shall be binding upon ChevronTexaco and its successors and assigns and inure to the benefit of Sabine Pass and its successors and assigns. Except as provided in Section 3.5 hereof, ChevronTexaco may not assign its obligations hereunder without the prior written consent of Sabine Pass. Sabine Pass may assign, mortgage or pledge all or any of its rights, interests or benefits hereunder to secure payment of any indebtedness incurred or to be incurred in connection with the financing of the construction and start up of the Sabine Pass facility. The Guarantor, in connection therewith, shall execute and deliver to the lenders to whom such indebtedness is owed a consent to such assignment in form and substance substantially similar to the consent and agreement executed and delivered by the ChevronTexaco Subsidiary to such lenders in connection with the TUA.

Section 4.5. Guaranty for Benefit of Sabine Pass. This Guaranty Agreement is entered into by ChevronTexaco for the benefit of Sabine Pass. Nothing contained herein shall be deemed to create any right in, or to be in whole or in part for the benefit of any person other than ChevronTexaco and Sabine Pass and their respective permitted successors and assigns.

Section 4.6. Term. This Guaranty Agreement shall terminate and be of no further force and effect upon the earliest of (a) full payment by ChevronTexaco of its obligations under Section 3.1 hereof or (b) full payment by the ChevronTexaco Subsidiary of its obligations under the TUA.

Section 4.7. Amendments and Waivers. Any provision of this Guaranty agreement may be amended or waived if, but only if, such amendment or waiver is in writing and is signed by each of ChevronTexaco and Sabine Pass.

Section 4.8. Headings. The article and section headings of this Guaranty Agreement are for convenience only and shall not affect the construction hereof.

Section 4.9. Partial Invalidity. The invalidity of any one or more phrases, sentences, clauses or sections in this Guaranty Agreement shall not affect the validity or enforceability of the remaining portions of this Guaranty Agreement or any part thereof.

Section 4.10. No Waiver, Remedies. No failure or delay by Sabine Pass in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The remedies herein provided are cumulative and not exclusive of any remedies provided by law.

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Section 4.11. Execution in Several Counterparts. This Guaranty Agreement may be executed in any number of counterparts, each of which shall for all purposes be deemed to be an original; but such counterparts shall together constitute but one and the same instrument.

IN WITNESS WHEREOF, CHEVRONTExACO CORPORATION has caused this Guaranty Agreement to be executed in its name and on its behalf by its duly authorized officer as of the date first above written.

CHEVRONTEXACO CORPORATION

By _____

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EXHIBIT D

THIS CONSENT AND AGREEMENT (this "Consent and Agreement") dated as of [] is made and entered into by and among Chevron U.S.A. Inc., a corporation duly incorporated and validly existing under the laws of the Commonwealth of Pennsylvania (the "Project Party"), and [], in its capacity as collateral agent (together with its successors and assigns in such capacity, the "Collateral Agent") under the Security Documents.

WITNESSETH

WHEREAS, Sabine Pass LNG, L.P., a limited partnership duly organized and validly existing under the laws of the State of Delaware (the "Company"), the lenders under the Credit Agreement referred to below and the Collateral Agent are parties to a Credit Agreement dated as of [] (as amended, modified and supplemented and in effect from time to time, the "Credit Agreement") pursuant to which the lenders will make loans and extend other credit to the Company for the purpose of financing the cost of constructing and operating the Sabine Pass Facility and related expenses;

WHEREAS, the Project Party and the Company have entered into the Terminal Use Agreement, dated as of [], 2004 (as amended, restated, modified or otherwise supplemented from time to time, the "Assigned Agreement") with respect to the LNG terminalling services of the Sabine Pass Facility, including (i) the berthing of LNG vessels, (ii) the unloading, receiving and storing of LNG, (iii) the regasification of LNG and (iv) delivery of natural gas to the Delivery Point; and

WHEREAS, as security for the loans made by the lenders under the Credit Agreement, the Company has assigned, pursuant to the security documents entered into between the Company and the Collateral Agent (as amended, modified and supplemented and in effect from time to time, the "Security Documents"), all of its right, title and interest in, to and under, and granted a security interest in, the Assigned Agreement to the Collateral Agent on behalf of the secured parties identified therein (the "Secured Parties");

NOW THEREFORE, as an inducement to the lenders to make the loans, and in consideration of other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

1. Definitions. Terms defined in the Assigned Agreement are used herein as defined therein. Unless otherwise stated, references herein to any Person shall include its permitted successors and assigns and, in the case of any Governmental Authority, any Person succeeding to its functions and capacities.

2. Representations and Warranties. The Project Party hereby represents and warrants to the Collateral Agent and each of the Secured Parties that:

(a) The Project Party has been duly organized and is validly existing under the laws of the Commonwealth of Pennsylvania, has full legal right, power and authority to enter into this Consent and Agreement and to carry out and consummate all transactions

contemplated by this Consent and Agreement, and by proper corporate action has duly authorized the execution and delivery of this Consent and Agreement.

(b) The execution and delivery of this Consent and Agreement and the consummation of the transactions herein contemplated will not conflict with or constitute on the part of the Project Party a breach of or default under its certificate of incorporation, as amended to the date hereof, its by-laws, as amended to the date hereof, or any indenture, or other material agreement or instrument to which the Project Party is a party or by which it or its properties are bound or any order, rule or regulation of any court or governmental agency or body having jurisdiction over the Project Party or any of its activities or properties.

(c) This Consent and Agreement has been duly authorized, executed and delivered by the Project Party and constitutes the valid and binding obligation of the Project Party.

(d) All consents, licenses, clearances, authorizations and approvals of, and registrations and declarations with, any governmental authority or regulatory body necessary for the due execution, delivery and performance of this Consent and Agreement have been obtained and all conditions thereof have been duly complied with, and no other action by, and no notice or filing with, any governmental authority or regulatory body is required in connection with the execution, delivery or performance of this Consent and Agreement.

3. Consent and Agreement. The Project Party hereby acknowledges and agrees that:

(a) At any time that an event of default has occurred and is continuing under the Credit Agreement, the Collateral Agent and any permitted assignee thereof shall be entitled to exercise any and all rights of the Company under the Assigned Agreement in accordance with its terms and the Project Party shall comply in all respects with such exercise. Without limiting the generality of the foregoing, the Collateral Agent and any permitted assignee thereof shall have the full right and power to enforce directly against the Project Party (subject to Project Party's defenses, counterclaims and rights of set off under the Assigned Agreement) all obligations of the Project Party under the Assigned Agreement and otherwise to exercise all remedies thereunder and to make all demands and give all notices and make all requests required or permitted to be made by the Company under the Assigned Agreement; provided that, in any case in this Section 3(a), where the exercise by the Collateral Agent of any rights or remedies shall have the effect of transferring the Assigned Agreement from the Company to the Collateral Agent, its designee or any other person or a transfer by the Company in lieu of the exercise of such rights and remedies, the conditions set forth in the proviso in Section 3(d) or (e), as applicable, shall have been fulfilled to the satisfaction of the Project Party.

(b) The Project Party will not (i) without the prior written consent of the Collateral Agent, take any action to as a result of a Company default under the Assigned Agreement, cancel or terminate, or suspend performance under, the Assigned Agreement

or consent to or accept any cancellation, termination or suspension thereof except in accordance with the terms thereof; (ii) exercise any of its rights set forth in the Assigned Agreement to cancel or terminate, or suspend performance under, the Assigned Agreement as a result of a Company default thereunder, unless the Project Party shall have first delivered to the Collateral Agent written notice stating that it intends to exercise such right, specifying the nature of the default giving rise to such right and permitting the Collateral Agent to cure such default by performing or causing to be performed the obligation in default, the Collateral Agent to have the period of time the Company is allowed to cure such default if the notice is given to the Collateral Agent at the same time as the notice of the default is given to the Company or a period of time equivalent to the period of time the Company is allowed to cure such default if the notice is given to the Collateral Agent is given at a later

time than the time when the notice is given to the Company, (iii) amend, supplement or otherwise modify the Assigned Agreement (as in effect on the date hereof) without giving prior notice thereof to the Collateral Agent, (iv) without the prior written consent of the Collateral Agent, sell, assign or otherwise dispose of (by operation of law or otherwise) any part of its interest in the Assigned Agreement (other than for assignments permitted under the Assigned Agreement) or (v) without the prior written consent of the Collateral Agent, petition, request or take any other legal or administrative action which seeks, to rescind, terminate, suspend (other than as permitted under the Assignment Agreement), amend or modify the Assigned Agreement or any part thereof. Additionally, nothing in this Section 3(b) shall limit the Project Party's ability to invoke the dispute resolution provisions of the Assigned Agreement.

Neither the Collateral Agent nor any Secured Party shall have any obligation to the Project Party for the performance of any obligations under the Assigned Agreement unless and until (and to the extent), in the case of the Collateral Agent, such entity succeeds to the interest of the Company under the Assigned Agreement as contemplated by Section 3(d) or 3(e) below; and any curing of or attempt to cure any of the Company's defaults under the Assigned Agreement prior thereto shall not be construed as an assumption by the Collateral Agent or any Secured Party of any covenants, agreements or obligations of the Company under the Assigned Agreement.

(c) The Project Party shall deliver to the Collateral Agent at the address set forth on the signature pages hereof, or at such other address as the Collateral Agent may designate in writing from time to time to the Project Party, concurrently with the delivery thereof to the Company, a copy of each material notice, request or demand given by the Project Party pursuant to the Assigned Agreement.

(d) The Project Party consents to the transfer of the Company's interest under the Assigned Agreement pursuant to the exercise of the Secured Parties' remedies under the Security Documents and agrees that upon such transfer the Project Party shall recognize the Collateral Agent or its designee as the Company under the Assigned Agreement (subject as follows), provided that (i) the Project Party is provided written documentation that reasonably evidences such remedy and transfer; (ii) in the event that the Collateral Agent or its designee(s) succeeds to the Company's interest under the Assigned Agreement, whether by foreclosure or otherwise, the Collateral Agent or its designee(s)

shall assume liability for all of the Company's obligations and liabilities under such Assigned Agreement; (iii) the Collateral Agent shall have first obtained the prior written consent of the Project Party to any assignment to the Collateral Agent's designee, provided that the "Event of Default" under the Credit Agreement with respect to which the Company's obligations thereunder have been accelerated has not been substantially caused by a failure by the Project Party to comply with its obligations under the Assigned Agreement; and (iv) the Collateral Agent or its designee shall have agreed to cure all of the breaches and defaults by the Company under the Assigned Agreement. Except as otherwise set forth in the immediately preceding sentence, none of the Secured Parties shall be liable for the performance or observance of any of the obligations or duties of the Company under the Assigned Agreement, and the assignment of the Assigned Agreement by the Company to the Collateral Agent pursuant to the Security Documents shall not give rise to any duties or obligations whatsoever on the part of any of the Secured Parties owing to the Project Party.

(e) Upon the exercise by the Collateral Agent of any of the remedies under the Security Documents in respect of the Assigned Agreement, the Collateral Agent may assign its rights and interests and the rights and interests of the Company under the Assigned Agreement to any Person, if (i) such Person shall assume all of the obligations and liabilities of the Company under the Assigned Agreement; (ii) the Collateral Agent shall have first obtained the prior written consent of the Project Party to any assignment to such Person if the "Event of Default" under the Credit Agreement with respect to which the Company's obligations thereunder have been accelerated shall not have been substantially caused by a failure by the Project Party to comply with its obligations under the Assigned Agreement; and (iii) such Person shall have agreed to cure all of the breaches and defaults by the Company under the Assigned Agreement.

(f) In the event that (i) the Assigned Agreement is rejected by a trustee, liquidator, debtor-in-possession or similar Person in any bankruptcy, insolvency or similar proceeding involving the Company or (ii) the Assigned Agreement is terminated as a result of any bankruptcy, insolvency or similar proceeding involving the Company and, if within 90 days after such rejection or termination, the Collateral Agent or its designee(s) shall so request and shall certify in writing to the Project Party that it intends to perform the obligations of the Company as and to the extent required under such Assigned Agreement, the Project Party will execute and deliver to the Collateral Agent or such designee(s) a new Assigned Agreement which shall be for the balance of the remaining term under the original Assigned Agreement before giving effect to such rejection or termination and shall contain the same conditions, agreements, terms, provisions and limitations as the original Assigned Agreement (except for any requirements which have been fulfilled by the Company and the Project Party prior to such rejection or termination). References in this Consent and Agreement to the "Assigned Agreement" shall be deemed also to refer to the new Assigned Agreement.

(g) In the event that the Collateral Agent or its designee(s), or any purchaser, transferee, grantee or assignee of the interests of the Collateral Agent or its designee(s) in the Project assumes or becomes liable under the Assigned Agreement (as contemplated in

subsection (d), (e) or (f) above or otherwise), no officer, director, employee, shareholder or agent thereof shall have any liability with respect thereto.

(h) All references in this Consent and Agreement and elsewhere in this Consent and Agreement to the "Collateral Agent" shall be deemed to refer to the Collateral Agent and/or any designee or transferee thereof acting on behalf of the Secured Parties (regardless of whether so expressly provided), and all actions permitted to be taken by the Collateral Agent under this Consent and Agreement may be taken by any such designee or transferee.

(i) The Collateral Agent shall not exercise any of its rights or remedies with respect to any interest it may have in the Sabine Pass Facility or the real property rights relating to the site on which the Sabine Facility is located so long as the "Event of Default" under the Credit Agreement with respect to which the Company's obligations thereunder have been accelerated has not been substantially caused by a failure by the Project Party to comply with its obligations under the Assigned Agreement unless (i) in connection with such exercise of such rights or remedies, the Collateral Agent shall also have exercised its rights and remedies in the Assigned Agreement, with the result that the Assigned Agreement shall have been transferred to the Person to whom the Sabine Pass Facility or such real property rights have been transferred, and (ii) in connection therewith, the Collateral Agent shall have satisfied all of the conditions set forth in Section 3(d) or (e), as applicable.

4. Collateral Agent. Collateral Agent represents that it is acting on behalf of the Secured Parties and is authorized to bind and does hereby bind the Secured Parties to the obligations of Collateral Agent herein.

5. Arrangements Regarding Payments. Notwithstanding anything in the Assigned Agreement to the contrary, all payments to be made by the Project Party to the Company under the Assigned Agreement shall be made in lawful money of the United States, directly to the Collateral Agent, for deposit into the [ACCOUNT NAME] (Account No. [COLLATERAL AGENT'S ACCOUNT NUMBER], at the Principal Office of [NAME OF DEPOSITARY] at [ADDRESS] or to such other Person and/or at such other address as the Collateral Agent may from time to time specify in writing, and shall be accompanied by a notice from the Project Party stating that such payments are made under the Assigned Agreement. The Company hereby authorizes and directs the Project Party to make such payments as aforesaid, and agrees that such payment shall satisfy the Project Party's obligation to pay such amounts to the Company under the Assigned Agreement.

6. Miscellaneous.

(a) No failure on the part of the Project Party or the Collateral Agent or any of its agents to exercise and no delay in exercising, and no course of dealing with respect to, any right, power or privilege hereunder shall operate as a waiver thereof (subject to any statute of limitations), and no single or partial exercise of any right, power or

privilege hereunder shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

(b) The notice provisions of Section 23 of the Assigned Agreement shall be deemed to apply for purposes of this Consent and Agreement provided, however, that the parties' addresses are set forth on the signature pages hereto.

(c) This Consent and Agreement may be amended or modified only by an instrument in writing signed by the Project Party, the Company and the Collateral Agent acting in accordance with the Credit Agreement.

(d) This Consent and Agreement shall be binding upon and inure to the benefit of the respective successors and permitted assigns of each of the Project Party, the Company, the Secured Parties and the Collateral Agent (provided, however, that the Project Party shall not assign or transfer its rights hereunder without the prior written consent of the Collateral Agent).

(e) This Consent and Agreement may be executed in any number of counterparts, all of which when taken together shall constitute one and the same instrument and any of the parties hereto may execute this Consent and Agreement by signing any such counterpart. This Consent and Agreement shall become effective at such time as the Collateral Agent shall have received counterparts hereof signed by all of the intended parties hereto.

(f) If any provision hereof is invalid and unenforceable in any jurisdiction, then, to the fullest extent permitted by law, (i) the other provisions hereof shall remain in full force and effect in such jurisdiction and (ii) the invalidity or unenforceability of any provision hereof in any jurisdiction shall not affect the validity or enforceability of such provision in any other jurisdiction.

(g) Headings appearing herein are used solely for convenience and are not intended to affect the interpretation of any provision of this Consent and Agreement.

(h) Each of the Project Party and the Company hereby submits to the nonexclusive jurisdiction of the United States District Court for the Southern District of New York and of any New York State Court sitting in New York City for the purposes of all legal proceedings arising out of or relating to this Consent and Agreement or the transactions contemplated hereby. Each of the Project Party and the Company hereby irrevocably waives, to the fullest extent permitted by law, any objection which it may now or hereafter have to the laying of the venue of any such proceeding brought in such a court and any claim that any such proceeding brought in such a court has been brought in an inconvenient forum.

(i) The agreements of the parties hereto are solely for the benefit of the Project Party, the Company, the Collateral Agent and the Secured Parties, and no Person (other than the parties hereto and the Secured Parties and their successors and assigns permitted hereunder) shall have any rights hereunder.

(j) This Consent and Agreement shall be governed by, and construed in accordance with, the law of the State of New York.

(k) EACH OF THE PROJECT PARTY, THE COMPANY AND THE COLLATERAL AGENT HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING

ARISING OUT OF OR RELATING TO THIS CONSENT AND AGREEMENT OR THE ASSIGNED AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.

(l) This Consent and Agreement shall terminate upon the indefeasible payment in full of all amounts owed under the Credit Agreement.

IN WITNESS WHEREOF, the undersigned by its officer duly authorized has caused this Consent and Agreement to be duly executed and delivered as of this day of [].

CHEVRON U.S.A. INC.

By: _____
Name:
Title:

Address for Notices:

Facsimile:
Telephone:
Attention:

[],
as Collateral Agent

By: _____
Name:
Title:

Address for Notices:

Facsimile:
Telephone:
Attention:

Acknowledged and Agreed:

SABINE PASS LNG, L.P.

By: _____

Name:

Title:

Address for Notices:

Facsimile:

Telephone:

Attention:

OMNIBUS AGREEMENT

This OMNIBUS AGREEMENT (this “**Agreement**”), dated as of this 8th day of November, 2004 (“**Effective Date**”), is made by and between Chevron U.S.A., Inc., a Pennsylvania corporation with a place of business at 1111 Bagby Street, Houston, Texas 77002 (“**Customer**”); and **Sabine Pass LNG, L.P.**, a Delaware limited partnership with a place of business at 717 Texas Avenue, Suite 3100, Houston, Texas, 77002 (“**SABINE**”).

RECITALS

WHEREAS, the Parties are executing simultaneously herewith an LNG Terminal Use Agreement (“**TUA**”), and the Parties agree to condition the effectiveness of certain portions of the TUA on the fulfillment of certain conditions precedent; and

WHEREAS, the Parties wish to memorialize and document other understandings supplementing the TUA, including Customer’s obligation to pay certain capacity reservation fees, Customer’s expansion rights, Customer’s agreement to utilize dedicated tug services available at the Sabine Pass Facility and certain equity participation rights;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties hereto, SABINE and Customer hereby agree as follows:

ARTICLE 1
DEFINITIONS

Capitalized terms used in this Agreement and not otherwise defined herein have the meanings given to them in the TUA; *provided that* the terms defined below shall have the following meanings:

- 1.1 “**Capacity Reservation Fee First Installment**”, “**Second Installment**”, “**Third Installment**”, and “**Fourth Installment**” shall have the respective meanings set out in the applicable subsections of Clause 2.1 (collectively, the “**Capacity Reservation Fees**” and individually a “**Capacity Reservation Fee**”).
- 1.2 “**Conditions Precedent**” means either the Sabine Conditions Precedent or the Customer Conditions Precedent or both, as the context may require.
- 1.3 “**Customer Conditions Precedent**” has the meaning set out in Clause 3.2.
- 1.4 “**Equity Condition Precedent**”, “**Financing Condition Precedent**” and “**Management Condition Precedent**” have the respective meanings set out in Article 3 of this Agreement.
- 1.5 “**Equity Agreement**” has the meaning set out in Clause 6.1.
- 1.6 “**FERC Application**” means that certain application (as amended from time to time), filed by SABINE with the FERC on December 22, 2003 in docket No. CP04-47-000 in relation to the Sabine Pass Facility pursuant to Section 3(a) of the Natural Gas Act (“**NGA**”) and the corresponding regulations of the FERC.
- 1.7 “**FERC Approval**” means the FERC’s approval of the FERC Application.

- 1.8 “**Sabine Conditions Precedent**” has the meaning set out in Clause 3.1.

ARTICLE 2
CAPACITY RESERVATION FEES2.1 Capacity Reservation Fees

Customer shall remit the following amounts to SABINE, by wire transfer in immediately available funds to an account specified in writing by SABINE, in accordance with the following provisions:

- (a) First Installment. No later than fifteen (15) days following the Effective Date, Customer shall pay to SABINE five million United States dollars (US\$5,000,000) (the “**Capacity Reservation Fee First Installment**”);
- (b) Second Installment. No later than fifteen (15) days following the satisfaction of the Management Condition Precedent, unless this Agreement is earlier terminated by Customer pursuant to Clause 3.3(c) below, Customer shall pay to SABINE seven million United States dollars (US\$7,000,000) (“**Capacity Reservation Fee Second Installment**”);
- (c) Third Installment. No later than fifteen (15) days following the later of (i) satisfaction of the Management Condition Precedent, or (ii) receipt of FERC Approval and fulfillment of the Financing Condition Precedent, unless this Agreement is earlier terminated by Customer pursuant to Clause 3.3(c) below, Customer shall pay to SABINE five million United States dollars (US\$5,000,000) (“**Capacity Reservation Fee Third Installment**”); and
- (d) Fourth Installment. No later than fifteen (15) days following the exercise of the option contained under Clause 4.1(b), unless this Agreement is earlier terminated by Customer pursuant to Clause 3.3(c) below, Customer shall pay to SABINE three million United States dollars (US\$3,000,000) (“**Capacity Reservation Fee Fourth Installment**”).

Except as provided in Clause 2.2, SABINE shall have no obligation to refund to Customer the Capacity Reservation Fees set out in this Clause 2.1 for any reason.

- 2.2 Fee Adjustment for the Capacity Reservation Fees. The Capacity Reservation Fees paid by Customer to SABINE pursuant to Clause 2.1 above shall be recouped by Customer through a pro-rata monthly reduction in the Fee otherwise due under the TUA each month during the first one hundred and twenty (120) months following the Commercial Start Date of the Sabine Pass Facility. For the relevant one hundred and twenty (120) month period, the reduction will be reflected in the monthly statement SABINE provides Customer pursuant to Section 11.1 of the TUA. If the TUA is terminated by Customer in accordance with Clause 3.3(c) of this Agreement, any Capacity Reservation Fee paid to SABINE prior to such termination shall be retained by SABINE without recoupment by Customer.

ARTICLE 3 CONDITIONS PRECEDENT TO EFFECTIVENESS OF TUA

3.1 SABINE Conditions Precedent and Guarantee.

Any provision of the TUA notwithstanding, the Parties acknowledge and agree that only the provisions of Article 1, Article 17, Article 18, Article 19, Article 20, Article 21, Article 22, Article 23, and Article 25 of the TUA shall become effective and binding as of the Effective Date, and that SABINE's obligations with regard to all other provisions contained in the TUA shall not become effective and binding unless and until both of the following conditions ("**SABINE Conditions Precedent**") have been satisfied or waived by SABINE no later than December 31, 2005:

- (a) Approvals. SABINE shall have obtained the FERC Approval, in form and content reasonably acceptable to Sabine;
- (b) Financing. SABINE has provided to Customer evidence that it can finance the expected cost of development and construction of the Sabine Pass Facility ("**Financing Condition Precedent**"), notwithstanding that such financing is contingent on receipt by SABINE of the FERC Approval. Such evidence may be in the form of (i) commitment letters from banks and/or (ii) sufficient evidence of in-house funds availability either through equity placements or commitments to fund equity. Such written commitments shall be deemed sufficient evidence of funding if the EPC contractor responsible for constructing the Sabine Pass Facility accepts such evidence as being sufficient to accept SABINE's notice to proceed with construction. In this regard, Customer acknowledges that SABINE's ability to satisfy the Financing Condition Precedent is subject to Customer's full and timely performance, in good faith, of its obligations to assist with obtaining the Financing under Section 17.2(c) of the TUA; and
- (c) Guarantee. Within fifteen (15) days of satisfaction of the Management Condition Precedent, Customer shall cause the Guarantor to execute and deliver to SABINE the Guarantee in the form attached to the TUA.

3.2 Customer Conditions Precedent.

Any provision of the TUA notwithstanding, the Parties acknowledge and agree that only the provisions of Article 1, Article 17, Article 18, Article 19, Article 20, Article 21, Article 22, Article 23, and Article 25 of the TUA shall become effective and binding as of the Effective Date, and that Customer's obligations with regard to all other provisions contained in the TUA shall not become effective and binding unless and until both of the following conditions ("**Customer Conditions Precedent**") have been satisfied or waived by Customer no later than December 20, 2004:

- (a) Approvals. Customer shall have obtained all corporate approvals necessary in connection with implementation of the transactions contemplated by this Agreement, the TUA, the Guarantee and the Equity Agreement including but not limited to the approval of the ChevronTexaco Corporation Board of Directors by no later than December 20, 2004, except this condition shall not apply to the obligation to pay the Capacity Reservation Fee First Installment ("**Management Condition Precedent**"); and

- (b) Equity Participation. Customer and SABINE shall have negotiated definitive agreements providing for Customer's acquisition of a twenty percent (20%) limited partner interest in SABINE on terms acceptable to both Parties by no later than December 20, 2004 ("**Equity Condition Precedent**").

3.3 Satisfaction of Conditions Precedent; Notification; Waiver; Termination.

- (a) General. Each Party shall endeavor to procure the satisfaction of their respective Conditions Precedent by the dates as set forth in this Agreement, and shall keep the other Party reasonably informed as to the progress being made towards satisfaction of the Conditions Precedent. Notwithstanding the foregoing, it is acknowledged and agreed that nothing in this Agreement shall obligate ChevronTexaco Corporation in any way to approve the transactions contemplated by this Agreement, the TUA, the Guarantee or the Equity Agreement and that such approval may be withheld for any reason, except the foregoing condition shall not apply to the obligation to pay the Capacity Reservation Fee First Installment which is deemed approved upon execution of this Agreement.
- (b) Notification. Either Party shall notify the other Party of satisfaction of any Conditions Precedent. Moreover, either Party shall notify the other Party promptly upon that Party's determination that a Condition Precedent cannot be met.
- (c) Termination for Non-Satisfaction of the Conditions Precedent. If the SABINE Conditions Precedent have not been satisfied or waived by SABINE by December 31, 2005 or if Customer's Conditions Precedent have not been satisfied or waived by Customer by December 20, 2004, then either Party may thereafter terminate this Agreement and the TUA with immediate effect by giving written notice of such termination to the other Party within ten (10) Business Days after the above applicable date. In the event of a termination of this Agreement under this Clause 3.3(c), SABINE and Customer shall each be discharged from any further obligations or Liabilities under this Agreement and the TUA without prejudice to any rights, obligations or Liabilities that may have accrued up to such date of termination.

ARTICLE 4 EXPANSION AND EXPANSION RECEPTION QUANTITY

4.1 LNG Reception Quantity Options. Customer shall have the right either, but not both:

- (a) upon written notice received by SABINE, on or before 5:00 p.m. on July 1, 2005 to elect to decrease Customer's Maximum LNG Reception Quantity as stated in the TUA, from 282,761,850 MMBTUs per Contract Year to 201,972,750 MMBTUs per Contract Year and to decrease its Gas Redelivery Rate from 759,500 to 542,500 MMBtu per day; or
- (b) upon written notice received by SABINE, on or before 5:00 p.m. on December 1, 2005, provided Customer has not exercised its option in Clause 4.1(a) above, to elect to increase Customer's Maximum LNG Reception Quantity as stated in the TUA, from 282,761,850 MMBTUs per Contract Year to 403,945,500 MMBTUs per Contract Year, to increase its Gas Redelivery Rate

from 759,500 to 1,085,000 MMBtu per day and to receive LNG storage capacity up to a maximum storage quantity of four (4) billion standard cubic feet.

Promptly following a notice, the Parties shall amend the TUA to reflect such decreased or increased contract entitlements, which shall be subject to the same terms and conditions as currently set forth in the TUA. The Parties hereto agree that Clause B, Section 4.2 and Section 18.1(a)(ii) of the TUA shall be adjusted for such decreased or increased contract entitlements. SABINE agrees that it shall not during the period prior to December 1, 2005, take any action that would render it unable to make available to Customer the increased contract entitlements contemplated by Clause 4.1(b).

- 4.2 Future Vaporization Expansion.** No later than two (2) years after the Effective Date, either Party may provide written notice to the other Party of its desire to expand the LNG regasification (vaporization) capacity at the Sabine Pass Facility. Subject to the prior right of an existing Other Customer to negotiate exclusively for such expansion for a ninety (90) day period, Customer shall have the right with Other Customers to negotiate the proposed terms and conditions of such expansion in good faith for a period of ninety (90) days from the earlier of (i) the expiration of the existing Other Customer's period of exclusive negotiation or, (ii) if the Other Customer elects not to negotiate for such expansion or terminates it early, such earlier date; *provided that* SABINE shall be obliged to enter into such negotiations only if Customer desires to increase its Maximum LNG Reception Quantity (as determined by Customer in its sole discretion) by an amount equal to between 182,500,000 MMBTU's per Contract Year and 365,000,000 MMBTUs per Contract Year effective the date commercial operations commence with respect to the expansion. The expansion quantity shall be subject to the same terms and conditions as currently set forth in the TUA except that the Reservation Fee for the expansion quantity shall equal \$0.28 multiplied by the expansion quantity or, if the option provided in Clause 4.1(b) has been previously exercised and consummated, the Reservation Fee for such expansion quantity shall equal \$0.20 multiplied by the expansion quantity. The Operating Fee for any expansion quantity shall be calculated in accordance with the terms of the TUA. Any requests made by Customer for expansion beyond the aforementioned two (2) year period or beyond the first expansion, if any, shall require the mutual agreement of the Parties. Additionally, notwithstanding the foregoing undertaking of the Parties to negotiate the proposed terms and conditions of the expansion in good faith, Customer acknowledges and agrees that the timing of the development and construction of the expansion shall be at SABINE's sole and absolute discretion.

ARTICLE 5 TUG AND LINE HANDLING BOATS

The Parties acknowledge that three (3) 5,000-horsepower, greater than 50 ton bollard pull tug boats with fire-fighting capability and two (2) line handling boats to assist with the safe berthing of LNG Vessels will be dedicated to the Sabine Pass Facility. Such tug and line handling boats will be available to Customer and all Other Customers of the Sabine Pass Facility on a non-discriminatory basis. The Parties agree to cooperate in seeking competitive bids to fulfill the dedication requirements for these tugs in accordance with the TUA. Customer shall have the right to nominate potential vendors to bid on these services for SABINE. It is the intent of SABINE to select the supplier which has the most competitive bid taking into account multiple factors including, without limitation, price, contractual terms

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and conditions, specifications of the bid, the reputation, financial condition and technical capability of the bidders and responsiveness of service.

ARTICLE 6 Customer Equity Participation

- 6.1** Customer and SABINE agree to negotiate expeditiously and in good faith mutually agreeable definitive agreements ("Equity Agreement") providing for the contribution of \$200 million by Customer in consideration of the acquisition of a twenty percent (20%) limited partnership interest in Sabine Pass LNG, L.P.
- 6.2** The Parties agree that Customer's opportunity to negotiate for and acquire equity in SABINE shall expire on December 21, 2004.

ARTICLE 7 PIPELINE COORDINATION

SABINE and Customer agree to collaborate in the assessment and selection of the optimum pipeline route from the Sabine Pass Facility to adjacent interstate pipelines.

ARTICLE 8 APPLICABLE LAW

The substantive laws of the State of New York, United States of America, exclusive of any conflicts of laws principles that could require the application of any other law, shall govern this Agreement for all purposes, including the resolution of Disputes between the Parties.

ARTICLE 9 DISPUTE RESOLUTION

Any Dispute arising under this Agreement shall be exclusively and definitively resolved through final and binding arbitration pursuant to the provisions of Section 20.1 of the TUA. For the purposes of this Agreement, "Dispute" means any dispute, controversy, or claim (of any and every kind or type, whether based on contract, tort, statute, regulation, or otherwise) arising out of, relating to, or connected with this Agreement, including any dispute as to the construction, validity, interpretation, termination, enforceability, or breach of this Agreement, as well as any dispute over arbitrability or jurisdiction.

ARTICLE 10 CONFIDENTIALITY

Each Party acknowledges and agrees that it shall be bound by the rights, duties and obligations set forth in Section 21.1 of the TUA with respect to the disclosure of information or documents that come into such Party's possession in connection with this Agreement.

ARTICLE 11 NOTICES

All notices authorized or required between the Parties shall be provided in the manner set forth in Article 23 of the TUA.

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ARTICLE 12
MISCELLANEOUS

12.1 Amendments.

This Agreement may not be amended, modified, varied or supplemented except by an instrument in writing signed by SABINE and Customer.

12.2 Successors and Assigns.

This Agreement shall inure to the benefit of and be binding upon the respective successors and permitted assigns of the Parties in accordance with the provisions of Article 17 of the TUA.

12.3 Waiver.

No failure to exercise or delay in exercising any right or remedy arising from this Agreement shall operate or be construed as a waiver of such right or remedy. Performance of any condition or obligation to be performed hereunder shall not be deemed to have been waived or postponed except by an instrument in writing signed by the Party who is claimed to have granted such waiver or postponement. No waiver by either Party shall operate or be construed as a waiver in respect of any failure or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver.

12.4 No Third Party Beneficiaries.

The interpretation of this Agreement shall exclude any rights under legislative provisions conferring rights under a contract to Persons not a party to that contract. Nothing in this Agreement shall otherwise be construed to create any duty to, or standard of care with reference to, or any liability to, any Person other than a Party.

12.5 Interpretation.

- (a) Headings. The topical headings used in this Agreement are for convenience only.
- (b) Singular and Plural. Reference to the singular includes a reference to the plural and *vice versa*.
- (c) References. Unless otherwise provided, reference to any Clause means a Clause of this Agreement and reference to a Section means a Section of the TUA.
- (d) Include. The words “**include**” and “**including**” shall mean include or including without limiting the generality of the description preceding such term and are used in an illustrative sense and not a limiting sense.
- (e) Time Periods. References to “**day**,” “**month**,” “**quarter**” and “**year**” shall mean a day, month, quarter and year of the Gregorian calendar, respectively.
- (f) Statutory References. Unless the context otherwise requires, any reference to a statutory provision is a reference to such provision as amended or re-enacted or as modified by other statutory provisions from time to time and

includes subsequent legislation and regulations made under the relevant statute.

- (g) Currency. References to United States dollars shall be a reference to the lawful currency from time to time of the United States of America.

12.6 Severance of Invalid Provisions.

If and for so long as any provision of this Agreement shall be deemed to be judged invalid for any reason whatsoever, such invalidity shall not affect the validity or operation of any other provision of this Agreement.

12.7 Expenses.

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

12.8 Entire Agreement; Conflicts.

This Agreement constitutes the entire agreement between the Parties relating to the subject matter hereof and supersedes and replaces any provisions on the same subject contained in any other agreement between the Parties, whether written or oral, prior to the date of the original execution hereof. In the event any conflict arises between this Agreement and the TUA, this Agreement shall prevail.

12.9 Counterpart Execution.

This Agreement may be executed in any number of counterparts and each such counterpart shall be deemed an original Agreement for all purposes.

IN WITNESS WHEREOF, each Party has caused this Agreement to be duly executed and signed by its duly authorized officer as of the Effective Date.

Sabine Pass LNG, L.P.

By: Sabine Pass LNG-GP, Inc., its General Partner

By: /s/ Charif Souki

Name: Charif Souki

Title: Chairman

Chevron U.S.A., Inc.

By: /s/ John Gass
Name: John Gass
Title: President

CERTIFICATION BY CHIEF EXECUTIVE OFFICER REQUIRED BY RULE 13a-14(a) AND 15d-14(a) UNDER THE EXCHANGE ACT

I, Charif Souki, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Cheniere Energy, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the registrant and have:
 - a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report, based on such evaluation; and
 - c) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a) all significant deficiencies and material weakness in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 12, 2004

/s/ Charif Souki

Charif Souki
Chief Executive Officer

CERTIFICATION BY CHIEF FINANCIAL OFFICER REQUIRED BY RULE 13a-14(a) AND 15d-14(a) UNDER THE EXCHANGE ACT

I, Don A. Turkleson, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Cheniere Energy, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the registrant and have:
 - a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report, based on such evaluation as of the Evaluation Date; and
 - c) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a) all significant deficiencies and material weakness in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 12, 2004

/s/ Don A. Turkleson

Don A. Turkleson

Chief Financial Officer

CERTIFICATION BY CHIEF EXECUTIVE OFFICER
PURSUANT TO 18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Quarterly Report of Cheniere Energy, Inc. (the "Company") on Form 10-Q for the period ending September 30, 2004 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Charif Souki, Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, to my knowledge, that:

- (1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ Charif Souki

Charif Souki

Chief Executive Officer

November 12, 2004

CERTIFICATION BY CHIEF FINANCIAL OFFICER
PURSUANT TO 18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Quarterly Report of Cheniere Energy, Inc. (the "Company") on Form 10-Q for the period ending September 30, 2004 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Don A. Turkleson, Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, to my knowledge, that:

- (1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ Don A. Turkleson

Don A. Turkleson
Chief Financial Officer

November 12, 2004
